

**Towards full implementation of the FSB Key Attributes of
Effective Resolution Regimes for Financial Institutions**

**Report to the G20 on progress
in reform of resolution regimes and resolution planning
for global systemically important financial institutions (G-SIFIs)**

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Content	Page
Overview	1
1. Progress in legislative reforms of resolution regimes	5
Implementation in the banking sector	5
Implementation for non-bank financial sectors.....	5
Implementation monitoring.....	5
Development of the Key Attributes Assessment Methodology	5
IADI Core Principles for Effective Deposit Insurance Systems	6
Regional meetings	6
2. Loss-absorbing capacity in resolution.....	7
3. Addressing remaining obstacles to cross-border cooperation.....	8
Cross-border recognition of resolution actions	8
Temporary stay of early termination rights in OTC derivatives contracts.....	9
Information sharing for resolution purposes	9
Cooperation and information sharing with host authorities not represented on CMGs.....	9
4. G-SIB resolution planning and resolvability assessments	11
Recovery and resolution planning.....	11
Preliminary results from the Resolvability Assessment Process (RAP)	11
Operational continuity in resolution.....	14
Funding of orderly resolution.....	14
5. G-SII Recovery and Resolution Planning	15
Status of CMGs and recovery and resolution planning.....	15
Identification of critical economic functions in the insurance sector.....	15
Further work.....	15
Summary of actions and timelines: G-SII Recovery and Resolution Planning	16
6. Financial Market Infrastructures (FMIs).....	16
Summary of actions and timelines	19
Annex 1: Recent Reforms in Resolution Regimes by FSB Jurisdictions	23
Annex 2: Status of implementation of the <i>Key Attributes</i> for banks.....	25
Annex 3: Status of Implementation on Specific Aspects of Bank Resolution Regimes by FSB Jurisdictions.....	27

Overview

At the St. Petersburg Summit in September 2013, the G20 committed to make any necessary reforms to implement fully the [FSB's Key Attributes of Effective Resolution Regimes for Financial Institutions](#) ('Key Attributes')¹ for all parts of the financial sector. The G20 also called on the FSB to address the remaining impediments to resolvability so that authorities and market participants have confidence that resolution strategies and plans can be implemented in practice. This progress report reviews what has been achieved so far and what remains to be done to implement the *Key Attributes* in substance and in scope and ensure that all global systemically important financial institutions (G-SIFIs) are resolvable.

Progress in legislative reforms of resolution regimes

FSB jurisdictions report continued progress in adopting resolution regimes consistent with the *Key Attributes* for banks, but only a few jurisdictions report having resolution regimes in place that are fully or almost fully aligned with the *Key Attributes*. In particular, most jurisdictions have not yet adopted resolution powers such as bail-in or the power to impose a temporary stay on early termination rights, or mechanisms to give effect to foreign resolution actions. The national transposition of the EU Bank Recovery and Resolution Directive (BRRD), which was agreed in April 2014 and is due to be implemented in all EU Member States by end 2014, will represent a major step forward for FSB jurisdictions that are members of the European Union. Jurisdictions that have not already put in place adequate legal frameworks need to accelerate their reform efforts to ensure that they have the powers and tools to resolve all financial institutions that could be systemically critical if they were to fail, including banks, insurers, FMIs and firms that hold client assets.

On 15 October 2014, the FSB released Guidance on the implementation of the *Key Attributes* for non-bank financial institutions.² This Guidance complements the *Key Attributes* and should assist jurisdictions in implementing the *Key Attributes* when applied to resolution regimes for FMIs and insurers, and how to design arrangements that promote prompt access to or the transfer of client assets in resolution. To sustain momentum in reform efforts, the FSB will continue its monitoring of implementation of the *Key Attributes* and conduct focused peer reviews.

Loss-absorbing capacity in resolution

At the St. Petersburg Summit in September 2013, the G20 requested that the FSB develop proposals on the adequacy of global systemically important financial institutions' loss-absorbing capacity when they fail. On 10 November 2014, the FSB released for public consultation a set of principles on loss-absorbing capacity of G-SIBs in resolution and an accompanying term-sheet.³ In parallel to the public consultation, the FSB and the BCBS will conduct a quantitative impact study (QIS) and market survey.

¹ See http://www.financialstabilityboard.org/publications/r_141015.htm

² See http://www.financialstabilityboard.org/press/pr_141015.htm

³ See <http://www.financialstabilityboard.org/wp-content/uploads/TLAC-Condoc-6-Nov-2014-FINAL.pdf>

Cross-border recognition

For the resolution of cross-border banks to work, resolution actions undertaken in one jurisdiction must be able to be recognised in other jurisdictions in which the banks operate, through either statutory or contractual mechanisms. On 29 September 2014, the FSB issued a consultative document on cross-border recognition of resolution actions.⁴ FSB Members agreed to pursue the rapid implementation of contractual solutions with regard to the cross-border recognition of (i) temporary restrictions or stays on early termination rights (including with respect to cross-defaults) in financial contracts (e.g. derivatives) upon entry into resolution or when a resolution tool is applied; and (ii) the write-down, cancellation or conversion of debt instruments in resolution ('bail-in') where the instruments are governed by the laws of a jurisdiction other than that of the issuing entity. The International Swaps and Derivatives Association (ISDA), in consultation with regulators and the FSB, has developed a protocol to the ISDA Master Agreement that, if adhered to by both counterparties, will support the cross-border enforcement of a temporary stay of early termination rights in bilateral OTC derivatives contracts. FSB Members have agreed to act in a concerted manner to promote broad adoption of the ISDA protocol.⁵ An initial set of eighteen G-SIBs and other large dealer banks have adhered to the protocol. FSB Members have agreed to act in a concerted manner to promote, to the extent possible, its broad adoption.

Information sharing for resolution purposes and cooperation with host authorities not represented on CMGs

Effective resolution planning and the conduct of an orderly resolution requires efficient processes for sharing relevant information, both within cross-border Crisis Management Groups (CMGs) and with authorities in host jurisdictions not represented on CMGs where operations of a G-SIFI are locally systemic. On 15 October 2014, the FSB adopted a new Annex to the *Key Attributes* on "Information sharing for resolution purposes" which contains a set of principles for the design of national legal gateways and confidentiality regimes and sets out provisions on information sharing for resolution purposes that should be included in institution-specific cooperation agreements (COAGs).⁶

On 17 October 2014, the FSB issued for public consultation draft guidance on "Cooperation and Information Sharing with Host Authorities of Jurisdictions Not Represented on CMGs where a G-SIFI has a Systemic Presence"⁷ that covers the process for identifying non-CMG host jurisdictions where operations of a G-SIFI are locally systemic and the cooperation and information sharing arrangements with such host jurisdictions.

