German Banking Industry Committee

Die Deutsche Kreditwirtschaft

Comments

on the BCBS-Consultative Document "Core principles for effective banking supervision"

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The **German Banking Industry Committee** is the joint committee operated by the central associations of the German banking industry. These associations are the Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR), for the cooperative banks, the Bundesverband deutscher Banken (BdB), for the private commercial banks, the Bundesverband Öffentlicher Banken Deutschlands (VÖB), for the public-sector banks, the Deutscher Sparkassen- und Giroverband (DSGV), for the savings banks finance group, and the Verband deutscher Pfandbriefbanken (vdp), for the Pfandbrief banks.

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Comments on the BCBS-Consultative Document "Core principles for effective banking supervision"

I. General comments

We welcome the fact that the Basel Committee on Banking Supervision is revising its principles for effective banking supervision in order to address supervisory and regulatory developments, structural changes in the banking system, new issues such as sustainability and digitalisation and the lessons learned from the FSAPs since their last update.

Of great importance for us is how new elements (e.g., cyber, ESG) are being dealt with in the revision of the principles. We note that in its draft, the Basel Committee has taken the approach of integrating new elements into the existing framework. We very much welcome this. This approach should be maintained in future revisions too. Particularly with regard to climate-related financial risks the introduction of separate risk categories should be avoided (see also II.2 below).

In recent years, the regulatory framework for banks has grown to such dimensions so as to pose challenges for supervisors as well as banks and investors to keep in mind and understand all requirements. This is not least due to the large number of regulatory initiatives by a wide range of stakeholders. As far as Europe is concerned, we have to recognise that the regulatory framework has become highly complex. In practice, redundancies and inconsistencies are manifesting themselves more and more. New regulatory initiatives are being developed separately from existing requirements. This creates unclear controlling impulses, which in turn can have a negative impact on financial stability. For this reason, the basic principle of effective banking supervision should be extended to include the principle of efficient banking regulation. After years of extensive regulation, it is important to check the existing regulatory framework in its entirety for inconsistencies and redundancies and to reduce them. The goal must be to make the system more efficient. In our view, this can make an important contribution to increasing the resilience of banks and improving financial stability.

Overall, we consider the proposed adjustments to be appropriate, so that we see a need for improvement only in a few areas. Below, our concrete proposals for this.

II. Specific comments

1. Proportionality (para. 02.9)

We expressly welcome the fact that with the inclusion of a separate section in the introduction greater attention is being paid to the issue of proportionality than in the past, and we would like to encourage the Basel Committee to rigorously continue along this path.

The Basel Committee's charter explicitly states that full implementation of its standards is expected only of internationally active institutions ("*The BCBS sets standards for the prudential regulation and supervision of banks. The BCBS expects full implementation of its standards by BCBS members and their internationally active banks.*"). This fundamental statement should therefore also be expressly included in the general remarks on proportionality under para. 02.9 ff. of the Consultation Document.

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We also suggest that the full proportionality approach be explicitly embedded in Principle 1 (3). There, merely "upward proportionality" is addressed ("*The supervisor has the power to increase the prudential requirements for individual banks and banking groups based on their risk profile and systemic importance.*"). We consider it appropriate at this point to also provide for "downward proportionality", for example by including para. 02.12.

2. Climate-related financial risks (Principles 8, 10, 15 and 26)

In general, we support the inclusion of climate and environmental risks in the regulatory framework. We are of the view that ESG risks do not form a new separate risk category but are risk drivers or risk factors for already established risk categories such as credit or market risk. The Basel Committee also pursued this approach in its "Principles for the effective management and supervision of climate-related financial risks" published in June 2022. This view should therefore be embedded in the core principles too.

3. Supervisory cooperation and collaboration with third parties (Principle 9)

The revised paragraph (11) of Principle 9 regulates the cooperation of supervisors with third parties in the performance of their tasks. We welcome this new, clearer presentation of the essential principles of cooperation with third parties. In this context, we suggest that this amendment be used as an opportunity to include as a further principle the proportionality of the costs of cooperation with third parties and the requirement of proper accounting. The background to this proposal is that, in practice, banks are often burdened with excessive costs of such third parties and their fee invoices are not always fully transparent. An appropriate guideline is therefore required, because the control of costs, their reasonableness and their reconcilability are the responsibility of the supervisory authority, which is ultimately the contracting entity of the third party chosen by it.

4. Corporate Governance (Principle 14)

The amended paragraph (3) of Principle 14 sets out the requirement for independent supervisory board members ("Commensurate with the bank's risk profile and systemic importance, board structures include audit, risk oversight and remuneration committees with experienced, independent non-executive members"). However, because of their special governance, some institutions have no influence on the selection of their supervisory board members. We therefore ask you to drop this extension or to include appropriate exceptions.

5. Transactions with related parties (Principle 20)

Footnote 54 provides for, among other things, the classification as related parties also such persons who can exert a significant influence on the board of directors or executive/senior management. This extension is problematic in that it is completely unclear which persons are meant here beyond those mentioned in the previous sentence. This would lead to considerable uncertainty in the identification of related parties. We therefore ask you to waive this extension.

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