

25 January 2006

## **Feedback to the public consultation on**

### **“Guidelines for co-operation between consolidating supervisors and host supervisors” (CP09)**

1. In July 2005, CEBS published a consultation paper (CP09), on co-operation between consolidating and host supervisors. The consultation period ended on 8 November 2005. CEBS also discussed the proposed Guidelines with market participants in a public hearing held on 5 October 2005. Twelve responses were received, all of which were published on the CEBS website.
2. This paper presents a summary of the major points arising from the consultation and the changes made to address them. It includes a section presenting CEBS’ detailed views on the public comments.
3. In assessing the comments, CEBS distinguished between:
  - General comments on major issues relating to the basic concepts and overall content of the consultation paper, and
  - Responses to specific questions posed in the consultation paper.
4. In many cases several industry bodies made similar comments or the same body repeated its comments in its response to different questions. In such cases, the comments, and CEBS’ analysis of them are included in the section of the detailed part of this paper where CEBS considers them most appropriate.
5. The responses were generally positive and supportive of CEBS’ work and required only minimal changes to the guidelines. It should be noted, however, that some large internationally active banking groups and interest groups wished for even farther reaching co-operation than proposed in the guidelines.

#### **General remarks:**

6. Some respondents would like to see the role of the consolidating supervisor enhanced, essentially arguing for the introduction of a ‘lead supervisor’ model. Some respondents expressed their disappointment that the guidelines did not apply to contacts with third countries, and encouraged CEBS to take an even more active role on the international stage, including suggesting that CEBS should make these guidelines available to be used by other supranational bodies besides the EU.

7. Another issue of interest to the industry is the legal status of level 3 guidance. Some respondents asked CEBS to elaborate on the extent to which the guidelines are binding on all supervisory authorities across the EU. Furthermore, many respondents commented on the need for clear solutions when dealing with disagreements between supervisors, and some suggested that the consolidating supervisor should have the decisive say in cases of disagreement.

#### **Specific remarks to questions I – XIV:**

8. The industry was concerned about the potential for duplication of requirements. Some respondents asked for clear statements that the consolidating supervisor should be the first point of contact for host supervisors and banking groups alike.
9. Some comments referred to topics dealt with in other consultation papers, such as reporting and model validation. Cross-references have been added to the guidelines on co-operation where appropriate. This applies especially to question XIV, referring to the process of model approval which is an integral part of CP10.
10. The strongest focus of the comments was on the evaluation of significance and systemic importance. Some respondents proposed additional factors for determining significance. They also argued that the institution should be involved in the assessment, that the assessment should be disclosed to the institution, and that the institution should have the right to challenge the supervisors' agreement on significance or systemic importance. Finally, they suggested that the assessment should be subject to a peer review procedure on the number of significant subsidiaries within a jurisdiction and the total assets of the subsidiaries concerned.

#### **CEBS response to the comments received:**

11. An explicit lead supervisor model is outside the legal framework created by the CRD, and therefore cannot be incorporated into CEBS' guidance.
12. The guidelines will be subject to review when appropriate in the light of experience gained from implementation and application, and in the event of changes in the legal framework. Based on this practical experience CEBS expects to play an active role in the review of the CRD provision relating to supervision on a consolidated basis, which the CRD envisages will take place by 2010.
13. These guidelines cannot govern supervisory cooperative arrangements between EEA and non-EEA supervisors. Nevertheless, EU supervisors will take these guidelines and this framework into account when dealing with non-EEA supervisors. Furthermore, EU supervisors will continue to play an active role in the work of the Basel Committee's Accord Implementation Group (AIG), which is seeking to promote supervisory cooperation at the global level.
14. Regarding the legal status of CEBS' tools and products, Article 4.3 of the CEBS Charter states that "[...] the members will introduce [guidelines,

recommendations, and standards] in their regulatory/supervisory practices on a voluntary basis.” Further clarification is provided by the Lamfalussy report, which states that “the outcome of this work would be non-binding although clearly it would carry considerable authority.” As to managing potential conflicts, CEBS prefers developing its approach through experience over designing of rigid procedures which might hamper the effectiveness of the process. CEBS is, moreover, confident that as a result of its commitment to convergence conflicts will be exceptional.

