Comments on Review of FCD	
Name/ company: Z E N T R A L E R K R E D I T A U S S C H U S S (ZKA[1])	
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 welcome the intention of the JCFC to solve problems that arise from the use of the FCD. In our opinion, the identified problem areas have been accurately recognised. The proposed solutions are going in the right direction for the most part. We have commented in more detail on the individual items below.
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 problems with regard to group supervision that result when the financial holding company (FHC) or the insurance holding company (IHC) at the top of the conglomerate becomes a mixed financial holding company (MFHC) are accurately described.

[1] The ZKA is the joint committee operated by the central associations of the German banking industry. These associations are the Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR), for the cooperative banks, the Bundesverband deutscher Banken (BdB), for the private commercial banks, the Bundesverband Öffentlicher Banken Deutschlands (VÖB), for the public-sector banks, the Deutscher Sparkassen- und Giroverband (DSGV), for the savings banks financial group, and the Verband deutscher Pfandbriefbanken (VdP), for Pfandbrief banks. Collectively, they represent more than 1,900 banks.

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Q2 Do you agree to the proposed recommendations? (Yes / No) If No, please elaborate on your alternative proposal	Option 1 appears to lead to appropriate results in most cases. However, here as well there is a risk of avoidable double regulation. We therefore suggest designing Option 1 so that in special individual cases the relevant supervisor is authorised to have supervision carried out by one supervisor at the conglomerate level.
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?	Like the JCFC we see a divergence in the individual member states with regard to the question of whether asset management companies (AMCs) should be taken into account in the identification of a conglomerate or not. However, it must be noted that some AMCs are financial institutions as defined by Article 4, Paragraph 5 of the CRD and are therefore already included in the scope of consolidation of the banking group.
Q4 Do you agree to the proposed recommendations? (Yes / No) If No, please	For reasons of competitive equality and convergence, we welcome a legal regulation which would ensure that asset management companies are taken into account in the identification of a conglomerate.

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elaborate on your alternative proposal	
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?	The analysis is right to the extent to which the FCD actually does not contain any statements about how AMCs are allocated to different sectors. However, the CRD does contain corresponding regulations for certain AMCs (see 3).
Q6 Do you agree to the proposed recommendations? (Yes / No) If No, please elaborate on your alternative proposal	In our opinion, in contrast to the proposal made by JCFC, regulations for the details of an allocation of AMCs in different sectors should be drawn up as part of sectoral supervision, as is already partially accomplished (see Q 3). There are different types of AMCs. Depending on precisely which activities these carry out and which assets are held for whom, a differentiated approach should be taken to the treatment of balance-sheet and off-balance sheet items. In our opinion the sectoral regulations are better suited for this purpose.
Q7 Could you suggest what issues the guidance should address and provide evidence to support your suggestion?	As already stated with regard to Q 6, regulation should be undertaken in the individual sectors. In particular, the amount of the allocation of balance sheet and off-balance-sheet items must be regulated. Thus, it would not be appropriate with regard to the risk if these items were allocated to the conglomerate for an AMC which also holds assets for third parties.
Q8 Could you suggest what features could	If an AMC also holds assets for third parties, i.e. entities that do not belong to the conglomerate, this is regularly the activity of a financial institution as defined in Article 4, Paragraph 5 CRD. These AMCs

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distinguish between an Asset Management Company (AMC) within a banking group and an AMC within an insurance group?	should be allocated to the banking sector as before. If the AMC holds exclusively assets from members of the conglomerate, it should be allocated to the sector from which the highest amount of assets by value are held.
Part 3	Should quantitative standard thresholds determine whether supplementary supervision applies to a group?
Q9 Do you agree with the above analysis?	We agree that the absolute threshold value can lead to "mini-conglomerates". Thus, it should be only an indicator, but not necessarily lead to classification as a financial conglomerate.
Q10 Do you agree to the proposed recommendations? (Yes / No) If No, please elaborate on your alternative proposal	We also believe that Option 2 is the best of those described. In comparison to the other methods, the regulations remain unchanged for the most part and enable the supervisory authorities to adapt their decision to the respective conditions in the market.
Q11 Could you suggest what issues the guidance should address and provide evidence to support your suggestion?	In our opinion, the problem is sufficiently solved by a statutory regulation in which the supervisors, upon request from the group concerned, cannot classify the group as a conglomerate in the future when the threshold value is exceeded. We assume that the national supervisors will use the discretion granted to them correctly. More detailed guidelines for the use of this exception option are therefore not required.