G-SIB resolution planning and resolvability assessments

Most home authorities of G-SIBs report that they have developed high-level resolution strategies and completed initial operational resolution plans that build on these high-level

⁴ See http://www.financialstabilityboard.org/wp-content/uploads/c_140929.pdf.

⁵ See FSB press release of 29 September 2014 ([FSB welcomes proposals on Cross-Border Recognition of Resolution Action - Financial Stability Board](#)).

⁶ See http://www.financialstabilityboard.org/publications/r_141015.htm.

⁷ See http://www.financialstabilityboard.org/wp-content/uploads/c_141017.pdf.

strategies. To promote adequate and consistent reporting on the resolvability of each G-SIFI and help determine what should be done to address material recurring issues with respect to resolvability, the FSB agreed to assess at the level of senior policymakers within CMGs the resolvability of each G-SIFI. Such a Resolvability Assessment Process (RAP) has been carried out for a sub-set of 10 G-SIBs. The findings from this initial round of assessments show that good progress has been made in resolution planning. However, they also identify a number of material legal, operational and financial barriers to the feasibility and credibility of the resolution plans that remain to be addressed.

G-SII resolution planning and critical functions in the insurance sector

Cross-border Crisis Management Groups (CMGs) have now been established for most G-SIIs, and recovery and resolution planning is progressing. To support resolution planning for insurers, the FSB has developed, with participation of the International Association of Insurance Supervisors (IAIS), draft guidance to assist authorities and CMGs in their evaluation of the criticality of functions that firms provide to financial markets and the real economy. It was published for consultation on 16 October 2014, and will be finalised in the course of 2015.

1. Progress in legislative reforms of resolution regimes

The *Key Attributes* represent an international standard that sets out the core elements of effective resolution regimes that apply to any financial institution that could be systemically significant or critical if it fails. At last year's Summit in St. Petersburg, the G20 committed to make any necessary reforms to implement fully the FSB's *Key Attributes* for all parts of the financial sector.

Implementation in the banking sector

Progress has been made recently by some FSB jurisdictions in undertaking legislative and regulatory reforms to transpose these elements into jurisdictions' regimes for banks. See Annex 1. However, only a few jurisdictions report having resolution regimes in place that are fully or almost fully aligned with the *Key Attributes*. Most other jurisdictions report that their regimes do not conform to the *Key Attributes* in certain key areas. These include the adoption of certain resolution powers, such as bail-in and the power to impose a temporary stay on early termination rights, and cross-border cooperation to give prompt effect to foreign resolution actions. See Annex 2 for a summary of the main findings on the status of implementation of the *Key Attributes* in relation to the banking sector and Annex 3 for a table of the status of implementation of specific elements of the *Key Attributes* as reported by each FSB jurisdiction. National transposition of the BRRD, due for the end of 2014, will represent a major step forward for FSB jurisdictions that are members of the European Union.

Implementation for non-bank financial sectors

Implementation of the *Key Attributes* in the non-bank financial sectors is less advanced than in the banking sector. However, some jurisdictions (e.g., Hong Kong, Japan) have taken a cross-sectoral approach and initiated reforms that cover the non-bank financial sector. On 15 October 2014 the FSB published sector-specific implementation guidance that complements the *Key Attributes* covering financial market infrastructures (FMIs), insurers and the protection of client assets in resolution. This guidance, which has been incorporated as annexes to the *Key Attributes*, should assist jurisdictions in implementation by indicating how particular *Key Attributes*, or elements of particular *Key Attributes*, should be interpreted when applied to resolution regimes for FMIs and insurers, and how to design regimes that promote prompt access to or rapid transfer of client assets in resolution.

Implementation monitoring

Reforms needed to implement the *Key Attributes* involve significant legislative changes. It is therefore not surprising that substantial work remains to be done to implement the *Key Attributes* fully in substance and in scope, including in the non-bank sectors. To sustain momentum in legislative reform efforts, the FSB will continue its monitoring of implementation.

By end-2015, all FSB jurisdictions will report on the status of implementation of the *Key Attributes* in the non-bank sectors, notably for FMIs, firms holding client assets and insurance companies.

Development of the Key Attributes Assessment Methodology

The FSB, with involvement of experts from FSB jurisdictions and representatives of Committee on Payments and Market Infrastructures (CPMI), International Association of

Deposit Insurers (IADI), International Association of Insurance Supervisors (IAIS), International Organisation of Securities Commissions (IOSCO), the IMF and the World Bank, has revised the assessment methodology following the public consultation in the second half of 2013. A recent draft of the methodology was used in a first pilot assessment carried out with the IMF and World Bank. Further pilots will be undertaken in the course of 2015 to test the adequacy of the methodology for use in countries with different financial systems and at different stages of development. The assessment methodology should be finalised thereafter so that it can be used in assessments as part of Financial Sector Assessment Programs (FSAPs) and the Standards & Codes initiative starting in 2016.

IADI Core Principles for Effective Deposit Insurance Systems

On 25 October 2014, IADI adopted a revised version of the *Core Principles for Effective Deposit Insurance Systems* of 2009 and *Compliance Assessment Methodology* following a public consultation in September of this year.⁸ The revision reflects the need for strengthened safety-net arrangements and the key role that deposit protection serves in maintaining confidence in the financial system. They also address recommendations arising from the 2012 FSB *Thematic Peer Review on Deposit Insurance Systems*.⁹

Regional meetings

To promote implementation of the *Key Attributes* beyond jurisdictions represented on the FSB, the FSB in 2014 conducted workshops in the Regional Consultative Groups (RCGs) for Asia and Sub-Saharan Africa. The FSB will continue to work with its RCGs, its members, the IMF and the World Bank to raise awareness and further the understanding in non-FSB jurisdictions of how the *Key Attributes* apply in emerging markets and to domestically and regionally systemic financial firms.

