



Mr. Wayne Byres
Secretary General
Basel Committee on Banking Supervision
Bank for International Settlements

By email: baselcommittee@bis.org

Re.: BCBS Revised good practice principles for supervisory colleges

Dear Mr. Byres,

The Global Financial Markets Association ('GFMA'), the International Banking Federation ('IBFed') and the Institute of International Finance ('IIF') welcome the opportunity to comment on the consultative document¹ on the above topic.

The banking industry has long supported the concept of colleges of supervisors and the Basel Committee's work to foster their development. In this context we welcome the emphasis the G20 has placed on the significance of supervisory colleges, and the role foreseen for them to enhance the effectiveness and efficiency of supervision for cross-border banking groups.

We were supportive of the direction of travel signaled by the 2010 principles and welcome the decision to update the guidelines in light of an assessment of the various regulatory and supervisory developments that have taken place since then and the lessons learned in the post-crisis era. Specifically, the Associations appreciate the opportunity to provide additional input to the revision process based on the industry's experience with supervisory colleges. This is a constructive approach to policy making and one we would wish to see replicated elsewhere.

In summary, our letter identifies the following key points that we believe should be addressed in the revisions to the good practice principles on supervisory colleges:

- Make the role of colleges more explicit in identifying and resolving, where possible, regulatory and supervisory inconsistencies (particularly in a cross-border setting);
- Develop common supervisory approaches to any potential risks identified at the group level (including for example regulatory, systemic, cross-border, conduct and prudential). Such analysis of group-wide risks should include a proper assessment of any potential diversification effects that derive from geographical presence and other group factors;
- The need to design colleges to be risk based and proportionate to the supervised group;

¹ <http://www.bis.org/publ/bcbs276.pdf>

- Function in an efficient way so that they do not create undue burdens on groups when exercising their supervisory powers, and avoid duplications;
- Foster improved communication, both internally among supervisors and externally with the supervised group (including more structured feedback on the deliberations and findings of the college); and
- Communicate clearly its supervisory powers, roles and responsibilities, and supervisory agenda to the group.

Specific Comments:

Principle 1: College objectives

We welcome the greater emphasis placed on using colleges as a mechanism for achieving supervisory objectives on an on-going basis. One recurrent observation that the industry has formulated is that supervisory colleges should undertake their work with greater continuity. In many cases, the experience has been that follow-up actions to college meetings are scarce and that the opportunities for dialogue, exchange and collaboration are often limited to the few physical meetings of the college. We believe the continuity and on-going character of the college as a tool towards enhanced supervision should be adequately reflected in the revised principle.

It is also encouraging to see new references to the role that supervisory colleges can play in facilitating home-host coordination and to the promotion of a coherent approach to tasks such as stress testing. This is a crucially important activity that will help strengthen trust between supervisors and in doing so, avoid the potentially damaging fragmentation of the global banking system. We therefore suggest you consider inserting the following text *“Supervisory colleges should identify and resolve where possible regulatory and supervisory inconsistencies (including cross-border); and develop common approaches to any potential risks identified at the group level (including prudential, regulatory, systemic, cross-border, and conduct, for example)”*.

We propose that college supervisors should play a part in the resolution of any cross-border, regulatory divergences or issues of inconsistency in supervisory approaches that are identified. Additionally, it is important for colleges to develop common supervisory positions in regard to any potential risks identified (such as systemic, market, conduct, etc.), which would in parallel require an adequate assessment of any potential diversification benefits stemming from cross-border operations.

We believe that the consistent and effective implementation of supervisory tools such as stress testing would benefit from a truly group-wide approach through colleges. A common approach to the implementation of a wide range of supervisory tools through colleges would surely have an impact on the effectiveness and efficiency of group supervision.

Principle 2: College structures

We continue to see merit in the avoidance of a one-size fits all approach to the structure of supervisory colleges, with the specific approach determined by the business model, legal structure and other specific characteristics of the group in question and an assessment of the most effective approach to its supervision.

The functioning of colleges inevitably, introduce the possibility for tension between the supervisors of the "core" parts of the group and the hosts of "non-core" parts. We note that the proposed revisions to the principle focus upon how the home supervisor should seek to balance the desire for operational efficiency with engagement and transparency for hosts. Although the principle highlights that the significance of the group to a local market might be an indicator for the participation of a host supervisor in the core college, we continue to believe that this determination should also be judged on objective information provided by the banking group. In this regard, one such example of objective information would be the group's Recovery and Resolution Plan. The goal should be to ensure that the college has a holistic overview of the group and an understanding of its material and non-material business lines and operations in order that it can focus its work on potential stress points.

The proposed extension of the principle that the home supervisor should inform the group entity of the overall college structure to include details of membership is welcomed. Furthermore, we also support the new reference to the fact that participants in the supervisory college should have sufficient knowledge of the group.