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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 arising from the different interpretations of the term "durable link" have been correctly recognised. However, this question would not regularly play a role in the determination of a conglomerate. We do not know of any cases in which a conglomerate was created solely through a "durable link". However, the issue plays a major role in the items to be deducted from the own funds. For example, the regulation in Germany, in contrast to other member states, results in mini-participations of financial institutions in insurance companies being deducted from the own funds solely for the reason that the institutions sell products of the insurance company to their customers as part of their business activity. The issue of the creation of a conglomerate through minority participations is also described correctly. However, in this regard the problems of data procurement and inclusion in the risk management system described in Section 5 are most likely more severe.
Q13 Do you agree to the proposed recommendations? (Yes / No) If No, please elaborate on your alternative proposal	In our opinion, regulation via guidelines on the issue of "durable link" is not useful. The definition of participations in Article 2, Paragraph 11 FCD refers to the definition of the accounting directive 78/660/EEC. Guidelines could only establish the interpretation of this directive for the purposes of the FCD. This would result in the same fact being interpreted in two different ways in the accounting directive, namely once for accounting purposes and once for the purposes of conglomerate supervision. In practice, this would lead to further problems. We therefore believe that a statutory regulation with which Article 2, Paragraph 11 FCD is changed accordingly is preferable.

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	As already stated for Q 12, the question of a “durable link” has no practical relevance in the determination of the existence of a conglomerate. For this reason, we suggest that the reference in Article 2, Paragraph 11 FCD as well as in the directive 78/660/EEC be deleted without replacement. We support the proposals for handling minority participations.
Q14 Could you suggest what issues the guidance should address and provide evidence to support your suggestion?	As stated with regard to Q 13, we consider statutory regulation in the EU-Directive preferable. In our opinion, this would better ensure that participations would only be taken into account if they enabled a not insignificant influence to be exerted in the company in question.
Other comments on chapter 4	./.
Chapter 5	The treatment of ”participations" in respect of risk concentrations (RC) and intra-group transactions (IGT) supervision and internal control mechanisms
Q15 Do you agree with the above analysis?	The problem to access all the relevant informations with regard to minority participation is of great relevance to practice and we welcome the fact that the JCFC emphasises this area in their analysis. There is also the problem that it is frequently impossible to bring the company in which the minority participation is held to subject itself to the risk management system of the conglomerate.
Q16 Do you agree to the proposed recommendations? (Yes / No)	In the preparation of guidelines for handling minority participations, there is a problem that these may contravene the clear specifications of the FCD. We therefore suggest that the problems be solved by changing the FCD itself.

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If No, please elaborate on your alternative proposal.	
Q17 Could you suggest what issues the Level 3 guidance should address and provide evidence to support your suggestion?	The FCD should ensure that information about the company in which a participation is held must be obtained only if it can actually be obtained. A corresponding regulation must also be drawn up for inclusion in the risk management system of the conglomerate. Furthermore, it should be arranged that unregulated entities as well as participations on which no significant influence is exerted be exempt from the application of Articles 7, 8 and 9 FCD. It should also be clarified that for IGT **no intra-sectoral transactions** are documented, but rather cross-sectoral transactions. Intra-sectoral transactions are already covered by the sectoral guidelines (CRD), so that no additional requirement exists for these reports at the conglomerate level. Here only the inter-sectoral transactions are relevant. We therefore emphasise once more the analysis included in the paper of the JCFC under sub-paragraph 144b and urgently recommend the inclusion of this item with the aforementioned conclusion in the guidelines. Furthermore, the **concept of the IGT** with regard to financial conglomerates should be clarified: Art. 2 (18) FCD defines transaction only as those by which entities within a financial conglomerate "**rely**" on other undertakings in the same group. With this, certain transactions such as day-to-day funding will not be covered by the term "intra-group transaction". This should be defined in more concrete terms in guidelines. Finally, in order to achieve synchronisation with the large exposure regulations, we suggest a materiality limit of 10% for IGT. Furthermore, in this context it is useful as part of a terminological and systematic harmonisation to link

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	the threshold value, analogous to Article 108 CRD, to the actually available own funds and not to the capital requirements. For reasons of harmonisation, it also appears appropriate with regard to the **risk concentrations** to take participations into account quota-wise corresponding to the large exposure requirements. In this manner the existing database can be used.
Other comments on chapter 5	./.