Summary of actions and timelines: legislative reforms		
Action	Responsible	Completed by
2015 implementation monitoring using standardised templates to cover resolution regimes for all financial sectors	FSB Members	Mid-2015
Report on plans to implement the <i>Key Attributes</i> for FMIs, insurers and firms holding client assets, including resolution planning for all such firms that could be systemic in the event of failure	FSB Members	End-2015
Finalise the Key Attributes Assessment Methodology for use in IMF and World Bank assessments	FSB, IMF, World Bank	End-2015
Conduct workshops with RCGs to further understanding of how	FSB, RCGs	2015

⁸ See http://www.iadi.org/docs/IADI_PressRelease_Final_01Sep2014.pdf

⁹ See http://www.financialstabilityboard.org/wp-content/uploads/r_120208.pdf.

the <i>Key Attributes</i> apply in emerging markets and to domestically and regionally systemic financial firms in emerging market jurisdictions		
Focused thematic peer review of resolution powers for banks, including recovery and resolution planning requirements	FSB members	Q3 2015

2. Adequacy of loss-absorbing capacity in resolution

The FSB’s September 2013 report on *Progress and Next Steps Towards “Ending Too Big To Fail” (TBTF Report)*¹⁰ identified the adequacy of loss-absorbing capacity in resolution as one of the remaining outstanding issues to be addressed in the FSB’s agenda to remove the systemic and moral hazard risks associated with G-SIFIs. The report concluded that, to avoid cost to taxpayers in resolving a failed G-SIB, there needs to be certainty that sufficient loss-absorbing and recapitalisation capacity is available at the point at which such firms would enter resolution in order to minimise any effect on financial stability, ensure the continuity of critical functions, and avoid exposing taxpayers to loss. On 10 November 2014, the FSB released for public consultation a set of draft principles on loss-absorbing capacity of G-SIBs in resolution and an accompanying draft term-sheet. In parallel to the public consultation, the FSB, with assistance from the BCBS and the BIS, will conduct impact assessment studies, which will include a quantitative impact study (QIS), micro- and macroeconomic assessments, review of loss histories, and a market survey in order to determine the final calibration of the Total Loss-Absorbing Capacity (TLAC) requirement and assess the investor base.

The draft principles require authorities to determine a firm-specific minimum TLAC requirement for each G-SIB that is at least equal to a common minimum Pillar 1 floor agreed to by the FSB. A common minimum should help achieve a level playing field internationally and ensure that there is market confidence that each G-SIB has a minimum amount of loss-absorbing capacity that would be available to absorb losses and, as necessary to implement the G-SIB’s resolution strategy, provide for recapitalisation. To implement an orderly resolution, host jurisdictions need to be confident that there will be sufficient loss-absorbing and recapitalisation capacity available to material subsidiaries in their jurisdictions. This requires legally enforceable and operationally workable mechanisms to be in place to facilitate the passing of losses incurred by material subsidiaries up to the entity that enters resolution through the conversion of internal TLAC and to facilitate the write-down and conversion of liabilities at the level of the entity entering resolution in order to generate the funds needed to support the recapitalisation of its material subsidiaries for all resolution strategies. These mechanisms need to be supported by adequate cooperation arrangements between home and host authorities.

¹⁰ See http://www.financialstabilityboard.org/publications/r_130902.htm

The FSB will finalise the draft principles and draft term sheet in 2015. The FSB will undertake further work with the BCBS to specify the disclosure requirements under the Basel III framework.

Summary of actions and timelines: loss-absorbing capacity in resolution		
Action	Responsible	Completed by
Conduct of impact assessments comprising a Quantitative Impact Study (QIS), micro- and macro-economic impact assessments, market survey, and review of loss and recapitalisation histories	FSB, BCBS, BIS	Second half of 2015
Finalise principles on loss-absorbing and recapitalisation capacity of G-SIBs in resolution and Total Loss-Absorbing Capacity (TLAC) term sheet	FSB	End-2015
Further work to specify disclosure requirements under Basel III	FSB, BCBS	2015-2016

3. Addressing remaining obstacles to cross-border cooperation

The FSB TBTF Report identified uncertainties about the cross-border effectiveness of resolution measures and obstacles to cross-border information sharing as important impediments to cross-border resolution.

Cross-border recognition of resolution actions

Unless resolution actions can be given prompt effect in relation to assets that are located in, or liabilities or contracts that are governed by the law of, a foreign jurisdiction, authorities are likely to face obstacles in implementing group-wide resolution plans effectively for cross-border groups.

On 29 September 2014, the FSB issued a consultative document on the cross-border recognition of resolution actions,¹¹ covering both statutory recognition frameworks and possible contractual arrangements to support recognition. The FSB views effective statutory cross-border recognition processes consistent with the *Key Attributes* as a preferred goal and proposes a set of elements that jurisdictions should consider including in their statutory recognition regimes. Statutory recognition regimes, which require significant legislative changes in many jurisdictions, will take time to be adopted and come into force. The FSB therefore recommends the development of contractual arrangements that, if properly crafted and widely adopted by issuers and market participants, offer a workable interim solution.

¹¹ See http://www.financialstabilityboard.org/publications/c_140929.pdf

FSB Members agreed to pursue the rapid implementation of contractual solutions for two particular cases where cross-border recognition is a critical pre-requisite for orderly resolution: (i) temporary restrictions or stays on early termination rights (including with respect to cross-defaults) in financial contracts; and (ii) write-down, cancellation or conversion of debt instruments in resolution ('bail-in') where the instruments are governed by the law of a jurisdiction other than that in which the issuing entity is incorporated.

Temporary stay of early termination rights in OTC derivatives contracts

To facilitate a contractual approach for bilateral OTC derivatives contracts governed by the ISDA Master Agreement, ISDA, in consultation with regulators and the FSB, has developed a protocol that, if adopted by both counterparties to a contract governed by such agreements, would support the cross-border enforcement of a temporary stay of early termination rights upon entry into resolution or when a resolution tool is applied. FSB Members have agreed to act in a concerted manner to promote, to the extent possible, the broad adoption of the contractual provisions making temporary stays of early termination rights (including with respect to cross-defaults) in financial contracts binding on parties to such agreements.

An initial set of G-SIBs and other large dealer banks have adhered to the protocol. FSB members have given their commitment to support this process and will seek to provide for the necessary regulatory or supervisory action so that derivatives and similar financial contracts entered into by G-SIBs and, where appropriate, other firms with significant derivatives exposures include appropriate contractual language that gives effect to stays in resolution on a cross-border basis by the end of 2015. The FSB also will work through its members and with the relevant industry bodies to address cross-border close-out risks in other financial contracts and products.

