



# GUIDANCE NOTE ON SUPERVISORY COLLEGES

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## Chapter 1 – Introduction

### Section I – Introductory Statements

1. This Guidance Note is designed to assist the Bermuda insurance<sup>1</sup> industry and other stakeholders in understanding how the Bermuda Monetary Authority (the “Authority”) intends to conduct its supervisory colleges when acting as the group supervisor for an insurance group or Bermuda group.<sup>2</sup> It also discusses the Authority’s responsibilities and obligations as a participant, or host supervisor, in a supervisory college.
2. The Authority intends a very broad definition of the term “supervisory college” that encompasses a wide range of bilateral and multilateral cooperation arrangements and agreements for the sharing of supervisory information, which respect fully the legal and prudential responsibilities of other competent authorities.
3. The Guidance Note provides operational guidance, explanatory text, and differentiates among the duties and responsibilities of the Authority with respect to leadership or membership in a supervisory college.
4. A supervisory college is an important regulatory tool in achieving effective and efficient supervision of international insurance groups and conglomerates. An effective supervisory college allows involved supervisors to acquire a better understanding of the group with respect to: risk exposures and inherent risks, financial position and soundness, capital adequacy, business activities, as well as risk management and governance systems.
5. A supervisory college can be defined as a formal, permanent, and flexible mechanism for facilitating cooperation and coordination among competent authorities involved in the supervision of groups, as well as affording college members the opportunity to have direct access to representatives of the group to discuss relevant issues affecting the group and the entities within. Supervisory colleges should enhance regulatory oversight and facilitate supervision on both a group and solo basis and could play an important role in the preparation for, and handling of, emergency or crisis situations.
6. One of the main objectives of a supervisory college is to enhance the effectiveness and efficiency of the supervisory process by providing a platform for stronger coordination, whereby college members can reach agreements on key supervisory tasks and activities, such as, *inter alia*, the exchange of information, voluntary sharing and delegation of work, and acquiring a common understanding of the risk profile for the group.
7. While this guidance note aims to provide clarity as to the Authority’s approach in handling supervisory colleges and the exchange of information, there may be a need for future revisions as the Authority gains experience in the role as group supervisor. Any material changes made to the document will be published, generally through the issuance of a revised version of the Guidance Note.

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<sup>1</sup> In this paper, the term “Insurer” is used synonymously with the term “Reinsurer” and the term “Insurance” includes “Reinsurance.”

<sup>2</sup> “Bermuda group” has the meaning as set forth in the Authority’s *Guidance Note on Designated Insurer (May 2012)* and *Insurance Group Supervision Statement of Principles (May 2012)*.

## Section II – Definitions

“college of supervisors” means a structure for cooperation and coordination among supervisors of competent authorities, as defined under section 27A of the Insurance Act 1978 (the “Act”).

“competent authority” means a national authority that is empowered by law to supervise insurers, as defined under section 27A of the Act.

“designated insurer” means an insurer designated by the Authority under section 27B(5) (of the Act) in respect of an insurance group. The duties and responsibilities of a designated insurer are set forth in the Authority’s *Guidance Note on the Role of the Designated Insurer*.

“equivalent jurisdiction” means a jurisdiction that has supervisory standards that the Authority determines to be equivalent to those established by or under this Act, as defined under section 27A of the Act.

“group supervisor” means the Authority or, as the case may be, another competent authority that is the group supervisor for the insurance group, as defined under section 27A of the Act.

“head of the group” means the legal entity at the top of the insurance group, whether regulated or non-regulated, that has significant influence over the activities of the group as a whole; for Bermuda groups, this generally will be the designated insurer.

“insurance group” means a group that conducts, exclusively or mainly, insurance business, as defined under Part I of the Act.

“supervisory college” is used interchangeably with the term “college of supervisors” throughout this paper.

