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ING response on CEBS Guidelines for the operational functioning of colleges (CP34)

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Introduction

ING is committed to the well-functioning of supervisory colleges as we believe colleges can improve mutual understanding and cooperation between supervisors as well as between supervisors and supervised entity. We therefore welcome the CEBS guidelines on the operational functioning of the colleges. The guidelines can contribute to enhancing the existing structure in which greater supervisory cooperation in the oversight of cross-border and cross-sectoral groups can be achieved. Guidelines can also facilitate more structural contacts between supervisors. If colleges find a good operational modus, this will add to increased efficiency and effectiveness of supervision in going concern and in times of distress.

To date experiences of the financial industry with colleges are still rather limited. ING has had positive experiences with the supervisory college model for example with regard to joint research in the areas of compliance and economic capital but notes that college meetings have, to a large extent, primarily taken the form of information sharing events. Although we recognize information sharing is an important first step to kick start cooperation and foster trust among supervisors, supervisors should now aim to move beyond that step. More intensified coordination is therefore desirable, whereby all participants should take a group wide perspective in addition to their local interests.

Having said that, it is important to realize that supervisory colleges are a relatively new phenomenon, and it will take time before colleges are really effective. So, supervisors should pull together to make this model work, together with the financial industry.

Chapter 1: Operational organization of colleges

Colleges of supervisors are required in a European context by both the CRD and Solvency II. Furthermore, for large institutions active on a global level, the college model has been strongly promoted by the G20 and the FSB. ING believes colleges must be global for global firms. We don't think it is useful to have a separate EU college and a global one. Therefore more discussion is needed on how the European and international colleges will be integrated with a view on decision making and possible mediation purposes. The involvement of non-EEA entities as described in guideline 5 and the subsequent paragraphs run the risk of an overly defensive approach towards the participation and contribution of non-EEA entities.

Information sharing is important. Of course we fully recognise that supervisors have strong mechanisms in place to protect confidentiality. Yet there are going to be new mechanisms for information exchange, particularly between the micro-prudential and macro-prudential levels. We think it is important to establish procedures to protect confidentiality of corporate and

client data and to clarify what mechanisms will be used to aggregate data for macro-systemic purposes. In that respect we welcome the guidelines in paragraph 33.

For colleges to work in practice, the home supervisor needs to be in a position to take a strong lead role in agenda setting and (where applicable) decision-making for the college as a whole. We believe that key host supervisors should be actively involved in the deliberations on the supervision of the group as a whole. For us it is most important that supervisors take decisions that are implemented uniformly by all supervisors in the college. We understand that all supervisors want to have adequate insight into what is happening in the supervised entity.

Chapter 2: Exchange of information among supervisor and communication with the supervised institutions

The most important goal of colleges is to achieve a harmonized vision on the (risk profile of the) group. Colleges should allow all supervisors involved in the group to understand the group, its business and its risk profile. Paramount to this understanding is a clear, identical and homogeneously implemented legislative foundation. The CRD, due to its numerous national discretions, currently falls short of this requirement. In reviewing the CRD, additional effort should therefore be made to further smooth out national deviations.

Cross-border financial groups need consolidated supervision. Developments during the financial crisis and its aftermath have, due to individual actions taken by supervisors, unfortunately resulted in a step away from consolidation and a de facto strengthening of local supervision. For any group with centralized risk and capital management, this is a development that could seriously decrease efficiency and effectiveness of business operations. It is important that national approaches by supervisors are abandoned and a harmonised approach is chosen within the colleges.

Requests for information are to be coordinated within the college. ING receives many requests from different supervisors that use different formats, definitions and timelines. In this respect we fully support the guidelines provided for in Chapter 2 and we hope they will be implemented swiftly by the different supervisory authorities.

The guidelines in this chapter also relate to how we manage the relationship of our local managers with their local supervisors. One case in point refers to price sensitive data. Listed companies have in place very strict internal compliance rules to comply with regulations on disclosure of such data. Before release of the data to the market, for instance, the profit numbers for the group as a whole are only known to a very small number of people within the company. These numbers are certainly not known at the local business level. Sharing that information with a broader group both internally and externally would run counter to the public disclosure regulations we have to comply with.