Information sharing for resolution purposes

Effective resolution planning and the conduct of an orderly resolution require efficient processes for sharing relevant information among home and host authorities. On 15 October 2014, the FSB published a new Annex to the *Key Attributes* on "Information sharing for resolution purposes". The Annex provides guidance for jurisdictions and national authorities on the implementation of the standard for information sharing set out in the *Key Attributes* and for Crisis Management Groups (CMGs) that are developing institution-specific cross-border cooperation agreements (COAGs).¹² It contains a set of principles for the design of legal gateways and confidentiality regimes to facilitate effective sharing of non-public information between domestic and foreign authorities for the purposes of carrying out functions relating to resolution. It also sets out provisions relating to information sharing that should be included in a COAG, including the classes of information to be shared, confidentiality requirements and processes for information sharing.

Cooperation and information sharing with host authorities not represented on CMGs

For reasons of operational efficiency and effective decision-making, CMG membership is generally limited to authorities from jurisdictions that are home or host to entities that are

¹² A draft of the Annex was issued for public consultation in August 2013. See http://www.financialstabilityboard.org/publications/r_130812b.pdf.

material to an effective resolution of a G-SIFI as a whole. It is therefore possible that some jurisdictions where operations of the G-SIFI are locally systemic to the host jurisdiction but not material to the resolution of the overall group are not represented in the CMG. As set out in its TBTF Report of September 2013, the FSB agreed “to develop recommendations for cooperation and sharing information with host authorities in jurisdictions where a G-SIFI has a systemic presence but that are not participating in the CMG of that G-SIFI (‘non-CMG host jurisdictions’). On 17 October 2014, the FSB issued a draft guidance note for public consultation.¹³ It covers the process for identifying non-CMG host jurisdictions; criteria for assessing the systemic nature of a G-SIFI’s presence in a non-CMG host jurisdiction; cooperation and information sharing arrangements with a non-CMG host jurisdiction; and classes of information to be shared between home authorities and non-CMG host jurisdictions. The presence of confidentiality frameworks consistent with the *Key Attributes* and the new Annex¹⁴ is also a prerequisite for effective information sharing with non-CMG host authorities. The Guidance will be finalised in 2015 following the public consultation.

Summary of actions and timelines: cross-border cooperation		
Action	Responsible	Completed by
Adherence to the ISDA Protocol by the G-SIBs and other financial institutions that are the largest OTC dealers	G-SIBs	November 2014
Adherence to the ISDA Protocol by all G-SIBs	G-SIBs	End-2015
Development of proposals to address cross-border close-out risks in other financial contracts and products	FSB/industry	End-2015
Adoption of supervisory measures or other actions to promote adoption of the ISDA protocol or of equivalent contractual provisions by relevant institutions with significant volumes of cross-border financial trading activity	FSB Members	End-2015
Finalise guidance on cross-border recognition of resolution actions, including on elements of statutory recognition regimes and contractual recognition clauses	FSB	End-2015
Finalise guidance on cooperation and information sharing with host authorities not represented on CMGs	FSB	End-2015

¹³ See http://www.financialstabilityboard.org/wp-content/uploads/c_141017.pdf.

¹⁴ See I-Annex 1 at http://www.financialstabilityboard.org/publications/r_141015.pdf.

4. G-SIB resolution planning and resolvability assessments

Recovery and resolution planning

CMGs are now in place for all G-SIBs that were identified in 2013. Recovery plans are also in place for those G-SIBs and have been discussed by their home and CMG host authorities. Most home authorities of G-SIBs report that they have developed high-level resolution strategies and their first operational resolution plans detailing how those strategies might be implemented. The home authorities also report that they discussed the high-level strategies with host authorities participating in the CMGs. A “single point of entry” (SPE) strategy seems to be the preferred approach of the home authorities of most G-SIBs at this stage, although possible alternative approaches are also being explored. An SPE strategy involves the application of resolution powers at the top holding or parent company level by a single resolution authority, with the assets and operations of subsidiaries being preserved on a going concern basis and the restructured parent or successor to the parent recapitalising subsidiaries and down-streaming liquidity, as necessary. A “multiple point of entry” (MPE) strategy involves the application of resolution powers by two or more resolution authorities, each resolution authority applying resolution powers to a different part of the group.

Among the resolution tools primarily envisaged in G-SIB resolution plans are the write-down and conversion of debt, the use of a bridge institution combined with asset and liability transfers and the temporary stay of early termination rights. Most home authorities report being in the final stages of developing a firm-specific COAG with authorities represented on CMGs although, as of the date of release of this report, only one COAG has been reported to have been signed by members of a CMG for a G-SIB. The COAGs cover processes for information sharing, commitments to cooperate in resolution planning, and commitments to cooperate in times of crisis.

Initial results from the Resolvability Assessment Process (RAP)

In its TBTF Report, the FSB agreed to assess at the level of senior policymakers within CMGs the resolvability of each G-SIFI. The objective of the RAP is to promote adequate and consistent reporting on the resolvability of each G-SIFI and help determine what should be done to address material recurring issues with respect to resolvability. It draws on resolvability assessments conducted at technical level within CMGs.¹⁵ As part of the RAP, a summary letter is sent to the FSB Chair for each G-SIFI.

The first RAP is expected to be completed for all G-SIBs by mid-2015. Home authorities of 10 G-SIBs have already reported results from their RAP to the FSB Chair. Those results show that good progress has been made in resolution planning. However, authorities identified a number of factors and circumstances affecting the resolvability of firms and reported material legal, operational and financial barriers to the feasibility and credibility of their resolution

¹⁵ Resolvability assessments should be regularly conducted to evaluate the feasibility and credibility of resolution strategies and their operational resolution plans, identify factors and conditions that have an impact on the effective implementation of resolution actions and to help determine the specific actions necessary to achieve greater resolvability (KAs 10.1, 10.3; I-Annex 2 Resolvability Assessments). They should be conducted by the home authority and coordinated within the CMG. They precede the FSB Resolvability Assessment Process (RAP) which requires a discussion of the resolvability of each G-SIFI at senior level within the CMG, a letter to the FSB Chair summarising the general findings and a resolvability report drawn up on the basis of the findings for all G-SIFIs.

strategies and plans. The textbox sets out examples of recurring factors and circumstances that pose material impediments to resolution identified in the RAP letters. Work is underway by CMG authorities and the firms to address many of these identified impediments to resolvability. Continued work will be necessary in 2015 and beyond.