### Section III – Core Principles

- i. The Authority shall establish a supervisory college for every group for which it has been determined to be the group supervisor.
- ii. The framework established through the supervisory college shall be based on one of proportionality with the organisational structure, nature, scale, and complexity of the group, and be made in conjunction with the views of other competent authorities with oversight responsibility for entities within the group.
- iii. Supervisory colleges should offer flexibility as to their frequency, location, format, and structural composition.
- iv. The establishment and functioning of a supervisory college shall be supported by written arrangements concluded by the Authority and other competent authorities that protect confidentiality and provide for supervisory coordination and cooperation in both going concern and emergency or crisis situations.
- v. A supervisory college shall form a regular, permanent, and integral part of the supervisory process of the group.

### Section IV – Key Objectives

- i. Enhance the effectiveness and efficiency of the supervision of the group for the benefit and protection of policyholders, beneficiaries, and claimants, as well as contribute to the stability of the financial system, by providing a platform for strong supervisory cooperation and coordination.
- ii. Minimise the risk of contagion through the development of a shared understanding of the group and its risk profile by members of the supervisory college.
- iii. Reduce any supervisory gaps and avoid unnecessary supervisory duplication by establishing a supervisory plan for the group.

## Chapter 2 – Establishment of a College of Supervisors

### Section I – Recognition of a Group Supervisor

8. In practice, the Authority will consider acting as group supervisor where the Bermuda insurer is significant in light of the size and operations of the group. Consideration is generally given, in determining whether the Authority will act as the group supervisor, first to the balance sheet size of the Bermuda insurer and, then, to the location where: the main risks are underwritten, the main business decisions are taken, the main business activities are undertaken, and the management and control functions are located.

9. The Authority agrees that if a group's structure is such that several supervisors could fulfill the conditions needed to be the group supervisor, then the identification process used for the final selection should be made clear, transparent, and agreed to by the supervisors involved. The designation of the group supervisor would then be formally confirmed by the supervisors involved in the process.

### Section II – Role of the Group Supervisor

10. Part IVA, section 27 of the Act deals specifically with group supervision and the determination and functions of the group supervisor. In particular, where the Authority has made the determination to act as the group supervisor for a group, subsection 27B(6) of the Act requires the Authority to notify, in writing, the designated insurer and other competent authorities supervising the entities falling within the scope of group supervision that it is the group supervisor for that insurance group.

11. Under section 27E of the Act, the Authority, as group supervisor, is responsible for–
- (a) coordination of the gathering and dissemination of relevant or essential information for going concerns and emergency situations, including the dissemination of information which is of importance for the supervisory tasks of other competent authorities;
  - (b) supervisory review and assessment of the financial situation of insurance groups;
  - (c) assessment of compliance of insurance groups with the rules on solvency and of risk concentration and intra-group transactions as may be prescribed by or under this Act;
  - (d) assessment of the system of governance of insurance groups, as may be prescribed by or under this Act, and whether the members of the administrative or management body of participating companies meet the requirements set out therein;
  - (e) planning and coordination, through regular meetings held at least annually or by other appropriate means, of supervisory activities in going concerns as well as in emergency situations, in cooperation with the competent authorities concerned and taking into account the nature, scale, and complexity of the risks inherent in the business of all companies that are part of insurance groups;
  - (f) coordination of any enforcement action that may be taken against insurance groups or any of their members; and
  - (g) planning and coordinating, as required, meetings of colleges of supervisors, to be chaired by the Authority where it acts as the group supervisor, to facilitate the exercise of the functions set out in paragraphs (a) to (f) of this section.

12. The Authority, as the group supervisor, will play an integral and transparent role in the operation of supervisory colleges in relation to a particular group. In particular, the Authority will:

- (a) initiate dialogue with the other competent authorities to start the process of establishing a college;
- (b) clarify college membership and determine the appropriate college structure and format;
- (c) clarify the role and functions of the college, including that of the group supervisor, which may be formalised in a terms of reference;
- (d) conclude memoranda of understanding, terms of reference, or coordination arrangements with other competent authorities;
- (e) conduct regular assessments of the effectiveness of the supervisory college with input from college members; and
- (f) create a crisis management plan (see Chapter 5).

