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16 March 2012

Secretariat of the Joint Forum (BCBS Secretariat)  
Bank for International Settlements  
CH-4002 Basel  
Switzerland  
By email to [baselcommittee@bis.org](mailto:baselcommittee@bis.org)

Re: Comments on *Principles for the supervision of financial conglomerates: Consultative document*

Dear Secretariat:

The Global Financial Markets Association<sup>1</sup> (GFMA) supports the development of consistent and effective supervision of global financial firms, and we welcome the work of the Joint Forum on strengthening the supervision of financial conglomerates (“FCs”). The financial crisis highlighted the importance of sound governance standards and effective, coordinated supervision of financial firms. Our concerns center around the role this proposed framework plays vis-à-vis the numerous other standards emerging in the wake of the financial crisis, and the possibility of creating overlapping and conflicting standards, and increased complexity, without closing the regulatory gaps that are the objective of this proposal.

There is substantial policymaking at the international level regarding the appropriate supervision and regulation of global financial firms. The consultative document is unclear with respect to how the proposed framework for FCs (“the Principles”) fits with the Financial Stability Board’s (“FSB”) work regarding systemically important financial institutions (“SIFIs”). Many of the policy measures agreed upon by the FSB are closely

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<sup>1</sup> The Global Financial Markets Association (GFMA) brings together three of the world’s leading financial trade associations to address the increasingly important global regulatory agenda and to promote coordinated advocacy efforts. The Association for Financial Markets in Europe (AFME) in London and Brussels, the Asia Securities Industry & Financial Markets Association (ASIFMA) in Hong Kong and the Securities Industry and Financial Markets Association (SIFMA) in New York and Washington are, respectively, the European, Asian and North American members of GFMA.

related to recommendations in the Principles, including stronger supervisory mandates, resources and powers (including legislative reforms); enhanced standards for risk management; greater international cooperation between supervisors; and increased levels of capital adequacy. There is insufficient detail regarding how the Principles fit with this parallel work currently underway at the FSB.

One apparent distinction is that FSB's work is approached along sectoral lines, while the Principles apply to FCs. However, here too the lines are blurred, because many institutions that might be considered to fall into a sectoral "silo" in fact also meet the definition of an FC. As one example, many banking companies – which are supervised at a consolidated level by banking supervisors – in fact also engage in securities activities. It is unclear whether the Joint Forum intends to include such institutions in the scope of the Principles.

Moreover, the FSB's shadow banking work stream will no doubt lead to further policy-making on many of the issues addressed in the Principles. For example, the Principles state that, "Jurisdictions should consider the application of the Principles to other financial groups which conduct activities in one of these regulated sectors while also conducting material activities in any other financial sector, where these financial activities are not subject to comprehensive group-wide supervision under the sectoral frameworks." However, it remains unclear which financial activities are necessarily subject to comprehensive group-wide supervision under the sectoral frameworks. Moreover, the extent of supervision of previously unregulated activities is likely to increase as a result of other post-crisis policy initiatives such as the FSB shadow banking work. Setting up new constructs for supervising financial groups when other work is underway with overlapping objectives risks adding confusion and enhancing inconsistency.

In addition to the ambiguity of scope, we have concerns with certain of the recommendations. First, we support the need for better cooperation and information exchange among supervisors, as emphasized in the Principles. However, such increased cooperation raises critical confidentiality of information concerns, which are not fully addressed in the current proposal. The exchange of greater amounts of information between an increased number of supervisors requires a proportionate enhancement of the controls surrounding the security of that information, which the Principles fail to address. The Principles should articulate the specific mechanisms through which confidential information would be distributed between supervisors and onward disclosure would be limited. In addition, the Principles should reflect the concept of materiality; supervisors

should not be obligated to share information with other supervisors unless confidentiality protections are in place and the supervisors receiving the information have a material need for that information.

Second, the Principles state that FC corporate governance frameworks should be “comprehensive and consistent” across the group, but it is unclear how exactly this is defined. Additional detail is requested with respect to the characteristics of such a governance framework, in particular regarding how such a framework would balance group governance with that of individual regulated and unregulated entities.

Third, in the context of structured finance and securitisation, the Principles state that “Supervisors should require that off-balance sheet activities, including special purpose entities, are brought within the scope of group-wide supervision of the financial conglomerate, where appropriate”. Without more detail on the meaning of “where appropriate” in this context, it is impossible to understand what is intended here. Further, transparency, disclosure and more prudent management of special-purpose-entity risk has already (and quite rightly) increased markedly in recent years. Such improvements continue, driven by not just new regulations but also industry initiatives and market incentives. It would not be helpful if a new construct were established that created confusion and inconsistency that cut across this good work.

### Recommendations

We believe that the Joint Forum’s work on taking stock of the differences in approaches between financial supervisors, such as the January 2010 paper *Review of the Differentiated Nature and Scope of Financial Regulation - Key Issues and Recommendations*, is quite valuable. Similarly, reports such as the February 2012 *Report on intra-group support measures* provide useful insight into the varying practices among and within financial conglomerates. The Principles paper, on the other hand, appears to be establishing best practices that supervisors are encouraged to adopt. Most of the concepts in the Principles framework are sound and appropriate for global financial firms, and the emphasis that good governance must be applied on a group-wide basis is unassailable. However, GFMA is concerned that the scope of application is unclear and appears to substantially overlap with other work underway at the Basel Committee, IOSCO, and IAIS.

What would make more sense to us would be for the Joint Forum to monitor and participate in the work underway at the various committees and groups that addresses both improving

supervision of global financial firms and expanding the perimeter of regulation, and use that process also to hone in on what the remaining regulatory gaps are. Once that is clear, it will be more straightforward to determine if additional principles are needed that target those gaps.

GFMA would like to reiterate our support for initiatives to ensure that global financial companies are supervised and managed in a sound manner. If you would like any further information, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Simon Lewis". The signature is written in black ink on a white background.

Simon Lewis  
CEO  
GFMA