We are however concerned more generally about the increasing size of supervisory colleges: in many current cases colleges are deemed as too large for effective management; and from this perspective we are concerned that the overall efficiency of colleges may be diluted. We therefore suggest that the size of the college is proportionate to the group it supervises. It is on this basis that we propose to introduce a "justification criteria" in regard to college membership which should be based on a threshold such as the materiality of each supervised entity within a group. Recognizing that adequate flow of information among supervisors of the group is of utmost importance, we recommend that the home supervisor should be in charge of briefing authorities who are not members of the college about the main outcomes of college meetings and related information; provided the necessary confidentiality agreements are in place.

We believe that roles and responsibilities of those within supervisory colleges should be clearly defined and that such division of responsibilities should be articulated to the group. Also, we believe that regulatory supervision should be done "holistically" and that monitoring and oversight processes should not be duplicated. This would be not only burdensome to the regulated population, but also inefficient from the perspective of achieving the supervisory college's goals.

We believe that the following responsibilities should be added to the description of the tasks of the home supervisor:

- *“Inform the college of any regulatory or supervisory change proposals that could affect cross-border consistency;*
- *Inform the college of any areas of inconsistencies in regulation and supervisory practices that could affect cooperation and coordination within the college;*
- *Help identify and correct any gaps or shortfalls in the implementation of risk data aggregation capabilities and risk reporting so as to ensure full coverage of all material businesses of the group; and*
- *Orchestrate and coordinate related college-wide supervisory action”.*

In any case, we believe the college is an appropriate structure for home and host supervisors to provide updates on local actions or decisions regarding key topics previously agreed in the college.

Principle 3: Information-sharing

The focus of the principle and underlying guidance appear to have moved towards a greater expectation that supervisors exchange information in a prompt and effective manner. This is to be supported as it is at the heart of establishing supervisory colleges as a mechanism for delivering on-going supervisory objectives which should be based on a “hub and spoke” model. This would involve information being supplied by the group to its home supervisor to be made available to the relevant host only when such information is pertinent to the host in its role as supervisor. We note that the illustrative examples of areas for information exchange are now prefaced as being non-exhaustive and include a new reference to the assessment of Anti Money Laundering programmes and practices. We encourage supervisory colleges to maximize the opportunities for information exchange beyond this core list and welcome the identification of good practices.

In addition to supporting more collaborative information sharing, we are supportive of more collaborative judgment and decisions, as we potentially foresee cross-border inconsistencies that may require regulatory arbitration. This is particularly essential as consistency of both regulation and supervisory practices are important outcomes.

We also believe that information sharing will sometimes become challenging given some national data protection laws, which could act as barriers. Regulatory authorities may have to consider exemptions to data protection laws creating barriers in order to achieve this objective as the protection of data and confidentiality is paramount.

Effective information sharing presupposes coordination of regular and ad-hoc reporting and also encourages consistent regulatory and supervisory practices, and will play an important role in making inconsistencies more transparent.

As stated above, we suggest that only pertinent information be transmitted to host supervisors at appropriate points in time. We believe that home regulators should maintain control over not only what information is shared, but when information is shared. Some banks with global operations have voiced concern over the sharing of business and resolution plans with host regulators when there is no apparent prudential or supervisory justification for it. Although we remain supportive of the principle of information exchange, it must be emphasized that this should take place within a robust confidentiality framework. We continue to support the Annex “Principles for establishing statements of cooperation for the sharing of confidential supervisory information”. We believe that information to be shared cross-border must be clear enough to be understood and interpreted across borders, taking into account language and jurisdictional data gathering differences. We also believe that college’s staff should be responsible for having appropriate processes and procedures so as to ensure that data and information are adequately protected when being circulated.

Finally, we suggest that it would be worth adding in the examples of information exchanges in supervisory colleges in the last bullet on page 10 of the consultative document; *“the inclusion of relevant material information arising from reports from control and risk functions, including, where appropriate, information regarding conduct”*. In addition, we would like to see the following bullets included on the list of examples: *“information on business models, conduct, risk assessment, risk governance, and risk culture”*.

Principle 4: Communication channels

We believe that the principles would benefit from an explicit indication that those within supervisory colleges should deal with each other openly and cooperatively. We also believe that supervisory college staff should exercise their functions as transparently as possible, providing feedback to the supervised group.

Thus, we propose that the following texts are included: *“Colleges should foster improved communication, both internally among supervisors and externally with the supervised group; including more structured feedback on its deliberations and findings.”* We also propose the inclusion of the following text: *“Colleges should clearly communicate their supervisory powers, roles and responsibilities and supervisory agenda to firms”*.