### Section III – General Purpose of the Supervisory College

13. The primary purpose of a supervisory college is to enhance the effectiveness and efficiency of the supervision of the group and solo entities, through coordination and cooperation among competent authorities, the exchange and analyses of pertinent information, and discussion of supervisory issues and concerns relevant to the group.

14. When the Authority is acting as group supervisor, it is expected to take the initiative in facilitating this coordination, exchange and dialogue, working in collaboration with and seeking, to the extent possible, input and agreement from the other members of the college. In that respect, establishing early agreements and/or arrangements and clarity of understanding on the operational aspects of the college will help build essential relationships among college members from the outset.

15. The Authority acknowledges and will be mindful that work performed by the supervisory college will be impacted by the legal and regulatory frameworks of the jurisdictions where the group operates, which may vary considerably. This will place limitations on how each supervisor carries out its supervision of legal entities and the scope of its authority. In that respect, when the Authority is devising the college's work plan in collaboration with the other supervisors, the college members will need to ensure that any work scheduled does not go beyond the authority of any supervisor or exceed the legal framework that exists in a particular jurisdiction. When issues of legal authority arise, the Authority will seek alternative avenues for ensuring that access to critical supervisory information is maintained. These avenues could include, without limitation, seeking information through the designated insurer.

16. Furthermore, since resources and capabilities among college members will vary, the college will need to ensure that the activities agreed to are proportionate, appropriate, realistic, and achievable for the supervisor designated with carrying out the task.

### Supervisory College Governance

17. The establishment and functioning of a supervisory college generally will be based on written agreements drafted by the Authority with input from and agreement by supervisory college members. These would include, *inter alia*, bilateral, multilateral, confidentiality, cooperation, and information sharing agreements, bilateral memorandum of understanding (MoU), multilateral memorandum of understanding (MMoU), and coordination arrangements.

18. For the insurance groups where the Authority is acting as the group supervisor, supervisory colleges will be held on a regular basis as determined by the nature, scale, and complexity of the group.

19. The composition of a supervisory college should be appropriately flexible to reflect the college's particular role and functions. The college can be organized in several different ways depending on the structure, organization, and activities of the group, and the jurisdictions involved in the group's supervision. However, it should always allow members of the college the opportunity to fully understand the major risks of the group being supervised.

20. Membership of the college of supervisors generally shall include the group supervisor and the competent authorities of all jurisdictions in which the group's subsidiaries reside. The competent authorities of branches and non-insurance related undertakings may also be allowed to participate in the college, subject to the conclusion of appropriate confidentiality and information sharing protocols.

21. In order for a college to function effectively, some activities may require the establishment of a college structure comprised of a reduced number of supervisory authorities (e.g. a regional or special college).

22. Where these structures are in place, the Authority shall keep the entire membership fully informed of the regional or special college activities that are relevant to their supervisory work.



## Section IV – Information Sharing and Confidentiality

23. A key role of the group supervisor is the establishment of effective relationships and channels of communication with the head of the group, senior management, and board of directors, particularly in the case of crisis management. In the case of a Bermuda group, the designated insurer will be subject to certain obligations and reporting requirements vis-à-vis the Authority, which will facilitate the establishment of the needed channels of communication.

24. The Authority, when acting as the group supervisor, has a principal role in the gathering of relevant information and, most critically, the dissemination of that information on a timely basis consistent with confidentiality and information sharing protocols. This pertains to the collection and distribution of information, scheduled on a regular and intermediate basis, and in the case of an emergency or crisis situation.

25. Since the group supervisor's legal powers and authority generally does not extend across jurisdictional borders, it is important that appropriate arrangements, agreements, and/or understandings are in place that allows the group supervisor to meet its obligations and achieve the necessary cooperation from the competent authorities supervising entities belonging to the group.

26. An important aspect of the role of any group supervisor is the management and development of relationships with and among fellow supervisory college members. An essential component of that relationship is the formation and observance of mutual respect and trust among college members. The Authority will remain vigilant of opportunities to improve relationships and to reinforce and strengthen mutual trust with other college members.

### Confidentiality

27. For a supervisory college to operate effectively participants must have the reassurance that information released, exchanged, and shared is being kept confidential.

