



## **HVB Groups' position**

**on**

### **“Guidelines for Co-operation between Consolidating Supervisor and Host Supervisors”**

HVB Group welcomes the possibility to comment.

HVB Group is the second largest quoted bank in Germany and with Bank Austria Creditanstalt undisputed market leader in Austria. With over 60.000 employees, 2.062 branch offices and more than 9,8 million customers we are Number One in the heart of Europe, i.e. in our core markets Germany, Austria and in the dynamic region of Central and Eastern Europe where we have positioned ourselves as the premier bank network. We concentrate here on European retail and mid-cap customer business which we supplement with customer-oriented market activities.

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## **Guidelines for Co-operation between Consolidating supervisor and Host Supervisors**

### **1. Basic Principles**

CEBS states that the guidelines on cross-border co-operation which were prepared by the Basel Committee can only be a starting point for the work to be done on the European level. A more integrated and practical co-operative framework that responds to the EU's single market goals and to the evolving legislative framework should be developed. HVB Group supports this position, as "cherry picking" must be avoided. The differentiation between host supervisor of branches and host supervisor of subsidiaries is a crucial step.

HVB Group generally welcomes that the question of significance and systemic relevance will be assessed on a case by case basis. However, this may not lead to a situation where different consolidating supervisors are taking different views on similar cases. This could undermine an even level playing field. Furthermore, HVB Group believes that the application of the guidelines must be clear, transparent and comprehensible.

As a further principle, early communication and co-ordination with the involved credit institutions should be established.

HVB Group suggests that in order to achieve a clear structure of the different contents, the part "practical framework (model approval)" should be withdrawn from CP 09 and stay within CP 10.

An open question remains the co-operation with third country authorities. The ongoing global expansion of European banking groups makes this question an important subject. The CRD has left unchanged Article 25 (new Article 39) of the existing Banking Directive. This article provides that information exchange with supervisory authorities from third countries may only be undertaken on the basis of existing agreements. HVB Group considers it necessary that such Memoranda of Understanding are publicly disclosed.

### **2. Legal Framework**

Article 129, 131 and 132 of Directive 2000/12/EC describes the consolidating supervisor. It is a main task of CEBS to plan and co-ordinate supervision within the European Union. With the Supervisory Review Process and the two components, ICAAP and SREP, CEBS has taken steps in the right direction.

A main problem is posed by the classification in systemic relevant institutions within a banking group and the risks stemming from these institutions. CEBS establishes criteria when significance is existent. HVB Group supports the case by case approach proposed by CEBS. Fixed quantitative criteria would be the wrong approach as this would leave no flexibility for the supervisory authorities.

HVB Group welcomes that the host and consolidating supervisor must find a joint agreement on the approval of the internal strategies, plans and processes of a supervised banking group (see No. 32 of CP 09). Efficient supervision requires that supervisory authorities understand the complexity of the supervised entities as a whole.

HVB would welcome more reflections on the interaction between the application of national discretion and the decision-making competences of the consolidating supervisor within a pan-European banking group. It is an open question whether national discretions applied on a solo basis by a subsidiary in country A will be recognised for the consolidated accounts of the parent company that might be in country B. HVB Group requests a mutual recognition of different national discretions. This principle should apply 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. Mutual recognition for these cases would reduce the complexity of the RWA-calculations and reduce the costs for the institutions. Such an approach would be in best conformity with the principles of the common European market.

### **3. Model of co-operation**

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.

A major step in the right direction could be the Memoranda of Understanding between supervisors, as required by CEBS. Especially subjects such as significance of subsidiaries and evaluation of internal strategies, plans and processes could be cleared in advance.

#### **4. Information Exchange**

HVB Group welcomes CEBS's view that a free flow of information exchange must be proportionate and risk-focused. Free flow of information exchange is important for supervision on a solo basis as well as on a consolidated basis. However it is necessary to restrict this information exchange to the real needs of the involved supervisory authorities. Having a risk-based approach as a basis means that not all involved supervisory authorities will receive the same information. Furthermore, HVB Group supports CEBS' comments on Article 132 (essential and relevant information).

#### **5. Practical framework (model approval)**

According to Article 129(2) all involved supervisory authorities have to approve the IRB and the operational risk measurement systems (AMA)

CEBS gives guidance for the following areas:

1. the specific steps in the approval process
2. the explicit requirement for a formal consultative process
3. time limits in which this process should lead to a common decision
4. the specific role of the consolidating supervisor in this consultation period

HVB Group welcomes this approach, but would like to add the following: Concerning the approval process CEBS should further develop principles on the responsibility for distributing the relevant documents and information as well as principles on the need for local subsidiaries to deliver information about the approval process to the local supervisory authorities.

A main role for providing this information must be played by the consolidating supervisor. Local subsidiaries do not necessarily need all information concerning approval process.