



COMMISSION OF THE EUROPEAN COMMUNITIES

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**Statement of Co-operation on the
Exchange of Information for the Purposes of Consolidated Supervision**

Statement of Co-operation on the Exchange of Information for the Purposes of Consolidated Supervision

- *Objectives*

Banking supervisors in the United States and the European Union share a common interest in strengthening international co-operation to ensure sound banking systems and financial markets. The need for enhancing the sharing of information between supervisors is important in view of the increasing globalisation of financial markets and has been called for by the Summit meetings of the Group of Seven. Close co-operation is particularly important for the comprehensive consolidated supervision of banks that have establishments in both the US and the EU.

Although the European Commission itself is not directly involved in the day-to-day supervision of banks or in the practical arrangements set out in the framework attached to this Statement, the Commission can play a useful role in facilitating US/EU co-operation. To that end, the Council has mandated that the Commission should reach an understanding with US banking supervisors on a common framework for information-sharing that can be used as a basis for reciprocal bilateral co-operation between US and EU supervisors where banks and banking organisations have material operations in each other's jurisdiction.

It is understood that this Statement of Co-operation does not in itself have any legal force but that its contents are intended to facilitate the conclusion of subsequent bilateral arrangements between US supervisors and the competent authorities in each EU Member State. In order to enhance efficiency and transparency it is understood that bilateral arrangements between US and EU supervisors will, as far as possible, be based on the arrangements set out in this Statement of Co-operation. The framework provided by this Statement is, however, intended to leave sufficient discretion and flexibility to take into account any factors that are particular to the supervisory authorities and banks and banking organisations involved. It is contemplated that the principles set out in the attached framework may be supplemented in bilateral understandings, as appropriate.

US banking supervisors have already concluded bilateral understandings with certain EU supervisors which relate to the subjects covered by this Statement. This Statement should not affect any of those existing bilateral understandings.

In view of the objectives set forth above, the European Commission, on the one hand, and the Board of Governors of the Federal Reserve System ("Federal Reserve") and the Office of the Comptroller of the Currency ("OCC"), on the other, concur that it is mutually beneficial for supervisors to work together in carrying out their respective responsibilities on the basis of mutual trust and understanding. It is understood that the principles set forth in the attached framework will form the basis for future understandings regarding sharing supervisory information between the EU supervisors and the Federal Reserve and the OCC.

European Commission

By _____

Board of Governors of the Federal Reserve Board

By _____

J. Virgil Mattingly, Jr
General Counsel

Office of the Comptroller of the Currency

By _____

Susan F. Krause
Senior Deputy Comptroller
International Affairs

Dated: _____

Framework

- *Sharing of information and consultation*

The Federal Reserve and the OCC, and the EU banking supervisory authorities express their intention to co-operate and exchange relevant material information necessary for the supervision of cross-border branches and other establishments of banks incorporated in the respective other country and which fall under their supervisory competence. The objective of such co-operation is to facilitate the consolidated supervision of banks and banking organisations ⁽¹⁾ that have establishments in both the US and the EU.

Co-operation and exchange of relevant material information would be upon request by the home supervisor(s) who is(are) responsible for carrying out the consolidated supervision of the particular bank or banking organisation, or at such times as mutually agreed. It is agreed that situations should be avoided in which unnecessary information would flow on an automatic basis between supervisors. In this light there is mutual agreement that the home supervisory authorities will continue to seek to obtain where possible and appropriate the relevant information directly from the banks and banking organisations.

It is understood that information should be shared in support of the objective to facilitate and meet requirements for effective consolidated supervision of internationally operating banks. To meet that objective, supervisors may seek specific as well as more general information and advice.

The Federal Reserve and the OCC, and the EU banking supervisory authorities will also endeavour to inform each other of any material supervisory concern that they may have as host supervisors relating to the safety and soundness of the branches and subsidiaries of each other's banks and banking organisations. The same applies to conformity of the branches and subsidiaries with applicable supervisory standards; evidence of a material violation of law; or events which could have a material adverse effect on the financial stability of financial institutions in the country of the other authority or authorities. Such co-operation will take place as would be appropriate in the particular circumstances.

- *On-site inspections*

To carry out the responsibility of comprehensive consolidated supervision the home supervisor(s) must be able to make an assessment of all significant aspects of their banks' operations that bear on safety and soundness. The US and EU banking supervisors therefore intend to co-operate fully with regard to examinations and inspections carried out for those purposes.

The Federal Reserve and the OCC, and the EU banking supervisory authorities undertake to notify each other of plans to inspect or verify any information

¹ "Banking organization" refers to a financial holding company and its bank and non-bank subsidiaries.

concerning a branch in the other's jurisdiction, indicating the purpose of the visit and the aspects of the branch they wish to explore. Inspections or examinations of banks or affiliates in the other's jurisdiction will only be carried out after consultation with the licensing or supervising authority of such banks or affiliates. At the discretion of the host supervisor, examinations or inspections may be carried-out independently by the home supervisor(s), or accompanied by or jointly with the host supervisor(s).

◦ *Confidentiality*

The Federal Reserve and the OCC, and the EU banking supervisory authorities consider that any information obtained in accordance with the principles of this Statement of Co-operation should be used exclusively for lawful supervisory purposes, without prejudice to cases covered by criminal law. To the extent permitted by law, the Federal Reserve and the OCC, and the EU banking supervisory authorities therefore intend to hold confidential all information obtained pursuant to this understanding. In this regard, it is recognised that employees of the US and EU banking supervisory authorities generally are bound to hold confidential all information obtained in the course of their duties.

It is understood that, in certain circumstances, information provided by one supervisor to a supervisor or supervisors in the other country would be disclosed to third parties. Specifically, it is contemplated that a supervisor in one jurisdiction that receives confidential information from a supervisor in another jurisdiction may disclose that information to a third party if this serves a lawful supervisory purpose. In cases where a US or EU supervisor receives a request for information, but disclosure is not legally compelled, the supervisor receiving the request will consult with the supervisor that provided the information in order to solicit its views on the propriety of releasing such information; prior consent will be sought if required by the law or administrative decisions of the supervisor that originated the information. In the event that a US or EU supervisor is legally compelled to disclose information provided in accordance with the principles of this Statement of Co-operation, it is understood that such supervisor will co-operate in seeking to preserve the confidentiality of the information to the extent permitted by law. In all cases of disclosure to third parties, to the extent consistent with law, the supervisor disclosing the information will notify the supervisor that originated the information of such disclosure.