15. With respect to the transparency of supervisory arrangements for banking groups, paragraph 33 of CP09 states that the consolidating supervisor should keep the group informed of the supervisory approach to the group at the consolidated and individual levels. This will include considerations related to the allocation of tasks. The definition of supervisory arrangements is the sole responsibility of supervisors.
16. The supervisors’ decision on significance or systemic relevance is likely to be an element of the supervisory dialogue with the supervised entity. Nevertheless, significance is intended as a relative concept, to be assessed by the consolidating and host supervisors on a case-by-case basis and determined by the consolidating supervisor for the purposes of supervision on a consolidated basis.

## Analysis of responses to CP 09

### Guidelines for co-operation between consolidating supervisors and host supervisors

Draft Text CP09	Received Comments	CEBS Analysis	New text (proposal)
	General remarks		
	<b>CP09 is welcome as a starting point, but CEBS should go further</b>		
	CP09 has been considered a good step in the right direction of achieving a global level playing field. CEBS should use the opportunity and play a leading role in seeking convergence of supervisory approaches globally (see also below 3rd countries and AIG).	This statement is welcome. Some CEBS Members are AIG members. CEBS and the EU perspective is thus represented in the AIG.	N/R
	However, commentators thought that more could be done in the short run within the framework of Articles 129, 131 and 132 of the CRD in order to develop an integrated, risk-based and coordinated supervision of cross-border banks.	CP09 is intended to promote a well-balanced approach under the legal setting provided by the CRD.	N/R
	<b>The role of the consolidating supervisor – lead supervisor model</b>		
	Respondents backed to the “lead supervisor concept” in which the supervisor of the parent company would be fully empowered to conduct the entire prudential supervision over all operations of a financial institution within the EU. The long term aim is to move towards a consolidating supervisor model. Many references were made to the publication of the European Financial Services Round Table, On the Lead Supervisor Model and the Future of Financial Supervision in the EU, June 2005.	A clean cut lead supervisor model is outside the legal setting created by the CRD and therefore not applicable to CEBS’ guidance. The EFR publication itself admits that the current legal setting and the CRD do not allow for such a lead supervisor model.	N/R
	One respondent noted that for those smaller institutions which are active on a cross-border basis, the benefit from the lead supervisor system may prove to be even greater than for larger groups. This is because the smaller institution would be freed up from a proportionally larger amount of fixed costs created by the supervisory burden than a larger institution.	See above.	N/R

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	<p>It was noted that recital 11(a) of the CRD states that member states can apply the CRD on a strictly consolidated basis if they deem this to be appropriate. Thus, explicit reference should be made to this recital as it highlights the direction that European banking supervision should take in the near future. Moreover CEBS should integrate the review of the level application of the CRD, forecasted by 2010.</p>	<p>Recital 11a is in respect of disapplying solo supervision, which is not the objective of this paper. CEBS Guidelines are not carved into stone but subject to ongoing review and will be amended where necessary.</p>	<p>Amend § 13 of the Executive Summary: "The Guidelines will be subject to review as it appears desirable in the light of experiences from the application and in the case of legal changes."</p>
	<p>Certain respondents considered that the supervisory college is the right forum for ensuring that cooperation is as streamlined as possible.</p>	<p>CEBS and its GdC are providing for such an operational network. The supervisory college is already de facto in place in several cases of supervision of international active groups. Further, the decision as to whether to convene a supervisory college or to use supervisory bi- or multi-lateral colleges should be determined on a case by case basis, to reflect both the group's structure and the supervisor's requirements.</p>	<p>Insert a new sentence in § 18: "Further, the selected structure of co-operation, such as a supervisory college, bi- or multilateral, should reflect both the group's structure and the supervisors' requirements."</p>
<b>Approach towards third countries</b>			
	<p>CEBS' CP on home host cooperation does not touch on relationships with third countries. Some respondents encouraged CEBS to continue and intensify the dialogue with third countries, aiming to develop, where appropriate and feasible, common understanding and best practices. For instance, a clear and formal supervisory dialogue between the EU and the US would solve the home/host issues that will arise from the divergence of implementing schedules.</p>	<p>The application of the Home-Host Guidelines in relation to 3<sup>rd</sup> countries is of high interest to CEBS. For example, an EU-US dialogue has already been initiated.</p> <p>Any negotiations and application of these guidelines, however, need to have regard to various issues, such as confidentiality concerns and equivalence considerations. Thus, any extension is limited to individual countries by way of Memoranda of Understanding (MoU).</p>	<p>Insert new § 12/Executive summary: "These CEBS Guidelines cannot govern supervisory cooperative arrangements between EU and non EU supervisors. Nevertheless, EU supervisors will take account of these Guidelines and framework in dealing with non EU supervisors. Further, EU supervisors will also continue to play an active role in the Basel AIG work that is seeking to promote global</p>