Textbox: Examples of factors and circumstances affecting the resolvability of G-SIBs

Factors that relate to the legal and regulatory framework and operational aspects of resolution

- Implementation of the *Key Attributes* is still in process (e.g., transposition of the BRRD into national laws). Lack of implementation of certain powers, including bail-in and the power to stay early termination and cross-default rights of counterparties to derivative contracts, may undermine the effective implementation of resolution strategies and plans.
- Resolution authorities are still developing their operational capabilities to apply new resolution tools and to implement the necessary regulatory requirements, such as valuation requirements needed to execute a bail-in and the rapid execution of transfer orders. Further work is required on how to carry out rapid post-resolution restructuring.
- Essential information may not be available in resolution in a timely manner, e.g., management information systems may not be capable of providing accurate and relevant information that is required in resolution within an acceptable timeframe.
- A risk of insufficient liquidity to maintain critical operations arising from increased margin requirements, the termination of or inability to roll over short-term borrowing or the loss of access to alternative sources of credit. More analyses and understanding of funding and liquidity needs, in particular funding needs in different currencies, in resolution are necessary.

Factors that relate to the financial, legal and operational structure of the firm

- Multiple interdependencies within a G-SIB put at risk the operational continuity of critical functions and critical shared services and infrastructure in a resolution. Services provided by affiliates or third parties might be interrupted, or access to payment and clearing capabilities might be lost. Existing Service Level Agreements need to be improved and arrangements (such as separately capitalised group services companies or entities providing infrastructure services) need to be put in place to support operational continuity of critical services; arrangements to ensure continued access to FMI services in resolution and avoid automatic termination of FMI memberships need to be put in place.
- Need to ensure the availability of an adequate amount of loss-absorbing capacity in resolution that is sufficient to foster host authorities' confidence in the resolution strategy and that is distributed across the group in a manner consistent with the preferred resolution strategy and supported by mechanisms for up-streaming losses at subsidiaries to parent entities.
- Misalignment between the preferred resolution and intra-group financial arrangements, dependencies of subsidiaries on centralised group funding and use of intra-group guarantees.
- A number of G-SIBs are making changes to legal structures and business practices aimed at reducing complexity and increasing resolvability, including the establishment of non-operational holding companies, and changes to debt issuance and booking practices to respond to legislative and regulatory requirements. Further structural and operational changes may be necessary both to remove impediments to resolvability and to implement new structural requirements in accordance with the structural reform initiatives that are still underway in several major jurisdictions.

Factors that relate to cross-border cooperation and coordination

- Lack of effective cooperation could lead to ring-fencing of assets or other outcomes that could exacerbate financial system instability. COAGs that conform to the FSB guidance need to be finalised to support effective cooperation.
- Legal regimes may not provide sufficient legal certainty in regard to the recognition of foreign resolution actions, including bail-in and transfer orders. For example, the enforceability of bail-in in regard to debt instruments issued outside of a G-SIBs home jurisdiction may not be legally certain. Debt issuances may need to be repatriated to the G-SIB's home jurisdiction or include appropriate legal clauses that support the cross-border enforceability of bail-in.
- Contractual approaches to the cross-border effectiveness of temporary stays on early termination rights are needed to address cross-border close-out risks that could jeopardise effective resolution.
- Transfer orders and other resolution actions may require approvals or supporting actions by host authorities, e.g., regulatory authorisations or approvals under prudential rules, fit and proper rules or shareholder control procedures; management actions under the laws of host jurisdictions may also pose impediments.

Among the priority issues that remain to be addressed, they identified issues referred to in other sections in this report, in particular the need for adequate loss-absorbing capacity in resolution and the distribution of these resources across the G-SIB in a manner consistent with the resolution strategy (see Section II), and addressing obstacles to cross-border cooperation (see Section III).

The FSB will continue its work to provide guidance to authorities as they refine their resolution plans to further enhance their feasibility and credibility.

Operational continuity in resolution

By end 2015, the FSB will develop a draft proposal on measures to support operational continuity in resolution.

Funding of orderly resolution

The liquidity resources needed to resolve a G-SIB are likely to be sizeable but not easily measured in advance, so further work should be done in developing guiding principles consistent with Key Attribute 6 for funding of firms in resolution to effect an orderly G-SIB resolution. Building also on the insights gained from the first round of the RAP, further analysis should also be conducted on the information needs of authorities to more accurately estimate, within the resolution planning process, a G-SIB’s potential funding needs in resolution.

Summary of actions and timelines: G-SIB resolution planning and resolvability		
Action	Responsible	Completed by
Conclude first RAP for all G-SIBs	G-SIB CMGs	Mid-2015
Develop draft guidance on measures to support operational continuity in resolution.	FSB	End-2015
Develop draft guiding principles consistent with Key Attribute 6 for funding of firms in resolution to support implementation of the preferred resolution strategies of G-SIBs. Conduct further analysis on the information needed by authorities to more accurately estimate, within the resolution planning process, a G-SIB’s potential funding needs in resolution.	FSB	End-2015

5. G-SII Recovery and Resolution Planning

Status of CMGs and recovery and resolution planning

In July 2013, the FSB, in consultation with the IAIS and national authorities, identified an initial list of global systemically important insurers (‘G-SIIs’).¹⁶ The IAIS also published a set of policy measures that apply to those G-SIIs.¹⁷ The policy measures for G-SIIs include the recovery and resolution planning requirements that apply to all global systemically important financial institutions (‘G-SIFIs’) under the *Key Attributes*: the establishment of a CMG comprising resolution and other relevant authorities from the home and key host jurisdictions of each G-SII; the development of a recovery and resolution plan (RRP); conducting resolvability assessments within the CMG; and the development of institution-specific COAGs between authorities that participate in the CMG.

CMGs have now been established for most G-SIIs and have begun holding meetings. G-SII CMGs have started by analysing the Strategic Risk Management Plan (“SRMP”) and the Liquidity Risk Management Plan (“LRMP”) given their close connection with recovery and resolution planning. For several G-SIIs, a first recovery plan is being developed and authorities have now started to focus on the development of the resolution strategies and plans.

Further legislative action to align resolution regimes for insurers with the *Key Attributes* is needed in many jurisdictions. It is also a necessary condition before identified resolution strategies and plans for G-SIFIs can be implemented effectively. The adoption in October 2014 of a new Annex to the *Key Attributes* on the resolution of insurers should assist jurisdictions in their reform efforts, including the development of resolution strategies and plans.

