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26 March 2010

Dear Mr Vossen,

Guidelines for the operational functioning of colleges (CP34)

This is the British Bankers' Association's response to the consultation on the above guidelines. We welcome the opportunity to comment.

As we have made clear to you on many occasions we are strong supporters of the use of colleges of supervisors and welcome that fact that they have been put at the centre of proposals to enhance the regulation and supervision of cross-border banks. In our view, this is in no small way due to the part played by CEBS and other European institutions in developing guidelines for their operation and demonstrating that they can work by putting them into practice. We see these guidelines as providing an important reference guide for EU supervisors as they move towards greater coordination and cooperation of their tasks as prescribed by European legislation.

A key issue for many of our members is the way in which arrangements for the organisation of colleges for European specific purposes mesh with global arrangements. We note that the guidelines have been struck in such a way as to provide a means of engaging the supervisory authorities of third countries in the work of the college on a voluntary basis. The extent to which the supervisory authorities participate in colleges will be of interest. We are concerned, however, about the inevitable duplication between EU arrangements and global colleges. A key objective going forward must be to ensure that European and international colleges complement each other and work towards minimising any parallel running.

Although we support the majority of proposals to reform the supervisory architecture in Europe, and welcome the fact that colleges have been placed at the heart of the supervision of cross-border firms, we are concerned by the potential impact of the proposals on the operation of international colleges. We agree that it is appropriate for the future European Banking Authority to participate in colleges as an observer but would become concerned if its remit was to be drawn in such a way that it undermined that ability of the home supervisor to organise the college. Furthermore, we believe that it is vital that measures designed to facilitate the sharing of information between supervisors do not have the opposite effect and act as a disincentive when third country supervisors participate in colleges.

In terms of the format of the guidelines, we acknowledge – and welcome – the desire to enhance supervisory convergence. Nevertheless, we do believe that the explanatory text supporting the guidelines is overly prescriptive in places to the extent that the imperative of retaining flexibility of colleges to be tailored to specific circumstances is undermined. There also needs to be clarity on whether the guidelines are intended to refer to the CEBS secretariat or to CEBS members. For

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example, it would be inappropriate in our view for a CEBS member to observe a core college or receive sensitive information if it has no direct role in the supervision of the institution to which the college relates.

We concur that it is appropriate for CEBS to expect its members to implement the guidelines along the same time line as that for the revised CRD. For clarity, our understanding is that the new framework will apply from 1 January 2011. We believe this is appropriate.

Below we offer our high-level views on each section of the guidelines.

Operational organisation of colleges

We welcome the pivotal role afforded to the consolidating supervisor and the recognition that in some instances it may be appropriate in the interests of promoting the effective functioning of the college to differentiate between 'core' and 'general colleges'. In conducting the mapping of the college and establishing the relevance of operations to the group's activities it is vital that the consolidating supervisor engages closely with an institution's management. In this respect, we welcome guideline 25 and the notion that the consolidating supervisor should organise meetings with senior management of the supervised group. These meetings should be used to provide as great a degree of feedback to the group as is possible.

As noted above, we believe it is important for the guidelines to facilitate the participation of third country supervisors where appropriate. We believe that it is right that attention is paid to the equivalence of third countries' confidentiality provisions with CRD rather than those of national requirements.

We agree that CEBS – or the future EBA – should be invited to participate in the college as an observer. It should be provided with information relevant to its objective of promoting supervisory convergence. It should not, however, be used as a central data repository or by routine be privy to information shared bilaterally between members of the college.

Exchange of information among supervisors and communication with institutions

The section regarding the exchange of information is one where we believe that the guidelines become more prescriptive than is necessary. Whilst we agree that it is vital for supervisors to exchange information, we believe that it should be for each college to determine what this should include. There is certainly a place for CEBS to promote good practice in this area but we are not convinced that it is appropriate to include a list of information items which must be shared (guideline 17) and suggest that this list be included as an example rather than a minimum requirement. We hold particular concerns over the sharing of market confidential information disclosed within the core college with the members of the wider college. For example, we do not believe it would be appropriate for full details of a group's 'living will' to be shared outside the members of the core college. The confidentiality of such information must be maintained.

We welcome the inclusion of guidance on communication with the institution being supervised. Too often to date, the information flow has been one way. We hope the guidelines will lead to a greater feedback as the level of engagement increases. It is vital that this communication – particularly information requests – be properly coordinated. In the past this has not always been the case. For example, in the context of remuneration, some of our members received requests from multiple regulators concerning their compliance with the various remuneration guidelines.

It is right for the consolidating supervisor to liaise with the parent company and local supervisors to engage with locally licensed entities. We strongly support guideline 57 and the suggestion that the coordinated supervisory plan should be shared with the supervised group to ensure transparency.

Voluntary sharing and delegation of tasks and joint decision making

We support the elaboration of guidelines on both the voluntary sharing and delegation of tasks and joint decision making. We believe the proposed guidelines will be of value in promoting such practice. In particular, we would welcome the college coordinating work on model approvals for the calculation of regulatory capital requirements and the terms and conditions relating to those decisions (guideline 38, paragraph 130). This would avoid firms receiving duplicate requests from different regulators.

Macro-prudential risks

We concur that it is important for the college to assess the broad macroeconomic risks facing the institution and any specific systemic risks that the institution may pose to the financial system.

Planning and coordination of activities

Planning and coordinating the activities of the college is clearly important. As noted in guideline 57, the plan must be communicated to the management of the institution being supervised if at all possible.

Emergency situations

Planning for emergency situations is the area where it is perhaps most important for the college to focus on the group as a whole rather than just its European operations. Much progress has been made in this regard at the international level and we therefore see the measures being taken under the auspices of the G20 and Financial Stability Board (such as the development of Cross-Border Crisis Management Groups) as being of particular importance. Where at all possible, EU arrangements should dovetail with international agreements.

The guidelines rightly reflect the fact that the core college should be the foundation of any response to a crisis. We agree that the college infrastructure provides a sensible and appropriate means of facilitating coordination amongst the broader range of authorities which will nevertheless be engaged in responding to a crisis. In this regard, it is particularly important that the college plays a central role in coordinating information requests to the institution being supervised. Our members' experience during the crisis of 2008 was that this was often not the case and that time consuming duplicative requests were being received which required senior management's attention at a time of considerable stress.

Much time is being devoted to the development of 'living wills' and other contingency planning procedures which might become relevant during a period of stress. We agree that it is right that the college has a role in reviewing and assessing these at the consolidated group level.

Please do not hesitate to contact us should you require clarification of any of the points made above.

Yours sincerely,



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