Federation of European Accountants

European Banking Authority (EBA)
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Submitted via EBA's website

Brussels, 21 January 2016

Subject: FEE comments on the *Draft Guidelines on communication between competent authorities supervising credit institutions and statutory auditor(s) and audit firm(s) carrying out the statutory audits of credit institutions*

Dear Sirs,

(1) FEE (the Federation of European Accountants[1], www.fee.be) is pleased to provide you below with its comments on the EBA's consultation on the communication between competent authorities supervising credit institutions and statutory auditor(s) and audit firm(s) carrying out the statutory audits of credit institutions (Consultation Paper, CP).

(2) FEE welcomes the CP and expresses its support for the efforts to establish guidelines for an open, effective and efficient dialogue between the competent authorities supervising credit institutions (supervisors) and the statutory auditors as required in Article 12(2) of Audit Regulation (EU) 537/2014.

(3) This is especially critical as it indicates that going forward, in addition to currently being statutory auditors of the financial statements of credit institutions, the involvement of auditors with regulatory and supervisory reporting for credit institutions is expected to become more and more important. In this respect, FEE appreciates the reference to the Basel Committee on Banking Supervision (BCBS) guidance '*External audits of banks*' issued in March 2014 with which the EBA Guidelines should preferably be in line, as we believe that global consistency would enhance the quality of the audit of credit institutions. In addition, we would like to point out that the current framework for the statutory audit of financial statements of credit institutions in 25 out of the 28 EU member states is the International Standards on Auditing (ISAs) as issued by the International Auditing and Assurance Standards Board (IAASB)[2]. As these high quality standards should be considered as the starting point for any communication between supervisors and auditors it would be worth referring to them for consistency.

[1] FEE is the Fédération des Experts-comptables Européens (Federation of European Accountants). It represents 50 professional institutes of accountants and auditors from 37 European countries, including all of the 28 EU Member States. In representing the European accountancy profession, FEE recognises the public interest. It has a combined membership of more than 875.000 professional accountants, working in different capacities in public practice, small and big firms, government and education, who all contribute to a more efficient, transparent and sustainable European economy. FEE is registered in the EU Transparency Register (no. 4713568401-18) and a member in the European Commission´s Platform for Tax Good Governance.

[2] http://www.fee.be/images/MA_ISA_in_Europe_overview_150908_update.pdf

(4) We would like to stress the divergence that currently exists in terms of the scope of audit of credit institutions across different European jurisdictions and therefore the difference in interaction (and communication) between the supervisors and the external auditors. In September 2015, FEE published the results of its survey on the *Scope of Audit of Banks*[3] demonstrating the different requirements and practices across Europe. This survey reveals that apart from the statutory audit of financial statements, the scope of audit and the involvement of the (statutory) auditor or audit firm on providing assurance on regulatory reporting of credit institutions for national supervisors varies from country to country.

(5) In addition, we would also like to emphasize the importance of the fundamental principle of confidentiality of the auditor which is included in the auditors' professional ethical standards. Any information obtained by the auditor in the course of an audit of financial statements cannot be disclosed to other parties (including supervisors), unless it is permitted or required by law. The legal requirements on professional secrecy and on exchange of information between auditors and financial regulators vary across Europe and therefore we strongly suggest that EBA coordinates with the national competent authorities and the European Central Bank to identify those differences and assess whether or not, those differences would impose any obstacles to an effective and efficient communication between the auditor and the supervisor.

(6) Having expressed our overall support to the draft CP, we include below some points that we believe will assist in better articulating the main principles of the CP.

a) We would suggest to explicitly state in the guidelines, for instance in part 4.2.4, that the supervisor should (rather than could) communicate with the auditor before the completion of the audit and in any case when a significant matter has occurred or been revealed that might affect significantly the financial institution's financial statements or its ability to be a going concern. In addition, the supervisor should also communicate to the statutory auditor on a timely basis some of the regulatory reports to the credit institution (such as the SREP letters for example) that might be of importance to the auditor in the conduct of his audit and to which the auditor might not otherwise have access to or might not have knowledge of.

b) As you already know, an audit of financial statements is a risk-based exercise based on the ISAs, that involves judgment to identify those areas that are material and relevant for the financial statements. Therefore we suggest clarifying that the supervisor and the auditor should discuss material and relevant matters. In line with our comments earlier, we also suggest that the EBA ensures that the definition of relevant and material information is aligned with ISAs. To reflect this in the CP, we would suggest amending the definition in paragraph 11 and adding "relevant" together with "material" information, as well as in the executive summary by replacing "any issues which are relevant" by "any material issues that are relevant". This would also be in line with the Basel Committee guidance principle 7 stating issues "that are likely to be of material significance". In addition this will resolve the inconsistency between *section 2.4 - Definitions*, where the "material information" is defined, and the *section 4 – Guidelines on communication between competent authorities supervising credit institutions and statutory auditor(s) and the audit firm(s) carrying out the statutory audit of credit institutions*, where the term "relevant" is used.

c) Paragraph 42 of the CP suggests that the public oversight body of auditors could be present during such meetings. We are not convinced that the public oversight body should be part of the bilateral meetings between the supervisor and the auditor of one particular financial institution, as described in paragraph 42. Indeed, we believe that if the public oversight body of auditors is invited to such one to one meetings, it might impair the effectiveness of such meetings, for instance access to propriety information and confidentiality. In our opinion, it is preferable that the public oversight body of

[3] http://www.fee.be/images/publications/Corporate_Reporting/1509_FEE_Scope_of_Audit_of_Banks.pdf

auditors is invited in the case the competent supervisory authorities of credit institutions meet the auditors collectively to discuss aggregated industry matters as described in paragraph 52. Specific relationships are indeed established between the banking supervisor and the audit oversight body as per the Basel Committee guidelines for external audit of banks (section C).

d) As a final detailed comment, we suggest that EBA stresses the importance of paragraph 53 (d) stating that the supervisor should share macroeconomic developments affecting the credit institution's industry. This would be valuable input in the auditor's assessment of the impact of macroeconomic information, especially on the financial institution's ability to be a going concern.

(7) Finally, FEE reiterates its support for establishing communication between the supervisor and the auditors collectively, to discuss matters that affect the industry as a whole, the supervisor's expectations for the forthcoming audit and the auditor's concerns re the effects of the developments in the regulatory and macroeconomic environment. To this end, FEE, being the representative of more than 875.000 professional accountants in 37 countries (including the 28 EU Member States) and in particular the FEE Banks working party, which represents the auditors of credit institutions across Europe, could be a forum where the supervisor communicates with the auditors of credit institutions on a collective basis.

We have not replied to the specific questions in the consultation. In order to facilitate your review, we include below a table that reconciles our comments to the specific questions in the consultation paper.

Question number in the Consultation Paper	Paragraph(s) number in the FEE letter
Question 3	Paragraphs 2, 3 and 4
Question 5	Paragraph 5 and 6(d)
Question 7	Paragraph 6(c)
Question 8	Paragraph 6(a)
Question 9	Paragraph 7
Question 11	Paragraph 6(b)

We hope that our comments are helpful in the process of drafting the final set of guidelines.

For further information on this letter, please contact Pantelis Pavlou, Manager, from the FEE Team on +32 2 2 893 33 74 or via e-mail at pantelis.pavlou@fee.be.

Yours sincerely,

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