Identification of critical economic functions in the insurance sector

A key component of recovery and resolution planning for G-SIIs is a strategic analysis that identifies the firm’s critical economic functions and critical shared services. Such an analysis should assist in the development of resolution strategies and plans so that they include appropriate actions that help maintain continuity of these critical functions and shared services. The FSB, with participation of the IAIS, has therefore developed draft guidance to assist authorities and CMGs in their evaluation of the criticality of functions that G-SIIs provide to financial markets and the real economy.¹⁸ The guidance aims to promote a common understanding of which functions and shared services could be critical by providing shared definitions and evaluation criteria. It was published for consultation on 16 October 2014 and will be finalised in the course of 2015.

Further work

The FSB will work with IAIS to develop guidance on effective resolution strategies for G-SIIs. The guidance should assist authorities and firms in implementing the resolution planning requirements under the *Key Attributes* for G-SIIs. The FSB will also continue its work with

¹⁶ See http://www.financialstabilityboard.org/press/pr_130718.pdf

¹⁷ See http://www.iaisweb.org/view/element_href.cfm?src=1/19150.pdf

¹⁸ See http://www.financialstabilityboard.org/wp-content/uploads/c_141016.pdf

the IAIS on the role of policyholder protection schemes and creditor hierarchy in resolution. IAIS is also exploring work on loss-absorbing capacity in resolution for insurers.

Summary of actions and timelines: G-SII Recovery and Resolution Planning		
Action	Responsible	Completed by
Finalise guidance on the identification of critical functions and critical shared services in the insurance sector	FSB with participation of IAIS	Mid-2015
Report on the status of resolution strategies and plans for all G-SIIs and possible challenges	G-SII CMGs	End-2015
Develop a proposal for draft guidance on the development of effective resolution strategies for G-SII	FSB with participation of IAIS	End-2015
Report on results of Resolvability Assessment Process (RAP)	G-SII CMGs	End-2016

6. Financial Market Infrastructures (FMIs)

Robust FMIs make an essential contribution to financial stability and make markets more resilient in the face of the default of a major market participant. Robust recovery and resolution planning for systemically important FMIs should help ensure that the greater reliance of the global financial system on market infrastructure does not result in a new category of entity that is “too big to fail”. The CPMI-IOSCO *Principles for Financial Market Infrastructures* (PFMI) and the *Key Attributes* contain international standards to that end.

The *Key Attributes* state that systemically important FMIs should be subject to resolution regimes that apply the objectives and provisions of the *Key Attributes* in a manner appropriate to FMIs and their critical role in financial markets. On 15 October 2014, the FSB adopted a new Annex to the *Key Attributes* with guidance on how particular *Key Attributes*, or elements of particular *Key Attributes*, should be interpreted when applying the *Key Attributes* to resolution regimes for FMIs or specific classes of FMI.¹⁹ On 15 October 2014 CPMI-IOSCO also published a report on the recovery of FMIs.²⁰ The CPMI-IOSCO Report and FSB Guidance are complementary and should assist authorities in implementing the recovery and resolution planning requirements under the *Key Attributes* for systemically important FMIs.

¹⁹ See Section I, and http://www.financialstabilityboard.org/publications/r_141015.pdf

²⁰ See <http://www.bis.org/cpmi/publ/d121.pdf>.

Summary of actions and timelines: Resolution of Financial Market Infrastructures		
Action	Responsible	Completed by
Report on the status of CMGs or equivalent arrangements for systemically-important FMIs, and the development of resolution strategies and plans	FSB Members	End-2015

Summary of actions and timelines

I. Legislative and institutional reforms to implement the <i>Key Attributes</i>		
Action	Responsible	Completed by
2015 implementation monitoring using standardised templates to cover resolution regimes for all financial sectors	FSB	Mid-2015
Report on plans to implement the <i>Key Attributes</i> for FMIs, insurers and firms holding client assets, including resolution planning for all such firms that could be systemic in the event of failure	FSB Members	End-2015
Finalise the Key Attributes Assessment Methodology for use in IMF and World Bank assessments	FSB, IMF, World Bank	End-2015
Conduct workshops with RCGs to further understanding of how the <i>Key Attributes</i> apply in emerging markets and to domestically and regionally systemic financial firms in emerging market jurisdictions	FSB, RCGs	2015
Focused thematic peer review of resolution powers for banks, including recovery and resolution planning requirements	FSB members	End-2015
II. Adequacy of loss-absorbing capacity in resolution		
Action	Responsible	Completed by
Conduct of impact assessments comprising a Quantitative Impact Study (QIS), micro- and macro-economic impact assessments, market survey, and review of loss and recapitalisation histories	FSB, BCBS, BIS	Second half of 2015
Finalise principles on loss-absorbing and recapitalisation capacity of G-SIBs in resolution and Total Loss-Absorbing Capacity (TLAC) term sheet	FSB	End-2015
Further work to specify disclosure requirements under Basel III	FSB, BCBS	2015-2016

III. Cross-border cooperation		
Adherence to the ISDA Protocol by the G-SIBs and other financial institutions that are the largest OTC dealers	G-SIBs	November 2014
Adherence to the ISDA Protocol by all G-SIBs	G-SIBs	End-2015
Development of proposals to address cross-border close-out risks in other financial contracts and products	FSB	End-2015
Adoption of supervisory measures or other actions to promote adoption by relevant institutions with significant volumes of cross-border financial trading activity	FSB Members	End-2015
Finalise guidance on cross-border recognition of resolution actions, including on elements of statutory recognition regimes and contractual recognition clauses	FSB	End-2015
Finalise guidance on cooperation and information sharing with host authorities not represented on CMGs	FSB	End-2015
IV. G-SIB resolution planning and resolvability		
Conclude first RAP for all G-SIBs	G-SIB CMGs	Mid-2015
Develop draft guidance on measures that support operational continuity in resolution	FSB	End-2015
Develop draft guiding principles consistent with Key Attribute 6 for funding of firms in resolution to support implementation of the preferred resolution strategies of G-SIBs. Conduct further analysis on the information needed by authorities to more accurately estimate, within the resolution planning process, a G-SIB's potential funding needs in resolution.	FSB	End-2015
V. G-SII Recovery and Resolution Planning		
Finalise guidance on the identification of critical functions and critical shared services in the insurance sector	FSB with participation of IAIS	Mid-2015

