CEBS Committee of European Banking Supervisors

CEIOPS Committee of European Insurance and Occupational Pensions Supervisors

Comments on Review of FCD	
Name / company: Bernard PIERRE : French Banking Federation	
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	The FBF is pleased to take this opportunity to comment on the issues identified by the Joint Task Force on Financial Conglomerates and the proposed solutions to these issues. The paper provides a good analysis of the issues regarding the supervision of financial conglomerates. The JCFC is right to point out that the Financial Conglomerates Directive leaves some scope for interpretation as regards the precise set-up of such a framework. Overall, the FBF considers JCFC's considerations and suggested solutions helpful and expects that our response can contribute to improve the supervision of financial conglomerates with a view to reduce distortions of competition. Nevertheless we firmly believe that level three guidance is not always sufficient to avoid regulatory arbitrage and distortions of competition. Therefore, we suggest that the JCFC considers legislative changes that in our opinion may be the most efficient way to reach maximum convergence. You will find in the annex attached more comments on the questions raised by the JCFC in its consultation. The French Banking Federation wants to see the instigation of healthy competitive conditions and believes the only way to do so is to establish appropriate regulations. The FBF remains at your disposal for any further discussion on

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	these matters.
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?	Yes. We agree with the analysis provided by the JCFC.
Q2 Do you agree to the proposed recommendations? (Yes / No) If No, please elaborate on your alternative proposal	Yes. We agree that option 1 enables to remove the shortcomings of the present legislation mentioned in the issues identified by the JCFC. Moreover in our opinion the banking legislation already provides supervisory powers to retain a broader definition of financial conglomerates.
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?	Yes. In the banking sector, asset management companies are included in the scope of financial conglomerates and they are taken into account for the identification of a financial conglomerate.

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Q4 Do you agree to the proposed recommendations? (Yes / No) If No, please elaborate on your alternative proposal	We agree that option 2 of the table provided by the JCFC should apply. The treatment of asset management companies should be the same when an insurance company is at the head of financial conglomerate and asset management companies should be retained for the identification of a financial conglomerate.
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?	Yes. We agree on the analysis provided by the JCFC.
Q6 Do you agree to the proposed recommendations? (Yes / No) If No, please elaborate on your alternative proposal	Yes. We agree that option 2 –providing extra guidance to supervisors to identify a financial conglomerate- should be retained. Supervisors must have some flexibility to identify a financial conglomerate.
Q7 Could you suggest what issues the guidance should address and provide	

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evidence to support your suggestion?	
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?	
Part 3	Should quantitative standard thresholds determine whether supplementary supervision applies to a group?
Q9 Do you agree with the above analysis?	Yes. We agree that any revision of the FCD should provide more flexibility with respect to smaller financial conglomerates and to address waiver eligibility for larger financial conglomerates
Q10 Do you agree to the proposed recommendations? (Yes / No) If No, please elaborate on your alternative proposal	We believe that a discretional approach to supplementary supervision can distort competition if operated within vague criteria and applied differently across countries. We support option 1 – No legislative change- but guidance in relation to the application of the waiver under Article 3(3) of the FCD. We are opposed to options 4 and 5. Option 2 recommended by the JCFC could be a second best solution but it requires strong guidelines to keep a level playing field and to prevent regulatory arbitrage if waiver of article 3(3) is applied as a level three decision instead of

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	level two.
Q11 Could you suggest what issues the guidance should address and provide evidence to support your suggestion?	
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?	No. We do not agree with the analysis provided by the JCFC. The "durable link" criterion should be removed from the FCD and the definitions should be aligned with accounting standards published by the IASB. The prudential supervisors should not elaborate or interpret their own rules to define the scope of consolidation and to identify financial conglomerates.
Q13 Do you agree to the proposed recommendations?	No. We oppose the recommendation of the JCFC for Part 1 (§123) and we demand the alignment of the FCD rules with the accounting rules. There must be a legislative change to modify the FCD. For Part 2 aspects a and b: We agree that there should be some flexibility for supervisors not to treat a group as a

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(Yes / No) If No, please elaborate on your alternative proposal	financial conglomerate. We believe that guidelines, how strong they may be, cannot provide a consistent implementation by supervisors and prevent distortions of competition. In our opinion, the best way to do it could be a legislative change. So we do not agree with the JCFC advice on the option chosen for Part 2 aspect a) and b). For Part 2 aspect c: We agree on the recommended option proposed by JCFC.
Q14 Could you suggest what issues the guidance should address and provide evidence to support your suggestion?	
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?	Yes. We agree on the analysis provided by the JCFC. It is obvious that when a conglomerate has no control over an entity, as in the case of participations, it may not be able to obtain or have access to the necessary information to comply with risk concentration and intra-group transactions requirements. As it is clearly stated, it is not in a position to implement adequate internal control mechanisms and risk management processes.
Q16 Do you agree to	No. We believe that risk concentration and intra-group transactions supervision, internal control mechanisms and risk

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the proposed recommendations? (Yes / No) If No, please elaborate on your alternative proposal.	management processes should be limited to controlled companies fully or proportionally consolidated. Participations and companies consolidated under the equity method should be excluded from IGT/RC/IG.
Q17 Could you suggest what issues the Level 3 guidance should address and provide evidence to support your suggestion?	
Other comments on chapter 5	