FSB FINANCIAL STABILITY BOARD

Guidance on Arrangements to Support Operational Continuity in Resolution

Consultative Document

3 November 2015

The Financial Stability Board ('FSB') is seeking comments on its Consultative Document on Arrangements to Support Operational Continuity in Resolution ('consultative document').

The FSB *Key Attributes of Effective Resolution Regimes for Financial Institutions* ("*Key Attributes"*)[1] are an essential component of the FSB's package of policies to reduce the risks of moral hazard and the potential for systemic disruption associated with systemically important financial institutions. The *Key Attributes* call on jurisdictions to put in place an on-going recovery and resolution planning process for all firms that could be systemically significant or important in the event of failure and to promote resolvability.

In its report to the G20 on "Progress and Next Steps in Ending "Too-Big-to-Fail" ('TBTF')" of 2 September 2013, the FSB identified operational continuity in resolution as an outstanding issue that needs to be addressed in order for authorities and market participants to have confidence that resolution strategies and plans can be implemented in practice. Operational continuity refers to the means of ensuring continuity of critical shared services that are necessary to maintain a firm's critical functions in resolution. It is a key aspect of resolution planning for individual firms. A lack of adequate arrangements for operational continuity is likely to impair firms' resolvability.

This draft guidance identifies a number of arrangements that could support operational continuity in resolution and help address obstacles to resolvability that arise from uncertainties about continuity of critical shared services. It discusses those arrangements in the context of three prevailing industry models: service provision within a regulated entity, service provision by an intra-group service company and service provision by a third party service provider.

The guidance does not specifically address continued access to Financial Market Infrastructure ('FMI') services. The FSB acknowledges that this may be essential to support continuity of certain critical functions and will consider this aspect separately.

The FSB invites comments on the consultative document in general and on the following specific questions:

1. Do you agree that the three service delivery models set out in Section 3 of the draft guidance represent, singly or in combination, current industry practice? Do you have any comments on the analysis of each model from a perspective of resolvability under different resolution strategies?
2. Are the arrangements to support operational continuity set out in Section 4 comprehensive and likely to be effective? What additional arrangements, if any, should be considered for inclusion? Should any elements be modified for specific service delivery models?

[1] The *Key Attributes* are published at: http://www.fsb.org/wp-content/uploads/r_141015.pdf

3. Are any of the arrangements particularly important in the context of either a Single Point of Entry ('SPE') or a Multiple Point of Entry ('MPE') resolution strategy, or are they strategy-neutral?
4. Do you consider that any of the arrangements identified in Section 4 would be challenging to implement in the context of all or specific types of the service delivery models identified in Section 3?
5. Does the legal entity ownership structure for the provision of critical shared services (for example, wholly owned or partly owned through joint ventures) give rise to specific challenges in relation to operational continuity? If so, what are these challenges and how might they be mitigated?
6. Are there measures, in addition to those suggested in Section 4 of the draft guidance, that might reinforce contractual arrangements for the provision of shared services to support operational continuity in resolution? Do you foresee any challenges in adopting such measures in the context of all or specific types of service delivery model?
7. Are there any arrangements that might mitigate challenges in connection with (i) service providers from outside the jurisdiction of the resolution authority and (ii) non-regulated third party or intra-group service providers that should be covered in this guidance?
8. Do you agree with the classes of information set out in the Annex as necessary to support firms and authorities in their assessment of operational continuity in resolution? Do you foresee any challenges for firms in producing and maintaining that information?
9. Are there any other actions that could be taken by firms or authorities to help ensure operational continuity in resolution?

Responses to this consultative document should be sent to fsb@bis.org by 4 January 2016. Responses will be published on the FSB's website unless respondents expressly request otherwise.

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1. Introduction

1.1 This Guidance should assist supervisory and resolution authorities and firms to evaluate whether firms that are subject to resolution planning requirements have appropriate arrangements to support operational continuity if the firm enters resolution. It supports the objectives of the *FSB Key Attributes of Effective Resolution Regimes for Financial Institutions ('Key Attributes'* or KAs*),*[2] which specify that resolution regimes should, among other things, ensure continuity of systemically important financial functions of a firm in resolution. In particular, it complements the guidance on resolution planning set out in I-Annex 3 (*Resolvability Assessments*) and I-Annex 4 (*Essential Elements of Recovery and Resolution Plans*) to the *Key Attributes*. It should also be read in conjunction with the FSB guidance on "Identification of Critical Functions and Critical Shared Services"[3] published in July 2013.