28. To that end, the Authority is bound by law to keep information relevant to its supervisory function confidential subject to specific exceptions (e.g. the information is publicly accessible). This legal obligation is imposed on all persons that are employed or were employed, including outside contractors, to be bound by the obligations of professional secrecy.<sup>3</sup>

29. Under the Act, the Authority is required to ensure confidential treatment of information and to comply with professional secrecy requirements. Pursuant to section 52, all information relating to the business or affairs of persons received under or for the purposes of the Act (and this includes information received from a foreign supervisory authority in accordance with section 52C(1)) is subject to professional secrecy requirements.

30. Any unauthorised disclosure of such information attracts a criminal penalty, under the Act; and the obligation of professional secrecy applies to all persons who receive such information, and also persons who obtain such information directly or indirectly from a person who first received it. This would include former employees of the Authority, agents, and independent contractors.

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<sup>3</sup> “professional secrecy” has the meaning as set out in Section 5 Article 64 of the *DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)*

31. Under the Act, the Authority may share information with persons performing similar duties or functions to that of the Authority. However this imposes an obligation on the Authority to affirm that persons who receive confidential information may only disclose such information for the purposes mentioned in section 52B of the Act.

32. Information received from a foreign supervisory authority is safeguarded by virtue of section 52C of the Act. Section 52C imposes an obligation of confidentiality in relation to information received by persons from a foreign supervisory authority. The Authority is obligated under the Act to seek the prior written consent of the foreign supervisory authority, prior to sharing such information with a third party.

33. The foregoing provisions (amongst others) of the Act must be complied with by the Authority prior to sharing information with another regulator. Therefore, the Authority in undertaking its due diligence to ensure that any proposed college supervisor is bound by similar laws of confidentiality; shall review the confidentiality laws of the proposed supervisory college member. If the proposed college member is not bound by similar confidentiality laws, the Authority shall seek the consent of the relevant insurer to share its information in the college with the proposed supervisory members.

34. Each member of the supervisory college is responsible for ensuring that confidential information exchanged among competent authorities or discussed during the college remains confidential.

35. The Authority is a signatory to the International Association of Insurance Supervisors (IAIS) MMoU on Cooperation and Information Exchange, which establishes a basis for cross-border cooperation and the exchange of information among supervisors. All signatories to the IAIS MMoU must have their legislative regimes assessed and receive validation of their laws and regulations to guarantee compliance with strict confidentiality requirements, and as a precondition for effective cooperation and coordination of joint supervisory activity in relation to insurance supervision, including the supervision of insurance groups. In the event that a college member is not a signatory to the IAIS MMoU, the Authority will confirm the member's ability and willingness to abide by similar confidentiality undertakings, as well as any undertakings that may be required in order to ensure compliance with the Act as detailed in paragraph 33 above.

#### Coordination Arrangements

36. For each group, which the Authority acts as the group supervisor, the Authority shall draft a coordination arrangement with input from, and discussion and subsequent agreement among, the supervisory college members.

37. The coordination arrangement will lay out the practical organisation of supervisory activities, and cover issues related to the operational functioning of the college, as well as the exchange of information.

38. Furthermore, the coordination arrangement is designed to clarify the respective roles of college members and other competent authorities to ensure that no supervisory gaps exist in the supervision of the group and to avoid unnecessary duplication of work and to specify the ongoing operations and activities of the college.

39. A coordination arrangement should specify, with regard to going concerns and emergency situations, effective procedures and processes for the following:

- (a) the minimum information to be transmitted to the group supervisor by the other competent authorities or disseminated by the group supervisor to other competent authorities;
  - (b) the form, language, and frequency of the information to be transmitted to the group supervisor by the other competent authorities or disseminated by the group supervisor to the other competent authorities;
  - (c) communication with the head of the group;
  - (d) convening periodic meetings with competent authorities;
  - (e) conducting a comprehensive assessment of the group;
  - (f) decision-making among the competent authorities; and
  - (g) resolving disputes with other competent authorities.
40. The coordination arrangements should include in particular:
- (a) the obligation to adopt a work plan revised at least annually and agreed by the college of supervisors for coordinating the supervisory activities of the college in the following 12 months; and
  - (b) an emergency plan agreed by the college of supervisors.

