



Brussels, 12 June 2007

CALL FOR TECHNICAL ADVICE (No.2) FROM THE INTERIM WORKING COMMITTEE ON FINANCIAL CONGLOMERATES

Subject: *Supervision in third countries: Switzerland and the USA*

1. Background

Article 18 of Directive 2002/87/EC¹ requires individual EU competent authorities to take decisions on whether, for financial conglomerates with their head office outside the Community, there is equivalent supervision in place to the supplementary supervision required by Directive 2002/87/EC. These are generally known as "equivalence" decisions.

Individual competent authorities must, when making equivalence decisions, take into account any general guidance, issued by the European Financial Conglomerates Committee ('EFCC'),² on the extent to which the arrangements for supplementary supervision in a third country are likely to meet the objectives of supplementary supervision as set out in Community legislation.

In July 2004, the EFCC, acting jointly with the Banking Advisory Committee ('BAC') (which had similar responsibilities under Directive 2000/12/EC³⁴), issued general guidance on supervision in Switzerland and the USA. It is now appropriate to review this general guidance.

The Interim Working Committee on Financial Conglomerates ('IWCFC') is asked to provide technical advice to assist the Commission services and the EFCC in updating the general guidance.

¹ Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council.

² Article 21(5) of Directive 2002/87/EC gives the EFCC the capacity to issue general guidance on the supervisory arrangements of third countries.

³ Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions.

⁴ The first paragraph of Article 56a of Directive 2000/12/EC required individual EU competent authorities to take equivalence decisions for banking groups headquartered in third countries. The second paragraph of Article 56a gave the BAC the capacity to issue general guidance on the supervisory arrangements in third countries.

2. Specific Call for Technical Advice

Following agreement in the EFCC, the Commission services wish to seek the technical advice of the IWCFC on the following issues:

(a) Supervision of financial conglomerates in Switzerland

The extent to which the supplementary supervision arrangements of the Swiss competent authorities are likely to achieve the objectives of supplementary supervision, as defined in Directive 2002/87/EC, for financial conglomerates with their head office situated in Switzerland. The Commission services would welcome the receipt of this advice by *31 December 2007*.

(b) Supervision of financial conglomerates in the USA

The extent to which the supplementary supervision arrangements of the US competent authorities are likely to achieve the objectives of supplementary supervision, as defined in Directive 2002/87/EC, for financial conglomerates with their head office situated in the USA. The Commission services would welcome the receipt of this advice by *31 December 2007*.

(c) Issues to consider

The IWCFC will need to consider the extent to which changes in the underlying sectoral legislation in the EU need to be considered when looking at supplementary supervision for financial conglomerates.

In addition, as adequate exchange of information is a prerequisite for any decision on equivalence, the IWCFC will need to consider the experience to date of EU competent authorities with regard to the flow of information to, and from, competent authorities in Switzerland and the USA.

The success of the exercise will depend on the IWCFC establishing effective working relationships with Swiss and US competent authorities to obtain necessary information from them, to inform the technical advice. The IWCFC should inform the Commission services at an early point should delivery of the technical advice to the agreed timetable be threatened by difficulties in obtain information from Swiss and US competent authorities.

(d) Liaison with other groups

In parallel with the work requested from the IWCFC, the Commission services will also be asking the Committee of European Banking Supervisors ('CEBS') to provide technical advice on the supervisory regimes in Switzerland and the USA as they relate to banking groups under Article 143 of Directive 2006/48/EC.

The IWCFC should work closely with CEBS to ensure that there is no duplication of work, and that contact with competent authorities in Switzerland and in the USA is managed effectively.

The Commission services have a strong preference to receive one integrated piece of technical advice, from the IWCFC and CEBS, in response to the two Calls for Advice⁵ on third country supervision in Switzerland and the USA.