银行监管的国际标准

有效银行监管核心原则暨核心原则评估方法

■ 中国银行业监督管理委员会 译

復旦大學出版社

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序

20 世纪 80 年代和 90 年代的金融危机过后，国际社会逐渐认识到，有必要制定一整套国际标准和守则，从而提高各国和整个国际金融体系抵御风险的能力。迄今为止，国际货币基金组织、经合组织、巴塞尔银行监管委员会（以下简称巴塞尔委员会）、国际会计准则委员会等国际组织已先后推出了多项国际标准和守则，其中，《有效银行监管核心原则》（以下简称《核心原则》）是巴塞尔委员会颁布的旨在指导各国、各地区提高银行业监管有效性的一些基本要求。1997 年 10 月，《核心原则》在国际货币基金组织和世界银行香港年会上通过，正式成为银行业监管的国际标准。

《核心原则》自发布以来，发挥了重要的作用，已经成为评估各国、各地区银行业监管有效性的标杆。许多国家和地区开始自觉地对照《核心原则》对银行业监管体系的有效性进行评估，找出差距和不足，确定未来工作的重点。为了减少人们在理解和把握《核心原则》时的差异性，1999 年巴塞尔委员会制定了《核心原则评估方法》（以下简称《评估方法》），将《核心原则》中较为抽象的原则具体化，从而提高评估过程的客观性和可比性。

《核心原则》是良好监管实践的基本标准，适用于世界各国、各地区。《核心原则》和《评估方法》出台后成为指导各国和各地区衡量和完善银行业监管有效性的实用工具，为完善监管做法和加强全球金融稳定做出了重要贡献。迄今为止，国际货币基金组织和世界银行在“金融部门评估规划”中对 130 多个国家和地区《核心原则》的达标情况进行了评估。还有许多国家也都对照《核心原则》进行了自我评估。通过评估发现差距和不足，各国、各地区都相继出台了完善措施，许多国家和地区的监管体系，特别是经历过银行和金融危机的国家和地区的监管体系，取得显著改善，从而也提高了国际金融体系的稳健性。

随着银行业监管理念与实践的不断发展，《核心原则》和《评估方法》同样需要与时俱进。2004 年 6 月，巴塞尔委员会成立了一个具有广泛代表性的专门工作小组，全面负责《核心原则》和《评估方法》的修订工作。

2005 年 10 月,巴塞尔委员会通过了修订本初稿,散发给各地区组织和其他金融部门的标准制定机构征求意见。2006 年 4 月,巴塞尔委员会发布了征求意见稿,向公众广泛征求意见。经过两年多的努力,在 2006 年 10 月 4—5 日于墨西哥召开的第 14 届国际银行监督官大会上正式颁布了新版《核心原则》和《评估方法》。120 多个国家和地区的监管当局与会代表表示将在全球范围内继续落实这套银行业监管的最低国际标准。巴塞尔委员会主席、荷兰中央银行行长 Wellink 先生在大会发言中指出:"作为一项名副其实的全球监管人员的努力,我们成功地推出了既求实又灵活的新监管框架。新版《核心原则》和《评估方法》充分反映了 1997 年以来国际金融市场和监管实践的变化,能够适用于发展水平不同的各类国家。"

为了确保新版本与 1997 年版本的连贯性和可比性,在修订过程中,巴塞尔委员会力求仅对《核心原则》做必要的修改。同时,巴塞尔委员会继续强调《核心原则》的灵活性,以便提高《核心原则》的普遍性和广泛适用性,并使《核心原则》能够经受住时间的考验。巴塞尔委员会还努力确保《核心原则》反映已经成形的稳健监管标准,并提高《核心原则》与其他金融部门国际标准的一致性,从而较好地保持了各项原则的持续有效性和实用性。因此,许多具体的修订工作主要表现在对《评估方法》必要标准和附加标准的修改上。

总体来看,《核心原则》和《评估方法》的具体修订主要反映在体例和内容两个方面。从体例方面来看,新版的《核心原则》仍由 25 条核心原则和涉及银行业监管有效性的前提条件组成,以往每条核心原则对应的解释内容都不再保留,而是在《评估方法》中一并考虑。涉及国有商业银行监管及存款保险制度的两个附件也不再保留,主要考虑是存款保险制度不完全属于银行业监管的范畴,而国有商业银行则需要等同其他商业银行进行监管,从监管角度不考虑不同所有制对银行的影响。

