Comments on Review of FCD	
Name / company: European Association of Co-operative Banks (EACB)	
Please insert your comments and answers in the table below, and send it in word format to fcdadvice@c-ebs.org and secretariat@ceiops.eu, indicating the reference "JCFC-09-10". In order to facilitate processing of your comments, we would appreciate if you could refer to the relevant section and / or paragraph in the Paper JCFC-09-10.	
Reference	**Comment and answers**
General comment on the **whole** Review of FCD	We appreciate the efforts of the JCFC to solve problems related to the practical application of the FCD. We think that the comment paper addresses the most relevant aspects. All in all, the solutions suggested seem to take the right direction, while we consider that regarding certain aspects differing approaches should be chosen.
Chapter 2	Definitions of different types of holding companies and their impact on the application of sectoral group supervision
Q1 Do you agree with the above analysis?	The illustration of the problems that can arise regarding the interaction between sectoral supervision and FCD supervision, in particular when an MFHC is involved seems comprehensible.
Q2 Do you agree to the proposed	Option 1 seems to provide for appropriate solutions in most cases. However, in order to avoid any duplication, there should be the possibility that in some specific cases only one supervisor will be in

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recommendations? (Yes / No) If No, please elaborate on your alternative proposal	charge of conglomerate supervision.
Other comments on chapter 2	
Chapter 3	The definition of “financial sector” and the application of the threshold conditions in Article 3 of the FCD
Part 1	Inclusion of entities for the purposes of identifying a financial conglomerate
Q3 Do you agree with the above analysis?	We share the conclusion that supervisory practices regarding the treatment of AMCs under the FCD are not homogenous. However, we would like to recall that some AMCs are financial institutions in the meaning of article 4 (5) of the CRD and thus included in the sectoral consolidation of credit institutions.
Q4 Do you agree to the proposed recommendations? (Yes / No) If No, please elaborate on your	In order to achieve a level playing field and equal competition, we recommend regulatory changes (modification of legislation) in order to ensure that AMCs are included into the identification process.

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Part 2	How to include AMCs in the identification process - Allocation of AMCs to a particular sector and criteria for using income structure and off-balance sheet activities to determine the significance of the various financial sectors of a group
Q5 Do you agree with the above analysis?	In fact the FCD does not make any indication on how AMCs should be allocated, be it to the insurance or the banking sector. However, article 4 (5) of the CRD provides (sectoral) rules that ensure clarification regarding some AMCs.
Q6 Do you agree to the proposed recommendations? (Yes / No) If No, please elaborate on your alternative proposal	As indicated above, there are different types of AMCs. Their on-balance and off-balance positions should be considered in a differentiated manner, depending on their activities and for whom they hold and manage assets. Sectoral rules seem to be more suitable to address this matter. In so far we do not share the JCFC proposals. Instead, we suggest developing rules on the allocation of AMCs within the context of the relevant sectoral rules, as it is the case already for some AMCs (see above).
Q7 Could you suggest what issues the guidance should address and provide evidence to support your suggestion?	As indicated under Q 6, we would prefer sectoral regulation, focusing especially on how far on-balance and off-balance positions are to be allocated. In particular, it would have to be clarified that assets that are held for third parties are not to be allocated to a conglomerate.

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Q8 Could you suggest what features could distinguish between an Asset Management Company (AMC) within a banking group and an AMC within an insurance group?	An AMC, which holds assets for third parties, i.e. parties that are not part of the conglomerate, seems to be quite a typical financial institution as defined under article 4 (5) CRD. Thus, such AMCs should remain subject to banking supervision in the future; the current approach should be maintained. If, however, an AMC exclusively holds assets of entities that are part of the conglomerate, the AMC should be treated as part of that sector, for which it holds the bigger amount of assets.
Part 3	Should quantitative standard thresholds determine whether supplementary supervision applies to a group?
Q9 Do you agree with the above analysis?	We admit that the fix limit of 10% can result in very small groups being subject to FCD supervision („midget conglomerates“).
Q10 Do you agree to the proposed recommendations? (Yes / No) If No, please elaborate on your	We also consider option 2 to be the best solution. In fact, it gives supervisors the opportunity to take a flexible approach and to act according to the situation of the market. We think that the fix threshold of 6 bn. Euro should be reconsidered as the amount is not indexed and has not been changed since the implementation of directive 2002/87/EC.