### **Chapter 3 – Functioning of the Supervisory College**

#### **Section I – Responsibilities of the Group Supervisor**

41. According to subsection 27B(7) of the Act, the Authority must maintain a register of information on every group for which it is the group supervisor. The register shall be comprised of the names and addresses of: the designated insurer; the auditors; the principal representative resident in Bermuda; and every entity and competent authority falling within the scope of group supervision.
42. As the group supervisor, the Authority will lead the supervisory college activities in the following areas:
- (a) chair the college;
  - (b) seek and coordinate input from college members regarding college activities, as listed;
  - (c) act as a central point of contact for all matters related to the practical organisation and coordination of the college and college activities;
  - (d) prepare and circulate for input an agenda which clearly identifies the objectives of the college well in advance of the actual meeting;
  - (e) create timelines;
  - (f) prepare and update the coordinated supervisory work plan (“work plan”) for the supervision of the group, as needed;
  - (g) produce, update, and circulate the contact list containing college members (supervisory authority’s official representative and designated alternate), and recirculate whenever significant changes occur;
  - (h) organise meetings and periodic communications;

- (i) draft, distribute, and discuss composition(s) of the supervisory college(s), MoU/MMoU, confidentiality agreement(s), and coordination and cooperation arrangements.
- (j) produce an overall assessment of the risk and solvency position of the group;
- (k) ensure effective cooperation and exchange of information among the college membership;
- (l) define a clear allocation of responsibilities among the college membership and that of the group supervisor;
- (m) review the effectiveness of the college process;
- (n) record and disseminate minutes of all meetings related to and involving the college, and formalise and follow-up on action points;
- (o) act as main coordinator of information and communicator with the head of the group; and
- (p) distribute the decisions and outcomes of college meetings to supervisors who did not attend or where not invited to the meeting, where appropriate.

### Agendum

43. As a governance principle, the agendum of any college meeting should clearly identify the objectives of the meeting based on issues to be discussed, input expected from the attendees, and expected outcome (including actions or measures).

44. The Authority, as group supervisor, will propose the initial agenda for supervisory college meetings, circulating the draft well in advance of the meeting to incorporate members' views and opinions. The agenda may be set to discuss specific issues or wide ranging issues depending on what is happening globally and/or in respect of a particular group.

45. The final agendum will be distributed to all the members of the college along with any related documentation prepared by the group supervisor, and/or other supervisor, and/or group in a timely matter so participants can be fully prepared for the meeting.

### Supervisory Work Plan

46. The members of the supervisory college should endeavour to come to a common evaluation of the group in terms of its formal and operational structure, its business strategy, skills and propriety of management, corporate governance, internal control, risk management processes, capital adequacy, and risk profile.

47. To that end, under the coordination of the Authority, the supervisory college will draw up a coordinated supervisory work plan that includes the insurance parent of the group and other relevant entities of the group, which are supervised by authorities participating in the college.

48. Furthermore, the establishment of a group supervisory work plan for the planning and coordination of supervisory activities on a going concern basis should reflect the following objectives:

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

49. The annual work plan will coordinate the principal supervisory activities of the group, including major on-site and off-site inspections, reporting, and special projects or workstreams. The plan should cover, at a minimum, a 12 month period and be updated at least annually or as circumstances warrant.

## Section II – Work Collaboration and Supervisory Cooperation

50. For the Authority to fulfill one of the key objectives for holding supervisory colleges, that of enhancing the effectiveness and efficiency of supervision at both the solo and group levels, a platform for strong cooperation and coordination among supervisory authorities needs to be established. This platform would include coordinating and planning supervisory activities, and optimising supervisory resources and expertise for the avoidance of unwarranted supervisory duplication and unnecessary supervisory burden for both the insurers and supervisors involved.

