

## **CEBS' Guidelines for the Operational Functioning of Supervisory Colleges (GL 34)**

### **Table of contents**

Introductory statements.....	3
Executive summary .....	5
Chapter 1: Operational organisation of colleges.....	6
Introduction .....	6
Guidelines on the operational organisation of colleges.....	7
Section 1: Setting-up and formats of the colleges .....	7
Section 2: Membership and participation in the colleges.....	12
Section 3: Governance of the colleges .....	16
Section 4: Information to CEBS.....	19
Chapter 2: Exchange of information among supervisors and communication with the supervised institutions.....	20
Introduction .....	20
Guidelines for the exchange of information among supervisors and for communication with the supervised institutions.....	21
Section 1: Exchange of information among supervisors .....	21
Section 2: Communication with the supervised institutions .....	26
Chapter 3: Voluntary sharing and delegation of tasks.....	27
Introduction .....	27
Guidelines on the voluntary sharing and delegation of tasks.....	28
Chapter 4: Joint decision on model validation.....	33
Introduction .....	33
Guidelines for the joint decision on model validation .....	33
Chapter 5: Joint decision on risk-based capital adequacy.....	36
Introduction .....	36
Guidelines for the joint decision on risk-based capital adequacy .....	37
Chapter 6: Macro-prudential risks.....	49
Introduction .....	49
Guidelines on macro-prudential risks.....	49
Chapter 7: Planning and coordination of supervisory activities in going concern situations .....	50
Introduction .....	50
Guidelines for the planning and coordination of supervisory activities in going concern situations.....	50

Chapter 8: Planning and coordination of supervisory activities in emergency situations..... 53

- Introduction ..... 53
- Guidelines for the planning and coordination of supervisory activities in emergency situations..... 53

260. Annex 1 : Basic organisation of a college with multiple settings 59

Annex 2: Website platform: an illustrative framework for information exchange within colleges..... 61

Annex 3: Example of a template for a coordinated supervisory plan ..... 65

Annex 4: Joint assessment and decision process on the risk-based capital adequacy of cross-border groups..... 68

## Introductory statements

1. The revised Capital Requirements Directive (CRD)<sup>1</sup>, approved by the European Parliament on 6 May 2009 (2009/111/EC) and whose provisions will be applicable from 31 December 2010, requires the establishment of colleges of supervisors with a view to reinforcing the efficiency and effectiveness of supervision of cross-border banking groups and to facilitating the tasks of the consolidating supervisor and host supervisors. They are intended to be an instrument for stronger coordination and cooperation whereby competent authorities reach agreement on key supervisory tasks. The colleges should facilitate the handling of ongoing supervision and should also play a role in both the preparation for and handling of emergency situations. The establishment of supervisory colleges for all major cross-border financial institutions has also been promoted at the global level, mainly by the FSB, as an immediate response - in the aftermath of the financial crisis - to better assess the risks faced by cross-border firms.
2. Colleges of supervisors can be defined as permanent, although flexible, structures for cooperation and coordination among the authorities responsible for and involved in the supervision of the different components of cross-border banking institutions. In the European setting, they provide a framework for the consolidating or home supervisor and the other competent authorities to carry out the tasks referred to under the CRD, ensuring appropriate coordination and cooperation with relevant competent authorities from non-EEA countries.
3. In short, the colleges of supervisors pursue the objective of enhancing the effectiveness and efficiency of the supervision of cross-border groups by providing a platform for stronger cooperation, in which competent authorities reach agreement on key supervisory tasks. These tasks include - but are not limited to - exchanging information, views and assessments, voluntary work sharing and delegation, developing a common understanding of the risk profile of the group at both the group and solo levels and taking due account of macroprudential risks. Further tasks worthy of mention involve developing examination programmes based on the risk assessment of the group, coordinating supervisory reviews and carrying out joint risk assessments, coordinating decisions taken by individual authorities and striving to reach consensus. However, the establishment of colleges does not affect the rights and responsibilities of the competent authorities under the CRD.
4. In order to avoid inconsistencies and regulatory arbitrage, which could result from differences in the approaches and rules applied within the various colleges and the application of discretion by Member States, the CRD requires that the Committee of European Banking Supervisors (CEBS) elaborates guidelines for the operational functioning of colleges of supervisors. Accordingly, these guidelines are designed to further

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<sup>1</sup> Capital Requirements Directive (CRD) is a technical expression which comprises Directive 2006/48/EC and Directive 2006/49/EC. Please note that, in general, references to “Directive 2006/48/EC” and “Directive 2006/49/EC” or “CRD” refer to the amended versions of the Directives. The amending Directive can be found under: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:302:0097:0119:EN:PDF>

refine the provisions of the CRD - mainly Articles 42, 42a, 129, 131, 131a and 132 - framing the coordination and cooperation within colleges of supervisors and providing EU supervisors with guidance for the operational organisation of colleges and for the performance of the tasks referred to under the European legislation.

5. They take into consideration, as their starting point, the progress already achieved by CEBS - sometimes in collaboration with the other Supervisory Committees<sup>2</sup> - in the field of colleges and "home-host" cooperation for cross-border supervision<sup>3</sup>.
6. These guidelines are applicable to the colleges set up for EEA cross-border banking groups with entities operating in EEA countries, or in both EEA and non-EEA countries, taking due account of the fact that supervisory authorities from non-EEA countries are not bound by the European legislation. The consolidating supervisor, as the leader of the colleges, should agree with these authorities on their voluntary contribution to the tasks defined within these guidelines.
7. Where appropriate, these guidelines are equally applicable to the supervisory colleges set up for EEA credit institutions that operate solely through branches in other EEA Member States. Those guidelines that make reference to supervisory responsibilities that host supervisors of branches do not have (e.g. joint decisions on risk-based capital adequacy), or to CRD articles that are not applicable in the context of branches will not be applied to those types of supervisory colleges.
8. The guidelines at hand comprehensively apply to fully-fledged colleges only. They should be applied to non-fully-fledged colleges, as described in Guideline 2, in a proportional manner taking due account of the respective CRD requirements (mainly Articles 42, 42a, 129, 130, 131, 131a and 132).

### ***Implementation of the guidelines***

9. CEBS expects its members to fully implement these guidelines by 31 December 2010, at the latest, at the same time as the revised CRD will come into force. This means that by this date the guidelines should be transposed into national supervisory guidelines and reflected in the national supervisory manuals/handbooks, where applicable, and implemented in supervisory practises.

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<sup>2</sup> Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) and Committee of European Securities Regulators (CESR)

<sup>3</sup> Reference is made, inter alia, to:

- the "Guidelines for cooperation between consolidating supervisors and host supervisors" published on 25 January 2006: <http://www.c-eps.org/getdoc/97971c09-3afe-4f9d-a482-a24ae1b022ce/GL09.aspx>

- the "Template for a Multilateral Cooperation and Coordination Agreement on the Supervision of XY?? Group" published on 27 January 2009: <http://www.c-eps.org/getdoc/aaafdb97-f131-4af6-96b5-34720c1bd2ad/CEBS-2007-177-rev-4-template-for-written-agreemen.aspx>

- "Colleges of Supervisors: Ten Common Principles" published on 27 January 2009: <http://www.c-eps.org/getdoc/b45c4f93-c20b-4823-a744-86507140bf4a/10-common-principles.aspx>

- the "Good Practices on the Functioning of Colleges of Supervisors for Cross-Border Banking Groups" was published on 2 April 2009: <http://www.c-eps.org/getdoc/5b8cf0ac-39b9-491b-8c88-6f801c8c1143/Colleges-good-practices-paper.aspx>

10. To ensure harmonisation of practices across Member States, CEBS will conduct an implementation study one year after the implementation date. The implementation study will be focused at the transposition of the guidelines into national regulation and implementation in supervisory practices.
11. CEBS expects its members to fully implement the guidelines by 31 December 2010, at the latest, at the same time as the revised CRD will come into force.

## Executive summary

12. Each chapter provides operational guidance, in the form of guidelines, followed by an explanatory text, for the different tasks to be performed by the relevant supervisors within the supervisory colleges, starting with the process of defining the operational organisation of colleges.
13. For the purposes of these guidelines, the term “consolidating supervisor” refers to the supervisory authority entrusted by the CRD with the supervision on a consolidated basis of EU Parent Credit Institutions and credit institutions controlled by EU parent financial holdings, as defined in Article 4 (48). The term “home supervisor” refers to the supervisory authority that has licensed a credit institution which has exercised the right of establishment defined in the CRD and, therefore, operates through branches in other EEA Member States. The term “host supervisor” is used to refer to the supervisors of subsidiaries and/or branches. This terminology is not entirely in accordance with the wording of EU Directives, but it helps explain the practical arrangements used in the supervision of a cross-border credit institution or group.
14. **Chapter 1** provides guidelines for achieving convergence in the setting-up, formats, membership and governance of supervisory colleges, which are to be established under the auspices of the consolidating supervisor, or the home supervisor in the case of colleges established for entities that operate in other Member States only by means of significant branches.
15. **Chapter 2** provides guidelines for clarifying expectations in terms of information exchange within the colleges, for specifying criteria for the coordination of information flows within the college and between its different settings, for ensuring timeliness of information when required and for promoting the use of the full suite of available communications channels. It also provides guidelines for identifying areas subject to communication with the supervised group, for coordinating information requests and for defining the participation of the supervised group to the meetings of the college.
16. **Chapter 3** deals with the voluntary sharing and/or delegation of tasks that can take place within a college of supervisors outside of the cases where a joint decision is prescribed by European legislation. Colleges of supervisors should facilitate the voluntary sharing and delegation of tasks as this mechanism can increase the effectiveness and efficiency of supervision by optimising supervisory resources and

expertise, avoiding the duplication of tasks and removing burdens for the supervised institution.

17. **Chapter 4** provides guidelines as to the manner in which the work of the college fits into the cooperative framework for reaching a joint decision for the usage of internal models. It is structured along each step of the validation process from pre-application to the ongoing review of the models.
18. **Chapter 5** provides guidelines as to the manner in which the work of the college fits into the cooperative procedure for reaching a joint decision on the adequacy of own funds held by the group with respect to its financial situation and risk profile and the required levels of own funds under Pillar 2 at the consolidated level and at the level of each entity. The cooperation procedure starts with the coordination of the risk assessments to be performed by each of the competent supervisory authorities involved in the joint decision process.
19. **Chapter 6** provides guidance on how to take into account macroprudential and sectoral developments within the work of the supervisory college, in particular, in the risk assessment of the group and its entities.
20. **Chapter 7** provides guidance for the establishment of coordinated supervisory planning in going concern encompassing both on-site and off-site work. The aim is to provide a group-wide approach to the risks faced by the entities belonging to it, to increase the consistency of the supervisory work to be performed by the relevant supervisory authorities and to avoid the duplication of work among supervisors.
21. Finally, **Chapter 8** provides guidance for the planning and coordination of supervisory activities both in preparation for and during emergency situations, with the aim of enhancing the level of preparedness for financial group crisis management. It also aims to facilitate the communication and cooperation of supervisors and other authorities (e.g. Central Banks and Finance Ministries) during crisis times. While acknowledging that cross-border cooperation in crisis times involves parties other than supervisory authorities, the guidelines emphasise the role that the members of the supervisory college can play in the preparation for facilitating the management of emergency situations.

## **Chapter 1: Operational organisation of colleges**

### ***Introduction***

22. Elaborating upon articles 131a and 42a of the CRD, this chapter provides operational guidelines for achieving convergence in the setting-up, formats, membership and governance of colleges under the responsibility of the consolidating supervisor, or the home supervisor, in the case of colleges governed by Article 42a.3 of the CRD (i.e. colleges for cross-border entities that have only significant branches in other Member States). In the latter case, the tasks carried out within the framework of the college are similar to those referred to under article

131a of the CRD with the exception of the joint decision processes on model validation and on the level of own funds under pillar 2.

## ***Guidelines on the operational organisation of colleges***

### **Section 1: Setting-up and formats of the colleges**

**Guideline 1: To structure the college in accordance with the organisation, scale and complexity of the group, the consolidating supervisor should map the group's entities. This mapping should be reviewed at least annually.**

23. The cooperative framework established through the college should be proportionate to the nature, scale and complexity of the group or the institution, and reflect the needs of the supervisors involved in its supervision. The extent of the cooperation within the college should be tailored to the relevance of the entities within the group and to their significance<sup>4</sup> for the local market, taking due account of financial stability concerns in other Member States. To meet these objectives, the consolidating supervisor should design the structure of the college based upon a mapping of the group's foreign entities. This document, elaborated through dialogue with the parent institution and the host supervisors, should identify:

- all EEA subsidiaries, specifying their relevance within the group and their significance in the local market;
- EEA branches recognised as significant for the local market in accordance with article 42a of the CRD, as well as EEA branches, important for the group;
- non-EEA subsidiaries and branches relevant for the group;
- for each relevant or significant entity, quantitative and qualitative criteria used to determine their relevance or significance (for information about relevance and significance assessments see section 2: membership and participation in the college) and
- host supervisors involved in the supervision of subsidiaries and/or branches. For non-EEA supervisors, section 2 provides guidelines for determining their membership of the college. When, as a result of dialogue with the parent institution, the status of a foreign entity (supervised or not) remains unclear, the consolidating supervisor should liaise with the host supervisor.

24. The consolidating supervisor should circulate the initial mapping to all the potential members of the college for reaction, if any. This mapping should be regularly updated, taking into account the changes in the group's structure. It should be reviewed, at least annually, based on an examination of the group's stakes in other institutions. Any updates to the initial mapping should be circulated to all members of the college.

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<sup>4</sup> For the purposes of these guidelines, the term "relevance" will refer to the importance of the entity within the group and the term "significance" will refer to the importance of the entity within the local market in which it operates. The provisions of Article 42a of the CRD apply to significant branches established in the EEA and which are so recognised.

**Guideline 2: As a result of the mapping, the consolidating supervisor may decide not to establish the college under a fully-fledged structure.**

25. According to the CRD provisions, a college of supervisors must be established if:
  - a. there is a consolidating supervisor, as defined in Article 4(48), i.e. in case a bank has at least one subsidiary in another Member State, irrespective of its relevance or significance;
  - b. or - in accordance with Article 42a of the CRD - in case the bank has at least two significant branches in other Member States.
26. However, the mapping of the group's entities may lead to cases being identified, where the operation of a college under a fully fledged structure would not add significant value to group-wide supervision and would be unduly burdensome for the supervisors involved.
27. In those cases, the consolidating supervisor, after consultation with host supervisors and subject to the requirements of Article 131a of the CRD, may decide not to establish the college under a fully-fledged structure. Instead, ad-hoc and proportionate college structures ("non-fully-fledged colleges") may be considered.
28. The guidelines at hand comprehensively apply to fully-fledged colleges only. They should be applied to non fully-fledged colleges in a proportional manner taking due account of the respective CRD requirements (mainly Articles 42, 42a, 129, 130, 131, 131a and 132).
29. The written arrangements for these non fully-fledged colleges should be based on the CEBS Template for a Multilateral Cooperation and Coordination Agreement, but kept proportional to the needs of the coordinated supervision of the group.
30. A fully-fledged college could, for example, be considered where the bank has at least two relevant or significant entities spread across at least two host Member States, or in those cases where there are no relevant overseas entities individually considered but, in aggregate, the contribution of those overseas entities to the performance or risks of the group as a whole is material. A non-fully-fledged college might, for example, be adequate where the bank has less than two relevant or significant entities in other Member States. This could be the case if a bank has less than two relevant subsidiaries in two host Member States, less than two significant branches in two host Member States or less than one significant subsidiary and one relevant branch in two host Member States, but only as illustrated in the table below:

**Table 1: Possible criteria for differentiating between fully-fledged and non -fully-fledged colleges.**

	No subsidiaries in host countries	one (or more) NON-relevant subsidiary(ies) in a host country	one relevant subsidiary in a host country	two relevant subsidiaries in two host countries	three (or more) relevant subsidiaries in three or more host countries
No branches in host countries	No college (no cross border activity)	Nonfully-fledged	Nonfully-fledged		
one (or more) NON-significant branch(es) in one (or more) host countries	CRD does not require a college	Nonfully-fledged	Nonfully-fledged	Fully-fledged	Fully-fledged
one significant branch in one host country	CRD does not require a college	Nonfully-fledged	Fully-fledged	fully-fledged	Fully-fledged
two significant branches in two host countries	Fully fledged (but not supervision on a consolidated basis)	Fully-fledged	Fully-fledged	Fully-fledged	Fully-fledged
three (or more) significant branches in three (or more) host countries	Fully fledged (but no supervision on a consolidated basis)	Fully-fledged	Fully-fledged	fully-fledged	Fully-fledged

\*The table assumes that a fully-fledged college involves at least three countries, i. e. at least two host countries.