从内容方面来看,新版《核心原则》具有以下几方面的特点:一是作为银行业监管的国际标准,《核心原则》同样适用于复杂程度各异的银行和银行体系,《评估方法》中的必要标准实际上是适用于所有银行和银行体系的基本要求,而附加标准则是适用于更复杂的银行和银行体系的最佳做法。另外,除非相关国家明确要求,否则国际组织在评估时只考虑必要标准(即基本要求)的达标情况,而不考虑附加标准(即最佳做法)。这也意味着,对于广大发展中国家来说,提高监管的有效性要从基本标准的达标做起。二是《核心原则》强调,评估时要考虑到银行业务的规模、性

质和复杂程度，与风险有关的核心原则更是如此。这一点十分重要。不同国家处于不同发展阶段，提高监管有效性对于发达国家与发展中国家来说侧重点是不同的。所以，实施《核心原则》必须结合本国的国情，充分考虑到本国银行的特点，特别是发展水平。这也是由《核心原则》的普遍适用性决定的。三是新添了一条原则全面论述银行风险管理原则，同时还通过合并或新增的方式推出了几条新原则，专门论述流动性风险、操作风险和银行账户利率风险，充分突出了对风险管理的重视，丰富了风险监管的内容。四是新版《核心原则》还补充了有关加强监管当局透明度、治理结构及问责制等原则性要求，突出了现场和非现场检查的重要性，为进一步推广以风险为本监管的新理念打下了基础。五是新版《核心原则》没有要求各国对整个银行业实施巴塞尔资本协议或新资本协议，而将其实施范围仅局限于"国际活跃银行"，由各国自主选定"审慎、合适的资本监管制度"，因此一国可同时存在几个不同的资本监管制度。六是新版《核心原则》充实了关于金融欺诈、反洗钱和恐怖主义融资的核心原则标准，充分反映了国际上对保持银行体系健康的重视。最后，新版《核心原则》还进一步平衡和明确了有关母国和东道国监管责任和信息交流的标准。这项工作对有效地实施新资本协议具有十分重要的意义。

实践没有止境，创新也没有止境。《核心原则》和《评估方法》的修订仅反映已经成形的稳健监管做法，但对相关领域中创新的最新成果和其他许多新问题（例如，以风险为本的监管）深入研究的客观要求与愿望尚无充分反映。虽然《核心原则》强调了对单个银行、银行集团、银行体系的总体风险的把握，体现了以风险为本监管的基本思想，但没有对以风险为本监管的各个方面提出具体要求，特别是如何把有限的监管资源科学配置于不同风险度的银行业机构。此外，对信用社和小型财务公司的审慎监管基本上属于空白。这些方面还需要紧密结合新世纪、新阶段国际国内形势的发展变化，推动制定相应的指导文件，经过实践，再归纳成简练的原则。另外，在声誉风险、银行所有制形式带来的传染风险和母国与东道国关系方面也完全有必要进一步深入研究，以形成原则性指导意见。

中国银行业监督管理委员会（以下简称银监会）积极参与了《核心原则》和《评估方法》的修订工作。自征求意见稿出台后，银监会在我国银行系统内广泛征求意见，并通过多种渠道，提出了我们对修订《核心原则》的意见和建议。其中，涉及风险管理、监管方法、对有问题资产的处理、操作风险、跨境监管的意见得到采纳。

落实新版《核心原则》将是我们面对的一项长期艰巨的任务。银监

会自成立之初，就组织成立了专门的工作小组，对照《核心原则》的要求对我国的银行业监管体系开展了自我评估，并根据评估结果制定了提高我国银行业监管有效性的中长期行动规划，明确了建设目标、任务措施和时间表。这项自评工作每两年进行一次。2007年银监会将对照新版《核心原则》再次进行自我评估。这将是我们根据《核心原则》进行的第三次自我评估，也是根据新版《核心原则》进行的第一次自我评估。这次评估将为我国今后启动国际货币基金组织的“金融部门评估规划”做好准备。我希望，中国银行业从业人员和全体监管人员要认真学习新版《核心原则》，为全面提高我国银行业的竞争力和监控的有效性，为全面建设小康社会和加快社会主义现代化建设做出更大贡献。

中国银行业监督管理委员会主席 刘明康

2007年2月

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Basel Committee
on Banking Supervision