51. Based on international standards and best practices a college of supervisors should provide a framework for members to discuss and consider the voluntary sharing of tasks<sup>4</sup> and delegation of tasks<sup>5</sup>, where appropriate. In regard to the delegation of tasks, the delegate would report its findings to the delegator as the responsibility of supervisory decisions continues to reside with the latter.

52. The sharing and delegation of tasks does not alter the decision-making power prescribed by legislation. The laws and regulations of the delegating authority would govern the assessment of the outcome and those of the delegate would govern the process of carrying out the task, unless otherwise stated.

53. The sharing and delegation of tasks should be based on the principle of a cooperative framework that has been established through the supervisory college and based on proportionality with the organisational structure, nature, scale, and complexity of the group and the supervised entities within.

54. The sharing and delegation of tasks shall be strictly on a voluntary basis and may be considered when the college is formulating the group supervisory work plan for the year ahead, or at any time a request for such an arrangement is put forth by a member of the college.

55. Other considerations would be that the sharing and delegation of tasks be consistent with the relevant national, legal, and regulatory framework in all the jurisdictions concerned, as well as any confidentiality restrictions and their potential impact on any such arrangement.

## Section III – Communication Channels and Exchange of Information

56. Regular communication involving the exchange of information needs to be in place among supervisory college members for effective group supervision. Therefore an exchange of information mechanism must be in place among the college members that ensures efficiency, ease-of-use, reliability, and integrity. To facilitate this process the full range of communication channels should be considered providing that confidentiality of the information can remain secure.

57. To promote continuous, timely, and proportionate information exchange, the following communication tools should be contemplated for use:

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<sup>4</sup> Sharing of tasks refers to work carried out jointly by the responsible authority and another competent authority who are members of the supervisory college.

<sup>5</sup> Delegation of tasks refers to work carried out by another competent authority (delegate) instead of the responsible authority (delegating authority or delegator).

- video and/or audio conferences;
- e-mail infrastructure;
- online communication tools;
- official letters; and
- face-to-face meetings of supervisors.

58. The choice of communication channel will vary according to the information being conveyed and the circumstance at hand, but in general it should be based on improving communication among supervisors, and take into account the differences in geographic area and language.

59. Any exchange of information mechanism should have procedures and processes in place which help individual supervisors to provide and receive all necessary information in a straightforward, reliable, and timely manner to facilitate decision making within their own jurisdictions.

60. As part of the Authority's responsibilities as the group supervisor a contact list will be developed and maintained (and distributed to college members as information changes) containing the name, responsibilities, and contact data of all representatives of the supervisory authorities, and should be used in the course of regular supervision for going concerns and emergency or crisis situations.

61. In relation to specific jurisdictional confidentiality arrangements and the use of communication channels, supervisors should inform the Authority if any jurisdictional limits exist as to the use of specific communication tools, so these can be resolved on a best-efforts basis.

#### Section IV – Communication with the Group

62. The Authority is responsible for communication with the head of the group, and coordinating communication and sharing all appropriate information with the other supervisory authorities of the group; and regional supervisors are responsible for communication with the entities within their respective jurisdictions.

63. Information requests to the head and local entities of the group should be coordinated between the Authority and other competent authorities, to the greatest extent possible, to eliminate unnecessary or duplicative requests.

64. The Authority, as group supervisor, will usually meet or communicate with the group's insurance parent in advance of any scheduled supervisory college to receive any input or concerns that the group may have that can be discussed and possibly resolved during the college meeting.

65. Communication with the management of the head of the group will need to reflect the key activities of the college. It will generally cover feedback on areas of supervisory concerns identified by the college members, such as:

- (a) with respect to the operational organisation of colleges: confirmation as to whether a multilateral written coordination agreement for the supervision of the group is in place;
- (b) with respect to the voluntary sharing and delegation of tasks: the general allocation of supervisory tasks;
- (c) 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 key findings from model validation reviews;

- (d) 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, along with other issues of supervisory concern or need for remedial action or additional monitoring of the group; and
- (e) with respect to the planning and coordination of supervisory activities in going concern situations: the main findings of coordinated on-site and off-site inspections.

66. After holding the supervisory college, the Authority would be responsible for coordinating any feedback or outcomes back to the head of the group and discuss any next steps, if appropriate.