**Guideline 3: Where it leads to a more effective functioning of the college, (e.g. by streamlining the participation to college activities where the number of college members is large) the consolidating supervisor should establish several settings within the college, encompassing a “core college”, involving supervisors of the most relevant entities, or a limited number of supervisors depending on the topic to be discussed, and a “general college”.**

31. The number of participants in the meetings or activities of a college should be adequate to the objectives pursued. Based on the mapping of

the group's entities, the consolidating supervisor may decide that a more effective functioning of the college is warranted by the establishment of several settings (e.g. when the number of supervisors involved, both within and outside the EEA, may affect the effectiveness of the coordination of supervisory risk assessments and the definition of joint measures or actions). In these cases, the college should operate under a "general" and a "core" setting.

32. Where a college operates under a "general" and a "core" setting, the "general college" should be the framework where essential and relevant information<sup>5</sup> is disseminated, thus fulfilling the objective of efficient information sharing between all the supervisors involved in the group's supervision. The "general college" should, at least, discuss the findings of high-level risk assessments, the overall risk assessment plans and the identification of the group's priority risks. Sharing and delegation of tasks may also take place among "general college" members.
33. The "core college" should involve supervisors of the most relevant entities or a limited number of supervisors conditional on the topics to be discussed. The "core college" should decide on the allocation and sharing of specific tasks among its members, coordinate specific risk assessments and prepare joint actions or measures, thus fulfilling the objective of structuring the approach to supervisory cooperation<sup>6</sup>.
34. When several settings have been established within the college, the consolidating supervisor should keep the members of the "general college" fully informed of the activities and outcome of the other settings.

**Guideline 4: For the purposes of reaching a joint decision on model validation, the college shall involve all EEA supervisors of the subsidiaries included in the application for the use of internal models. The college shall involve all EEA supervisors of subsidiaries, for the purposes of reaching a joint decision on the levels of own funds under pillar 2.**

35. In accordance with Article 129.2 of the CRD, the joint decision on model validation shall include all the EEA supervisors of institutions involved in the application for the use of internal models. According to Article 129.3, the joint decision on the determination of additional levels of own funds (both on a consolidated basis and at the level of the group's entities), shall involve the consolidating supervisor and all EEA supervisors of the group's subsidiaries. The work within the college along the different steps of the joint decision processes (see chapters 4 and 5) shall be operated under a format including all the relevant EEA supervisors mentioned above.

**Guideline 5: With a view to enhancing group-wide supervision, the consolidating supervisor should reach agreement with supervisors of non-EEA entities, who are members of the college, on the extent of their individual contributions to its activities.**

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<sup>5</sup> Details on the exchange of essential and relevant information, elaborating upon Article 132 of the CRD, are contained in Guideline 18.

<sup>6</sup> Where the college operates under a single structure, all the tasks mentioned in this paragraph will be carried out by all the supervisors involved in the college.

36. Since centralised risk processes and procedures of cross-border groups may cover indistinctly both EEA and non-EEA countries, and given the importance of non-EEA entities to the financial soundness of some EU banking groups, the input that may be provided by non-EEA supervisors to group-wide supervision should be considered.
37. Nevertheless, the involvement of non-EEA authorities in the activity of the college should not adversely impact the functioning of the cooperative process between EEA countries, as laid down by the CRD. In particular, non-EEA supervisors are not bound by the joint decision processes on model validation and the levels of own funds under pillar 2.
38. To reconcile these objectives, the consolidating supervisor should:
- include non-EEA supervisors of relevant and/or significant entities in all activities of the “general college” when a single college with multiple settings has been established or to the exchange of essential and relevant information in the case of colleges with a single setting;
  - consult non-EEA supervisors of relevant and/or significant entities to reach agreement on the extent of their individual contributions to other activities of the college, including model validation and Pillar 2, taking into consideration their prudential supervision standards. The consolidating supervisor should ensure that non-EEA supervisors contribute to the assessment of major risks within the group. He should consult with non-EEA supervisors to determine whether a risk assessment of the relevant entities operating under their jurisdiction could be shared within the college to bring additional input to the EU coordinated risk assessment of the group (see chapter 5).
39. When determining the extent of the participation of non-EEA supervisors in any activity of the college, the consolidating supervisor should take into account the equivalence of their confidentiality requirements to those established in Chapter 1, Section 2 of the CRD (which should be assessed to decide their membership to the college, see section 2)

**Guideline 6: The members of the college should agree on the written arrangements laying out the basis for their cooperation. These arrangements should be based on the CEBS template.**

40. In accordance with Article 131a of the CRD, the establishment and functioning of the college shall be based on written arrangements determined by the consolidating supervisor after consultation with the other competent authorities. Accordingly, the consolidating supervisor should draft a proposal, circulate it for discussion to the members of the college and decide on its final version. The arrangement should, to the greatest extent possible, be based upon the CEBS template for a Multilateral Cooperation and Coordination Agreement.
41. The written agreement is not a pre-condition for the operation of the college. The CRD contains provisions for cooperation among supervisors, especially as regards the exchange of information and assistance in the case of emergency situations. However, in order to

enhance an efficient cooperation within the college, the content of the written agreement that lays down the principles for cooperation within the college should be discussed by the college members as soon as possible after its constitution.

42. By invitation of the consolidating supervisor, non-EEA supervisors can be part of the written agreement where appropriate, and subject to confidentiality requirements that are equivalent, in the opinion of all EEA members of the college, to those established in Chapter 1, Section 2 of the CRD. The assessment of the equivalence of confidentiality provisions will be made along the lines described in Guideline 9.
43. In order to preserve its efficacy, all EEA supervisors involved should sign the written agreement, without conditions or reservations. When an authority refuses to sign the agreement, this should not impact the cooperation between the other signatories. According to the CRD, the non-signatory EEA authority will still be a member of the college, but the consolidating supervisor may consider excluding it from some of the activities of the college provided that the CRD provisions requiring cooperation and coordination between supervisory authorities are respected and that the exclusion of the non-signatory authority from some college activities does not impact on the effectiveness and efficiency of the supervision of the group or institution. The consolidating supervisor should inform CEBS of the existence of these situations.

## **Section 2: Membership and participation in the colleges**

**Guideline 7: When determining the membership and level of participation of EEA supervisors of subsidiaries in the meetings or activities of the college, the consolidating supervisor should take into account the relevance of the entity within the group and its significance for the local market.**

44. By application of the CRD, EEA supervisors of subsidiaries shall be members of the college. In order to determine the level of their participation in the activities of the college, the consolidating supervisor should consider the relevance and significance assessment criteria provided by CEBS guidelines for cooperation between consolidating supervisors and host supervisors (GL09). When the college is operating under multiple settings, these criteria should be used to define participation in the “core college” activities.
45. In accordance with GL09, the assessment of relevance may include for consideration a broad set of factors, separately or in combination. Nevertheless, the following non-exhaustive list of factors should be considered for measuring the relevance of subsidiaries within the group:
  - the contribution of the entity to the performance and earnings of the group as a whole (e.g. to overall capital requirements, turnover, or pre-tax profit);
  - the risk of activities undertaken in the entity;
  - the group’s organisational structure, systems, and controls; its risk management functions and senior management oversight for monitoring and controlling risks in the entities;

- the extent to which the entities are autonomous and
  - the correlation of risks across entities
46. For measuring the significance of subsidiaries in the host local market, the following non-exhaustive list of factors should be considered:
- the market share of the entity, on either the assets or liabilities side (e.g. in relation to (mortgage) loans, deposits, or savings products);
  - the role of the entity in specific markets (e.g. principal market maker);
  - whether the entity is an integral part of the infrastructure of the financial system (e.g. payment systems, exchanges and clearing houses) and
  - the extent to which the entity provides liquidity to the market (either generally, or to individual key markets).
47. The consolidating supervisor and the host supervisors should communicate to each other their assessment of a subsidiary's relevance and significance and the rationale for that assessment. They should take each other's assessments into account. The assessment should be determined by the consolidating supervisor for the purposes of the supervision on a consolidated basis. Should an EEA supervisor of a subsidiary decide not to actively participate in the activities of the college, he should formally notify the consolidating supervisor; explaining his reasons, and be ready to take into consideration the reservations of the consolidating supervisor. The consolidating supervisor should inform CEBS of these situations.

**Guideline 8: When EEA branches are recognised as significant, the host supervisor should be considered as a member of the college. The consolidating supervisor should involve the host supervisor in the meetings or activities of the college to the extent it achieves the objective of efficient exchange of information. The host supervisor should also be part of the coordination of supervisory activities under emergency situations.**

48. The initiative for a branch to be considered significant belongs to the host supervisor of the branch. According to Article 42a, the host supervisor may make a request for an EEA branch to be considered as significant to the consolidating supervisor where Article 129.1 applies, or to the home supervisor where the institution is operating in other EEA countries only through branches. In the case of an "indirect branch" (i.e. a branch of a subsidiary located in another Member State), the request should be made by the host supervisor of the branch to the home supervisor of the branch, which should notify it as soon as possible to the consolidating supervisor, responsible for the establishment of the college.
49. The request for the branch to be considered significant should be provided in writing and shall provide reasons as to why the branch should be considered significant with particular regard to the following CRD criteria :

- whether the market share of the branch in terms of deposit exceeds 2% in the local market;
  - the likely impact of a suspension or closure of the operations of the branch on market liquidity and the payment and clearing and settlement systems in the host country and
  - the size and importance of the branch in terms of clients within the context of the banking or financial system of the host country.
50. Within a two-month period, the consolidating supervisor and/or the home supervisor, and the host supervisor shall do everything within their power to reach a joint decision on the designation of the branch as significant.
51. In accordance with the CRD, if no joint decision is reached, the host supervisor shall take his own decision within a further two-month period and lay it out in a fully-reasoned document taking into account any views and reservations of the consolidating supervisor and/or the home supervisor. Once the branch is recognised as significant, the host supervisor should be considered a member of the college.
52. In the absence of a request from the host supervisor of an EEA branch to be recognised as significant, the consolidating supervisor may consider a branch as relevant from the group's perspective. The criteria that the consolidating supervisor may use to assess the relevance of the branch for the group include, inter alia:
- the contribution of the branch to the performance, earnings, liquidity and funding of the group as a whole (e.g. to overall capital requirements, turnover, or pre-tax profit);
  - the risk of activities undertaken by the branch and
  - the overall situation of the branch with regard to other branches within the group.
53. The rationale for such an assessment should be communicated to the host supervisor. The consolidating supervisor and the host supervisor should take each other's assessments into account. As a result, the host supervisor may be considered a member of the college.
54. In accordance with the CRD, when an EEA branch is determined as significant, the home supervisor shall communicate, on its own initiative, to the host supervisor adverse developments within the group as well as major sanctions and exceptional measures. The host supervisor should also be party to the planning and coordination of supervisory activities in preparation for and during emergency situations, including exceptional measures, the preparation of joint assessments, the implementation of contingency plans and communication to public.
55. Accordingly, the consolidating supervisor, or the home supervisor when the institution is operating in other EEA countries only through branches, should involve host supervisors of EEA significant branches in the activities of the college to the extent that it achieves the objective of efficient information sharing. Any work of the college in emergency situations should also include host supervisors of EEA significant branches. For any other activity of the college, the consolidating

supervisor may consider their participation in the light of their particular responsibilities.

**Guideline 9: The membership of non-EEA supervisors is determined by the consolidating supervisor taking into account the relevance of the entity within the group and the equivalence to the CRD of confidentiality requirements as assessed together with EEA members of the college.**

56. Based on Article 131a of the CRD, supervisors of non-EEA entities may participate in colleges of supervisors where appropriate and subject to the confidentiality requirements that are equivalent, in the opinion of all EEA college members, to those provided for by European legislation. Elaborating upon those provisions, the membership of non EEA-supervisors should be determined, taking due account of:

- the obligation for the consolidating supervisor to gather the opinion of EEA members of the college as to the equivalence of the confidentiality provisions in the third country concerned. The opinion should be provided based on equivalence to the CRD and not to national legislation;
- the necessity of ensuring consistency across colleges with respect to the equivalence to the CRD of the confidentiality requirements applicable in a given third-country.

57. Accordingly, pending the implementation of a European process to decide on the equivalence to the CRD of provisions applicable in third countries, the process to determine the membership of a non-EEA country could be the following:

- through dialogue with the third country supervisor, the consolidating supervisor should determine whether its membership of the college would be appropriate given the relevance for the group of the entities concerned (assessed based on the non exhaustive list of factors mentioned above in the context of determining the relevance of EEA subsidiaries);
- the consolidating supervisor should inform all other EEA members of the college of its assessment of the equivalence to the CRD of the confidentiality rules applicable in the third country concerned. It should also inform CEBS with a view to achieve consistency in the inclusion of third country supervisors within colleges;
- EEA members of the college should provide to the consolidating supervisor, in a timely manner, any reservations as to equivalence to the CRD of the confidentiality requirements applicable in the third country concerned; and
- based on the opinion provided by the other EEA members of the college and, if applicable, on the guidance on equivalence provided by CEBS, the consolidating supervisor may decide to include the non-EEA supervisor within the college. When an EEA member of the college expresses reservations as to equivalence to the CRD of confidentiality rules in a given third country, the consolidating supervisor should take them into account with regard to the composition of the college and cannot disseminate to the non-EEA

supervisor concerned information received from the host supervisor which formulated reservations.

**Guideline 10: Supervisors of related banking undertakings that are not subsidiaries, in addition to supervisors of non-banking sectors, as well as central banks, may participate – provided that they are subject to confidentiality requirements - in the meetings or activities of a college when deemed appropriate, by the consolidating supervisor, to fulfil the college tasks.**

58. The consolidating supervisor may decide to invite supervisors of related undertakings from the banking sector – in which the group has a significant, but not a dominant influence - as well as non-banking supervisors (e.g. insurance supervisors) to participate in some activities of the college when deemed appropriate given the group risk profile (e.g. intra-group transactions, risk concentrations or capital adequacy of financial conglomerates). The consolidating supervisor should take into account the appropriateness of inviting the competent authorities responsible for insurance group-wide supervision, or the competent authorities of specific Member States where the insurance sector is highly significant to the group.
59. Central banks may also be invited by the consolidating supervisor to participate in some activities of the college with regard to their functions relating to monetary policy and oversight of payment systems, as well as to their role in contributing to financial stability, among others. This should take into account the necessity of embedding a macro-economic and macro-financial dimension in the supervisory activities of the college.