Report on the development of resolution strategies and plans for all G-SIIs	G-SII CMGs	End-2015
Develop a proposal for draft guidance on the development of effective resolution strategies for G-SII	FSB with participation of IAIS	End-2015
Report on results of Resolvability Assessment Process (RAP)	G-SII CMGs	End-2016
VI. Resolution of Financial Market Infrastructures		
Report on the status of CMGs or equivalent arrangements for systemically-important FMIs, and the development of resolution strategies and plans	FSB Members	End-2015

Annex 1

Recent Reforms in Resolution Regimes by FSB Jurisdictions

France
<p>Reforms to resolution regime were adopted on 26 July 2013 and have been effective since October 2013:</p> <ul style="list-style-type: none"> - Designated the ACPR (supervisory authority for banking and insurance sector) as resolution authority for banks and established a Resolution Board within the ACPR to ensure operational independence and structural separation between supervisory and resolution functions; - Gave ACPR powers to require changes that improve the resolvability of firms; - Provided ACPR with crisis management and resolution powers, including appointment of an interim administrator and some bail-in powers.
Germany
<p>Act on Ring-fencing and Recovery and Resolution Planning for Credit Institutions and Financial Groups, entry in force in January 2014, implements structural reforms (following Liikanen report):</p> <ul style="list-style-type: none"> - Deposit-taking banks exceeding specified thresholds must either discontinue certain trading activities or transfer those activities to a legally and operationally separate vehicle; - Objectives include to reduce complexity and facilitate orderly resolution.
Japan
<p>The Deposit Insurance Act was amended in June 2013, with the amendments and implementing rules and orders taking effect in March 2014. The main reforms were:</p> <ul style="list-style-type: none"> - Specified measures to be taken when a financial institution is insolvent or likely to be insolvent, or when it has suspended payments or is likely to suspend payments, and, after consultation with the Financial Crisis Response Council, the Prime Minister determines that the specified measures are needed in the light of potentially severe risks to the financial system; - Such measures include transfer by the Deposit Insurance Corporation of Japan of systemically important assets and liabilities to a bridge institution and write down or conversion of debt or capital instruments; - Powers for the Prime Minister to require firms to adopt measures to improve their resolvability.
Mexico
<p>Reform of bank resolution regime entered into force in January 2014. Main reforms include:</p> <ul style="list-style-type: none"> - Bank insolvency regulated by the Banking Law (rather than the commercial insolvency regime); - Temporary ownership of banks operating in Mexico by foreign authorities is permitted as a temporary prudential or resolution measure;

- Additional powers for resolution authority to operate a bridge bank;
- Temporary stay (2 business days) on early termination rights when the supervisor revokes the authorisation of a bank;
- Powers for resolution authority to accelerate the resolution process to reduce the risk of deterioration of assets and the potential costs to taxpayer;
- Powers in relation to recovery and resolution planning;
- Depositor preference, including addition preference for insured deposits over uninsured deposits;
- Enhanced powers for Mexican authorities to share information with foreign authorities.

A 2013 reform to the “Amparo Law” provides that a resolution process cannot be suspended and judicial review may either reverse a resolution action or grant financial compensation if reversal is impossible or excessively burdensome.

Singapore

The Monetary Authority of Singapore (Amendment) Act 2013 was passed in March 2013 and became effective in April 2013. The Act enhanced and expanded MAS’ powers for resolving distressed financial institutions:

- Extension of MAS resolution powers from banks and insurers to a wider range of financial institutions, including finance companies, merchant banks, operators and settlement institutions of designated payment systems, approved exchanges and designated financial holding companies;
- powers for MAS to issue directions to a non-regulated entity that is incorporated or established in Singapore, where the entity belongs to a group of companies of which a financial institution regulated by MAS is part of and is significant to the business of such a group;
- right for MAS to apply to the Court to claw back the salary, remuneration or benefits given to a director or executive officer under certain circumstances, for example, when the director or executive officer has failed to discharge his or her duties; and
- powers for MAS to share information with a foreign resolution authority if the information is necessary in the resolution of a financial institution.

UK

The Financial Services (Banking Reform) Act 2013, which received Royal Assent in 2014, introduced ‘bail-in’ powers for the Bank of England to cancel or modify any contract creating a liability for a bank in resolution (with the exception of defined excluded liabilities). Secondary legislation to put in place a number of safeguards is required before these powers come into effect, and the UK Government consulted on draft of those safeguards from March – May 2014.

Annex 2

Status of implementation of the *Key Attributes* for banks

This Annex summarises the main findings on the status of implementation by FSB jurisdictions of the *Key Attributes* in the banking sector. The summary is based on information reported by FSB jurisdictions as part of a monitoring exercise by the FSB that was conducted in June and July 2014. The exercise was confined to certain elements of the *Key Attributes* in relation to the banking sector and the timeliness of their implementation, not on the consistency of implementation with the *Key Attributes*.²¹

- **Progress continues to be made by FSB jurisdictions in the implementation of the *Key Attributes* in relation to banks.** Six jurisdictions (France Germany, Japan, Mexico, Singapore, UK) have introduced legislative reforms over the past year to enhance the alignment of their bank resolution regimes to the *Key Attributes* (see Annex 1). Seventeen jurisdictions are in the process of adopting reforms to their regimes, which vary widely in terms of scope and timelines. Of those, the majority are still at the stage of policy development (proposals published or issued for intra-governmental consultation) or in the legislative or rule-making process. On the other hand, some jurisdictions with key areas of their resolution regimes not fully aligned to the *Key Attributes* have not yet reported any reform initiatives.

Additionally, the BRRD was adopted in April 2014. EU member States must adopt national legislation to transpose the directive by the end of 2014 and apply that legislation from 1st January 2015 (with the exception of bail-in powers, which must apply from 1st January 2016 at the latest). The transposition of the BRRD by FSB jurisdictions that are EU member States will represent a major step forward in this area.

- **There is still substantial work to be done.** This is not surprising since the reforms needed to implement the *Key Attributes* may involve significant legislative changes. Only a few jurisdictions (Japan, Spain, Switzerland, US) report having bank resolution regimes that are fully or almost fully aligned with the *Key Attributes*. All other jurisdictions report having regimes that are not aligned in certain key areas.
- **The biggest reported gaps in relation to the *Key Attributes* relate to:**
 - **resolution powers** (20 jurisdictions report only partial implementation);
 - **restrictions on early termination rights** (19 jurisdictions report not implemented or partly implemented, meaning that early termination rights are not prevented from being triggered by entry into resolution and/or there is no provision for a temporary stay on the exercise of such rights, if triggered); and

²¹ The inclusion of the *Key Attributes* standard in the IMF-World Bank ROSC programme (once the assessment methodology is finalised) will enable such compliance assessments to take place. These will enable an assessment of the extent to which the national authorities responsible for resolution have (in addition to legal authority) the operational capacity – including staff with the appropriate level and range of expertise, and adequate resources – to resolve failing institutions.