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			cooperation.”
	<p>CEBS should take the initiative and use all pragmatic opportunities to coordinate and cooperate with third country supervisors when implementing the CRD and Pillar 2 in particular in order not to miss information concerning internationally active cross-border groups. A strong statement from CEBS would be welcomed that third country supervisors – who may be the supervisors of the parent entity, or of significant subgroups – will be incorporated fully into the regulatory assessment of the group as a whole.</p>	<p>Integration of third country supervisors certainly is the interest of CEBS and will be done as far as possible and permissible. CEBS Members are actively negotiating MoU with many third countries. CEBS encourages its members to follow these guidelines in its supervisory dialogue with third countries, whilst respecting domestic requirements , such as confidentiality and equivalence issues.</p>	N/R
	<p>It would also be good to know with which non-EU countries agreements according to Article 39 of the CRD (Article 25 of Dir 2000/12/EC) have been concluded.</p>	<p>Cross-cutting issue with supervisory disclosure.</p>	N/R
<b>Extension of scope of application beyond EU (AIG)</b>			
	<p>One of the industry’s concerns is the actual achievement of the Basel Committee’s goal of a global level playing field. An international supervisory culture of cooperation on the basis of the principled being developed by the AIG should be promoted in the CP09 context. Moreover, CEBS is encouraged to take the lead in promoting better supervisory understanding and convergence in the Accord Implementation Group.</p>	<p>The CP aims at achieving level playing field. Given that CEBS members are represented in the AIG, CP09 has already influenced the work carried out in this group, see e.g. the Basel CP on Info Exchange. CEBS will continue along this line.</p>	N/R
<b>“Legal” status/binding character of paper</b>			
	<p>CEBS should elaborate in its final guidelines on the way in which the guidelines are binding on all supervisory authorities across the European Union. This also relates to the question of “enforceability” of the guidelines.</p>	<p>The CEBS Charter refers to the legal quality of CEBS’ tools and products and states in its Article 4.3 that “[...] the members will introduce [guidelines, recommendations and standards] in their regulatory/supervisory practices on a voluntary basis.”</p>	<p>New § 14 of the Ex Sum: “These Guidelines have been unanimously endorsed by CEBS Members in the spirit of further converging supervisory practices within the EU and in accordance with CEBS statement on the character of</p>

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		Further clarification is provided by the Lamfalussy report where it is written that "the outcome of this work would be non-binding although clearly it would carry considerable authority."	its publications. <sup>1</sup>
<b>Management of disagreements</b>			
	Many respondents recognized that arbitration of disagreements among supervisors is a difficult question. Still, a constructive step into that direction would be to set out in the tables normal escalation procedures and expected schedules, even if an ultimate arbitrator cannot be mandated for all issues (setting aside Art. 129 of course). In any case, the key role of the consolidating supervisor in a conflict situation should never be undermined; on the contrary, there should be a clear role for the home supervisor in managing the process where there is disagreement.	An escalation procedure and formal dispute settlement is outside the present legal framework.	Amend § 20: "CEBS will continue its efforts for enhancing convergence, as in all areas of supervision. One main instrument in this respect being the open, but confidential, exchange of experience. This will enhance the likelihood of consensus."
	CEBS should elaborate in its final guidelines on the procedure to be followed in case of differences of opinion between individual supervisors on cooperation and on the possible sanctions for EU supervisors in case they do not adhere to the CEBS guidelines. A possibility for an individual credit institution to appeal against the lack of cooperation that individual supervisor agreed on for that institution.	Level 3 guidance is by its own legal nature not fit for creating neither a sanctions system nor a right of appeal. This would need new regulation.	N/R
<b>Q I</b> §§ 1 - 15	<b>Are there any changes not mentioned here that you deem significantly impacting on the European financial sector and, in particular, on the supervision of cross-border banking groups?</b>		
	CEBS should emphasize in the paper the impact that the implementation of the CRD, globalisation, EU enlargement and the deepening of European market integration, will have	CEBS is aware of these changes but it is difficult to predict to what extent those will affect the	N/R

<sup>1</sup> See Article 4.3 of CEBS Charter.