### **Section 3: Governance of the colleges**

**Guideline 11: As the chair of the college, the consolidating supervisor should take the lead in its activities. He should draw-up the organisation of the college, its agenda, timeline and action plans with the objective of enhancing group-wide supervision.**

60. The consolidating supervisor, as the chair of the college, should make sure that the work of the college fits with day-to-day supervision performed according to the responsibilities allocated by the CRD to the consolidating supervisor, the home supervisor, and the host supervisors of subsidiaries and/or branches. The outcome from the meetings or activities of the college should provide a decisive input to enhance group-wide supervision as well as solo supervision. To achieve those objectives, the consolidating supervisor should ensure that:
- the objectives of any meeting or activity of the college are clearly identified. These objectives should be formulated in terms of issues to be discussed, input expected from the participants and expected outcome (including actions or measures). They should be circulated well in advance to the participants together with documentation prepared by the consolidating supervisor and/or by other members of the college so that the discussion can be effective;
  - the number of participants in college meetings or activities does not undermine their effectiveness. Nevertheless, the consolidating

supervisor should keep all college members fully informed of the college activities that are relevant to them. College members not invited to participate in an activity of the college are entitled to make a request to the consolidating supervisor, explaining their reasons for wishing to participate and being ready to provide valuable input to the issues under discussion if their participation is granted.

- the timeline of meetings or activities of the college (e.g. frequency and alignment with the supervisory programme) is defined so that their outcome provides decisive assistance to the supervision of the group and its entities .

**Guideline 12: When the college operates under a fully-fledged structure, the consolidating supervisor should devise appropriate mechanisms to facilitate its operational functioning.**

61. To ensure the efficiency and effectiveness of the college, when it operates under a fully-fledged structure, the consolidating supervisor should act as a central point of contact for any matter related to the practical organisation of the college. The consolidating supervisor should ensure that the following tasks are performed:

- draw-up, update and circulate the mapping of the group's entities which underlies the organisation of the college;
- draw-up, update and circulate the contact list of college members;
- circulate the agenda as well as documentation for meetings or activities of the college;
- record minutes of the meetings and formalise action points;
- manage the college website, if any;
- assist the college, as well as specialized supervisory teams, if any, in their tasks and
- act as a co-ordinator for reporting to CEBS on the activity of the college.

**Guideline 13: Supervisors should designate participants to a college meeting who are in a position to propose concrete actions, if need be, and to “pre-commit” their respective authorities.**

62. In accordance with the CRD, the establishment and functioning of colleges shall not affect the rights and responsibilities of the competent authorities. Though colleges shall not act as formal decision-making bodies, recognising fully the legal responsibilities placed on the consolidating supervisor, the home supervisor of branches and the host competent authorities for the supervision of subsidiaries and/or branches, supervisory authorities should commit to apply the agreements reached within the college.

63. For efficiency reasons, supervisors should define the level of seniority and expertise of their representatives within the college in light of the agenda of the meetings, or depending on the activities performed: further to permanent members of the college -identified by the contact list and ensuring the liaison between the college and their own

supervisory authority-, experts may be designated to participate in the college when issues under discussion require their competence (e.g. model validation).

64. Besides, depending on the meetings and on the objectives identified under the agenda by the consolidating supervisor, the level of seniority of participants should be such as to being able to propose concrete actions or measures, if need be, and to “pre-commit” their respective authorities. Supervisors should make sure that their representatives are mandated accordingly and that the work of the college is duly taken into account in day-to-day supervision of the group and its entities.
65. Furthermore, colleges should provide a framework for a high-level dialogue between the senior management of the group and senior representatives from supervisory authorities participating to the college.

**Guideline 14: The consolidating supervisor should organise a meeting of the “general college” at least annually. The “core college” should have as many meetings as needed to fulfil its tasks.**

66. The college should operate as an on-going cooperative structure. Its activities should be performed by maintaining on-going working-level contacts between the college members through different communication channels (e.g. e-mails, conference calls). However, meetings of the college should play a crucial and structuring role in the cooperation process between its members; they should also afford members the opportunity to meet directly with senior officers from the supervised group and to convey concerns related to group-wide supervision.
67. The frequency of the meetings should be determined by the consolidating supervisor taking into account the group’s or the institution’s risk assessment and external circumstances. They should, nevertheless, be held at least annually. When the college operates under a two-tier structure, the “general college” should meet at least annually. The “core college”, given its more specific objectives, should be convened as frequently as needed. Because the core college is the forum for closer cooperation between the supervisors of the most relevant entities, it is expected to meet more often than the general college.

**Guideline 15: Where deemed appropriate, in light of the organisation, scale and complexity of the group or its entities, the consolidating supervisor should promote and coordinate further work by specialized supervisory teams within the college.**

68. With a view to promote EU supervisory culture and mutual understanding of supervisory methods, when the college members identify areas requiring further technical investigation prior to agreement, where needed, on joint measures or actions, the consolidating supervisor should promote and coordinate smaller supervisory teams to provide technical views on the identified issues with a group-wide or institution-wide perspective.
69. These teams should comprise any expert designated by the supervisory authorities which are members of the college as being able to participate. The participation should not be mandatory, but experts

from the consolidating authority and from authorities supervising relevant or significant entities should be encouraged to participate.

70. Areas where such specialized supervisory teams can be considered may include, inter alia, issues related to internal risk-based or advanced measurement approaches, ICAAP review, economic capital modelling, diversification, credit risk, market risks (including VaR models) or liquidity risk. The objectives of such teams should be to share views on supervisory methods, to analyse relevant risks and new risk management techniques developed by the group, to address, jointly, technical issues and to recommend actions, if need be, to the college.

## **Section 4: Information to CEBS**

**Guideline 16: CEBS, represented by its Secretariat, should be invited to participate in the meetings of the college as an observer. The consolidating supervisor should inform CEBS of the activities of the college of supervisors, including those related to emergency situations, as well as making it privy to all the information of particular relevance for the purposes of supervisory convergence, such as the structure of the college, and, where appropriate, the existence of divergent views between college members. The agenda and the general outcome of the work of the colleges should be made available to CEBS.**

71. With a view to achieving convergence in the operational functioning of colleges across the EU, CEBS, represented by its Secretariat<sup>7</sup>, should be invited by the consolidating supervisor to participate in the meetings of the college as an observer.
72. In accordance with the CRD, the consolidating supervisor, subject to the confidentiality requirements laid down in European legislation, shall inform CEBS of the activities of the college of supervisors, including those related to emergency situations, and communicate to the Committee all information that is of particular relevance for the purposes of supervisory convergence. When the college operates under a fully-fledged structure, the consolidating supervisor should, thus, include regular information for CEBS in relation to the tasks to be performed. With a view to monitoring the development of college practices and to enhancing convergence, this reporting should include a description of the processes implemented within the college to enable it to perform its tasks (e.g. meetings, delegation and/or sharing of tasks, supervisory expert teams, joint risk assessments, coordinated supervisory plans) and flag implementation issues pertaining to the application of Community Law where further convergence is needed.
73. Divergent views between members of the college should be considered of particular relevance for the purposes of supervisory convergence. The consolidating supervisor should, in particular, inform CEBS in case of difficulties related to the conclusion of written agreements, the determination of significant entities, or the membership of non-EEA supervisors. Furthermore, the agenda and general outcome

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<sup>7</sup> CEBS Secretariat staff is bound by confidentiality obligations.

of the college activities should be made available to CEBS in its capacity as an observer to college meetings.

## **Chapter 2: Exchange of information among supervisors and communication with the supervised institutions**

### ***Introduction***

74. As indicated in Articles 131a and 42a.3 of the CRD, the colleges shall provide a framework for enhancing the exchange of information between supervisors, the gathering and dissemination of which shall be coordinated by the consolidating supervisor. In accordance with the CRD provisions (Articles 132, 42 and 42a 2), competent authorities shall provide one another with any information which is essential or relevant for the exercise of their tasks. Essential information shall be communicated on own initiative, while relevant information shall be transmitted on request taking due account of the importance of the entities concerned.
75. Elaborating upon these provisions, and taking due account of other CEBS's guidelines covering information exchange<sup>8</sup>, this chapter provides guidelines to clarify expectations in terms of information exchange within the colleges, to specify criteria for the coordination of information flows within the college and between its different settings, to ensure timeliness of information when required and to promote the use of the full suite of available communications channels. These guidelines are applicable in the context of on-going supervision (see chapter 8 for information exchange under crisis situations).
76. Further to the exchange of information between supervisors, an active two-way dialogue with the supervised group is essential to enhance the effectiveness of supervision, facilitate the functioning of the college and avoid duplication of requests. In that respect, the CRD (Article 131a) indicates that the colleges shall provide a framework to increase the efficiency of supervision by removing unnecessary duplication of supervisory requirements, including in relation to information requests, and to consistently apply the requirements under the CRD across all entities within the banking group.
77. In accordance with these provisions, this chapter also provides guidelines to enable EU supervisors to identify areas subject to communication with the supervised institutions, to coordinate the information requests and to define the participation of the supervised institutions in the meetings of the college.

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<sup>8</sup> In particular:

“Guidelines for cooperation between consolidating supervisors and host supervisors”, published on 25 January 2006: <http://www.c-eps.org/getdoc/97971c09-3afe-4f9d-a482-a24ae1b022ce/GL09.aspx>

“CEBS' advice on information required to be exchanged under Article 42 CRD”, published on 3 June 2009: <http://www.c-eps.org/getdoc/8784537f-7564-4f94-9151-fab152268689/CEBS-s-advice-on-article-42-of-CRD.aspx>

“Liquidity Identity Card”, published on 22 June 2009: <http://www.c-eps.org/getdoc/9d01b79a-04ea-44e3-85d2-3f8e7a9d4e20/Liquidity-Identity-Card.aspx>

## ***Guidelines for the exchange of information among supervisors and for communication with the supervised institutions***

### **Section 1: Exchange of information among supervisors**

**Guideline 17: With a view to ensuring effective college functioning, the college members should exchange all information necessary for the performance of their key activities.**

78. An efficient and proportionate exchange of information is the starting point for building trust and confidence between supervisors. It also lays down the basis for any activity of the college. Accordingly, each member of the college should provide the consolidating supervisor with all information necessary for the operational functioning of the college and for the performance of the key activities to which he participates. The consolidating supervisor should provide other members of the college with similar information at the group level. This “key information” should be agreed within the college and should cover the following information items:

- for the operational organisation of colleges
  - detailed qualitative and quantitative criteria used to determine the importance of the supervised entities (either branches or subsidiaries) for the group and/or for the local markets as elaborated under chapter 1 of these guidelines;
  - any concerns relating to the equivalence of confidentiality provisions to the CRD of non-EEA supervisors who may participate in the college;
  - an updated contact list of college members and
  - any documentation supporting the objectives of a college meeting, as agreed beforehand with the consolidating supervisor.
- for the voluntary sharing and delegation of tasks
  - information related to the national legal and regulatory frameworks for sharing and delegation of tasks ;
  - any confidentiality concerns that may impact the sharing and delegation of tasks ;
  - the existence of sharing and delegation arrangements with another member of the college;
  - main findings of joint or delegated tasks.
- for the joint decision on model validation
  - any information or local concerns that need to be considered when determining the details of the review and evaluation plan (e.g. timescale, individual contribution);

- regular reports and final findings of the validation work carried out in accordance with the review and validation plan agreed by the college members;
- any views or reservations on the outcome of the supervisory assessments, necessary corrective actions, terms and conditions for any approval under the joint decision process and
- main findings of on-going review of the models and details of compliance problems with the minimum requirements and conditions for any approval when identified.
- for joint risk assessment and decision under the supervisory review process
  - information relating to planned ICAAP requests to subsidiaries (i.e. timeline and content) with a view to achieving a consistent approach throughout the group;
  - details on the risk assessments of the supervised entities as defined under the guidelines on joint risk assessment and decision on capital adequacy, which are under preparation by CEBS: relevant quantitative indicators and qualitative information by risk types, main results of ICAAP assessments, summary template on capital adequacy (including “scoring” summarizing supervisory assessments and reasoning for any envisaged additional capital requirements and/or other prudential measures taken on a voluntarily basis under the joint decision process). Details should cover the following areas: credit risk, concentration risk, market risk, operational risk, liquidity risk, interest rate risk in the banking book, corporate governance (including internal control), business risk, overall strategy and risk appetite, results and profitability;
  - any views or reservations from the consolidating supervisor or the host supervisors on the risk assessment and the proposed decision on the capital adequacy of the group and its legal entities;
- for the planning and coordination of supervisory activities in going concern situations
  - methodological information relative to on-site examination, e.g. methods for conducting on-site inspections, for reporting the results to the supervised institutions and for following-up on the recommendations made;
  - details on the planned supervisory activities (both on-site and off-site work, e.g. key meetings) where relevant for group-wide supervision within the college. Details should cover subject, level of priority and timing, rationale and objectives and;
  - main findings of supervisory activities referred to under the coordinated supervisory plan agreed by the college members.

**Guideline 18: Under the coordination of the consolidating supervisor, and with due regard to the CRD provisions, each member of the**

**colleges should exchange essential and relevant information for the performance of the other members' tasks.**

79. According to Article 132 of the CRD, supervisors shall consider as essential information any information that could materially influence the risk assessment of the parent company and its entities. In line with the CRD and with CEBS GL09, essential information should be provided on own initiative and should cover, at a minimum, the following information items:

- significant changes of the group's structure as well as of the authorities involved in its supervision. This should encompass changes in the legal structure of the group and the location of significant business units, significant investments in non-financial entities, significant capital links between entities, significant qualifying holdings and changes in the level of application of regulatory capital requirements within the group;
- changes to the procedures for the collection and verification of information from the supervised institutions, where these are important to other supervisors (especially pending uniform reporting standards);
- difficulties that have potentially significant spill-over effects within the group such as matters which cast a doubt on the viability of the group as a going concern, factors which suggest a potentially high risk of contagion, significant developments in the financial position of the group (e.g. declining capital ratios, significant losses), intra-group dependencies and limits to transfers of liquidity within the group, early warnings of possible liquidity difficulties at entities within the group and major fraud;
- major sanctions and exceptional supervisory measures and
- changes in the organisation or senior management that have a significant impact on governance or risk control or management.

80. Relevant information for the performance of the other members' tasks shall be communicated on request. To assess the relevance of such a request, supervisors requesting information should state clearly the purpose for which the information is requested. However, depending on the circumstances and structure of the supervised group, information normally considered as relevant may become essential, as agreed by the members of the college. Relevant information may cover broad categories of information items including:

- ownership, structure and activities of supervised entities;
- governance arrangements and internal control mechanisms;
- financial and risk indicators;
- supervisory assessments and reporting;
- prudential regulations and methodologies;
- Deposit Guarantee Schemes and
- supervisory measures.

**Guideline 19: When coordinating information flows within the college and between its different settings, the consolidating supervisor should take due account of the nature of supervised entities, their relevance within the group and significance in their local markets, as well as confidentiality provisions.**

81. The exchange of information between the members of the college should reflect the needs of the supervisors involved. Accordingly, when coordinating and disseminating information flows within the college, the consolidating supervisor should take into account:

- the nature of the supervised entities. The information flows regarding EEA branches should reflect the legal responsibilities of supervisors involved. CEBS's advice on information required to be exchanged under Article 42 of the CRD categorises flows of information from home to host supervisors of branches and from host to home supervisors. Further to essential information referred to above, where the supervised entity is a branch, information flows should cover specifically the supervision of liquidity risk (e.g. liquidity strategy and scope of application, liquidity measurement, obstacles to cash and collateral transfers, quantitative information on balance sheet structure, supervisory ratios, liquidity ID card) and the deposit guarantee schemes arrangements (e.g. level of coverage, scope, funding mechanisms and maximum allowable amount);
- the importance of the supervised entities within the group and for the local markets. To avoid unnecessary information flows, the exchange of information should be kept proportionate and risk-focused. When the college is established under different settings, the exchange of information should be commensurate to the college structure; for example, in most cases, in the core college more detailed information will be exchanged. At the same time, appropriate procedures should be established to keep the general college members fully informed of the main activities of the core college.
- any restrictions in terms of confidentiality of information, in particular, information received from non-EEA supervisors participating in the "core college" may be circulated only to the other members of the "core college", unless the providers of the information agree to share it more widely with the "general college". Similarly, when an EEA member of the college expresses reservations as to the equivalence with the CRD confidentiality rules in a given non-EEA country, the consolidating supervisor should take them into account in the composition of the college and cannot disseminate to the non-EEA supervisor concerned information received from the host supervisor which formulated the reservations.