Core Principles for Effective Banking Supervision

October 2006

BANK FOR INTERNATIONAL SETTLEMENTS

Core Principles for Effective Banking Supervision

(The Basel Core Principles)

Foreword to the review

1. This document is the revised version of the *Core Principles for Effective Banking Supervision*, which the Basel Committee on Banking Supervision (the Committee)[①] originally published in September 1997. Along with the *Core Principles Methodology*[②], the Core Principles have been used by countries as a benchmark for assessing the quality of their supervisory systems and for identifying future work to be done to achieve a baseline level of sound supervisory practices. Experience has shown that self-assessments of countries' compliance with the Core Principles have proven helpful for the authorities, in particular in identifying regulatory and supervisory shortcomings and setting priorities for addressing them. The revision of the Basel Core Principles provides an additional reason for countries to conduct such self-assessments. The Core Principles have also been used by the IMF and the World Bank in the context of the Financial Sector Assessment Program to assess countries' banking supervision systems and practices. Since 1997, however, significant changes have occurred in banking regulation, much

① The Basel Committee on Banking Supervision is a committee of banking supervisory authorities which was established by the central bank Governors of the G10 countries in 1975. It is made up of senior representatives of banking supervisory authorities and central banks from Belgium, Canada, France, Germany, Italy, Japan, Luxembourg, the Netherlands, Spain, Sweden, Switzerland, the United Kingdom and the United States. It usually meets at the Bank for International Settlements in Basel, where its permanent secretariat is located.

② In addition to the Principles themselves, the Committee developed more detailed guidance on assessing compliance with individual Principles, in the Core Principles Methodology document, first published in 1999 and also updated as part of this review.

experience has been gained with implementing the Core Principles in individual countries, and new regulatory issues, insights and gaps in regulation have become apparent, often resulting in new Committee publications. These developments have made it necessary to update the Core Principles and the associated assessment Methodology.

2. In conducting this review of the Core Principles and their Methodology, the Committee was motivated by a desire to ensure continuity and comparability with the 1997 framework. The 1997 framework has functioned well and is seen to have withstood the test of time. Thus the intention was not to radically rewrite the Core Principles but rather to focus on those areas where adjustments to the existing framework were required to ensure their continued relevance. The review does not in any way call into question the validity of previous work already conducted, not least country assessments and reform agendas based on the 1997 framework.

3. Another aim of the review was to enhance — where possible — consistency between the Core Principles and the corresponding standards for securities and insurance as well as for anti-money laundering and transparency. Sectoral core principles, however, are designed to focus on key risk areas and supervisory priorities, which differ from sector to sector, and legitimate differences have to remain.

4. To conduct this review, the Committee acted in close consultation with, and built on the work of, the Core Principles Liaison Group, a working group that regularly brings together senior representatives from Committee member countries, non-G10 supervisory authorities, the IMF and the World Bank. The Committee consulted other international standard-setting bodies — the IAIS, IOSCO, the FATF and the CPSS — during the preparation of drafts. Regional groups of supervisors were invited to comment①. Before finalising the text, the Commit-

① The Arab Committee on Banking Supervision, the Association of Supervisors of Banks of the Americas (ASBA), the Caribbean Group of Banking Supervisors, the EMEAP Working Group on Banking Supervision, the Group of Banking Supervisors from Central and Eastern European Countries, the Group of French-speaking Banking Supervisors, the Gulf Cooperation Council Banking Supervisors' Committee, the Islamic Financial Services Board, the Offshore Group of Banking Supervisors, the Regional Supervisory Group of Central Asia and Transcaucasia, the SADC Subcommittee of Bank Supervisors, the SEANZA Forum of Banking Supervisors, the Committee of Banking Supervisors in West and Central Africa and the Association of Financial Supervisors of Pacific Countries.

tee conducted a broad consultation that was open to national supervisory authorities, central banks, international trade associations, academia and other interested parties.

The core principles

5. The Core Principles are a framework of minimum standards for sound supervisory practices and are considered universally applicable①. The Committee drew up the Core Principles and the Methodology as its contribution to strengthening the global financial system. Weaknesses in the banking system of a country, whether developing or developed, can threaten financial stability both within that country and internationally. The Committee believes that implementation of the Core Principles by all countries would be a significant step towards improving financial stability domestically and internationally and provide a good basis for further development of effective supervisory systems.