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	in the European financial sector and in its regulation.	European financial sector and its regulation. CEBS will keep its papers under regular review to ensure that they can deal with developments.	
	In addition to the trend towards centralisation, there is also an increased tendency to outsource certain business segments or individual functions. Outsourcing delivers real benefits that should not be eroded by over intrusion by different supervisors into the way in which a group allocates risk mitigation activities. EU and non EU supervisors should work together to apply an accommodative approach to outsourcing.	CEBS is working on this. (See future "Standards on outsourcing (CP02)").	Amend § 14: "[... key functions] and outsourcing other functions [, while continuing...]"
	It must be ensured that the cooperation between the consolidating supervisor and the host supervisors should not bring a disadvantage vis-a-vis the competitors in other jurisdictions through increased complexity of regulation at a European level.	CEBS' efforts towards convergence intend to reduce the unlevel playing field.	N/R
<b>Q II</b> §§ 1 - 15	<b>What are your views on the need for a co-operative framework among supervisors that is at the same time comprehensive and flexible?</b>		
	Flexibility should not stand in contradiction to convergence. The proposed home/host framework should provide guidance on the treatment of the high number of national discretions in the CRD at least for the purposes of consolidating reporting. The principle of "flexibility" should be removed, at least in its meaning of national discretion.	CEBS will continue its work on supervisory convergence, which will narrow the extent to which the remaining national discretions are applied differently in practice by the competent authorities. Nevertheless, some flexibility is necessary to accommodate the needs of the local markets.	N/R
	One respondent requested a mutual recognition of different national discretions at least to those discretions that depend on the country where the creditor has his residence or that depend on the country where the surety is provided	CEBS is working on mutual recognition. This does constitute a toll towards convergence in case of local specificities.	N/R
	One of the essential elements of the framework must be the mandatory avoidance of additional administrative burdens and additional costs for the institutions being supervised.	§ 10 states that the cooperative framework should strive to eliminate duplication of work which	N/R

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		should limit the burden for the industry. CEBS will keep the guidelines under review to ensure that they are having their intended impact.	
	Supervisors should not be too wedded to their own interpretation but recognise that different reflections of the same supervisory principles can be equally valid. In the event of a very severe stress to a bank that is active across borders a formalised architecture for supervisory cooperation is needed. Supervisors should focus their attention on these cases.	CEBS is working on this issue.	N/R
<b>Q III</b> §§ 16 - 23	<b>What are your views on the description of the respective interests and roles of consolidating and local supervisors within the proposed framework?</b>		
	Besides the interest and roles of the supervisors some instruments should be implemented that ensure the convergence of supervisory practices.	One of CEBS' objectives is the achievement of convergence and it will report on a yearly basis about this to Community institutions (Recital 48 of the CRD).	N/R
	Without a clear political decision to grant the consolidating supervisor greater powers much reliance will have to be placed on creating a culture of mutual trust.	CP09 and other CEBS' initiatives should contribute to create this culture.	N/R
	CP09 does not differentiate between key host supervisors and less concerned supervisors. Some kind of proportionality should be introduced.	Proportionality is a key concept throughout the paper.	N/R
§ 22	The term "consistent approach" should be clarified.	The important objective is consistency in the overall assessment and the co-operative framework should contribute to reach that goal.	Change § 22, 1 <sup>st</sup> sentence: "With respect to the common regulatory framework and its current development, the supervisory framework should also contribute to enhancing the consistency of the supervisory assessment throughout the whole group. It should make [...]"