1.2 Operational continuity refers to the ability to continue critical shared services[4] that are necessary to maintain the provision or facilitate the orderly wind down of a firm's critical functions in resolution. Critical shared services and critical functions are intrinsically linked: without continuity of critical shared services, the continued provision of critical functions in resolution is unlikely to be possible. Operational continuity is therefore a key aspect of resolution planning for individual firms and a lack of adequate arrangements for operational continuity is likely to impair firms' resolvability.

1.3 The first round of the FSB Resolvability Assessment Process[5] ('RAP') found that a lack of adequate arrangements for operational continuity poses an obstacle to the orderly resolution of many of the Global systemically important banks ('G-SIBs') that were assessed.[6] Factors that may result in disruption or create uncertainty in relation to operational continuity include:

(i) firms' interconnectedness and complexity, including a lack of clear mapping between legal entities and business lines and the critical shared services that they rely upon;

(ii) insufficiently detailed contractual arrangements for intra-group and third party service provision;

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2 See the *Key Attributes*, http://www.fsb.org/wp-content/uploads/r_141015.pdf

3 http://www.fsb.org/wp-content/uploads/r_130716a.pdf

4 An activity, function or service performed by either an internal unit, a separate legal entity within the group or an external provider, performed for one or more business units or legal entities of the group, the failure of which would lead to the collapse of (or present a serious impediment to the performance of) critical functions.

5 The FSB Resolvability Assessment Process requires a discussion of the resolvability of each G-SIFI at senior level within the Crisis Management Group, 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.

6 See the 2014 Resolution Progress Report, http://www.fsb.org/wp-content/uploads/Resolution-Progress-Report-to-G20.pdf

(iii) contractual provisions that permit service providers to terminate services on the entry into resolution of the service recipient without requiring a failure to pay or other performance-related default; and

(iv) inability to provide timely and accurate information relating to critical shared services, including on the service recipients, the arrangements by which the services are provided, charging structures, ownership of assets and infrastructure associated with the services, and location of key staff; and uncertainty as to whether continuity can be secured where the services are provided by unregulated entities or service providers located in different jurisdictions.

1.4 This draft guidance identifies a number of arrangements including specific contractual provisions, access arrangements and governance structures that, if implemented appropriately, could support operational continuity in resolution. The guidance discusses those arrangements in the context of three service delivery models: (i) service provision within a regulated entity; (ii) service provision by an intra-group service company; and (iii) service provision by a third party service provider. The draft guidance recognises that large firms are likely to use a combination of the three models. There is no presumption that firms, or certain types of firm, should adopt any particular model. The purpose of the guidance, rather, is to identify features and arrangements that are likely to reinforce the resilience of those models with a view to supporting continuity of the services provided in resolution.

1.5 The arrangements adopted to support operational continuity by global systemically important financial institutions ('G-SIFIs') and other firms for which resolution planning is required will be considered by authorities in resolvability assessments. Where authorities identify weaknesses in firms' arrangements that are considered to impair resolvability, they may exercise powers, including those specified in the *Key Attributes,* to require firms to modify those arrangements in order to improve their resolvability.[7] The FSB will continue to monitor and report on obstacles to resolvability, including those related to operational continuity, and the extent to which they are being addressed, in the RAP over the coming years.

2. The concept of operational continuity

Critical shared services and critical functions

2.1 Operational continuity refers to the means of ensuring or supporting continuity of the critical shared services that are necessary to maintain the provision or facilitate the orderly wind down of a firm's critical functions in resolution.

2.2 Operational continuity is defined in the context of critical functions and critical shared services.

[7] See KA 10.5, which specifies that supervisory authorities or resolution authorities should have powers to require the adoption of measures to improve resolvability.

- **Critical functions** are activities performed for third parties where failure would lead to the disruption of services that are vital for the functioning of the real economy and for financial stability due to the size or market share of the financial institution or group, its external and internal interconnectedness, complexity and cross-border activities.
- **Critical shared services** are activities, functions or services performed for one or more business units or legal entities of the group, performed by either an internal unit, a separate legal entity within the group or an external provider, and the failure of which would lead to the collapse of (or present a serious impediment to the performance of) critical functions.