- o **mechanisms to give prompt effect to foreign resolution actions** (19 jurisdictions report not implemented).

Fourteen jurisdictions also report lacking full powers to require firms to make changes to their organisational and financial structures solely in order to improve their resolvability and in advance of resolution, while only eleven jurisdictions report having initiated recovery and resolution planning for all domestically incorporated banks that could be systemically significant or critical if they fail. A further three currently only require recovery (and not resolution) planning, and another two are currently developing recovery and resolution plans for their G-SIBs only, rather than all firms that could be significant or critical in the event of failure.

- **The resolution powers reported to be missing in most jurisdictions are the powers to write down and convert unsecured creditor claims to the extent necessary to absorb losses of a firm in resolution.** Only five jurisdictions – France, Japan, Spain, Switzerland, US report that they currently have that power, though not in all cases with the breadth and range required under the *Key Attributes*. One jurisdiction (UK) has adopted legislation to confer the power that is not yet in force. By contrast, significantly more jurisdictions report having the power to transfer assets and liabilities without shareholder or creditor consent (22 jurisdictions), to establish a bridge bank (17 jurisdictions) and to establish an asset management vehicle (17 jurisdictions).
- In terms of **cross-border cooperation**, only five jurisdictions (Germany, Japan, Singapore, Switzerland, US) report that their legal framework includes mechanisms by which resolution actions by a foreign authority can promptly be given legal effect in their jurisdiction. This element is fundamental for effective resolution of cross-border firms.
- By contrast, 14 jurisdictions report having **resolution powers in relation to domestic branches of foreign banks**, while a further two note that such powers are not relevant because foreign banks are not permitted to operate by way of branches in their jurisdiction.

Annex 3
Status of Implementation on Specific Aspects of Bank Resolution Regimes by FSB Jurisdictions

FSB Jurisdiction	Existence of resolution regime and administrative resolution authority	Resolution powers	Power to impose temporary stay on early termination rights	Resolution powers in relation to branches	Mechanisms to give prompt effect to foreign resolution actions	Non-discriminatory treatment of creditors	Information sharing for resolution purposes and confidentiality protections	Recovery and resolution planning for systemic firms	Powers to require changes to improve firms' resolvability
Argentina									
Australia			(B)	(B)				(2)	
Brazil		(B)	(B)					(B)	(B)
Canada		(B)							
China	(B)	(B)	(B)			(B)	(B)	(B)	(B)
France*		(B)	(B)	(B)	(B)	(B)	(B)		
Germany*		(B)	(B)	(B)	(B)	(B)			
Hong Kong	(B)	(B)	(B)	(B)	(B)		(B)	(2) (B)	(B)
India	(B)	(B)	(B)	(B)	(B)	(B)	(B)	(B)	(B)
Indonesia	(B)	(B)							
Italy*		(B)	(B)		(B)		(B)	(3) (B)	(B)
Japan									
Korea									
Mexico								(A)	
Netherlands*	(B)	(B)	(B)	(B)	(B)		(B)	(B)	(B)

FSB Jurisdiction	Existence of resolution regime and administrative resolution authority	Resolution powers	Power to impose temporary stay on early termination rights	Resolution powers in relation to branches	Mechanisms to give prompt effect to foreign resolution actions	Non-discriminatory treatment of creditors	Information sharing for resolution purposes and confidentiality protections	Recovery and resolution planning for systemic firms	Powers to require changes to improve firms' resolvability
Russia	(B)							(2) (B)	
Saudi Arabia	(B)	(B)	(B)	(B)			(B)	(B)	(B)
Singapore									
South Africa	(B)	(B)	(B)		(B)	(B)	(B)	(B)	(B)
Spain*								(3)	
Switzerland			(B)				(B)		
Turkey		(B)							
United * Kingdom		(A)	(B)	(B)	(A)	(A)		(B)	
United States		(1)							

Current status of implementation		Status of pending reforms	
	Implemented / already in place	(A)	Reforms agreed (final legislation or rule approved) but not yet in force
	Partially implemented / in place		
	Not implemented	(B)	Reforms under development (policy proposals published or issued for intra-governmental consultation; draft legislation submitted to legislative body or rule-making process initiated under existing statutory authority)
	Not applicable		

Notes

The colours in this table are based on self-reporting by national authorities. They provide a partial snapshot of the status of implementation of certain elements of national resolution regimes. In particular, they do not cover all Key Attributes, or all elements of individual Key Attributes, and as such do not provide a full or independent assessment of the extent to which regimes comply with the *Key Attributes*. The columns in this table cover the following elements of the *Key Attributes* (KAs):

- Existence of resolution regime and administrative resolution authority: KAs 1.1 and 2.1;

- Resolution powers: KA 3.2, points (ii), (vi), (vii), (viii), (ix), (xi) and (xii);
- Power to impose temporary stay on early termination rights: KA 4.3 (first paragraph) and 4.3 (i);
- Resolution powers in relation to branches: KAs 1.1 (iii) and 7.3;
- Mechanisms to give prompt effect to foreign resolution actions: KA 7.5;
- Non-discriminatory treatment of creditors: KA 7.4;
- Information sharing for resolution purposes and confidentiality protections: KAs 7.6, 7.7 and 12.1;
- Recovery and resolution planning for systemic firms: KA 11.2;
- Powers to require changes to improve firms' resolvability: KA 10.5.

National transposition of the Bank Recovery and Resolution Directive by EU Member States

* The status of implementation for FSB jurisdictions that are also EU member States will change on full national transposition of the Bank Recovery and Resolution Directive. The deadline for transposition is 31st December 2014.

Resolution powers

- (1) Although not set out in a single statutory provision, the write-down of debt and conversion to equity in this jurisdiction can be achieved through a combination of powers.

Recovery and resolution planning for systemic firms

- (2) Jurisdictions at present developing only recovery plans. Resolution planning requirements to be developed in due course.
- (3) Jurisdiction at present developing RRP only for G-SIBs, and not for other domestically incorporated banks that could be systemically significant or critical if they fail.