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	The current multiplicity of approaches across the EU could constitute an obstacle for the clear allocation of responsibilities. To deliver real efficiency there is a need for general convergence of supervisory approaches.	CEBS is aware of this danger and believes that coming up with Guidelines and Standards provides for convergence of supervisory approaches.	N/R
<b>Q IV</b> §§ 16 - 23	<b>What are your views on the concept that supervisory co-operation should go beyond the mere exchange of information in order to enhance effectiveness?</b>		
§ 18	One respondent thinks that § 18 which stipulates that supervisory cooperation must go beyond the mere exchange of information should be specified more precisely. It is questionable whether Article 131 of the CRD is a sufficient legal basis for such specifications. The supervisors must not be permitted to extend their competences on their own authority without democratic legitimacy.	CEBS is not referring here to Article 131 of the CRD. There is no rule so far which prohibits going further. For clarification this issue should be resolved by replacement of "must" with "needs to".	§ 18, 2 <sup>nd</sup> sentence: "Supervisory co-operation needs to go beyond the mere exchange of information [...]."
	Information exchange is only an interim phase. It should also refer to the reports on the review process. Over the time other tools could be integrated, like multilateral memoranda of understandings, colleges of supervisors, common understanding and European wide best practices, transparency, third countries arrangements. Real cooperation through coordination of tasks will enhance effective supervision. Development of standardised workflows and instructions for the process of reviewing the Directive would reduce overlaps of the work between supervisory authorities. Cooperation amongst home and host supervisors should include the recognition of different authorities' approaches.	CEBS' paper works within the legal framework to promote the maximum coordination and efficiency whilst allowing flexibility. Each competent authority is required by Article 144 of the CRD to disclose the general criteria and methodologies they use in the review and evaluation referred to in Article 124 of the CRD.	N/R
	A clear allocation of tasks between supervisors is key to effective home/host cooperation with the objective of eradicating duplication. In order to maximise the use of scarce supervisory resources tasks should be allocated to the supervisor most able to undertake a particular role. This process should be transparent to all parties, including the regulated firm, and agreed by all participants.	§ 33 is about transparency. It is the supervisors' responsibility to define the detailed features of the co-operation and to communicate this allocation of tasks to the institution involved.	N/R

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<b>Q V</b> §§ 16 - 23 <b>What are your views on the suggestion that supervisors should, with a view on efficiency, consider the possibility of performing tasks on behalf of one another in strict respect of each other's legal powers and responsibilities?</b>			
	<p>One respondent questions whether Article 131 of the CRD is a sufficient legal basis with regard to permitting one supervisory authority to act on behalf of or in the name of the others.</p> <p>Many respondents sought CEBS investigating further the ability of supervisors to delegate, as defined in the CRD, with a view to removal of the current obstacles blocking supervisors from delegating.</p> <p>They welcome statements from CEBS that only a full delegation of all supervisory competences will be considered.</p>	<p>As noted above CEBS is not referring to Article 131 of the CRD. The performance of supervisory tasks upon request of another authority does not mean to assume responsibilities as a result of the given assistance. Allocation of tasks is not identical to delegation of responsibilities which is restricted to the case mentioned in Article 131 of the CRD. CEBS will endeavour to look at delegation of supervisory responsibilities as part of its work on supervisory convergence, together with assessing its member's practical experience in implementing these Guidelines.</p>	<p>Amend § 11, last sentence: "[Any such delegation] according to Article 131 of the CRD [should be based...]"</p>
	<p>Once information has been exchanged the sharing of tasks is probably the second necessary step and the best way to avoid duplication both for the supervisors and for the banking group but still insufficient. The CRD gives the opportunity to go beyond the bilateral arrangements and perform the division of tasks in a multilateral framework.</p>	<p>Both the sharing of tasks and the exchange of results are envisaged, also in a multilateral setting. They are, however, strictly defined within the present legal provisions.</p>	<p>N/R</p>
<b>Q VI</b> §§ 16 - 23 <b>Do you see major risks for duplication of tasks under the proposed framework? If yes, which are these?</b>			
	<p>It is still necessary to review whether the stipulated competence distribution could be even more specific in several places in order to avoid duplication of tasks. The descriptive framework is too much detailed and not really different between home and host supervisors.</p>	<p>CEBS has tried to develop a comprehensive and flexible approach. Supervisors are conscious of the need to be flexible in their approaches and to avoid being overly-prescriptive. The</p>	<p>N/R</p>