82. In application of these criteria, the coordination and dissemination of information may naturally lead to an asymmetric flow of information. However:

- the consolidating supervisor should have unfettered access to all relevant information;
- essential information should be available to all members of the college and
- appropriate procedures should be established by the consolidating supervisor for access to “host-to-host” information flows, i.e. to give selected host supervisors, where relevant and appropriate, access to the information flows from other host supervisors, with the agreement of the latter.

**Guideline 20: The members of college should consider the usage of the full range of communication channels to ensure efficient information sharing, to support the work of the college and its integration into day-to-day supervisory activities.**

83. With a view to promoting continuous, timely and proportionate exchange of information, the members of the college should consider the full range of communication tools such as:

- college meetings;
- official letters;
- electronic messages, to be secured for very sensitive information;
- phone/video calls/conferences;
- website platforms.

84. Given the importance of information flows within the college and between its different settings, a website platform should be considered. This can be particularly useful when exchanging very sensitive information and for enhancing the efficiency of the functioning of the college when it is operating under a fully-fledged structure involving a high number of supervisory authorities. Annex 2 provides an illustrative framework elaborating upon existing practices. This provides supervisors with operational guidance for the development of such a communication tool, including a description of the objectives, main features, possible content and IT security features of a website platform.

**Guideline 21: The members of the college should agree on the frequency of information exchanged for the performance of its key activities. Essential information should, in any case, be provided at short notice.**

85. The exchange of information within the college should be as spontaneous as possible, allowing any supervisor to take the initiative, and should provide information on a timely basis. The exchange of information necessary for the performance of the key activities of the college should occur as often as is needed to fulfil the different tasks. Essential information, in particular, difficulties that have potentially significant spill-over effects within the group, should be provided to all college members at short notice.

## **Section 2: Communication with the supervised institutions**

**Guideline 22: Arrangements concerning communication with the supervised institutions (parent company and other entities) should be agreed upon by the members of the college. Communication with the group should cover, at a minimum, the key activities of the college.**

86. The consolidating supervisor should lead a discussion of the types of information to be communicated to the management body of the supervised institutions with a view to achieving agreement within the college. Communication with the management of the parent company should reflect the key activities of the college. It should cover feedback on areas of supervisory concern identified by the college members and, at a minimum, the following items:
- with respect to the operational organisation of colleges: the existence of a multilateral written cooperation and coordination agreement for the supervision of the group or cross-border bank;
  - with respect to the voluntary sharing and delegation of tasks: the general allocation of supervisory tasks, the existence of sharing and delegation of tasks;
  - with respect to the joint decision on model validation: the requirements and standards of the application, the planning of the validation process, the joint decision on advanced methods for the calculation of capital requirements and findings from model validation reviews;
  - with respect to the joint risk assessment and decision under the supervisory review process : the results of joint risk assessment and the joint decision on the risk-based capital adequacy; and,
  - with respect to the planning and coordination of supervisory activities in on-going concern situations: the main findings of coordinated on-site and off-site examinations.

**Guideline 23: The members of the college should coordinate, to the greatest extent possible, information requests to the parent company and to the local entities of the group.**

87. With a view to avoiding duplication of requests, all the members of the college should ensure that information requests to the parent company and to the local entities of the group are as coordinated as possible. In accordance with the CRD provisions (Article 132.2), the members of the college shall, whenever possible, contact the consolidating supervisor when they need information regarding the implementation of approaches and methodologies set out by the Directive that may already be available to the consolidating supervisor.
88. With respect to the supervisory review process, in order for the joint decision process to flow smoothly, it is necessary that ICAAP reports be submitted to the consolidating supervisor and to the host supervisors in a co-ordinated and possibly synchronised timeframe. The content of ICAAP reports, if requested, by the consolidating supervisor and by the host supervisors should be consistent so as to avoid duplication of reporting requirements.

**Guideline 24: In general, the consolidating supervisor should be responsible for the communication with the parent company and the host supervisors should be responsible for the communication with locally licensed entities.**

89. The responsibility for communication with the parent undertaking lies with the consolidating supervisor who coordinates communication and shares all the appropriate information with the host supervisors. The host supervisors are responsible for communication with the locally licensed entities and also when the CRD allocates the responsibility for the supervision of a certain topic to host authorities (e.g. liquidity supervision of branches according to Article 41 CRD). When, in exceptional cases, the host supervisor needs to communicate directly with the management of the parent company, he should, in advance, inform the consolidating supervisor on a timely basis and, in any case, on the nature and outcome of this communication.

**Guideline 25: With a view to enhancing the dialogue between the group and the supervisors involved in group-wide supervision, the consolidating supervisor should organise meetings between college members and the senior management, or other representatives, of the supervised group.**

90. The consolidating supervisor should organise, periodically, multilateral meetings between members of the college and the senior management of the group so that the supervisors involved in group-wide supervision receive information on the group's strategy, business plan and overall financial outlook. The consolidating supervisor may also organise additional meetings between the college members, or any setting of the college, and representatives from the supervised group (e.g. financial, risk, internal control, audit functions) when deemed appropriate to prepare joint assessments or measures. Areas for discussion may cover e.g. the on-going review of internal models, the on-going risk assessment and review of the ICAAP, risk management issues, specific developments regarding the foreign entities of the group, etc. Prior to the meeting, the supervised group will be informed, to the fullest extent possible, about the supervisory expectations with respect to the meeting. The supervised group will receive, as a follow-up to the meetings, feedback on areas of supervisory concern identified by the college members or, where appropriate, responses to the questions raised by the banking group during those meetings.

## **Chapter 3: Voluntary sharing and delegation of tasks**

### ***Introduction***

91. Among other tasks, Article 131a of the CRD states that colleges of supervisors shall provide a framework for the consolidating supervisor and the other concerned authorities to agree on voluntary entrustment of tasks and voluntary delegation of responsibilities where appropriate. CEBS notes the 3L3 work on the delegation of tasks and responsibilities,

and these guidelines are consistent with the existing 3L3 reports on the topic.

92. The delegation of tasks refers to tasks which are carried out by another supervisory authority (the delegate) instead of the responsible authority (the delegating authority or delegator). The delegate reports its findings back to the delegator as the responsibility for supervisory decisions remains with the latter<sup>9</sup>.
93. Sharing of tasks refers to tasks which are carried out jointly by the responsible authority and another competent authority in the framework of joint and coordinated supervision by the competent authorities on the basis of a common programme<sup>10</sup>. The CRD envisages specific cases where supervisory activities are to be carried out jointly by the supervisory authorities, such as the joint decision on model validation, or on risk-based capital adequacy. In those cases, the sharing of supervisory tasks is, therefore, prescribed by legislation.
94. The sharing and delegation of tasks does not result in a change in the allocation of the decision-making power, which is prescribed by legislation. Therefore, the delegation or sharing of tasks does not have external consequences with respect to third parties.
95. The notion of the delegation of responsibilities refers to cases whereby one supervisor (the delegate) on the basis of legal texts permitting such delegation and a delegation agreement, decides upon a certain supervisory matter in its own name in lieu of another supervisor (the delegator), who would initially be the competent supervisor on the basis of the legal and regulatory framework. As a consequence, the delegator would be bound by the decision of the delegate<sup>11</sup>.
96. For the moment, these guidelines will limit their scope to the sharing and delegation of tasks. In the future, where Community Legislation will specify the legal framework for the delegation of responsibilities, Level 3 guidance on the delegation of responsibilities may be considered.
97. Furthermore, this chapter will focus on the voluntary sharing and/or delegation of tasks that can take place within a college of supervisors outside the cases where the joint decision is prescribed by European Legislation.

## ***Guidelines on the voluntary sharing and delegation of tasks***

**Guideline 26: Sharing and/or delegation of tasks between supervisors within a college should be considered whenever it leads to more**

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<sup>9</sup> The “Key Principles for the Delegation of Tasks between Competent Authorities” were published on 3 September 2008: <http://www.c-eps.org/getdoc/eaca1097-0671-4cf6-ae39-21dffcf99bc1/CEBS-20080903Report-on-Delegation.aspx>

<sup>10</sup> Definition based on the “Key Principles for the Delegation of Tasks between Competent Authorities”, 3 September 2008.

<sup>11</sup> The “3L3 Delegation Task Force report on Delegation of Responsibilities” was published in April 2009: <http://www.c-eps.org/getdoc/d25bf587-5f97-4e2c-a12e-e66794713586/3L3-Report-Delegation-Responsibilities-2009.aspx>

**effective and efficient supervision, such as avoiding the duplication of tasks, the optimisation of supervisory resources and expertise and removing unnecessary burdens for the supervised institutions.**

98. The sharing and delegation of tasks should be considered when it leads to a more effective and efficient supervision. For cross-border matters, the sharing and delegation of tasks between supervisors can help minimise the duplication of information requirements to the supervised entities, thus reducing the supervisory burden for the institutions.
99. By means of the sharing and delegation of tasks, the supervisors of entities or branches significantly involved in the same business line could coordinate their work and optimise supervisory resources by avoiding duplication of work.
100. The specific expertise of the supervisors within the college, in terms of technical skills or knowledge of the local market, is another driver that can lead to the sharing and delegation of tasks among the supervisors involved in the college, so as to ensure that each supervisor performs the tasks for which he might be best placed.
101. Where permitted by legislation, sharing and delegation of tasks, as a means for supervisory cooperation, is open to all types of supervisory authorities. That is to say, it can involve the supervisor of the parent credit institution, supervisors of subsidiaries and supervisors of branches. Similarly, it is also open to both supervisors within the EEA and from third countries, as well as other types of supervisory authorities (e.g. insurance or securities). The delegation and sharing of tasks can be vertical (from the consolidating or home supervisor to host supervisors and vice versa) and horizontal, across host supervisors within the same supervisory college.
102. Examples of supervisory areas which could be delegated or performed jointly are, inter alia, tasks related to model validation, tasks related to the SREP, such as ICAAP or ECM review, as well as the on-site review and/or the gathering and dissemination of information. In particular, when there is a significant part of a group which is supervised on a sub-consolidated basis, the consolidating supervisor may delegate some of its college-related tasks to the sub-consolidating supervisor (e.g. college meetings concerning the sub-group).

**Guideline 27: The sharing and delegation of tasks should reflect the manner in which supervised entities are organised and should be proportionate to the nature, scale and complexity of the supervised entities concerned.**

103. The allocation of tasks, including sharing and delegation, to supervisory authorities within the college may follow the organization of the banking group in terms of centralisation/ decentralisation and in terms of its organization in business lines. The importance of the entity for the supervisors involved should also be taken into account.

**Guideline 28: The sharing and delegation of tasks should be voluntary.**

104. The sharing and delegation of tasks is voluntary and it will take place under the terms agreed upon by the authorities involved in the sharing or delegation arrangements. No authority can be forced to share or delegate tasks or to accept the sharing or delegation of tasks. In practice, if an authority refuses a request for the sharing or delegation of tasks, it would be beneficial if it communicates its reasons, at least to the delegating authority.

**Guideline 29: When considering the sharing and delegation of tasks, the members of the college involved should discuss in advance the national legal and regulatory frameworks as well as the confidentiality constraints that may influence the sharing or delegation of tasks.**

105. The sharing and delegation of tasks should be consistent with the relevant national legal and regulatory framework, in all the jurisdictions concerned.

106. The laws and regulations of the delegating authority should govern the assessment of the outcome of the shared or delegated tasks. Unless otherwise stated, the laws and regulations of the delegate should govern the process of carrying out the task.

**Guideline 30: The sharing and delegation of tasks should be considered, at least, when designing the coordinated supervisory plan<sup>12</sup>.**

107. Whenever the college of supervisors draws up the coordinated supervisory action plan for the entire group for the year ahead, the delegation and sharing of tasks should be considered as a tool that can increase the effectiveness and efficiency of the supervision of the cross-border banking group.

108. The sharing and delegation of tasks can be also considered at any other time at the request of any of the authorities to be involved in the arrangement.

109. The effectiveness of the sharing and delegation should be reviewed periodically in the context of the review of the supervisory plan for the entire banking group within the college.

**Guideline 31: The sharing and delegation of tasks should take place during a specified period of time to be determined in the delegation or sharing arrangements.**

110. The duration of the sharing and delegation arrangements will normally follow the duration of the task to be performed jointly or on a delegation basis, and it will be included within the specifications of the coordinated supervisory plan for the college.

The sharing and delegation of tasks' arrangements can be extended, particularly when it is likely that the supervisor to whom the task has been entrusted will remain best placed for carrying out the activity for a longer period of time.

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<sup>12</sup> Details on the planning and coordination of supervisory activities in going concerns are spelled out in chapter 7.

111. Because of its voluntary nature, delegation and sharing arrangements may provide for the possibility of early termination by notifying the other authority reasonably in advance, provided that such a possibility has been agreed by the authorities involved in the sharing and/or delegation arrangement. Such agreements should include an appropriate "exit strategy".

**Guideline 32: For specific sharing and delegation arrangements, the competent authorities involved should agree on the terms and practical organisation based upon the framework defined within the college where it exists.**

112. The written agreements for cooperation and coordination within colleges of supervisors provide the general basis for the sharing and/or delegation of tasks that takes place within the colleges. For specific delegation and sharing arrangements, the supervisory authorities should agree upon their terms in detail, especially in the case of delegation, in which the authority legally responsible will not be performing the bulk of the supervisory task which has been delegated. Therefore, the authorities should agree with sufficient detail on, at least, the following topics:

- the specific activities in clearly specified areas that will be shared or delegated
- the rules to be applied
- the role and the responsibilities of the authorities involved
- the type of information to be exchanged among supervisors
- the confidentiality provisions that will govern the exchange of information
- the language, frequency and the means/forms of this information exchange
- the standards under which tasks should be executed
- possible instructions by the delegating authority and the effect thereof
- the working methods to be used
- the access to the documentation produced by the delegate
- the timetable for completion of the delegated activities
- the terms under which the delegate will report to the delegating authority and
- the terms under which early termination may take place.

113. When joint examinations are conducted, the methodology of the leading supervisor should be followed.

**Guideline 33: Information should be exchanged between the involved authorities in the context of sharing and delegation of tasks.**

114. Information should be exchanged between the authorities before, during and after the execution of the delegated or joint tasks. They should agree on:

- the information to be exchanged (e.g. information drawn from regulatory reports and examination reports)
- the frequency of the information exchange
- the ways of exchanging the information (e.g. meetings between representatives of the authorities, documentation and means; such as electronic) and
- in the case of delegation of tasks, the extent to which the delegating authority will give instructions to the delegate and be involved in its work and the frequency of such involvement.

115. In the case of delegation of tasks, the delegate should communicate to the delegating authority sufficient detail of the outcome of the delegation and, if necessary, they should discuss and agree on the wording of the documentation. Depending on their national laws, the delegating authority and the delegate may agree that the delegate will provide the delegating authority with a signed report.