2.3 There are two main categories of critical shared services:

- **Finance-related shared services** involve the management of financial resources of the financial institution or group related to the operation or provision of critical function(s). This includes, but is not limited to: treasury-related services, trading, asset management, cash handling, risk management and valuation.
- **Operational shared services** provide the necessary infrastructure to enable the financial institution or group to operate or provide critical function(s). This includes, but is not limited to: IT infrastructure and software-related services; personnel and human resources support, procurement and facilities management; and transaction processing. Functions such as legal and compliance are also considered as operational shared services.

2.4 It should be noted that the possible arrangements to support operational continuity set out in this guidance focus primarily on the provision of shared services that are transactional, such as IT and certain operational functions, and can be addressed by contractual terms. The arrangements identified in this guidance would not be suitable for shared services that involve risk-taking or require strategic judgements, including certain parts of treasury or risk management functions.

2.5 The FSB guidance on "Identification of Critical Functions and Critical Shared Services" sets out a process for determining critical shared services and critical functions and provides an indicative list of shared services that could be regarded as critical, subject to certain conditions being met.

2.6 Operational continuity of critical shared services should be viewed as a key part of resolution planning and resolvability for individual firms.[8] This applies irrespective of the resolution strategy and the resolution tool(s) that may be used. Similarly, the arrangements to support operational continuity discussed in Section 3 below are equally relevant irrespective of the resolution strategy that is applied, although authorities will need to consider how the arrangements might need to be adapted to

[8] The *Key Attributes* refer to the continuity of critical functions in the resolvability assessment (10.2(i), I-Annex 3) and the recovery and resolution plans (11.6(i), I-Annex 4).

facilitate separation of parts of the group in the resolution transaction or post-stabilisation restructuring (see paragraphs 4.7 and 4.8).

Operational continuity as a going concern supervisory consideration

2.7 Although this guidance assesses operational continuity in resolution, operational continuity is also a going concern supervisory consideration. In most cases, going concern operational continuity is considered in the context of a firm's resilience and business continuity planning ('BCP'); that is, its ability to recover business operations in response to incidents such as IT failures, cyber-attacks, natural disasters and geo-political disruptions.

2.8 Going concern operational continuity is also considered in the context of outsourcing, where a firm contracts with a third party for the performance of a business process. A number of jurisdictions have issued supervisory rules or expectations in relation to outsourcing, in view of the operational risk that this creates.

2.9 There are some parallels between operational continuity for resolution and operational continuity for BCP and outsourcing, even if the triggers and frameworks are different. For example, BCP typically begins with an identification of critical processes that would need to be recovered in the event of business disruption. Although this is mainly based on the firm's own assessment of what functions and shared services are critical, there is likely to be substantial correlation with those that have been identified as critical for the purposes of resolution planning. However, it cannot be assumed that the functions and services will be identical and separate analysis should be carried out for resolution purposes (see paragraphs 3.2 and 3.3 below).

2.10 There could also be tension between arrangements that support operational continuity in going concern and those that support operational continuity in resolution. For example, operating discrete IT systems in different regions or business areas could support restructuring or recovery options but, when compared to integrated firm-wide systems, may reduce efficiencies and create additional operational risk in a 'business as usual' context.

2.11 Given these possible tensions and trade-offs, actions to improve the adequacy of arrangements for operational continuity in resolution should consider any risks and/or adverse impact such actions may have on a firm as a going concern.

3. Service delivery models and resolvability

3.1 This guidance distinguishes between three different service delivery models that firms typically adopt for the provision of operational services:

(i) provision of services by a division within a regulated legal entity;

(ii) provision of services by an intra-group service company; and

(iii) provision of services by a third party service provider.

3.2 These three models are not mutually exclusive, and many firms employ a mixed service delivery model that combines different models. Resolution strategies and approaches to operational continuity will therefore have to take into account the different service models used across the group and how they interact. However, firms should also review their service delivery models from the perspective of resolvability to ensure that they are appropriate to specific shared services that will support critical functions in resolution. While the starting point of that work may be business continuity planning, additional analysis of resolution scenarios, including post-stabilisation restructuring, will also be needed.