6. The Basel Core Principles define 25 principles that are needed for a supervisory system to be effective. Those principles are broadly categorised into seven groups: Objectives, independence, powers, transparency and cooperation (principle 1); Licensing and structure (principles 2 to 5); Prudential regulation and requirements (principles 6 to 18); Methods of ongoing banking supervision (principles 19 to 21); Accounting and disclosure (principle 22); Corrective and remedial powers of supervisors (principle 23); Consolidated and cross-border banking supervision (principles 24 and 25). The principles are②:

- ***Principle 1 — Objectives, independence, powers, transparency and cooperation***: An effective system of banking supervision will have clear responsibilities and objectives for each authority involved in the supervision of banks. Each such authority should possess operational independence, transparent processes, sound governance and adequate resources, and be accountable for the dis-

① The Core Principles are conceived as a voluntary framework of minimum standards for sound supervisory practices; national authorities are free to put in place supplementary measures that they deem necessary to achieve effective supervision in their jurisdictions.

② Further definitions and explanations of the content of the Principles are provided in the document *Core Principles Methodology*.

charge of its duties. A suitable legal framework for banking supervision is also necessary, including provisions relating to authorisation of banking establishments and their ongoing supervision; powers to address compliance with laws as well as safety and soundness concerns; and legal protection for supervisors. Arrangements for sharing information between supervisors and protecting the confidentiality of such information should be in place.

- ***Principle 2 — Permissible activities***: The permissible activities of institutions that are licensed and subject to supervision as banks must be clearly defined and the use of the word "bank" in names should be controlled as far as possible.
- ***Principle 3 — Licensing criteria***: The licensing authority must have the power to set criteria and reject applications for establishments that do not meet the standards set. The licensing process, at a minimum, should consist of an assessment of the ownership structure and governance of the bank and its wider group, including the fitness and propriety of Board members and senior management, its strategic and operating plan, internal controls and risk management, and its projected financial condition, including its capital base. Where the proposed owner or parent organisation is a foreign bank, the prior consent of its home country supervisor should be obtained.
- ***Principle 4 — Transfer of significant ownership***: The supervisor has the power to review and reject any proposals to transfer significant ownership or controlling interests held directly or indirectly in existing banks to other parties.
- ***Principle 5 — Major acquisitions***: The supervisor has the power to review major acquisitions or investments by a bank, against prescribed criteria, including the establishment of cross-border operations, and confirming that corporate affiliations or structures do not expose the bank to undue risks or hinder effective supervision.
- ***Principle 6 — Capital adequacy***: Supervisors must set prudent and appropriate minimum capital adequacy requirements for banks that reflect the risks that the bank undertakes, and must define the components of capital, bearing in mind its ability to absorb losses. At least for internationally active banks, these requirements must

not be less than those established in the applicable Basel requirement.

- ***Principle 7 — Risk management process***: Supervisors must be satisfied that banks and banking groups have in place a comprehensive risk management process (including Board and senior management oversight) to identify, evaluate, monitor and control or mitigate all material risks and to assess their overall capital adequacy in relation to their risk profile. These processes should be commensurate with the size and complexity of the institution.
- ***Principle 8 — Credit risk***: Supervisors must be satisfied that banks have a credit risk management process that takes into account the risk profile of the institution, with prudent policies and processes to identify, measure, monitor and control credit risk (including counterparty risk). This would include the granting of loans and making of investments, the evaluation of the quality of such loans and investments, and the ongoing management of the loan and investment portfolios.
- ***Principle 9 — Problem assets, provisions and reserves***: Supervisors must be satisfied that banks establish and adhere to adequate policies and processes for managing problem assets and evaluating the adequacy of provisions and reserves.
- ***Principle 10 — Large exposure limits***: Supervisors must be satisfied that banks have policies and processes that enable management to identify and manage concentrations within the portfolio, and supervisors must set prudential limits to restrict bank exposures to single counterparties or groups of connected counterparties.
- ***Principle 11 — Exposures to related parties***: In order to prevent abuses arising from exposures (both on balance sheet and off balance sheet) to related parties and to address conflict of interest, supervisors must have in place requirements that banks extend exposures to related companies and individuals on an arm's length basis; these exposures are effectively monitored; appropriate steps are taken to control or mitigate the risks; and write-offs of such exposures are made according to standard policies and processes.
- ***Principle 12 — Country and transfer risks***: Supervisors must be satisfied that banks have adequate policies and processes for identi-