116. If internal documents have to be transmitted to a third party that has a legitimate common interest in the matter, prior notification/request for authorisation should be forwarded to the delegate.

**Guideline 34: Members of the college should also be duly informed of the existence and, where relevant, outcome of the sharing and delegation arrangements.**

117. Members of the college should be informed of the existence of specific sharing and delegation arrangements between supervisory authorities that are members of the college. Where the findings of those joint or delegated tasks have any bearing on the banking group as a whole, or on its entities or branches, the relevant authorities within the college should be duly informed.

**Guideline 35: Competent authorities should provide the supervised entities concerned with the execution of the delegated tasks or joint tasks with clarity as to the arrangements for the supervision and as to which competent authority is going to be in charge of communicating with said entities. Termination of the delegation or sharing arrangements should be disclosed in the same way.**

118. In order to ensure transparency, the supervised entities affected by the sharing and delegation of tasks should be informed of the existence of these arrangements and of their practical implications, such as what authorities will be in charge of communication with them. Similarly, the supervised entities should be informed of the termination of the delegation and sharing arrangements.

119. The fact that the sharing and delegation of tasks does not alter the allocation of supervisory responsibilities and the liabilities of supervisory authorities with respect to the supervised entities should also be made clear to the supervised entities affected by the sharing and delegation arrangements.

120. In principle, the consolidating supervisor and the delegating authority should communicate the above-mentioned information,

respectively, to the parent company and the relevant unit within the group, unless agreed otherwise between the consolidating supervisor and the authorities involved in the sharing or delegation arrangements.

## **Chapter 4: Joint decision on model validation**

### ***Introduction***

121. According to Art.129.2 CRD, the consolidating supervisor and the host supervisors shall work together, within the college, in full consultation, to reach a joint decision for the usage of internal models. In the absence of such a joint decision, the consolidating supervisor shall make his own decision, taking into account the views and reservations expressed by the host supervisors.
122. This chapter provides guidelines on the way the work of the college fits into the cooperative framework defined by CEBS's Guidelines on the implementation, validation and assessment of Advanced Measurement (AMA) and Internal Ratings Based (IRB) Approaches <sup>13</sup>(GL10) in this respect. It is structured along each step of the validation process from pre-application to the on-going review of models.

### ***Guidelines for the joint decision on model validation***

**Guideline 36: The college members involved in the joint decision for the use of internal models should agree on the distribution of tasks, considering the organization of the group as well as the type and characteristics of the models to avoid duplication of work and unnecessary supervisory burdens.**

123. The consolidating supervisor is generally in a better position to lead the work of centrally developed models that are applied across the banking group and also to take the lead in the assessment of governance of the group, the role of senior management and the centralised risk management function (including centralised IT systems). The host supervisors should review the local aspects of the centralised models, for instance, use test, calibration for local portfolios, data quality, meeting specific local legal requirements and/or reporting.
124. The host supervisors are generally better placed to lead the validation work of locally developed and applied models (including governance).
125. In the case that central models are developed locally, it is the consolidating supervisors' responsibility to organize the work in a way that allows for the reaching of a joint decision.
126. The consolidating supervisor may liaise with supervisors of significant branches to determine the extent to which the latter can contribute to the efficiency of the validation work.

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<sup>13</sup> The Guidelines on the implementation, validation and assessment of Advanced Measurement (AMA) and Internal Ratings Based (IRB) Approaches were published on 4 April 2006: <http://www.cebs.org/getdoc/5b3ff026-4232-4644-b593-d652fa6ed1ec/GL10.aspx>

**Guideline 37: The college members involved in the joint decision process should agree on the structure of the application form and on the details of the review and validation plan.**

127. The college members should develop an overall supervisory plan of action that covers each of the steps in the approval process and that includes priority issues and a timetable. In this respect, the college members should:

- understand the extent and nature of the intended use of internal rating and operational risk management systems (for example, which risks, entities, and exposures are to be covered, how internal models are being rolled out across the group, governance and risk management arrangements, data collection and management, and testing),
- discuss any specific group or local concerns or issues that need to be factored into the process and
- agree, after due consultation with the group, on the format and timescale for the submission of the formal application and the planning of the assessment to be undertaken by supervisors.

128. A draft of the plan should be submitted by the consolidating supervisor to the college members involved, who should be invited to provide input. It should specify a timetable, taking account of the six-month timeframe provided for by the CRD. Host supervisors involved in the joint decision should agree with the consolidating supervisor specifically on their individual contribution.

129. The consolidating supervisor should inform the management of the group about the outcome of the discussion, the requirements and standards of the application form, and the planning of the validation plan.

130. The supervisors responsible for the supervision of entities which are part of the roll-out plan should be part of the plan.

**Guideline 38: The college members involved in the joint decision process, under the lead of the consolidating supervisor, should coordinate and review the execution of the supervisory action plan. The college members involved should discuss the draft joint decision prepared by the consolidating supervisor.**

131. The consolidating supervisor should distribute the complete application form to the competent authorities involved in model validation, with the minimum delay possible.

132. Each supervisor should perform the validation of internal models in accordance with the agreed plan and should regularly report to the college on the progress (and delays, if any) of the review of the models and the outcome thereof on a timely basis.

133. The college members should consider and decide on any adjustments to be made to the plan as a consequence of any difficulty or delay met by the supervisors (e.g. because of the insufficient readiness of the group).

134. The consolidating supervisor should inform the management of the group of the findings of the reviews of the models by the supervisors and should distribute the comments of the management of the group thereon to the competent authorities. The findings of the review of local models by the host supervisors should be communicated to the local entity by the host supervisor. This may differ if tasks are shared or delegated. In this case the findings of the review of models should be communicated to the entities examined by the supervisor responsible for the examination. The comments of the management of the group and its local entities on the findings should be discussed between the authorities involved. In those cases where information from the group is needed by host supervisors they should turn to the consolidating supervisor who should send the request to the group. Where this information may be useful to other supervisors it should be circulated to them by the consolidating supervisor.
135. In order to reach the joint decision within the six-month timeframe provided for by the CRD, the supervisors should share their views on the outcome of the supervisory assessment (such as principal weaknesses identified) and necessary corrective actions and appropriate terms and conditions.
136. The consolidating supervisor should draft a preliminary joint decision document, containing the fully reasoned decision on advanced approaches for the calculation of regulatory capital requirements and any terms and conditions relating to that decision. The preliminary joint decision document should set out the views and observations of the competent authorities involved. The preliminary joint decision document should be distributed to competent authorities by the consolidating supervisor on a timely basis in accordance with the agreed upon time schedule. The competent authorities involved should provide formal input into the joint decision document on a timely basis.
137. The joint decision document should be provided to the group by the consolidating supervisor. The decision should be formally communicated to the authorities involved as soon as possible. The transmission to the subsidiary of the decision will be made by the competent authority if this is required under host country local regulations.
138. When the authorisation is subject to conditions, the allocation of tasks for the assessment of the fulfilment of these conditions should be consistent with the initial action plan.
139. In the absence of a joint decision, the consolidating supervisor shall make its own decision taking into account the views and reservations expressed by the host supervisors
140. In any case, the consolidating supervisor should circulate the final decision on the application, should it be joint or not, to the college members.

**Guideline 39: The college members involved in the joint decision, under the lead of the consolidating supervisor, should coordinate the on-going review of the compliance with the authorisation. The college members should decide on the consequences to be drawn from non-compliance with the requirements.**

141. On-going review of the models, which should be conducted under the Pillar 2 framework, should be consistent with the allocation of tasks agreed upon. Main supervisory activities within the on-going review process for the college include:
- the on-going monitoring of the continuous compliance with regulatory requirements, as well as conditions and terms attached to the permission granted (e.g. improvement measures),
  - the assessment of the permanence of the governance and environment control of the internal models and
  - the review of the results of backtesting.
142. The college members should be regularly informed of the changes to the models and should assess the effects and consequences of these changes in order to be able to decide whether a new authorisation under Article 129.2 CRD is necessary. The authorities involved should allocate tasks with respect to the approval of these changes.
143. As part of the coordinated supervisory plan, the college members should agree on the allocation, content and timeframe of the supervisory actions related to the on-going review of the models.
144. The on-going review may identify problems of compliance with the minimum requirements and conditions (e.g changes in the environment, corrective measures not fully implemented). When compliance problems arise, concerned supervisors should report them to the college members in order to agree on a common action.
145. Where appropriate, a proposal to revoke an Article 129(2) decision can be made by the consolidating supervisor, a host supervisor, or the institution itself. The Article 129(2) decision can be revoked by joint agreement of the consolidating supervisor and the host supervisors, or, in the absence of an agreement, by the consolidating supervisor alone. A host supervisor cannot revoke an Article 129(2) decision acting on his own.

**Guideline 40: During the validation process, as well as during the on-going review, non-EEA supervisors, members of the college, may be involved.**

146. Although they are neither part of, nor bound to joint decision process referred to by the CRD, non-EEA supervisors may be consulted for the establishment of the review and validation plan. They should agree with the consolidating supervisor specifically on their individual contribution.

## **Chapter 5: Joint decision on risk-based capital adequacy**

### ***Introduction***

147. According to Article 129.3 CRD, the consolidating supervisor and the relevant host supervisors shall work together, within the college, in full consultation, to reach a joint decision on the adequacy of own funds held

by the group with respect to its financial situation and risk profile and the required levels of own funds under Pillar 2 at the consolidated level and at the level of each entity. In the absence of a joint decision, the consolidating supervisor will decide at the consolidated level and each of the supervisors will decide on an individual or sub-consolidated basis. The views and reservations expressed by other supervisory authorities shall be duly considered in these individual decisions.

148. This chapter provides guidelines on the way the work of the college fits into the cooperative framework defined by the Draft Guidelines for the Joint Assessment of the Elements Covered by the SREP and the Joint Decision Regarding the Capital Adequacy of Cross Border Groups, (CP39)<sup>14</sup>, which are under public consultation by CEBS.

### ***Guidelines for the joint decision on risk-based capital adequacy***

**Guideline 41: For the purposes of reaching the joint decision, the college should involve all EEA supervisors of subsidiaries. The consolidating supervisor should consider liaising with non-EEA members of the college, non-banking supervisors and supervisors of significant branches to determine their contribution to the joint assessment process. The extent of the contribution of each supervisor should be proportional to the relevance of each of the supervised entities to the risk profile of the group.**

149. According to Article 129(3) of the CRD, the joint decision on the determination of additional levels of own funds (both on a consolidated basis and at the level of the group's entities), shall involve the consolidating supervisor and all EEA supervisors of the group's subsidiaries.
150. Considering the goal of the SREP, it is clear that it should not be limited to risks related to EEA entities, if material. It is up to the consolidating supervisor to include the situation of non-EEA entities in the risk assessment carried out on a consolidated basis; to this end, leverage on the input and insight that non-EEA supervisors can provide should be sought, if deemed appropriate. Moreover, the process whereby the adequate capital level is determined should generally reflect the relevance of the subsidiaries within the group and their significance in the local markets.
151. Against this backdrop, the consolidating supervisor may decide to liaise with non-EEA supervisors to determine their contribution to the joint assessment process, depending on their participation/membership in the college. By the same token, it is up to the consolidating supervisor to decide whether there is merit in interacting with a sub-set of college members ("core college"), given the structure of the group and the

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<sup>14</sup>The Draft CEBS Guidelines for the Joint Assessment of the Elements Covered by the SREP and the Joint Decision Regarding the Capital Adequacy of Cross Border Groups (CP39), published for public consultation on 07 April 2010: <http://www.c-eps.org/documents/Publications/Consultation-papers/2010/CP39/CP39.aspx>

distribution and the importance of risks across legal entities, provided that timely information of all college members is ensured.

152. The process for the joint assessment and decision on the adequacy of own funds should be applied by the college members in a proportionate manner to reflect the nature, scale and complexity of the activities of the banking group.
153. At the same time, the joint assessment has to take into consideration the degree of integration of the banking group and its internal organisation. It is recognised that banking groups may be centralising or may have centralised certain activities such as their risk management functions. They also may also be organised across business lines as opposed to legal entities. Consequently, there may be a need to develop a more integrated and joint approach in the joint assessment, which will require enhanced coordination between the consolidating supervisor and the host supervisors of the relevant banking group.
154. Given the business model, risk profile and structure of the institution, the joint assessment could involve cooperation also with supervisors of significant branches and non-banking supervisory authorities. Pursuant to Guideline 10, supervisors of related banking undertakings that are not subsidiaries, in addition to supervisors of non-banking sectors, as well as central banks, may participate in the meetings or activities of a college when deemed appropriate, by the consolidating supervisor, to fulfil the college tasks.

**Guideline 42: To achieve the joint decision, the college members should jointly address the various aspects of the supervisory review and evaluation process on a group-wide and individual entity basis, as referred to in Articles 123, 124 and 136(2) of the CRD.**

155. The authorities should cooperate with one another with the intention of ensuring a common understanding of overall Pillar 2 issues, on a group-wide, sub-consolidated and individual entity basis, and with the intention of ensuring a coherent follow-up to the outcome of the joint assessment. In particular, within the college, the authorities should undertake to discuss the group's approach to the various aspects of Pillar 2.
156. Pursuant to the structure of the supervisory review process as put forward in the CEBS GL03, the joint assessment of the elements covered by the SREP should encompass:
- risk and control factors, as developed in Chapter 3 of CP 39.
  - the ICAAP framework, as developed in Chapter 4 of CP 39.
  - compliance with various minimum requirements under the CRD, as developed in Chapter 5 of CP 39.
157. It is recognised that different supervisory authorities may have different practices and approaches to the review processes and that, inter alia, there may be differences in the emphasis on qualitative versus quantitative judgements in the assessment.

158. While flexibility with regard to approaches is important, a set of common tools, allowing for the achievement of a shared understanding of the different SREP results, regardless of the approaches applied, is needed, in order to foster consistency across colleges and to ensure a level playing field in the EU. This will also help to support the comparability of SREP results for individual entities, which feed into the joint assessment for a cross-border banking group.

159. The evaluation undertaken within the joint assessment should be forward-looking in the sense that it should consider, based on information known at the time of the joint risk assessment, whether the risk profile of the institution is likely to change over the forthcoming assessment period.

**Guideline 43: Subject to the timeframe established in the CRD for reaching a joint decision, the college members should, under the coordination of the consolidating supervisor, set a precise timeframe for the different steps and the joint decision process as a whole.**

160. According to Article 129(3) of the CRD, the joint decision should be reached within four months<sup>15</sup> after submission by the consolidating supervisor of a report containing the risk assessment of the group, in accordance with Articles 123 and 124, to the other relevant competent authorities.

161. The consolidating supervisor should establish, in cooperation with the host supervisors, a timeframe for the joint assessment and decision process, describing the different stages in the process. The planning should also address the distribution of tasks between the supervisors involved. The respective roles and responsibilities of the various supervisors involved within the college have to be taken into account when establishing the timelines for the joint assessment and decision process.

162. In that context, the members of the college should agree on the most appropriate timeline for receiving contributions from the college members and for the duration of the joint assessment, bearing in mind the overall frequency of the joint assessment for the group, as well as the number, roles and resources of supervisors participating in it, and taking into account the importance of the banking activities in each country (significant/relevant subsidiary or branch) and the respective risks involved in those activities.

163. The members of each college are free to agree on the most suitable time schedule, bearing in mind that the process can be broken down into the following steps<sup>16</sup>:

- Step 1: Prior to the start of the joint risk assessment process, the consolidating and host supervisors should agree on the scope and perimeter of the assessment, i.e. agreement should be reached on the identification of significant/relevant subsidiaries and branches

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<sup>15</sup> Until 31 December 2012, the timeline for the joint decision will be 6 months upon circulation of the risk assessment for the group (see Article 154. 9. b) CRD).