3.3 In particular, a more granular analysis of criticality of functions is likely to be needed for the purposes of resolution than for ordinary business continuity planning so that the services that support the highest priority functions can be identified. Irrespective of the service delivery model used, a comprehensive, regularly updated mapping between critical functions, shared services and legal entities (both those providing and those receiving critical services) will also be necessary to support resolution planning and execution.

3.4 It is important to note that although each model has specific strengths and weaknesses, examples of which are set out below, they should each be of sufficient strength if appropriately designed. The most suitable model (or combination of models) for an individual firm should in particular reflect its resolution strategy as well as, amongst other considerations, its activities, organisational structure, jurisdictional law and regulatory standards.

Provision of services within a regulated legal entity

3.5 Under this model, operational services are provided 'in-house' from a regulated entity to other entities in the group, including the regulated entity itself.

3.6 In a going concern, housing operational services within a regulated entity may improve transparency, access and ease of supervision. In resolution, provided that the resolution authority has relevant powers in relation to the regulated entity, it should be able to provide for the continued provision of critical shared services.

3.7 This model may create difficulties in the legal and operational separation of critical functions and uncertainty for service recipients based outside the jurisdiction of the regulated entity in resolution. These challenges can be addressed if services provided to other entities in the group are supported by adequate contractual documentation and transparent, arm's length pricing mechanisms. The model may also need to be supported by arrangements for the retention or substitution of key staff from business lines that may be wound down or disposed of in resolution, as well as continued access to intellectual property owned by the parent or other entities outside the regulated entity.

Provision of services by an intra-group service company

3.8 Under this model, operational services are provided to different group entities from a dedicated intra-group service company.

3.9 Services from an intra-group service company tend to be provided on the basis of intra-group service level agreements ('SLAs') and a defined fee charging mechanism. The intra-group service company will also typically own the assets (including intellectual property rights) and infrastructure required to run the services, and may have dedicated governing structures and management. To the extent that service provision under such arrangements is clearly documented, this is likely to facilitate mapping of services to recipient entities and provide greater clarity about which shared services need to continue in resolution. Such arrangements may also facilitate the restructuring of business lines or legal entities within the group as part of resolution.

3.10 However, even if intra-group SLAs are well defined, authorities should still consider the potential challenges for enforceability or continued performance of services that may arise. For example, enforceability of SLAs or performance of services may be challenging if the service company is not prudentially regulated unless the resolution regime gives the resolution authority powers over unregulated entities (and the entity is subject to the jurisdiction of the authority). Similarly, an 'off-shore' service company may be located in a jurisdiction where efforts of the home resolution authority to enforce continued provision of services under the SLA may not be supported by local authorities or courts.

3.11 The model may also need to be supported by arrangements to ensure intra-group service companies have sufficient financial resources to cover their own operating costs throughout resolution.

Provision of services by a third party service provider

3.12 Under this structure, a firm outsources operational service(s) to an external service provider on a contractual basis. This could include the sub-contracting of operational services from a regulated entity or an intra-group service company.

3.13 A third party service model tends to result in the most formalised contractual arrangements, which can provide greater clarity in resolution and may also provide flexibility in terms of scaling resources and services. The more diverse client base of many third party service providers may also aid financial resilience, so that a provider's viability is less likely to be threatened by the entry into resolution of a client firm.

3.14 This structure may support restructuring of a group in resolution through divestments of legal entities or business lines, due to the flexibility it offers in the management of services and resources. However, that benefit will be diminished to the extent that the transfer of third party service agreements as part of a restructuring is restricted, and must also be balanced against the likelihood that the resolution authority has limited or

no powers over the third party service provider to help ensure operational continuity in resolution. For example, the resolution authority may not be able to prevent the service provider from modifying the terms of the contract or exercising contractual rights (including cross-default rights) to terminate the provision of services on entry into resolution of the firm. As with other models, this risk could be addressed by the use of SLAs that provide for continuity of the covered services in resolution. In any event, this risk may be low if the service provider can be reasonably confident that it will continue to be paid.