67. The supervisory college, under the auspices of the Authority, will need to come to an agreement regarding the types of information to be communicated to the head of the group, bearing in mind that the sharing of information with the group should also be consistent with an individual jurisdiction's legal requirements regarding confidentiality.

68. Where the supervisory college has conducted joint or coordinated supervisory reviews, communication of inspection findings at the group level may involve a multilateral meeting, which consists of the Authority, members of the college, and representatives of the group. Communication of matters relevant to an entity within the group generally would remain the responsibility of the college member with supervisory jurisdiction over the entity.

69. If the supervisory college agrees, the group representatives may be invited to participate in the supervisory college and present their position on preselected topics and issues of concern to the membership.

#### Chapter 4 – The Authority as Host Supervisor

70. The Authority acknowledges that the work and effectiveness of a college will depend on the active contribution of each member, and that it is the responsibility of the Authority to identify any supervisory concerns or specific issues, in particular any possible national law constraints, and raise them in advance of any decision being taken by the college.

71. The Authority will designate representatives to the college who are in a position to propose concrete actions, if need be, have the seniority, knowledge, and experience appropriate for the agenda of the meeting or activities to be performed, and can commit to applying the agreements reached within the college. In addition to the permanent members of the college, the Authority may designate experts to participate when issues under discussion require their competence.

72. The Authority will undertake every reasonable effort to cooperate and coordinate in the spirit of mutual trust, strictly adhere to all confidentiality agreements and obligations of professional secrecy, and to avoid unwarranted supervisory duplication and unnecessary supervisory burden for both the insurers and supervisors involved.

#### Chapter 5 – Crisis Management

73. The relationships built and cooperation established among supervisory authorities during successive college meetings, along with the cohesiveness developed through the coordination of

supervisory activities, makes the supervisory college an excellent forum to deal with emergency or crisis situations.

74. The Authority will expect college members to alert the group supervisor immediately where crisis situations may potentially jeopardise obligations to policyholders, as well as contribute to the destabilisation of the insurance sector and/or possibly extend into the financial system as a whole.

75. The Authority will also expect college members to proactively advise when emergency situations may be at the present time containable and manageable, but have the potential for contagion effects or when an emergency situation could escalate to a crisis situation in the event of further adverse developments.

76. The Authority will encourage the supervisory authorities to develop ex-ante and agree upon common support tools for managing emergency or crisis situations. Specifically, these tools could involve:

- (a) defining the preferred channels of communication to be used to facilitate crisis management (face-to-face meetings, official letters, secured e-mail infrastructure, or phone/video call/conference);
- (b) identifying the persons to be placed on contact lists including out-of-office contact details;
- (c) devising cooperation procedures and arrangements between the college of supervisors;
- (d) predefining the set of information that should be updated and distributed between supervisors in alerting stage and in later stages of a crisis;
- (e) checking the capacity of the group to produce and provide the information needed in a crisis in a timely manner;
- (f) strongly encouraging 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;
- (g) reviewing 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 reorganisation procedures;
- (h) producing 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; and
- (i) where the risk assessment has detected significant weaknesses and vulnerabilities to adverse scenarios, consequently adapting an ongoing supervisory activity plan, setting priorities and activities to be undertaken by each supervisor and identify corrective actions for the group.

77. Through the supervisory college process and under the Authority's guidance, college members will create a framework for planning and coordinating supervisory activities in preparation for and during emergency or crisis situations. The framework will also set out the basis for cooperation and the exchange of information, and be able to accommodate various college compositions, taking into consideration the nature and severity of the crisis, in order to handle the supervisory activities on a timely basis in an effort to mitigate or avert financial loss and/or subsequent contagion effects.

78. The Authority will establish effective procedures for an emergency plan that will be tailored to the group, its activities, and its risks, and may include:



- (a) a framework for the assessment of the actual and anticipated impact of the precipitating event;
- (b) plans for heightened monitoring and assessment of the group's financial condition;
- (c) a protocol for the more frequent exchange of information among college members and other competent authorities;
- (d) a mechanism for imposing restrictions on the activities of the group pending resolution of the emergency or crisis and for coordinating actions taken with respect to individual legal entities within the group; and
- (e) a protocol for communication to the appropriate stakeholders outside of the supervisory college.