Chapter 3: Voluntary sharing and delegation of tasks

Voluntary sharing and delegation of tasks can be an efficient tool for supervisors to benefit from (i) expertise and (ii) capacity of other supervisors. It is important to note however, that such practices are less likely to materialize if risks and capital of the supervised entity are centrally managed.

Chapter 4: Joint decision on model validation and Chapter 5 Joint decision on risk based capital adequacy

Within the EU Member States still take their own approach to IRB approval. Home supervisors often go along with local comments/requirements, even if these goes against the modelling standards agreed upon at group. Local supervisors tend to contact local staff, whereas home supervisors contact Head Office staff.

With regard to paragraph 144 regarding the Supervisory Review and Evaluation Process we would like to note that on many occasions it appears that requests for local ICAAP and a local SREP are not discussed in the colleges. In our view the colleges should contribute to a global understanding of the bank's ICAAP. However, groups are frequently faced with divergent requirements and capital expectations regarding local ICAAPs. An orderly structure for ongoing decision-making as ICAAPs evolve would therefore be very helpful.

With regard to various aspects of pillar 2 (ICAAP / SREP) it should be to be taken into account that ING is an IRB bank, but some of our subsidiaries are still on Standardised. Our Pillar 2 process is a process that covers the complete banking book and makes no distinction between SA and IRB portfolios. As IRB bank, under Pillar 2 ING makes use of internal models (PD, LGD and EAD). Thus, within SA portfolios ING uses internal models under Pillar 2, but does not use these internal models under Pillar 1 (SA). We assume that SA banks would have a more sophisticated Pillar 2 process as it uses the knowledge of an IRB bank (internal models), than a stand-alone SA bank or a SA bank with an SA parent bank.

National discretions still can lead to major problems. One of the examples can be found in the revised Large Exposure regime. CRD Article 113.4c leaves it up to the discretion of the local authorities whether subsidiaries should or should not report large exposures on their parent or other related entities. In their pre-consultation our home supervisor has not given clarity on this. However, for ING this exemption is very important given that we have a decentralised funding model for our Treasury meaning that local entities will have a too Large Exposure in case these exposures are not exempted.

Chapter 6 Macro Prudential risks

In our view stress testing is an important example of an issue that should be coordinated within the college. We are currently faced with ad hoc requests for stress testing by host supervisors on our local entities. All of those stress tests are run at the group level and more coordination would contribute to a coherent view of the robustness of the group.

Chapter 7 Planning and coordination of supervisory activities in going concern situations

We support the proposed guidelines for the planning and coordination of supervisory activities in going concern situations set out in Chapter 7 of the consultative paper. However we have some concerns with regard to the room which is left to local supervisory authorities in relation to, for example, requesting separate action plans. In our view this should be the task of the consolidated supervisor (paragraph 207).

Chapter 8 Planning and coordination of supervisory activities in emergency situations

Where emergency situations occur with respect to a group, there is an important role to play for the colleges. We believe that the experience within a college that has been built in going concern situations can contribute to effective cooperation in times of distress. This is all the more important since the determination of such times of distress and adequate measures to prevent them from endangering the continued existence of a group requires effective coordination and agreement among college members to avoid individualistic (national) approaches that will affect all stakeholders concerned. This not only relates to the functioning of colleges within the EU but also at a global level.

Additional remark

Binding mediation

We welcome this CEBS consultation because we believe formalization of processes and structures of colleges is important to ensure coherence across the financial sector and globally. In this respect, we support a move toward a binding mediation mechanism in the EU as is now under discussion in the new supervisory framework. We understand this is challenging and understandably there is some discomfort in some countries over a perceived interference in sovereignty if a supranational (EU) authority makes a decision that could ultimately cost national tax payers. Yet, as foreseen now, it will probably be in rare occasions when binding mediation will be used. The college must be accountable to someone so that there is a final recourse where a decision cannot be reached. We strongly believe that without some loss of sovereignty we cannot move forward. Therefore when an agreement has been reached about EU supervision the element of binding mediation should be included in the CEBS guidelines.