3.15 Joint venture entities that are co-owned and controlled by two or more firms represent a particular version of third party service provision. While such arrangements might bring benefits of cost efficiency during 'business as usual', they may also give rise to specific complications and risks if one of the parties to the joint venture fails or enters resolution. For example, the structure and governance of joint ventures may create challenges in determining who owns shared services assets and which business lines or legal entities those assets support. Particular attention may need to be given to planning for operational continuity in those circumstances.

4. Possible arrangements to support operational continuity

4.1 The effectiveness of a particular service model (or combination of models) in supporting operational continuity will need to be assessed on a firm-by-firm basis. That assessment would depend on the provision of accurate and detailed information[9] and would be considered in light of the resolution strategy for the firm and against the various circumstances in which the firm might plausibly enter resolution.

4.2 The firm's service model needs to provide operational continuity in the two stages of resolution:

(i) stabilisation (the point at which resolution tools are applied); and

(ii) wind-down and/or restructuring (the period in which the firm is wound down or restructured to create a viable business model, for example, by divesting or winding down legal entities or business lines).

4.3 Thought should also be given in resolution planning about how to manage the transition from 'business as usual' to the operation of a firm in resolution.

4.4 To provide operational continuity in the two stages of resolution, the following arrangements could be considered. Most or all of the arrangements should be relevant for all of the service delivery models discussed above, although the way in which they are implemented will need to be adapted to the specific model in question.

(i) **Contractual provisions -** Firms should have clearly and comprehensively documented contractual arrangements and SLAs for both intra-group and third

[9] Refer to the Annex for examples of the types of information that authorities may require.

party critical shared services which, to the greatest extent possible, remain valid and enforceable in resolution provided there is no default in payment obligations. This is discussed further under the following subsection on 'Contractual provisions'.

(ii) **Management information systems ('MIS') -** All arrangements and models should be supported by a clear taxonomy of shared services and the maintenance of up-to date mapping of services to entities, businesses and critical functions. MIS should allow for timely reporting on the provision or receipt of critical shared services on a legal entity and line of business basis, including information about ownership of assets and infrastructure; pricing; contractual rights and agreements; and outsourcing arrangements. Firms' MIS should be able to process and search this information (for example, through the use of a searchable centralised repository for the storage of service contracts).

(iii) **Financial resources -** Intra-group providers of critical shared services (including where the services are provided within regulated entities) should have sufficient financial resources to facilitate operational continuity of critical functions in resolution. Where an entity relies on third party critical shared services, the service recipient should have sufficient financial resources to ensure that the third party provider continues to be paid. In all cases, the financial resources should be sufficient to cover both the stabilisation and restructuring phases of resolution.[10] Communication with a third party service provider as regards to continued payment can help manage the risks of early termination.

(iv) **Robust pricing structures -** Cost and pricing structures for services should, to the extent permitted by tax and legislative requirements, be predictable, transparent and set on an arm's length basis with clear links, where relevant, between the original direct cost of the service and the allocated cost. The cost structure for services should not be directly or indirectly influenced by the financial performance of the service recipient. This arrangement is relevant for the provision of critical shared services through an intra-group service company (to ensure the service company is financially viable on a standalone basis) or through a regulated entity (to ensure that the documentation could form the basis of an external contract if the regulated entity is restructured in resolution).

(v) **Operational resilience and resourcing -** Critical shared services should be operationally resilient and have sufficient capacity (for example, human resources and expertise) to support the restructuring phase following the failure of a group entity or group entities. Firms and authorities should plan for the retention of key employees during the restructuring phase. In any event, critical shared services should not be unduly affected by the failure or resolution of other group entities.

(vi) **Governance -** Critical shared services should have their own governance structure and clearly defined reporting lines. Where services are provided by a division of a

[10] Recognising that the resolution entity (or resolution entities) may be 'right sized' during the restructuring phase, as parts of the business are sold or wound down.

regulated entity, for example, this could entail some element of independent management and responsibility at board level. Governance structures should ensure that provision of critical shared services is possible in resolution without relying on senior staff from certain business lines that may be wound down or that may no longer form part of the same group. The governance arrangements relating to critical shared services could be assessed by the firm's internal audit function.