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		principle of proportionality is expected to make a difference.	
	If host supervisors do not rely heavily on the home supervisors there could be duplication which will be burdensome for both industry and the supervisors themselves	This framework will encourage a greater coordination in a proportionate manner between home and host supervisors.	N/R
	A short term duplication of supervisory tasks and information may, however, be regarded as an investment in the future, preferably the consolidating supervisor model.	The Guidelines will be subject to review as it appears desirable in the light of experiences from the application and in the case of legal changes.	N/R
	It is difficult to know how the relationships between supervisors and the industry will be managed in practice. There are lacks of clarity on structuring items like materiality, significance, systemic relevance, and national discretions.	On significance, principles are set out in the criteria proposed; further work can be envisaged later, in the light of experiences. CEBS is working on national discretions.	N/R
	Whist none of the proposal in CP09 would obviously lead to duplication of task one respondent took the opportunity to emphasise his view that reporting should be proportionate and relate to core parameters and be to the consolidating supervisor only. We ask CEBS to consider very carefully how reporting requirements can be coordinated for banks and investment firms and their subsidiaries which operate across borders.	Refer to CEBS common framework for reporting of the solvency ratio by credit institutions and investment firms (COREP).	N/R
<b>Q VII</b> §§ 16 - 23	<b>Do you wish to make any comments or suggestions with regard to the considerations set out in this chapter?</b>		
	Applying Pillar 2 at anything but the highest level will impose additional burdens on credit institutions and result in only a partial understanding of the group and its risk profile.	The CRD demands for the application of Pillar 2 on a solo and a consolidated level. The guidelines should lead to a coherent outcome of Pillar 2 assessment, as meant in § 20.	N/R
	The supervisory dialogue should prevent duplication of communications. Within the banking group, the central functions will make the local management fully aware (...).	The cooperation framework aims at streamlining communication between supervisors and	N/R

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	The local management has to be fully aware of its responsibilities within the banking group, but also towards the host supervisor.	institutions and thus preventing double work.	
<b>Q VIII</b> §§ 24 - 34	<b>What are your views on significance of each entity within a group and/or within its domestic market as key elements, with a view on proportionality, for structuring the process (see also answers to question IX)?</b>		
	Institutions or groups should be involved in discussions on significance and the decision process along with the supervisory authorities. There must be full transparency in the process.	Significance is a relative concept to be assessed by the consolidating and host supervisors on a case by case basis and determined by the consolidating supervisor for the purposes of the supervision on a consolidated basis. Supervised institutions may discuss the decision of significance/ systemically relevance in the course of the supervisory dialogue.	N/R
	Disclosure of key aggregate data by CEBS would help to make this an informed evolutionary process.	See the Guidelines on supervisory disclosure.	N/R
§ 34	Written arrangement between consolidating supervisors and host supervisors should be disclosed to the relevant bank as this improves efficiency and transparency. Furthermore those Memoranda should be multilateral, tailored to a specific cross border banking group, aiming a coordinated and efficient supervision of the whole banking group.	See § 33 and 37.iv: the group will be informed of overall arrangements.	N/R
<b>Q IX</b> §§ 24 - 34	<b>What are your views on the proposed approach to assess significance? Do you want to make any suggestion as to improve this approach (see also answers to question VIII)?</b>		
§ 30	It should be made explicitly clear that the list of criteria provided in the text are only examples of how significance can be determined	§ 30 should not be considered as an exhaustive list of the factors that will be taken into account in assessing significance.	Amend § 30: “[...combination]. For assessing significance a non-exhaustive list of factors is listed below. Supervisors are invited to consider a wider range of criteria whenever these are deemed appropriate.”
§ 30	Additional factors to take into account:	Some of the criteria suggested	N/R