<sup>16</sup> Annex 4 presents a chart summarising the steps to be followed along the joint assessment and decision process.

(including relevant non-banking entities, if appropriate), and their coverage by the joint risk assessment process. The ex ante agreement should also address practicalities like timeline, language of communication etc.

- Step 2: ICAAP reports – if and where requested- should be provided by all entities of the group by the same deadline: the parent undertaking shall, if required by the consolidating supervisors, file with the consolidating supervisor the consolidated ICAAP report, which could also contain – depending on the group’s complexity and structure – information on the major entities’ ICAAP. The latter sections should be fully consistent with the individual ICAAP reports each of these entities submits – if required by host country regulations – to the respective host supervisor.
- Step 3: Host supervisors should complete, according to their own methodologies and RAS, where applicable, the SREP of the local components of the cross-border group and submit reports, drawn up using common templates and common scoring scales, to the consolidating supervisor.
- Step 4: The consolidating supervisor should prepare the risk assessment report of the group, pursuant to Article 129(3) of the CRD. The templates summarising the results of the individual SREP performed by the host supervisors should be attached to this report.
- Step 5: The report should then be promptly circulated to the college members in preparation for the college discussion leading to a joint assessment of the elements covered by the SREP and to a joint decision on the adequacy of capital - and on the application of Article 136(2) where agreed -, so as to complete the process within four months thereafter, at the latest<sup>17</sup>.

164. After consideration of the initial assessments of the consolidating and host supervisors, further technical evaluations might have to be considered before reaching agreement on the decisions to be taken.

165. Assessment data and information may need to be updated at later stages during the joint decision process in order for the final decision to be fully reasoned and based on the most up-to-date information.

166. The exact process whereby each college achieves an agreement on the level of capital of the group and its subsidiaries can differ, as it will reflect the degree of complexity and the group structure (e.g. number of members of the college, existence of a core college, etc.). By the same token, the process may take any agreed format (e.g. discussion at college meetings, written procedure, exchange of e-mails, or any combination of the above). In practice, it is advisable that a college meeting be convened, after the consolidated risk report has been circulated.

167. As a prerequisite to the joint assessment, each supervisory authority should have completed, in accordance with its legal

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<sup>17</sup> Until 31 December 2012, the timeline for the joint decision will be 6 months upon circulation of the risk assessment for the group (see Article 154. 9. b) CRD).

responsibilities and competence, its own SREP on each entity of the cross-border group under its supervision (subject to the proportionality principle).

168. Individual reports containing the results of the SREP performed at the level of individual entities should be delivered to the consolidating supervisor in due time so as to allow the latter to take them into account when appraising the consolidated situation of the group, pursuant to Article 129(3) of the CRD.
169. In principle, the advantage of assessments at entity level performed by host supervisors lies mostly in the greater accuracy with which qualitative appraisals can be performed. This is especially the case for important subsidiaries within the banking group, as the assessments performed by host authorities allow the consolidating supervisor to better gauge, among others, the organisational and management set-ups the group has put in place for risk mitigation and controls. Entity level assessments would also allow for a better understanding of the implementation of group policies and risk management instruments in the respective entities, and, as well as the efficiency of these policies, procedures and processes in relation to the local market environment and specificities of the local market or entity.

**Guideline 44: In order to reach a joint assessment of the elements covered by SREP on the level of the group and its entities, the college members should use commonly agreed templates for reporting information and assessments.**

170. Although the actual SREP and RAS methodologies, despite building on the common GL03 guideline framework, may differ, supervisory assessment reports covering the individual entities should be provided through commonly agreed templates.
171. The key overarching principle is that all college members, for the purpose of discussion within the college, should abide by a common framework for representing the risk situation of the group and each major component.
172. In order to facilitate the discussion and exchange of information and the appraisal of the risk profiles of the banking group and its entities, the college members are encouraged to agree *ex ante* on harmonised risk report formats. CP 39 provides templates for summary tables to be used in these reports for presenting the results of the assessment of risk factors and risk management and control factors (see Chapter 2 of CP 39), assessment of ICAAP (see Chapter 3 of CP 39), and assessment of compliance with various minimum requirements of the CRD (see Chapter 4 of CP 39). Such templates can be adapted to better suit the needs of each college
173. In addition to the assessment of the abovementioned elements, supervisors should provide to the consolidating supervisors and be ready to discuss in the college their initial assessments of the overall capital needs of the respective entity (SREP capital).

**Guideline 45: Information requests on ICAAP, at the group and individual entities level, should be coordinated within the college,**

**taking due account of the organisational structure of the group. Appropriate allocation or sharing of tasks for assessment of ICAAP should be decided by the college members.**

174. Institutions often have centralised (parts of) their risk management and capital adequacy assessment processes. ICAAP, at the local level, will, therefore, often rely on processes and models developed at the consolidated level. However, subsidiaries need to have a sufficient understanding of those procedures to enable them to interpret the risk measures.

175. At the same time, local elements of ICAAP need to be sufficiently reflected at the consolidated level. Also, the organisational structure of the institutions (e.g. by business line) may not coincide with their legal and geographical structure. While in such cases the role of the consolidating supervisor will be prominent in order to achieve a coordinated and efficient supervisory review, each supervisor remains responsible for the assessment of the ICAAP quality of the entities under his supervision.

176. Taking these elements into consideration and considering the principle of proportionality, with a view to avoiding unnecessary duplication and ensuring an effective sharing of information, the ICAAP assessments at the group and entity levels should be coordinated within the colleges of supervisors in the following way:

- The college members should assess, for each entity of the group subject to the scope of ICAAP, to what extent the ICAAP is conducted at the level of the group and/or at the level of each subsidiary.
- In order to achieve consistency in the information used by the college members to form an opinion on ICAAP quality, the submission of ICAAP documentation, when and where required by the national rules and regulations, to the consolidating and host supervisors should be synchronised to the largest extent possible, and based on the same reference date.
- The members of the college should ensure that the nature and structure of information requests are coordinated as much as possible between requests for ICAAP reports from the group and from different subsidiaries, where required by national rules and regulations. In presenting their individual assessments of ICAAP, consolidating and host supervisors should use agreed formats and templates based on the examples provided in these guidelines.
- The college members should agree on the allocation or sharing of tasks for the assessment of centralised activities related to ICAAP (e.g. risk management function, risk measurement, economic capital modelling, capital planning, governance issues and stress testing).

177. The coordination of information requests should also address the form of communication of those requests and the form for receiving information from the group and its entities. Depending on the specificities of the group and national regulations, various options could be considered: for example, ICAAP-related information regarding subsidiaries could be included in the group ICAAP submission delivered

to the consolidating supervisor; alternatively, entity-related ICAAP information could be submitted directly to the respective host supervisors and transmitted to the consolidating supervisor along with the SREP reports of the host supervisors.

**Guideline 46: After consideration of the results of the SREP provided by the host supervisors, the consolidating supervisor should produce a report containing the risk assessment of the group, which will serve as a basis for structuring the discussion leading to the joint decision.**

178. The reports drawn up by the host and consolidating supervisors should include an initial evaluation of the capital adequacy of the supervised entities, i.e. an opinion as to whether the actual capital levels are sufficient, against the backdrop of the subsidiaries' risk profiles, the quality of their ICAAP, the environment in which each subsidiary runs its business, and their compliance with the CRD requirements.
179. Such assessments should be construed as a proposal for possible actions in terms of capital adequacy measures *vis-à-vis* the group and its components respectively, thus acting as the starting point, or input, for the discussion which should lead to the decision on the required amount of capital the group and its subsidiaries should have.
180. Within the cooperative framework of the joint assessment, the consolidating supervisor is responsible for conducting the SREP for the group as a whole, for leading the dialogue with the key staff of the banking group, and for drawing conclusions from the SREP for potential prudential measures.
181. When drafting the risk assessment report at the consolidated level the consolidating supervisor should take due account of the risk reports provided by the host supervisors, which may lead to an adjustment of its initial judgment on the overall capital requirement for the group.
182. Host supervisors, in turn, should consider the consolidated analysis carried out by the consolidating supervisor and the insight provided on group-wide processes in order to adjust, if necessary, their evaluations of subsidiaries' overall performance and capital needs.
183. The consolidating supervisor is entrusted with reviewing ICAAP centralised methodologies and processes to evaluate risks and the adequacy of capital. However, depending on the group specificities and level of centralisation of risk management, host supervisors, at the request of the consolidating supervisor, may agree to participate in the assessment of the centralised process, should this be required by the situation. Likewise, to the extent that the entities' ICAAP rely upon central processes, the consolidating supervisor should provide the host supervisors with his judgement on the soundness and robustness of the central processes, which will be fed into host supervisors' reviews of the ICAAP.
184. The following elements should be taken into account in the dialogue between college members on the capital adequacy of the subsidiaries:
  - host supervisors should consider in their analyses not only the stand-alone solvency of the subsidiary, but also the support or guarantees

- (and their legal form – legally binding or not -) coming from the parent and the level of capital of the group as a whole;
- the involvement of host supervisors in the dialogue should be proportionate to the significance of the subsidiary in the host country or its relevance within the group, and;
  - in its dialogue with host supervisors, the consolidating supervisor should consider the relevance of the subsidiary for the assessment of the risk profile of the group.
185. In the spirit of Article 129(3) of the CRD, the purpose of the joint assessment process is to ensure the consistency of the Pillar 2 requirements and appropriate capital adequacy throughout the group. Therefore, as a starting point in its discussion, the college members will take into account the opinion of the consolidating supervisor on the level of capital needed at group level, and the opinions of host supervisors on the level of capital needed at the level of subsidiaries. For non-significant subsidiaries, the consolidating supervisor and the respective host supervisors may agree beforehand to rely upon the judgment provided by the consolidating supervisor.
186. The risk report drawn up by the consolidating supervisor should be complemented by a table summarising, for the group and, as appropriate, for each subsidiary/sub-consolidated level, the regulatory (Pillar 1 regulatory capital figures), internally assessed (ICAAP capital figures) and required capital levels (SREP capital figures) as stemming from the risk assessments provided by all authorities.
187. For the purposes of facilitating the discussion within the college, the individual templates provided by the host supervisors summarising the results of their SREP should be annexed by the consolidating supervisor to the report containing the risk assessment of the group.
- 188. Guideline 47: After the report containing the risk assessment of the group has been circulated by the consolidating supervisor to the host supervisors, the college, with an appropriate degree of seniority, should be convened in order to reach a joint decision on the adequacy of own funds at the consolidated and individual level.**
189. In preparation for the joint decision, the college should be convened in due time and it should be attended at the appropriate level of seniority, in order for the report to be examined. In view of the initial risk assessments at consolidated and entity levels, further technical evaluations – including some forms of joint examination - might be considered in order to reach agreement on the risk assessment of the group and its subsidiaries.
190. As the joint risk assessment process is applied in accordance with the proportionality principle, the depth of the college discussion will be determined by the risk profile and the importance of the individual entities from both the home supervisor (importance of the entity for the banking group) and host supervisor (importance of the entity for the local financial market) perspectives. Chapter 5 of CP 39 provides further guidance on the process and content of the joint decision.

**Guideline 48: In case of disagreement between the consolidating supervisor and the host supervisors concerned with respect to the adequacy of own funds at the consolidated or subsidiaries level, pursuant to Article 129(3) of the CRD, the consolidating supervisor shall, at the request of any of the other competent authorities concerned, consult the CEBS. The consolidating supervisor may also consult CEBS on his own initiative**

191. Along the path to reaching a common view on the risk assessment of the group and its entities, and a decision on its risk-based capital adequacy, college members may face situations where their initial individual assessments are divergent, and therefore, thorough analysis and discussion may be required in order to reach a joint assessment and a joint decision. The list below suggests, in a non-exhaustive manner; a number of situations where divergences may emerge:

- from a group perspective, the risk exposures are assessed to be diversified and with a moderate risk level, while from a host perspective, the local portfolio is concentrated (e.g. by single name and/or by sector/asset class/product) and representing a high risk;
- risk exposures could be difficult to spot or envisage from the host perspective, while the consolidating supervisor could have a better view on country specific-, economic-, jurisdictional- or business related risk issues;
- portfolio values based on aggregated group figures may be considered as acceptable, while examinations at individual levels may detect mis-valuation due to the improper application of valuation methods or accounting rules;
- group policies and procedures are deemed satisfactory while the host supervisor's assessment shows that the group policies are not implemented or adequately followed at individual entity level, and;
- it is expected that thorough analysis of the causes for initial divergence in assessments and adequate discussion will help reaching a joint assessment and decision.

192. If no joint decision can be achieved, a decision shall be taken on a consolidated basis by the consolidating supervisor and, individually, by the respective competent authorities responsible for the supervision of subsidiaries.

193. Where CEBS has been consulted, all competent authorities shall consider such advice and explain their final decision with full reasoning.

194. In either case, the joint decision, or the decisions made when no agreement can be reached shall be recognised as determinative and shall be applied by competent authorities. Depending on each national legal setting, the decision may be self-executing or may be locally transposed through a specific administrative act, where needed. The transposition of the decision will take place in accordance with the national provisions in each Member State and should take place no later than one month after the decision has been taken.

**Guideline 49: In order to understand the results of the assessments of individual entities, especially as far as compliance with various minimum requirements of the CRD is concerned, college members should understand the way in which the CRD has been transposed into the national legislation of the respective Member States and what and how national discretions have been applied.**

195. In order to reduce the risk of divergent interpretations and to prevent important deficiencies in the assessment and college discussions from being missed, college members should develop an understanding of how CRD provisions relevant to the assessment of compliance have been transposed into national legislation and which national discretions, if any, have been applied. This can be achieved by cataloguing the application on national discretions and differences in application (interpretation) of the CRD requirements or any other requirements imposed nationally on top of the CRD minimum requirements.

**Guideline 50: The joint assessment of the banking group and its entities should be reviewed at least once a year in order to allow for the joint decision to be updated at least on an annual basis.**

196. The joint assessment of the relevant banking group should be carried out at least once a year.

197. The joint decision should be updated on an annual basis or, in exceptional circumstances, where a competent authority responsible for the supervision of subsidiaries of an EU parent credit institution makes a written and fully reasoned request to the consolidating supervisor to update the decision on the application of Article 136(2) of the CRD. In the latter case, the update may be addressed on a bilateral basis between the consolidating supervisor and the competent authority making the request.

198. Should major events impact the group risk profile (e.g. major acquisitions or divestments, entry into new market segments or geographies) a multilateral approach to updating the decision may be necessary. The procedure should be initiated by the consolidating supervisor on his own initiative.

199. The annual review does not always have to constitute a full joint assessment and the college members may opt to concentrate, for example, on certain risk areas that are deemed most risky, or on perceived changes in the business model or organisational structure.

200. However, should any significant changes in the overall risk profile of the group be identified in the course of the ongoing supervisory activities (e.g. on site visits, inspections and on the basis of other information received) this may trigger an *ad-hoc* assessment initiated by the consolidating supervisor, or by request of the host supervisor concerned.

201. The college members should regularly reconsider whether the agreed timing of the next regular assessment remains appropriate to the risk profile and operating environment of the institution.

202. Where the consolidating supervisor opts to assess ICAAP and the overall risk profile of a banking group on a more frequent basis (bi-annually or quarterly) the joint assessment should, if practicable and

possible, be aligned to this timing interval, bearing in mind the principle of proportionality.

