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**COMMENTS FROM THE FRENCH BANKING FEDERATION RELATING TO THE
ACTIONS 8-9-10 OF THE BEPS PUBLIC DISCUSSION DRAFT ON “REVISED
GUIDANCE ON PROFITS SPLITS”**

The FBF, as the voice of the French banking sector representing the interests of over 400 banks operating in France, encompassing large and small, wholesale and retail, local and cross-border financial institutions, welcomes the opportunity to provide the OECD with comments on certain questions of the proposed Public Discussion Draft relating to the Actions 8-10 on “revised guidance on profit splits”.

It is crucial for us to have the opportunity to provide our comments as well as our input, particularly given the complexity of certain issues under discussion. We thank the OECD for the consultative process underway and call for a continued interaction with the private sector so that the voice of business is duly taken into account.

PRELIMINARY REMARKS

We would particularly like to stress the fact that although the concepts discussed in the Draft may provide some helpful details which may be of use in certain situations for companies in general, this input seems however less relevant for the banking sector. It does not provide any specific guidance which may be applicable in the banking world; it is noteworthy that many of the examples in the discussion paper are irrelevant for banks notably where risk is discussed: the very specific types of risks incurred by banks are not addressed at all.

Moreover, the profit split concept has already *de facto* been taken into account and put in practice by the banking sector when it has had to apply the very comprehensive and detailed set of guidance provided for by the report on Attribution of Profits to Permanent Establishments.

GENERAL REMARKS

It should indeed be reminded that the situation of the banking industry is a very specific situation, as illustrated by the fact that specific work has been carried out by the OECD with the Report on the Attribution of Profits to Permanent Establishments in July 2010. This report has categorized two main types of banking activities: (i) Part II (“Banks”) which relates to rather “traditional” banking activities for which “traditional” Transfer Pricing methods would normally apply ; and (ii) Part III (“Global Trading”) which pertains to worldwide and integrated transactions on financial instruments for which transactional profit methods may be viewed as more appropriate

This comprehensive and detailed set of rules has been applied by banks for many years and has led them to carry thorough analyses where concepts such as global value chains are already well known and have been applied with respect to various activities such as financing and trading. Banks have thus secured adequate matching between their operational activities and the attribution of profits.

Consequently, we believe there is no relevance that the banking sector be subject to the proposals of the Draft as they are less adapted and less precise than the ones already applied by banks.

In any case, this new proposal on profit split methodology should not jeopardize the long experience of banks in the implementation of the profit split methodology.