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Q11 Could you suggest what issues the guidance should address and provide evidence to support your suggestion?	A legal provision, according to which supervisors could decide, on request of the group concerned, not to subject it to conglomerate supervision, although the fix limit has been exceeded, would provide for an adequate solution. We believe that supervisors will use such discretion in a responsible manner. Therefore, we do not think that guidelines on such exceptions are required at this stage.
Other comments on chapter 3	
Chapter 4	Implications of different treatments of participations for the identification and scope of supplementary supervision of financial conglomerates
Q12 Do you agree with the above analysis?	The problems that result from differing interpretations of the term „durable link“are well described. However, we think that this question is far less relevant for the identification of a conglomerate, while it is of crucial importance for the question of whether those participations are to be deducted from own funds. In some member states supervisors have a very strict understanding of this provisions, so that even very minor participations in insurances are to be deducted from banks' own funds, simply for the reason that banks sell products of those insurance companies to their customers in the course of their business. The problem of the identification of a conglomerate due to minor participations is well explained.

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	However, we think that the provision of data (chapter 5) is the more relevant aspect in this context.
Q13 Do you agree to the proposed recommendations ? (Yes / No) If No, please elaborate on your alternative proposal	We doubt that guidelines might be an appropriate solution to overcome differing interpretations of the term “durable link“. In fact, for the definition of participation Art. 2 (11) FCD refers back to the forth company directive 78/660/EEC. Thus guidelines could only provide for a limited solution as far as the FCD is concerned. By conclusion, the (same) situation could be treated differently for accounting purposes and for the purposes of the FCD. Thus, guidelines could create even more problems. We would therefore prefer a solution by a specific regulation amending Art. 2 (11) FCD. As explained under Q12 we believe that the question of a „durable participation“ for the identification of a conglomerate is not relevant. For that reason we suggest to delete the reference in Art. 2 (11) to directive 78/660/EEC. We support the proposals regarding the treatment of minority participations.
Q14 Could you suggest what issues the guidance should address and provide evidence to support your suggestion?	As explained above (Q13) we think that there are good reasons why a regulatory solution would be preferable. It could be stipulated, in particular, that only those participations considered, where a significant influence on the company can be exerted.
Other comments on chapter 4	
Chapter 5	The treatment of ”participations" in respect of risk concentrations (RC) and intra-group transactions

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	(IGT) supervision and internal control mechanisms
Q15 Do you agree with the above analysis?	We very much appreciate that the JCFC addresses the problem of access to information of companies, in which minority participations are held. This is a matter of high practical relevance. There is also the problem that very often it is impossible to accomplish that a company, in which minority participation is held, submits to the conglomerate's risk management system and its orientations.
Q16 Do you agree to the proposed recommendations? (Yes / No) If No, please elaborate on your alternative proposal.	We fear that guidelines will not fully solve the problems relating to minority participations, since they could in some points contradict the provisions of the FCD. We would therefore prefer a solution that implies an amendment of the FCD.
Q17 Could you suggest what issues the Level 3 guidance should address and provide evidence to support your suggestion?	There should be provisions in the FCD, according to which an obligation to provide information on companies, in which a minority participation is held, requires that there is in fact access to such information. Furthermore, we suggest establishing provisions, according to which unregulated entities, as well as participations, in which no relevant influence can be exerted, are exempt from articles 7, 8, and 9 of the FCD. Furthermore we suggest clarifying that only those IGTs are of relevance under the FCD, which are

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	cross-sectoral transactions. **Intra-sectoral transactions** are dealt with under sectoral supervision so that there is no need for complementary information requirements on the conglomerate level. We therefore stress the importance of the analysis of the JCFC under Nr. 144 b and strongly encourage addressing this matter in future guidelines. The term "IGT" seems to require more clarification within the context of financial conglomerates. Art. 2 (18) FCD only refers to transactions, where companies of the conglomerate *„rely"* on other companies for the fulfillment of an obligation. Such definition would not include certain transactins such as day-to-day funding transactions. This should be more developed in guidelines as well. For the purpose of an alignment with the large exposure regime, we suggest establishing a materiality threshold for IGT of 10% of own funds. Systematic convergence could be improved by changing the terminology regarding the relevant level of capital. As it is the case under article 108 CRD, reference should be made not to" capital adequacy requirements", but to „own funds" A convergence of practice could be achieved regarding risk concentrations, if participations where considered pro rata (as it is the case under the large exposures regime). Thus the existing data basis could be used.
Other comments on chapter 5	