**Guideline 51: The fully reasoned joint decision, based on the outcome of the joint assessment process, should be communicated to the management body of the group and, where relevant, to its subsidiaries. If appropriate, the joint decision should contain the requirement to hold own funds above the minimum regulatory level pursuant to Article 136(2) of the CRD. In addition, outside the formal joint decision, college members may also agree on a voluntary basis on the application of any other prudential measures pursuant to Article 136(1) of the CRD.**

203. Once an agreement on the risk assessment and risk-based capital adequacy is achieved, the consolidating supervisor should prepare a report containing the fully reasoned decision, building upon the contributions and inputs of the host supervisors and details of the agreement. The report shall be provided by the consolidating supervisor to all competent authorities concerned and to the EU parent credit institution

204. The main outcome of the joint assessment and decision process should be:

- the report containing the joint assessment of the elements covered by the SREP for the group and its entities;
- a letter from the consolidating supervisor to the group management board or CEO of the banking group, reflecting on the joint assessment results, particularly focussing on the capitalisation level and issues of special importance regarding the bank's ICAAP, as well as possible pressing issues regarding the banking group's control environment;
- a letter/s from the host supervisor(s) to the subsidiary(ies) for the communication of the joint assessment results where they have relevance for the respective entities under their supervision, particularly focussing on the capitalisation level and issues of special importance regarding the entity's ICAAP, as well as possible pressing issues regarding the entity's control environment;
- The abovementioned documents should also mention possible prudential measures either at the group or individual entity level, where needed.
- in addition to the report and letters to the institutions, meeting(s) between the institutions and the relevant supervisors can be organised. The results of the overall assessment and decision on the group capital adequacy could be discussed at the group level between the consolidating supervisor and the group management at the appropriate level of seniority. The consolidating supervisor may invite representatives from the host supervisors to participate in this meeting. In addition, if deemed necessary, host supervisors may organise meetings with the management of their respective entities to discuss the entity specific results and findings. They may invite representatives from the consolidating supervisor to participate in

these meetings. In any case, the consolidating supervisor should be informed about outcome of such meetings.

205. Supervisory authorities can decide that the group and its entities are already adequately capitalised; otherwise, the report should convey specific requirements pursuant to Article 136(2) for the relevant entities and / or at group level.
206. As stipulated in the GL03, the choice of prudential measures should be determined according to the severity and underlying causes of the situation and the range of measures and sanctions available to the supervisor. Measures can be used individually or in combination where it is deemed to be appropriate.
207. A specific own-funds requirement should, however, be imposed on any institution which exhibits an imbalance between its business risks and its internal control and risk frameworks, if that imbalance cannot be remedied by other prudential measures or supervisory actions within an appropriate timeframe<sup>18</sup>
208. Supervisors also acknowledge that capital may not be the best way to mitigate liquidity risk. However, capital may have a role to play in protecting institutions against the possibility of having to liquidate assets from the liquidity buffer at fire-sale prices – a likely scenario in a period of banking sector stress. Supervisors should further be satisfied with the composition of institutions' liquid asset buffers in accordance to "CEBS Guidelines on Liquidity Buffers and Survival Periods"<sup>19</sup>.
209. The prudential measure available to the supervisory authorities under the scope of the joint decision to address issues identified through the joint assessment of the elements covered by the SREP, where required, should consist, according to Article 136(2) of the CRD, in requiring an institution to hold own funds and/or Tier 1 capital above the minimum level required by Pillar 1.
210. Additionally, the college members can agree on a voluntary basis on one or several of the following measures as referred to in Article 136 (1) of the CRD:
- requiring the institution to improve its internal control and risk management frameworks, including ICAAP framework;
  - requiring the institution to apply a specific provisioning policy or treatment of assets in terms of own funds requirements;
  - restricting or limiting the business, operations or network of the institution;
  - requiring the institution to reduce the risk inherent in its activities, products and systems.
211. 62. The outcome of the joint assessment of the elements covered by the SREP should serve as the basis for the planning of supervisory action at the consolidated level as well as on the individual entity level.

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<sup>18</sup> See section 4.2 "Guidelines on prudential measures" CEBS GL03

<sup>19</sup> See <http://www.c-eps.org/documents/Publications/Standards---Guidelines/2009/Liquidity-Buffers/Guidelines-on-Liquidity-Buffers.aspx>

The joint assessment should serve as a basis for the coordinated planning of supervisory activities among college members (see Chapter 7).

## Chapter 6: Macro-prudential risks

### *Introduction*

212. Adverse macroeconomic or financial sector developments may significantly impact the financial situation of credit institutions. Therefore, supervisors need to duly take them into account in order to adequately assess the capital adequacy both at the group and solo levels of cross-border groups or institutions. Conversely, adverse developments affecting a credit institution e.g. with a significant market share; with a prominent role on financial markets, or within the payment and clearing and settlement systems may impact the stability of the overall economic or financial system. In those cases, it is essential that supervisory authorities detect those risks so they can be mitigated.
213. This two way relationship between the macro-prudential analysis and individual risk assessments of supervised institutions should be taken into account in the work of supervisory colleges.
214. This chapter provides guidance on the way this two-way relationship fits into the work of the college. The objective is, in particular, that the college takes into account the analysis of systemic risks for the financial system and the group-wide exposures to these risks.

### *Guidelines on macro-prudential risks*

**Guideline 52: In assessing the risk profile of the group, the college members should assess macro-economic or financial developments as well as sectoral vulnerabilities that may impact the financial situation of the group. This macroprudential assessment should also identify risks specific to the group that may have a systemic impact on the financial system.**

215. Under the coordination of the consolidating supervisor, the risk assessment of the group and its entities should analyse the impact of macroeconomic and sectoral developments on the financial situation of the group. In that respect, the college members should consider the identification and prioritisation of macro-risks delivered by the structures responsible for the macro-prudential oversight at the EU and international levels.
216. Examples of such developments include, inter alia, changes in real economy conditions, in the interest rate environment, in the liquidity and funding conditions, in risks related to specific products (e.g. structured finance products, derivatives) or related to certain economic sectors or counterparties (e.g. households, high-risk corporate counterparties). They may impact the institution's balance sheet, profit and loss account, portfolio quality, or capital adequacy.
217. This analysis should be carried out at the consolidated level and involve, at a minimum, supervisors of the entities deemed relevant from the group's perspective and/or significant for the local markets, taking

into account country-level specific information for a fuller understanding of the risk outlook of the group. In that respect, when the college is operating under multiple settings, the assessment may be prepared and discussed within the “core college”.

218. The use of tools such as stress tests to assess the resilience of the group to various forward-looking adverse macroeconomic scenarios should be part of this coordinated macroprudential assessment. The processes, methodologies and outcomes of the stress tests should be discussed within the college.

219. As part of this assessment, the college members should also identify emerging risks specific to the group that may have an impact on other financial institutions (i.e. common indirect exposures), on the market liquidity, or on the financial stability of the markets where the group is present.

## **Chapter 7: Planning and coordination of supervisory activities in going concern situations**

### ***Introduction***

220. The establishment of a coordinated supervisory planning pursues several objectives:

- to have a clear group-wide approach to and view of the risks of a banking group;
- to increase consistency of supervisory work, thereby increasing efficiency of the supervisory approach, and
- to avoid duplication of work among supervisors, thereby reducing supervisory burden for the banking group.

221. The plan should encompass the main types of planned supervisory activities, including on-site as well as off-site work. The consolidating supervisor should liaise with non-EEA members of the college to determine their contribution to the plan on a voluntary basis.

### ***Guidelines for the planning and coordination of supervisory activities in going concern situations***

**Guideline 53: Under the coordination of the consolidating supervisor, the college of supervisors should draw up a coordinated supervisory action plan<sup>20</sup> (hereafter 'the plan') for the entire group that is, for the parent company and the main activities/entities within the group.**

222. The drawing up of a coordinated supervisory action plan is under the responsibility of the consolidating supervisor. It should include the parent company as well as all significant or relevant entities supervised by host authorities participating in the college. This does not, of course,

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<sup>20</sup> See Annex 3 for an example of a template for the coordinated supervisory plan

prevent any supervisory authority from drawing up a local supervisory action plan, provided that it takes into account the coordinated plan.

223. The coordination should take into consideration the proportionality principle and, accordingly, it may include only the supervisors of the relevant entities of the group. As a consequence, the consolidating supervisor may consider discussing it within the core college, when it exists. However, in such a case, the whole college should be informed of the plan, and all hosts supervisors may request to be associated.
224. In addition, the plan should, as far as possible, integrate the actions planned by the non-EEA members of the college, depending on their national legal frameworks. Procedures should be set up by the college members as regards the discussion of the plan with these supervisors, the level of their commitment to the realization of the plan and the communication to the college members of the outcome of those actions. Host supervisors of the main entities within the group should inform the consolidating supervisor about the results of their local SREP (i.e. main risks identified at local level) and the subsequent supervisory activities they intend to plan at local level, while the consolidating supervisor should inform the host supervisors about the results of the SREP performed at consolidated level (i.e. main risks identified at group level) and the subsequent activities they plan at group level.
225. This exchange of information allows for the drawing up of the joint risk assessment of the group as a whole, which should serve as the reference point of the coordinated supervisory action plan.
226. The plan should allow for an adequate level of flexibility for both consolidating and host supervisors to enable them to fulfil the responsibilities prescribed in national legislations.

**Guideline 54: The coordinated plan should aim at presenting a consolidated view of the main supervisory activities that are planned within a group but also, if need be, and without prejudice to the responsibility of each authority, at enhancing the individual planning of each supervisor of the college.**

227. The first objective of drawing up a coordinated plan is to present a consolidated view of the main supervisory activities that are planned within a group during a predefined period. The coordinated supervisory action plan should, at least, encompass the topics of interest for all the authorities involved in the supervision of the group under scope (e.g. topics steered at central level, cross-border activities). For completeness sake, "pure" local planning (encompassing local supervision of local activities such as retail banking, local governance) could be added as supplementary information.
228. If needed, adjustments to the proposed (local and group) planning can be made.
229. Indeed, without prejudice to the responsibility of each authority to supervise adequately the entities in its scope, the coordinated supervisory action plan can be an instrument for ensuring consistency between all action plans and for harmonising some of the planned

activities, namely as regards the assessment of some transversal topics, or the identification of some examinations that can be jointly performed.

**Guideline 55: The plan should encompass the main types of supervisory activities, both as regards on-site and off-site work. Each plan is to cover a one-year period. The main risks that have been identified at the level of the group and of its main entities during the SREP will need to be covered adequately according to a predefined cycle.**

230. All planned major on-site examinations for the year to come, to be performed by the home and the host supervisors of the main entities (jointly or not), should be included in the coordinated action plan.

231. The plan, while being flexible enough to allow for suddenly occurring needs of investigation and analysis, should also include major planned off-site activities (specific analyses) decided on at the level of the college and the monitoring of the main cross-border developments (e.g. the main cross-border Ops & IT projects) within the banking group.

232. In addition, the plan should include the planned (recurrent) key meetings, on the one hand, with the management of the businesses and the control/support functions of the banking group at a consolidated level and, on the other hand, with the management of the main subsidiaries or branches of the banking group.

**Guideline 56: The plan will specify which authority or authorities are responsible for which planned on-site examinations.**

233. The allocation/delegation/sharing of the supervisory tasks within the supervisory college should take into account the location of the competence centres within the group, as well as each supervisor's interest, expertise and available resources.

234. The plan should allow, as far as possible, for joint examinations or delegation of tasks between supervisors.

**Guideline 57: A formal endorsement and communication process of the plan by the college members should be organized by the consolidating supervisor among the members of the college. In their planning and allocation of resources, supervisors should take the coordinated supervisory action plan into account.**

235. It is the responsibility of the consolidating supervisor to ensure appropriate approval process by and communication to all the members of the college of supervisors. The consolidating supervisor should integrate into that process the national rules that may allocate the right to decide on supervisory plans (including on-site inspections) to a specific body. In that case, the agreement reached among the members of the college should only be seen as a proposal to the competent decision-making bodies.

236. Supervisors are expected to have at their disposal the necessary resources for the realization of the proposed coordinated supervisory plan.

237. The college members should also take into consideration the decisions that may be made by other stakeholders (e.g. central banks) on the allocation of the resources needed for the actions planned.

**Guideline 58: A review of the realization of the plan should be conducted periodically within the college of supervisors.**

238. Under the responsibility of the consolidating supervisor, the college should perform a regular update of the realization of the coordinated supervisory plan.

239. Even though the plan is drawn up on a yearly basis, the college members should foresee to discuss and, if necessary, adapt it as frequently as needed based on the evolution of the situation of the banking group.

**Guideline 59: College members should agree on the possibility of communicating the planning to the supervised group.**

240. When permitted by the relevant national legislation, and agreed by the members of the college involved, the coordinated supervisory plan should be communicated to the management of the supervised group.

## **Chapter 8: Planning and coordination of supervisory activities in emergency situations**

### ***Introduction***

241. According to Article 131a of the CRD, colleges of supervisors shall provide a framework for the planning and coordination of supervisory activities in preparation for and during emergency situations. In addition to facilitating the communication between supervisors within the college in crisis times, the CRD requires supervisors within colleges to alert each other, as well other authorities (e.g. central banks, ministries of finance) where the emergency situation, including adverse developments in financial markets, potentially jeopardizes the market liquidity and the stability of the financial system in any of the Member States where the bank has subsidiaries or significant branches.

242. While acknowledging that cross-border cooperation in crisis times involves other parties apart from supervisory authorities, the emphasis in these guidelines is put on the role that the members of the supervisory college can play in the preparation for facilitating the management of emergency situations.

243. This chapter is broadly consistent with the provisions of the “Memorandum of Understanding on Cooperation between the Financial Supervisory Authorities, Central Banks and Finance Ministries of the European Union on Cross-Border Financial Stability” ( hereinafter 2008 EU MoU).

### ***Guidelines for the planning and coordination of supervisory activities in emergency situations***

**Guideline 60: Where it leads to a smoother coordination of supervisory assessments and actions, the foundation of the supervisory response to a crisis affecting a cross-border group should be the core college.**

244. Where it is likely that the supervisory response to the crisis situation will be more efficient if it only involves the supervisory authorities most relevant for the supervision of the banking group or most likely to be affected by the crisis, the planning and coordination of supervisory activities in emergency situations should be handled within a restricted college composition. In those cases, the consolidating supervisor should ensure that the remaining college members are adequately informed of the emergency situation arrangements made by the core college.

245. Subgroups of experts reporting to the core college can be established where needed.

246. If the emergency situation is of a limited nature and is restricted to a specific entity of the group, the situation can be managed by the directly involved authorities in line with the principle of proportionality. However, the consolidating supervisor should be informed both about the situation and the measures taken by the host supervisor. Host supervisors should inform (via the consolidating supervisor or directly) other members of the college about the situation and measures taken.

**Guideline 61: Members of the college shall cooperate closely, whenever necessary, with other relevant authorities (e.g. central banks, finance ministries, deposit guarantee schemes) and, if applicable, other networks (e.g. Cross-Border Stability Groups) provided that they are subject to confidentiality requirements.**

247. Where an emergency situation, including adverse developments in financial markets, arises and it potentially jeopardizes the market liquidity and the stability of the financial system in any of the Member States where the bank is present, the consolidating supervisor shall alert the relevant central banks and/or finance ministries as soon as practicable.

248. The college infrastructure can be used for facilitating the cooperation between supervisory authorities, central banks and finance ministries or through other networks (e.g. Cross-Border Stability Groups) where established. The core college should coordinate its actions with the central banks, where necessary and with finance ministries where appropriate.

249. To this end, the written agreements among the members of the college of supervisors should fit into wider agreements for cooperation involving central banks and ministries of finance of the countries where the cross-border financial group has subsidiaries or significant branches.

