



The voice of banking
& financial services

13 February 2012

Mr Tony D'Aloisio
baselcommittee@bis.org
Secretariat of the Joint Forum (BCBS Secretariat)
c/o the Bank for International Settlements
Centralbahnplatz 2
CH-4002 Basel
Switzerland

Dear Mr D'Aloisio,

Principles for the supervision of financial conglomerates – consultative report

The British Bankers' Association ("BBA") is the leading association for UK banking and financial services for the UK banking and financial services sector, speaking for over 230 banking members from 60 countries on the full range of the UK and international banking issues. All the major banking players in the UK are members of our association as are the large international EU banks, the US banks operating in the UK and financial entities from around the world. The integrated nature of banking means that our members are engaged in activities ranging widely across the financial spectrum encompassing services and products as diverse as primary and secondary securities trading, insurance, investment banking and wealth management, as well as deposit taking and other conventional forms of banking.

The BBA is pleased to respond to the consultation.

Key messages

We welcome the revision of the 1999 principles, especially to take into account capital and liquidity, and the promotion of alignment for the supervision of firms that operate in a range of sectors.

We agree with the need for firms to have a comprehensive risk management framework. Allied to that, supervision of these groups should be in a coordinated manner, ideally by way of colleges of national and functional supervisors.

It is essential that supervision does not result in trapped pools of capital and liquidity, as this will make centralised risk management more difficult.

We agree that the risks from unregulated entities should be considered. We believe that a materiality threshold should be applied to trigger such consideration, as per the references in 10.1 and 15 (f).

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This work should have regard to the forthcoming proposals from the Financial Stability Board (FSB) on systemically important banks/financial institutions and shadow banking, and Basel Committee on large exposures and operational risk, the European Union (EU) on corporate governance and regulatory reporting, and the EU's current draft Crisis Management Directive.

Conclusion

The annexe to our letter contains our formal response to the consultation, and further specific observations and questions arising from the proposals.

We hope that you will find our comment useful. Please contact me by way of e-mail (irving.henry@bba.org.uk) or telephone on (00 44) 20 7216 8862 should you require further information.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'I Henry', with a stylized flourish at the end.

Irving Henry
Director, Prudential Capital and Risk

Annex

Colleges of supervisors

The BBA is a strong supporter of the use of colleges of supervisors and welcomes that fact that they have been put at the centre of proposals to enhance the regulation and supervision of cross-border banks and financial institutions by the G20. It is clearly right that guidelines such as these for the operation of colleges are developed at the global level. However, many of our members are subject to both 'global' colleges and regional variants, most notably in the European Union. We believe that it is in the interests of both financial institutions and their supervisors that these arrangements fit together as seamlessly as possible with the minimum of overlap.

The principles rightly, in our view, stress the need for college arrangements to be flexible and to reflect the fact that no two groups are the same. To us, however, this also means that there is an important role for the Basel Committee or FSB to play in identifying and promulgating examples of best practice. Colleges do not need to operate in the same way, but when individual colleges are particularly successful it is important that the reasons for this are understood and others have the opportunity to replicate the formula if desired.

Collaboration

Groupings of supervisors should promote collaborative work between members, as appropriate, to improve the effectiveness of the oversight of international financial groups. Collaboration should be based on agreement between supervisors and should recognise national legal constraints.

We believe that such groupings should first and foremost focus on coordinating and planning supervisory activities, but there should be a presumption that this should lead to the group's members, under the auspices of the home supervisor, undertaking joint activities. We also believe that risk assessment, stress testing and model validation are all areas where joint work is important. To this, we would add the coordination of requests for information and the alignment of common reporting formats, requirements and deadlines. There is also a strong case for the submission of ICAAP reports being synchronised and their content aligned.

Interaction with the financial institution

Interaction between the members of the regulatory group and the financial group should complement the interaction that individual supervisors (both home and host) have with the specific entity they supervise.

Whilst communication between the group of supervisors and senior management must not replace existing dialogues between the firm and local supervisors, we believe it is essential to making the group process work effectively. We also believe that the home supervisor should take responsibility for communication with the group and for coordinating requests for information. We also believe that if host supervisors are unable to obtain relevant information from local management they should address requests for group level information to the home supervisor.