(vii) **Rights of use and access -** Access to operational assets by the critical shared services provider, the serviced entities, business units and authorities should not be disrupted by the failure or resolution of any particular group entity. In some cases, this may require that operational assets essential to the provision of critical shared services are owned or leased by the same legal entity providing those critical shared services (that is, by the regulated entity or by the intra-group service company, depending on the model used). Where this is not the case, contractual provisions to ensure rights of access could be considered. Service recipients should also not be restricted from using shared assets directly where appropriate. Continued access to IT, intellectual property and operational services during the restructuring period (for example, through Transitional Service Agreements, as discussed under 'Contractual provisions' below) should be considered as part of resolution planning.

4.5 In addition, firms should consider developing and maintaining an operational continuity 'playbook' that would describe the actions and steps in order to facilitate operational continuity following the entry of the firm into resolution.

Contractual provisions

4.6 Poorly designed or inadequate SLAs may represent a significant obstacle to operational continuity in resolution, and there is a risk that intra-group and third party SLAs will be terminated upon entry of a firm into resolution without any default in payment. These obstacles and risks can be mitigated by the following measures.

(i) Services received from both third party and intra-group entities should be well documented and have clear parameters against which service provision can be measured. This should include details of the provider and recipient(s) of the service, the nature of service and its pricing structure. This should also include any onward provision to other entities or sub-contracting to third party providers. For services provided by a division of a regulated entity, SLAs should be sufficiently granular to allow them to form the basis of effective Transitional Service Agreements to facilitate post resolution restructuring that may be required.

(ii) The terms of SLA service provision and pricing should not alter solely as a result of the entry into resolution of a party to the contract (or affiliate of a party). The resolution authority should be able to maintain the service contract on the same terms and conditions that were imposed prior to resolution for intra-group service contracts and, to the extent permitted under applicable law, third party service contracts.

(iii) SLAs should explicitly contemplate that services may be transferred or assigned in resolution. As long as payments and other obligations continue to be met, the service provider should not have a right of termination by reason of any such assignment or transfer.

(iv) SLAs designed to provide service to a "group" should have clauses that as far as possible allow for the continued use of such products or receipt of such services by (former) group entities for a reasonable period of time following a divestment resulting from a resolution, in order to support group restructuring.

(v) SLAs should include explicit provisions that exclude early intervention, resolution and cross-default events as grounds for termination or contractual modification (provided that the service provider continues to be paid).

Resolution strategies and post-stabilisation restructuring

4.7 A service model that facilitates business separability and restructuring will be particularly important for resolution strategies that involve the transfer of part of the business or a separation of legal entities at the point of resolution.

4.8 Any service model (or combination of models) used by a firm will need to support business separability and restructuring, even if the firm's resolution strategy aims to keep the group largely intact. Even in the execution of an SPE strategy, it cannot be assumed that the structure and business operations of the firm will remain unchanged: restructuring is likely to be necessary to address the problem(s) that caused the firm to enter resolution, and non-material entities may not be preserved. Options for divestment should be contemplated under any resolution strategy, and this should be taken into account in planning for operational continuity. Moreover, the actual resolution will depend on the circumstances of the failure (even if authorities have developed preferred resolution strategies).

Cross-border provision of shared services

4.9 Ensuring operational continuity may be more difficult when services are provided by an entity outside of the jurisdiction of the resolution authority (or resolution authorities). There may be particular challenges in securing operational continuity with respect to foreign law governed arrangements and interacting with official sector counterparts in the jurisdiction of the service provider, where the entity in question may not be prudentially regulated. These challenges are outside the scope of this work and the guidance does not seek to directly address them.

4.10 Finally, in order to support cross-border cooperation in the execution of a resolution strategy, home authorities should as far as possible provide host authorities with reasonable comfort that in-house or intra-group service providers have sufficient financial resilience and appropriate governance arrangements, and will continue to provide critical shared services that support critical functions in the host jurisdiction. This may be particularly pertinent, for example, where critical shared services are provided to local subsidiaries from a branch in the host jurisdiction.

Annex: Information requirements to facilitate operational continuity

This Annex provides guidance with respect to information that should be available to support firms and resolution authorities in their assessment of operational continuity in resolution. The types and categories of information listed below are not comprehensive and resolution authorities will need to adapt the information requirements to the specific service delivery model(s) employed by the firm, as each model (or combination of models) is likely to present its own challenges.