**Guideline 62: Supervisory colleges should enhance the preparedness for the management of a crisis within a banking group. To this end, college members should actively exchange information, devise a supervisory activity plan, which is based on the periodic risk assessment of the group and its entities and prepare a contingency**

**plan in cooperation with central banks and finance ministries where necessary.**

250. The authorities should agree upon and develop ex-ante common support tools for managing emergency situations. Specifically, they should:

- define the preferred channels of communication to be used to facilitate crisis management (meetings, official letters, electronic messages, secured electronic messages, phone/video call/conference, a web-site or secured web platform);
- identify the persons to be placed in contact lists including out-of-office contact details;
- devise cooperation procedures and arrangements between the college of supervisors and other networks (e.g. Cross-Border Stability Groups), where established;
- predefine the set of information that should be updated and distributed between supervisors in alerting stage and in later stages of a crisis;
- check the capacity of the banking group to produce and provide the information needed in a crisis in a timely manner;
- strongly encourage firms to maintain contingency plans and procedures for use in a wind-down situation and regularly review them to ensure that they remain accurate and adequate;
- review the crisis management and resolution tools existing in the countries in which the firm operates and detect potential impediments for a coordinated solution stemming from the different legal frameworks and bank's resolution/reorganisation procedures;
- conduct simulation exercises;
- produce a periodic risk assessment capable of detecting both current weaknesses and vulnerabilities to adverse scenarios of the financial group as a whole and its main components;
- where the risk assessment has detected significant weaknesses and vulnerabilities to adverse scenarios, consequently adapt the ongoing supervisory activity plan, setting priorities and activities to be undertaken by each supervisor and identify corrective actions for the financial group;
- prepare, in cooperation with other authorities that may be involved in crisis management – such as central banks and finance ministries - a contingency plan, possibly based on the groups' own planning, which would consider how the reorganization and/or winding up of branches and subsidiaries in Member States would be handled and coordinated.

**Guideline 63: Where a potential emergency situation has been identified, and the college members have been alerted, they should assess its potential impact on the financial soundness of the group, on the market liquidity and on the stability of the financial system of the Member States where the bank is present.**

251. The consolidating supervisor and the host supervisors of subsidiaries should have in place adequate risk monitoring and assessment systems that enable them to detect emergency situations and to alert other members of the college in a timely manner.
252. The assessment of when an emergency situation “potentially jeopardises the market liquidity and the stability of the financial system” is left to the responsibility of the members of the college. To this end, attention should be paid, but not limited to, the following items:
- severity of the event.
  - systemic importance of affected institution.
  - potential impact on market liquidity.
  - potential cross-border contagion.
  - other criteria established in the analytical framework for assessing the systemic implications of a financial crisis as annexed to the 2008 EU MoU should be taken into account accordingly.
253. Where an emergency situation arises at a subsidiary and it potentially jeopardises the safety and soundness of the subsidiary or the banking group, the host supervisor should alert as soon as practicable the consolidating supervisor
254. Where an emergency situation arises within the banking group which potentially jeopardises the safety and soundness of a subsidiary in any of the Member States, the consolidating supervisor should alert as soon as practicable the host supervisor responsible for the exercise of supervision of that subsidiary.
255. Where an emergency situation arises within a banking group which is present via its branch structure in other countries and which can have an impact on the stability of the financial system there, the home supervisor should alert as soon as practicable the supervisory authorities in those other countries.
256. In the assessment of an emergency situation, college members should take into account the specific implications for the relevant banking group as well as the wider implications for the financial system and/or real economy, including channels of contagion.
257. The identification of an emergency situation should lead to the activation of crisis management processes at an early stage.

**Guideline 64: Under the coordination of the consolidating supervisor, information should be actively exchanged among college members in emergency situations in a timely, secure and proportionate manner.**

258. Upon their being alerted, a first set of updated information should be distributed among the members of the college in accordance with the arrangements made when preparing for crisis times. According to the severity, scope and potential contagion of the situation, the college may decide on additional pieces of information to be exchanged.
259. The consolidating supervisor is responsible for collecting information, for providing this information to the supervisors of the affected entities, and, if requested, to other members of the college.

260. The information to be exchanged should include, in particular:
- updates of the structure of the group (i.e. legal structures, business lines, ownership, management), if needed, in light of any recent changes that may have taken place, or that may have been planned by the parent company;
  - payment and settlement systems in which affected entities participate;
  - any legal, financial and operational intragroup dependencies, for example, arising from the centralization of liquidity or risk management;
  - liquidity and funding indicators; cash-flow projections, intragroup exposures, liquidity buffers, on legal entity and whole group basis;
  - solvency indicators, capital base (Tier 1, Tier2) on legal entity and whole group basis;
  - valuation of the banking book or trading positions;
  - asset quality analysis;
  - exposures (hedged and unhedged) on an entity by entity basis;
  - key counterparty exposures by legal entity;
  - updated consolidated and individual financial statements of the entities within the group;
  - statement from the board of directors or management of the group including reasons for and impact of the crisis, potential losses, consequences on solvency and liquidity, needs of capital injections;
  - notes from meetings/communications between respective authorities' and the group in relation to the crisis/emergency situation.
261. Where there is a need for additional information, all requests for information should be coordinated between the consolidating and host supervisors to the extent possible.
262. The authorities should share information as freely as practicable from an early stage, using the agreed framework, in a way that does not materially compromise the prospect of a successful resolution and subject to the application of rules on confidentiality. College members should rely on secured channels of communication to the maximum extent possible.
263. In emergency situations, members of the college should be ready to communicate within short notice. Where essential information needs to be communicated, the involved authority should take the initiative to initiate the communication.

**Guideline 65: Once the members of the college have reached a shared understanding of the situation, a coordinated supervisory response should be drawn up by the relevant college members under the auspices of the consolidating supervisor.**

264. Based on the assessment of the situation, and given the results of the analyses performed by the relevant supervisors, the college members, under the coordination of the consolidating supervisor, should strive to reach a common understanding of the situation with regard to the whole group and the individual affected entities. The views and assessments of the authorities responsible for the supervision of the entities likely to be most affected, or that are established in countries where the effect on the financial stability is likely to be higher, should be adequately taken into account by the consolidating supervisor. This shared assessment will form the basis for a coordinated supervisory response which should define the supervisory actions needed, their scope and timetable and how the review of the supervisory plan will be carried out. The coordinated response should be mainly driven by the authorities of the most directly involved countries.

265. As the situation evolves, both the assessments and the coordinated supervisory programme should be updated.

**Guideline 66: External communications, where applicable, should be coordinated among supervisory authorities, in order to avoid contradictory messages.**

266. Where there is a need for external communication, supervisory authorities, under the coordination of the consolidating supervisor, should seek ways to coordinate it to the extent possible, by way of agreeing on common terms and on the content of the public statements. Joint press releases should be considered where practicable.

267. In coordinating public statements, college members should take into account legal obligations or constraints to public communications in different jurisdictions.

268. Annex 1 : Basic organisation of a college with multiple settings<sup>21</sup>

<b>COLLEGE OF SUPERVISORS</b>			
Formats	Main Activities	Members	Meeting frequency
<b>Chair &amp; administrative support provided by the consolidating supervisor</b>			
<b>“GENERAL”</b>	<p>Framework where essential and relevant information is disseminated.</p> <p>Discussion on findings of high-level risk assessments, overall risk assessment plans, identification of the group’s priority risks</p>	<p>EEA supervisors of subsidiaries</p> <p>EEA supervisors of significant branches</p> <p>Non-EEA supervisors of relevant entities subject to the equivalence of confidentiality requirements</p>	At least annually
<b>“JOINT DECISIONS”</b>	<p>Joint decisions on model validation and on the level of own funds under Pillar 2, including allocation and sharing of tasks and coordination of supervisory programmes</p>	<p>EEA supervisors of involved subsidiaries</p> <p>Possible participation of other members of the core college, where appropriate</p>	At least annually
<b>“CORE”</b>	<p>Decide specific allocation and sharing of tasks among core members, coordinate overall and specific risk assessments, prepare coordinated supervisory programmes, joint actions, or</p>	<p>EEA supervisors of relevant subsidiaries, or a limited number of EEA supervisors of subsidiaries conditional on the topics to be discussed</p> <p>EEA supervisors of significant branches where appropriate</p>	As frequently as needed (more often than the general college)

<sup>21</sup> Where the college operates under a single setting, the tasks of the “general” and the “core” college will be performed by all the supervisors involved in the college.

	measures, including in emergency situations	Non-EEA supervisors of relevant entities subject to the equivalence of confidentiality requirements	
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## **Annex 2: Website platform: an illustrative framework for information exchange within colleges**

1. When the college of supervisors is operating under a fully-fledged structure, the consolidating supervisor should implement a full range of complementary communication tools with the objective of promoting timely, efficient and comprehensive information exchange within the college. In that respect, the implementation of a website platform may be considered.
2. With a view to providing supervisors with operational guidance when the development of such a communication tool is contemplated, this annex gives a description of the objectives, main features, possible content and IT security features of a website platform, elaborating upon existing practices. The objective is also to promote the development of convergent practices across colleges.

### **Main objectives of a website platform**

3. The website platform as a communication tool for the supervisors involved in a college pursues the following main objectives:
  - Facilitate the coordination of information flows within the college, especially in cases where a high number of supervisory authorities are involved ;
  - Ensure a timely and proportionate flow of information readily available to be resource-efficient and to avoid burdensome duplication of requests for the banking group ;
  - Create a single and comprehensive repository for the whole set of documentation relevant for supervisory purposes ;
  - Promote a continuous exchange of information between the members of the college;
  - Support the work of the college and its full integration into day-to-day supervisory activities;
  - Improve the mutual knowledge of the supervisory practices and facilitate convergence.

### **Main features of a website platform**

4. The functioning of a website platform may be governed by the following overarching principles:
  - the implementation of a website should not impact, in any way, on the roles and responsibilities of the competent authorities involved;

- a communication strategy that clarifies what the consolidating supervisor will communicate through the website and what is expected from the host supervisors should be defined;
- the website should not replace formal means of communication between the members of the college (e.g. letters);
- the access to the website platform should be restricted in order to preserve the confidentiality of information exchange between the supervisors involved;
- strong IT security standards should be implemented and written procedures should be designed, in particular to define the authentication system to the website (i.e. issuance, suspension and revocation of access rights) ;
- the adoption of “a least privilege” criterion in designing the user functions and assigning rights can be helpful in ensuring the confidentiality of the information stored and limiting errors when performing ordinary operations. In any case, taking into account the official nature of the documentation published, deletion rights should be carefully assigned ;
- the website should be administered by the consolidating supervisor: an editorial committee responsible for website management may be considered in this regard;
- the website may include collaboration tools and informal ways of communication (e.g. discussion boards, forums) with a view to facilitating the exchange of information and promoting its spontaneity;
- specific utilities may be implemented for sharing the most recent news and informing the organisation of meetings and events and
- the role and responsibilities of the consolidating supervisor, as the provider of the service, as well of the host supervisors, as users of the platform, should be written down and acknowledged.

### **Content of a website platform**

5. With a view to fulfilling the above-mentioned objectives, the website may be structured to cover the following areas:
  - overall documentation on the supervised group including aspects such as group structure, internal organisation, governance, strategies and business planning;
  - the organisation of the college, e.g. mapping of the group’s entities used for the setting-up of the college, written arrangements laying down the basis for cooperation within the college, contact list of the college, agendas of college meetings, as well as attached documentation, minutes and action points of college meetings;

- documentation related to authorisation, e.g. changes in shareholding, acquisitions and increases in holdings and passporting notifications;
- documentation related to the adoption of the advanced approaches for the calculation of regulatory capital requirements, e.g. application forms from the groups, results of the supervisory reviews, joint decisions, and implementation of any “roll-out” plan;
- documentation related to ICAAP, e.g. information reported by the group, and results of supervisory assessments and
- documentation related to the supervisory review and evaluation process, e.g. reports on risk assessments, joint decisions on the required levels of own funds throughout the group, other prudential measures and supervisory examination programmes.

### **Information flows through the platform**

6. Information flows through the platform may be governed by the following principles:
  - the consolidating supervisor should supply the website platform with the information (e.g. internal documentation, communication with or from the supervised group) deemed relevant for the other members of the college to perform their supervisory tasks. He should provide all necessary information relating to the organisation of the college and to the performance of joint tasks within the college;
  - the website should be used by the other members of the college for consultation of the documentation released by the consolidating supervisor. It should also be used for the publication of the information (e.g. own reports and assessments) relevant for the performance of joint tasks or for the other members of the college to perform their supervisory tasks;
  - the website content management software should allow reading, modification and deletion rights to be set appropriately. In this regard, to manage the information flows between the different settings of a college and/or to take due account of confidentiality restrictions, it should be possible to grant single authorities selected access to specific subsets of information according to their responsibilities and competences. Appropriate procedures should be established for access, through the consolidating supervisor, to ‘host-to-host’ information flows, i.e. to give selected host authorities, where relevant and appropriate, access to the information flows posted by other host authorities, with the agreement of the latter.

### **Website IT security features**

7. The IT security features of a website platform may be governed by the following principles:

- the tools and procedures implemented for ensuring the security of the website should be consistent with the confidentiality level of the published documentation. If the platform is used to store information that is generally classified as strictly confidential (e.g. supervisory assessments, documentation on proprietary models), a strong (two-factor) authentication system should be considered;
- the architectural design of the platform should be subject to periodical assessments in order to verify if the security features against vulnerability and threats to the platform are still effective; a change management policy should be drawn up to ensure that subsequent changes to the platform do not jeopardise IT security;
- the IT security policy (organization, role and responsibilities of the people involved) of the website pertaining to the confidentiality, integrity and availability of the documentation stored should be disclosed to the authorities that share the platform.

### Annex 3: Example of a template for a coordinated supervisory plan

#### Coordinated supervisory examination plan for the group XY – Year XX

Date	Priority (where applicable)	Entities subject to examination/assessment/meeting	Competent authority(ies) responsible	Themes/ Activities	<b>Rationale &amp; objectives</b> <i>[a few bullet points to explain why the examination has to be performed / relevance for the colleges &amp; what are the main objectives]</i>
<b>I. Joint Assessment and Decision on Capital Adequacy</b>					
Q1, 20X0	N.A.	N.A.	Authority A Authorities B, C and D	Decide on the scope of JAD and on the coordination of ICAAP requests	
Q2 20X0	N.A.	Subsidiary W, Subsidiary Z	Authorities B, C and D	Submission of assessment templates/reports	
Q20X0	N.A.	Group XY	Authority A	Circulation of consolidated report	
Q20X0 + 4* months *6 months until 31	N.A.	Group XY, Subsidiary W, Subsidiary Z...	Authorities A,B,C and D	Joint assessment and decision	

December 2012					
<b>II. On-site inspections</b>					
H1 20X0	H	Group XY	Authority A	Model validation IRBA “corporate”	Rationale : - state of preparation of the group ... - centralised model ... Objectives : - review parameters, - control & governance ...
H2 20X0	M	Group XY	Joint EU inspection (Authority A, Authority B ...)	ICAAP / economic capital model	Rationale : - - Objectives : - -
Q3 20X0	L	Subsidiary YZ	Authority C	Leverage finance	Rationale : - - Objectives : - -
		.....			
<b>III- Key supervisory meetings</b>					

Q1 20X0	H	Group XY	Authority A	Liquidity risk	Rationale : - - Objectives : - -
Q2 20X0	H	Subsidiary WW	Authority D		Rationale : - - Objectives : - -
		....			
<b>III - Other supervisory activities (including information requests)</b>					
		....			

\* Level of priority: H = higher priority: examination should be undertaken at short notice and/or should not be cancelled]; M = medium priority; L = lower priority

## Annex 4: Joint assessment and decision process on the risk-based capital adequacy of cross-border groups