Crisis management

The group of regulators should be viewed as distinct, but complementary to crisis management arrangements, not least as crisis management involves the participation of a broader range of authorities. That being said, it is right that the infrastructure for the group of regulators should be used to facilitate the work of the crisis management group.

Macro-prudential supervision

Although macro-prudential regulation is still under development, we believe that macro-prudential work should be an important task of the group of regulators. The consolidated group level is the most obvious location to communicate and coordinate national measures designed to identify market-wide and firm specific vulnerabilities.

Principle 2: Cooperation and exchange of information

We believe that the willingness of supervisors to share information within the group is one of the key factors in determining the group's success. Nevertheless, our members place the highest priority on the confidentiality of their data being preserved and therefore wish to see appropriate safeguards utilised. Whilst confidentiality agreements can go some way towards this, some data is so sensitive that we believe it would be inappropriate for it to be shared, for example, outside the core group. To help safeguard information security we would expect regulators and supervisors to apply best practice information risk management principles and processes around information which they receive via the group.

Principles 5 and 6: Group-level supervisor, supervisory cooperation, coordination and information exchange

We welcome the flexibility implied by this principle. It can only be right that the different supervisory group structures should be used to reflect the different supervisory requirements of different groups. We believe that the home supervisor should take overall responsibility for designing the supervisory arrangements which properly reflect the nature, scale and complexity of the financial group. This should be done in consultation with host supervisors and the group's management. We favour the use of different structures where this is appropriate, believing the use of dual and core structures can promote efficiency and effectiveness. It does, however, underline the importance of the home supervisor ensuring that effective cooperation and coordination measures are in place. We believe that the home supervisor should be responsible for the governance of the group and for coordinating its work programme.

It is important that the home supervisor acts as a central point of contact for any matter related to the organisation and agree with the list of common functions identified which the home supervisor should ensure are performed.

We believe that supervisors attending the group need to be of sufficient seniority to facilitate the efficient and effective functioning of the group.

Communication channels within a group of supervisors should ensure the efficiency, ease of use, integrity and confidentiality of information exchange. The home supervisor should make sound communication channels available to the group and host supervisors should use them appropriately and continuously.

We believe that the home supervisor should take steps to develop secure communication channels to facilitate the work of the group.

Principles 15 – 19: Capital management

We agree that capital should match risks, but not think that being a financial conglomerate should per se trigger additional measures. Some, but not all, conglomerates will be in the scope of the FSB's systemically important bank/financial institution framework.

Principle 20: Liquidity

We welcome this principle, but highlight that some jurisdictions exceed what the Basel Committee and EU('s Capital Requirements Directive) have agreed, thus trapping liquidity.

Principle 26: Stress and scenario testing

We welcome this principle, but highlight that some jurisdictions exceed what the Basel Committee and EU's Committee of European Banking Supervisors/European Banking Authority have agreed on group-wide stress testing, thus diverting resources to operations that are not of material significance, and often trapping capital and liquidity as part of the mitigation of risk.

Principle 28: Risk concentrations and intra-group transactions and exposures

It should be noted that in addition to regulators monitoring intra-group transactions, external auditors and the tax authorities would also keep an eye, ensuring that transactions are on an arms length basis and have a rationale documented.

Principle 29: Off-balance sheet activities

The FSB is drafting proposals that will scope such activities into their rule-making. Ideally, all regulatory parties should liaise for a clear and efficient body of rules.

Other

Firms operating in the EU, especially the UK, are already required to adhere to similar rules regardless of whether they qualify as a financial conglomerate.

There is a subtle difference in the scope of what constitutes a conglomerate in these principles versus the current EU Financial Conglomerates Directive (FCD) and the FSA's Genpru rulebook. The joint forum principles states that a firm is a financial conglomerate if it has "material" (not defined as yet) activities in two out of the three sectors of banking, investment services and insurance whereas the FCD/Genpru rulebooks say that insurance and banking or investment services and for threshold tests banking and investment services sectors are taken together. Therefore, in theory a firm could be a conglomerate under the Joint Forum principles with only banking and investment sector activities, ie without insurance activity.