79. If the supervisory response to a crisis is more efficient by utilising a special college (comprised of those members most likely to be affected by the crisis), the planning and coordination of supervision activities, such as supervisory assessments and actions, will be handled within the restricted college composition. A subgroup of experts reporting into the restricted college composition may also need to be established.

80. If the emergency situation is of a limited nature and restricted to a specific entity within the group, then based on the principle of proportionality, the situation would be managed by the local jurisdictional authority. However, the Authority will need be informed of the situation and the measures taken by the local supervisor.

81. The Authority, as group supervisor, is responsible for keeping the remaining college members informed in a timely, secure, and proportionate manner.

82. Again, the nature of the information to be shared will depend upon the severity, scope, and potential contagion of the circumstances surrounding the emergency or crisis, but could, for example, include:

- (a) more frequent updates as to the financial condition or capital position of the group;
- (b) information on the liquidity and funding positions, as well as intragroup exposures and dependencies;
- (c) asset quality analysis;
- (d) major violation of legal requirements;
- (e) key counterparty exposures and any unwillingness of counterparties to transact or honor existing contracts with the group;
- (f) plans for extraordinary liquidity or capital injections;
- (g) changes in management; and
- (h) market and rating agency reactions.

83. When external communication is required, the Authority shall coordinate the messaging among the involved supervisory authorities to agree on common terminology and content of the public statements, and will also take into consideration any legal obligations or constraints to public communications in the various jurisdictions.

84. Lastly, the emergency plan will need to be regularly reviewed by the membership of the supervisory college.

## **Chapter 6 – Dispute Solving Mechanism**

85. The mediation and resolution of disputes among supervisory authorities within the supervisory college setting will presently form part of the coordination arrangements negotiated and agreed to among the college membership. The arrangements will specify effective procedures and processes for resolving disputes on both going concern and emergency or crisis situations.

86. As the Authority's experience in the role as group supervisor grows, a more formal approach and dispute resolution framework will be developed and applied across all the groups for which the Authority is the group supervisor.

## **Annex I – Supervisory College Compositions**

87. A supervisory college held by the Authority will be comprised of all the supervisory authorities of the entities within the group. The group supervisor should devise appropriate mechanisms to facilitate its operational functioning and to ensure the efficiency and effectiveness of college meetings.

88. The Authority, as the group supervisor, will act as a central point of contact for any matter related to the practical organisation of the college, and ensure that the tasks, as listed under the responsibilities of the group supervisor in this guidance note, are performed.

### **Regional College**

89. Within a group, it is recognised that subgroups may be, or are required to be, identified to reflect various structural, operational, or supervisory objectives. Under some circumstances it may be appropriate to establish a supervisory college at the subgroup level, for example on a regional basis or sectoral basis, or as in the case of an insurance group within a financial conglomerate.

### **Special College**

90. The supervisory college may decide that in order to function on a more effective and efficient basis, some activities would best be carried out by a limited number of supervisory authorities. When college members identify areas that require further technical investigation prior to agreement, where needed, on joint measures or actions, the group supervisor should promote and coordinate smaller supervisory teams to provide technical views on the identified issues with a group perspective.

91. These teams should be comprised of any experts designated by the supervisory authorities who are members of the college and able to participate. The participation should not be mandatory, but experts from the membership should be encouraged to participate.

92. The objectives of such teams should be to share views on supervisory methods, to analyze 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.

93. When establishing a college at a “regional” or “special” level, the Authority will consider the following practical aspects of implementation:

- (a) whether the college is established on a temporary or a permanent basis;
- (b) the interrelationships between the various supervisory colleges for a group, as well as the interrelationship with the Authority;
- (c) mechanisms to facilitate effective and efficient information sharing and coordination between the various colleges; and
- (d) ensuring the best dialogue with the industry without unnecessarily duplicating regulatory intervention.

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