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	<ul style="list-style-type: none"> <li>• the total risk weighted assets in a country for measuring the impact on the whole group;</li> <li>• the rational of the banking group;</li> <li>• the importance of the company for the respective regional market versus the importance of the group as a whole. In such cases the opinion of the host supervisor should be given greater weight;</li> <li>• income from the financial services industry in a Member State is disproportionately high compared to income from other sectors;</li> <li>• the risk of global contagion from a systemic crisis in a specific local market;</li> <li>• the resources of the supervisory authorities;</li> <li>• the significance of the local market;</li> <li>• the institution's own qualitative assessment.</li> </ul>	<p>could prove useful and will be retained for potential use by supervisors.</p> <p>CP09 already mentions the contribution of the entity to overall capital requirements</p>	
	<p>Clearer guidelines on how this concept should be applied in practice should be established. Leaving such concept open ended is ultimately contrary to the proportionality concept and likely to undermine the convergent implementation of the CRD.</p>	<p>Supervisors prefer not to consider fixed quantitative criteria in order to be flexible and to avoid being overly-prescriptive.</p>	<p>N/R</p>
	<p>There should be a periodic review of the significance assessment to ensure it continues to be appropriate. Both the quantitative and qualitative elements will be subject to change over time.</p> <p>The institution should, therefore, not just be able to challenge the original determination before a final decision is made, but should also be able to challenge the decision at a later stage where circumstances change.</p>	<p>The decision made should be reviewed periodically. The institution's opinion should be taken into consideration but the assessment of significance is and remains a supervisory decision.</p>	<p>Amend § 31, last sentence: "[...] a periodic review of the assessment is recommended."</p>
	<p>The parameters defined in § 30 allow different interpretations by Member States, which need to be clarified further. The chosen measures should be given quantitative limits.</p>	<p>CEBS wants to be flexible avoiding fixed quantitative criteria. Quantitative limits for assessment parameters would be too rigid to accommodate different situations, in particular with respect to the structure of domestic markets.</p>	<p>N/R</p>

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<b>Q X</b> §§ 35 - 55	<b>What are your views on the general description of the process as set out in the tables above? Does it depict a logical, workable and comprehensive approach?</b>		
	The description laid out in the tables provides a useful basis for the cooperation process which is logical workable and comprehensive. The clear distinction between the roles of the consolidating supervisor and of host subsidiary supervisors is supported as is the distinction between subsidiaries and branches.	CEBS welcomes the support for these key aspects of its proposal.	N/R
	The basic assumption of CEBS that the consolidating supervisor needs the host supervisor in order to supervise the whole banking group and that the host supervisor needs the consolidating supervisor in order to evaluate the centralised systems of the group is logical but rarely present in practice.	CEBS thinks that there is a trend toward centralisation particularly in larger groups. In addition for subjects related to local market characteristics the host supervisor will be best placed to obtain the information.	N/R
	The given model of co-operation should not be treated as a checklist by the supervisors or translated in to a 'form' that firms were required to complete on behalf of the supervisor. The amount of essential information to be exchanged and the planning and coordination of supervisory work should be arrived at as a result of dialogue between the firm and the supervisors that are most involved in regulating it.	The principles on cross border co-operation are illustrated along the various steps of the Supervisory Review and Evaluation Process (SREP) as one of the key components of the overall supervisory process. These illustrative parts do not imply a prescriptive or unique guideline on how to organise the SREP but offer a flexible framework on how this process might be conceived in general.	N/R
§ 41	CEBS should further explain the reference made to the (sub)consolidating supervisor.	Reference to sub consolidating supervisors is made for cases when sub consolidation is due according to Article 73(2) of the CRD. Then the sub consolidating supervisor is one of the authorities to be involved in the communication strategy referred to in § 41.	N/R
	Firms must be duly informed about the exchange of	Supervisors should be able (and	N/R

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	information pertaining to them between the different supervisors involved. On adverse developments they should be given the chance to comment in a bilateral meeting with the relevant supervisor before the information is passed on. This is especially true on matters of judgement rather than proven facts.	are obliged) to pass on information among themselves in a timely manner and this information may represent the supervisor's judgement. Institutions and groups will naturally be informed of relevant conclusions reached by supervisors as part of the "supervisory dialogue".	
	Tables should be revisited periodically and may be usefully extended to include additional guidance.	The guidelines will be subject to review.	See amendment in § 13 of the Executive Summary: "The Guidelines will be subject to review as it appears desirable in the light of experiences from the application and in the case of legal changes."
<b>Q XI</b> §§ 35 - 55	<b>Do you see additional potential for streamlining the process of co-operation, under the present legal provisions? What suggestions do you wish to make in this respect?</b>		
	Significant requests for information about the way in which risk is managed at a group level should be routed via the home state supervisor. The host supervisor should only ask for information directly from a firm's branch or subsidiary when it has been pre-identified as being systemically important for the host state concerned. In such cases the home supervisor should be notified and any information collected shared with it, so that both home and host supervisors are aware of all information requests and planned meetings.	According to CP09, the interaction by a subsidiary/branch with host supervisors should be as efficient as possible but not prohibited. In any case supervisors should ensure that the consolidating supervisor has unfettered access to all relevant information. Moreover, the host supervisor is responsible for the supervision of subsidiaries on a solo or sub consolidated basis which is why it is entitled to require information from locally supervised institutions except information that can be obtained directly from the home supervisor.	N/R
	Indiscriminate calls for information are costly and ultimately inimical to effective regulation as well as contrary to the	The section on information exchange in the guidelines is	Amend § 42: "Beyond the exchange of "essential" and