Principle 5: Collaborative work

We note that the implementation guidance underpinning this recommendation includes a new caveat that collaborative work is encouraged if it “clearly enhances” the consolidated supervision of the group. Whilst we understand the desire for efficiency, we would be concerned if the guidelines unintentionally raised the bar for when collaborative work, which we support, is appropriate.

We believe that any collaborative work should be embedded in the supervisory plan. The plan should set out areas for collaborative work as well as any two-way delegation and job sharing arrangements between home and host supervisory authorities. It is within the broader context of an agreed college-wide supervisory plan that collaborative work always enhances supervision, and is not just consolidated supervision but potentially also supervision at a “solo level”.

We agree with the statement *“Collaboration may also serve as a conduit to develop supervisory work programmes or improve coordination of supervisory approaches.”* We find the examples in the list useful and would like to suggest it also covers: collaborative work, risk governance, culture, business model analysis and information systems.

The elaboration of the examples of collaborative work are welcome but we continue to believe that the guidelines could be more ambitious and identify a standard range of tasks where supervisory colleges should normally be expected to collaborate. That being said, we welcome the new reference to discussion of minimum capital and liquidity requirements in home and host jurisdictions.

We would underscore that collaborative work should be defined in a way that respects legal confidentiality and data protection laws and regulations.

Additionally, we support collaborative work in the interests of efficiency and avoiding duplicative work for the supervisors, and where at all possible, avoiding duplicative work for groups (e.g. data reporting, and substantially similar resolution plans submitted in multiple jurisdictions, standardized formats, and timelines for data collection, etc.)

Principle 6: Interaction with the institution

We note that the implementation guidance identifies a number of ways in which communication with the group can be enhanced. The focus on the consistency of messages and the avoidance of duplication is welcomed, although our members would also welcome a more direct reference to comprehensive and timely feedback.

The guidelines covering the participation of the group in the college have been expanded but stop short of describing the type of two-way dialogue suggested in our 2012 paper². We continue to believe this will beneficially enhance the supervisory college process.

We are supportive of the notion of groups sharing during some college meetings on forward looking strategy, risk profile, and appetite among others. We would however discourage including in the guidelines any prescriptive roles for colleges in their area.

² IIF Response, 30th June 2010, IIF Comments on BCBS consultative document good practice principles in supervisory colleges.

In regard to group-wide information requested from host supervisors to the local entity, we believe it is important to emphasize the observance of the general principles of relevance, materiality and proportionality. In addition, we would note that for a wide range of reasons (most of them of a practical nature) such detailed information is not generally available at the local firm, but naturally resides at the parent-level. We would therefore suggest that the principle makes direct reference to the need for the host supervisor to first seek to obtain such relevant information by liaising with the home supervisor. We believe that the home supervisor must play a central role in insuring that host supervisors receive the appropriate information, given their local needs and concerns, on the group-wide perimeter.

Principle 7: Crisis preparedness

The revision of this principle is welcome and provides a clearer explanation of the complementary roles of supervisory colleges and Crisis Management Groups ('CMG's'). Nevertheless, we observe that there remains uncertainty around whether it is the college or CMG which holds responsibility for reviewing the group recovery plan. Such uncertainty should be clarified. Furthermore, we would welcome further details of the "crisis preparedness plan" to be prepared by supervisory colleges for groups not subject to CMG's.

Former Principle 8: Macroprudential work

The recognition of the importance of macroprudential information to the roles that supervisory colleges can play is welcomed. On balance, we support the decision to embed consideration of macroprudential issues within the principles discussed above. For example, we would expect a college to discuss macroprudential decisions such as the application of the Countercyclical Capital Buffer within the context of principles 3 and 5.

It would be helpful to our members, and presumably to supervisors too, if data in relation to the suite of macro indicators were collected and compiled centrally in order that a trusted and robust time series was widely available.

Conclusion

We recognize the challenges of developing and designing supervisory colleges so that they achieve the supervisory goals of efficiency and efficacy, particularly in a cross-border setting. In this regard, we welcome the progress in operationalizing colleges that the Basel Committee has achieved to date. We believe that the proposed revisions to the principles will significantly enhance the effectiveness of colleges and their shared oversight. Given the central importance to coordination and communication between supervisors, we encourage the Basel Committee

to continue its work in this area with the objective of moving supervisory colleges towards a position in which they play a central role in the effective oversight of the banking group.

The Associations thank again the Basel Committee for the opportunity to provide comments on this important issue and remain at its disposal for further interactions on the subject. Additional questions or elaborations on the issues raised in this letter can be addressed to Adam Cull (adam.cull@bba.org.uk), Dee Ray (Dee.Ray@afme.eu) and Andrés Portilla (aportilla@iif.com).

Sincerely,



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