The general effectiveness of operational continuity planning is increased if the following conditions are met.

- **Accessibility:** the firm should have adequate MIS to allow timely access to complete and accurate information. Examples of these systems include but are not limited to: searchable centralised repositories for inter-affiliate and vendor service contracts, software application catalogues, human resource databases and agreement repositories related to systems, facilities and intellectual property.
- **Mapping:** firms should identify legal entities and business lines or divisions that perform critical functions and the critical shared services they receive. There should be a clear mapping between critical shared service providers and recipients. This mapping should include relevant details such as the jurisdiction of each party; description of the service; and which of the service delivery models (as described above in Section 3) is being used. This mapping should also include services provided between critical shared service providers, if relevant (e.g. an intra-group service company sub-contracting with a third party service provider).

The types and categories of information required apply to both SPE and MPE resolution strategies. In addition, the information required will be relevant to both the stabilisation and restructuring phases of resolution.

1. Information requirements: Staff required for the provision of critical shared services

a) Identification of staff (full time equivalents ('FTEs'), contract employees, other) required for each critical service, distinguishing between FTEs dedicated to support critical functions and FTEs delivering group-wide services;

b) The firm's processes and procedures for identifying key personnel;

c) The firm's processes, procedures and experience in employee crisis communication;

d) The firm's processes, procedures and compensation measures for retaining critical employees;

e) Identification of the regulated entity that employs staff that provide critical shared services. Where the regulated entity is outside of the resolution group, information requirements will be similar to Annex Section 3 below for the SLAs that govern the provision of service; and

f) The firm's existing planning and contingency options for the unavailability of critical employees (e.g., ability to outsource). Such planning may already exist in business continuity plans or other documented processes.

2. Information requirements: Operational, legal and governance structure of critical shared services

2.1. A description of the operational, legal and governance structure of the service provider including, but not limited to:

a) Jurisdiction(s) where services are centralised;

b) Contracts governing the provision of services (see Annex Section 3 below for details), with additional information to cover as appropriate:

i) description of pricing policies governing provision of services;

ii) audit reports demonstrating adherence to pricing policies; and

c) Inventory, including location, of all operational assets (e.g., physical assets) necessary to deliver services.

2.2. For provision of services by an intra-group service company, analysis of actual and stressed financial condition of the service company(s) with a view to assessing the ability to continue providing services through resolution, along with supplemental information including, but not limited to:

a) Audited balance sheets, income statements and statement of cash flows;

b) Projected liquidity, capital, working capital and cash flows of the service company through conservatively estimated severe stress conditions, including the failure and entry into resolution of one or more group entities to which intra-group services are provided; and

c) Description of reserves including instruments, amounts, currencies, account information, custody arrangements, etc.

3. Information requirements: Contractual arrangements

3.1. Legal review of the terms and conditions of the contracts governing service provision should be conducted to assess the risks to service interruption. Types of contracts include: contracts for service, software license agreements, SLAs with affiliates, and property and equipment leases. Examples of information requirements to assess the risk to, and to facilitate, the continuity of critical functions include, but are not limited to:

a) Provider and the contracting entity in the group (distinguish between group-wide contracts and single legal entity contracts);

b) Description of the service;

c) Jurisdiction of service provision and law governing dispute resolution;

d) Contract amount, guarantees, expiry date, termination rights, assignment clauses, change of control provisions, events of default, cure periods, material adverse change clauses;

e) Description of arrangements to allow for services to be extended to acquirer(s) of the failed entity(s);

f) Authorised users under software licenses;

g) Software support arrangements (outsourced vs. internal); and

h) Retention clauses and employment terms for critical staff.

3.2. The firm should have a method for determining the relative priority of contracts in order to facilitate a risk adjusted approach. Factors affecting the priority of a contract may include:

a) Delivery of a critical shared service would be jeopardised if the service provider's service were unavailable;

b) Ability and time required to replace the service provider (i.e., substitutability); and

c) Jurisdiction of the service provider.

3.3. A description of the governance framework along with the roles and responsibilities for each division that manages service provision arrangements. Supplier risk management frameworks can be leveraged in resolution to facilitate the continuity of service provision and manage service disruptions should they occur.