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	spirit of proportionate regulation.	exactly aiming at reducing the risk of indiscriminate call for information.	"relevant" information, supervisors will exercise restraint in order to avoid disproportionate or redundant flows of information."
	CEBS should state that no host supervisor will request more information of a local branch or subsidiary than the parent company is required to provide its home supervisor.	Supervisors should have any information which is essential or relevant for the exercise of the supervisory tasks.	N/R
	This framework does not include any temporal requirements for the duration of the process of completing the individual stages. Further streamlining of the process by specifying a time frame should be considered.	As the proposed framework is designed to be flexible, time frames will be discussed on a case-by-case basis according to the circumstances.	N/R
	In the case of structural changes in the group the entire six steps process should not have to be repeated. It should be sufficient to build on already existing evaluations. Otherwise the institutions involved would be subject to inappropriate burdens imposed by the phase concept such as the provision of information. Such an application of the framework could no longer be considered flexible.	As mentioned above this is a flexible framework and should not be considered as a checklist.	Amend § 45: "If structural changes in a group entail the involvement of new or the exclusion of existing supervisors, the consolidating supervisor will monitor a proper handover and an effective continuation of the cooperative process."
	The proposed joint inspections should be described in more detail. It is assumed that a so called joint inspection will not lead to interventions in the existing sovereign areas but will serve only to improve the communication of information on the part of the home and host supervisors.	Joint inspections should be organised with flexibility; their primary objectives are to enhance effectiveness of the execution of tasks and to promote a good understanding of firms and markets with all supervisors involved.	N/R
<b>Q XII</b> §§ 56 - 64	<b>What are your views on the general description of the process as set out in the tables above? Does it depict a logical, workable and comprehensive (see answers to question X)</b>		
	Essentially the process described represents a logical, functional and comprehensive practical framework	CEBS welcomes this response.	N/R

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	There would be very little additional interaction by a branch in a host state with the local supervisor but a respondent recognised that this is not likely in the short term. For now the description set out in the tables appears appropriate but would expect this process to wither over time.	The framework will be periodically reviewed.	N/R
<b>Q XIII</b> §§ 56 - 64	<b>Do you see additional potential for streamlining the process of co-operation, under the present legal provisions? What suggestions do you wish to make in this respect?</b>		
	CEBS should ensure that the role of host supervisors in the regulation of branches is limited to what is necessary	This is what the Guidelines propose.	N/R
	It is particularly important that the supervised institutions are given clear information about the allocation of the tasks and competences between the consolidated supervisor and the host supervisor	See § 37vi.	N/R
§ 61	§ 61. The consolidating supervisor retains responsibility for planning and seeks to ensure that work is performed to its satisfaction. On the other hand the host branch supervisor has to consider whether to undertake work on behalf of the consolidating supervisor. What if the host supervisor doesn't accept this work? Why would the host supervisor accept the work, when it is the consolidating supervisor's problem to have the work done? This may become an important issue in case sources are scarce.	CP09 being a cooperation framework designed within the legal framework laid down in the CRD, the authority having authorised the credit institution has full responsibility also for its branches.	N/R
<b>Q XIV</b> §§ 65 - 85	<b>Do you see any serious obstacles to the smooth process of model approval stemming from the proposed tasks executed by the consolidating supervisor and the host supervisors? If yes, what are they and how to remove them?</b>		
§§ 69, 74, 76 and 79	This part is taken from guidelines on the implementation, validation and assessment of Advanced Measurement (AMA) and Internal Ratings Based (IRB) approaches (CEBS CP10). Comments received on this question will be assessed in coordination with the ones received on CP10. (CP10 feedback table work is still in progress)		