FSB FINANCIAL STABILITY BOARD

25 April 2024

Financial Resources and Tools for Central Counterparty Resolution

Summary of responses to the consultation

This note presents a summary of the comments received to the FSB consultation report on Financial Resources and Tools for Central Counterparty (CCP) Resolution and the changes made to the report in response to those comments. The changes made are based on an in-depth analysis of the responses and the feedback from the public outreach event held by the FSB on 8 November 2023.

Twelve responses to the public consultation were received, one of which was confidential. The large majority of responses came from CCPs and their associations mainly in the United States and Europe.

The **main feedback** is:

- Most respondents agreed that the four parameters (Parameter A – provides sufficient loss absorption and liquidity for a successful resolution in a default loss (DL) and non-default loss (NDL) scenario, Parameter B – is reliable and readily available in resolution, Parameter C – mitigates potential adverse effects on financial stability, Parameter D – maintains incentives aligned across recovery and resolution while achieving outcomes consistent with the Key Attributes for of Effective Resolution Regimes for Financial Institutions (KAs) and preserving incentives for central clearing) are sufficient to comprehensively support the objectives of CCP resolution, with varying views on the weight to give to one or the other.
- Most respondents considered that most of the proposed resources and tools are appropriate. Most respondents representing CCPs proposed removing bail-in bonds and resolution funds, while most respondents representing clearing members recommended keeping them; others proposed adding partial tear-up, sale of business and bridge CCP. Respondents representing clearing members suggested better highlighting limitations of resolution cash calls and variation margin gains haircutting (VMGH).
- Most respondents supported the view that the key costs and benefits of each resource and tool had generally been identified. However, some suggested to differentiate between DL and NDL scenarios for each resource and tool, to make clear that VMGH should be compatible with contractual netting provisions as “qualifying master netting agreements”. Some recommended discussing more specifically the standard in the context of the FSB 2020 Guidance on Financial Resources to Support CCP Resolution and on the Treatment of CCP Equity in Resolution beyond equity write-off.
- Most respondents welcomed the flexibility of the proposed toolbox approach, which addresses the need for jurisdictional flexibility in implementing resolution resources and tools and the need for a tailored approach that considers the unique characteristics of each CCP and market.
- Some respondents however questioned whether the proposed toolbox approach would provide sufficient guidance to resolution authorities (RAs) to both meet the four parameters and provide sufficient certainty and predictability to market participants.

- Some respondents representing CCPs and clearing members recommended considering the transition from recovery to resolution as a continuum and ensuring that both recovery and resolution frameworks and authorities are well coordinated. Some respondents representing clearing members also suggested follow-up work by the FSB, with CPMI-IOSCO, on a holistic approach to resources available across recovery and resolution.
- More specifically, some were concerned about potential early intervention and about the usage of CCP recovery tools by resolution authorities. Respondents had different views on the optimal timing and approach for resolution authority involvement.
- Some respondents representing CCPs criticised the lack of quantitative analysis that would justify the need for additional resources and tools.
- Many respondents suggested that the report should outline methods for determining the quantum and the calibration of resolution-specific resources and tools, taking into account the resolution authority's powers and the specificities of the CCPs in each jurisdiction.
- Most commenters agreed on the need for clear and transparent communication on each jurisdiction's approach to resource and tool selection and calibration. Market participants considered a high degree of transparency essential to managing their risks effectively.
- The few comments received on the scope of application of the standard indicated a preference for an application of the standard to all systemically important CCPs.

1. Introduction

On 19 September 2023, the FSB published a consultation report on Financial Resources and Tools for Central Counterparty Resolution (the report), with a comment period that closed on 20 November 2023.

This note summarises the views and preferences expressed by the responses to the consultation, independently of whether they were incorporated in the final report or not. At the end of each section, information is provided on whether and how the report was amended in light of the comments.

The consultation report proposed a toolbox approach as a global standard that RAs can access to meet the resolution objectives. The resolution toolbox comprises a) a set of resolution-specific resources and tools available for resolution and b) if available, financial resources from access to non-exhausted recovery tools.

The FSB received 12 (including one confidential) responses to the consultation. They included three responses from associations representing CCPs, five responses from individual CCPs, two responses from associations supporting clearing members and clients, as well as a response from an independent consultant and one from a regulatory authority. All non-confidential responses are available on the FSB website.

The main takeaways from the public outreach event are incorporated in the summary of the feedback received in Section 2.

2. Summary of feedback received

2.1. Objectives for CCP resolution resources and tools (Section 2, Q1-2)

Comments received on whether the four parameters for resolution-specific resources and tools are sufficient to comprehensively support the objectives for CCP resolution (Q1)

Most respondents agreed with the proposed parameters. However, the responses indicated differing views on the emphasis and prioritisation of these parameters.

Most respondents representing CCPs suggested a greater emphasis on parameters C (financial stability) and D (preserving incentives for central clearing). They argued that these parameters are particularly relevant in the CCP resolution process and should receive a larger weighting compared to others. This view aligns with the concern raised by another respondent, who views the focus of the proposed parameters as leaning too much towards orderly resolution at the expense of preserving market participants' incentives for recovery and central clearing (parameter D).

The need for CCP-specific tools, particularly for NDL scenarios, was highlighted by a few respondents representing CCPs, emphasising the distinct nature of CCPs compared to banks.

The importance of flexibility and adaptability in applying these parameters in both DL and NDL scenarios was underscored by a few respondents representing CCPs (parameter A). They advocated for scenario-specific applications of the parameters to effectively manage CCP resolutions.

Respondents representing clearing members and clients emphasised the need to allocate losses to the responsible parties by ensuring that CCP equity remains in a first-loss position and not allocating losses arising from CCPs' failed risk management to non-defaulting customers (parameter D).

Comments received on whether any other parameters should be considered (Q2)

Overall, there was a broad consensus on the sufficiency of the existing parameters. Some respondents advocated for additional considerations or refinements, aiming to ensure that the resolution framework effectively addresses the specificities of CCP operations and their impact on diverse stakeholders.

Several respondents representing CCPs stated that no further parameters are needed, emphasising the adequacy of the existing framework.

One respondent representing CCPs suggested enhancing parameter D to include interaction between recovery and resolution tools, advocating for an integrated approach that would ensure resolution tools complement rather than conflict with recovery tools.

One respondent representing CCPs suggested expanding the definition of Parameter C (Mitigating potential adverse effect on financial stability) and considering it not only from the

perspective of a resolution situation but from the perspective of the incentives for clearing members to continue clearing centrally, hence for CCPs to provide financial stability benefits. This respondent also underlined the significance of considering CCP ownership structure and the need for coordination between resolution and supervisory authorities.

Respondents representing clearing members and clients advocated for an allocation model based on responsibility for the risks that led to the resolution event, to maintain proper incentives and prevent moral hazard. In light of this, one of these respondents specifically proposed the addition of a parameter focused on the impact on non-defaulting customers, highlighting the necessity to protect these customers in resolution scenarios.

Changes to the report in response to comments

Most respondents agreed that the four parameters for resolution specific resources and tools are sufficient to comprehensively support the objectives of CCP resolution. No respondent suggested removing any of the proposed parameters.

The few proposals to add new parameters were not incorporated, as these were seen either as secondary to the four proposed parameters, or lacking neutrality or specificity. The notion of interaction between recovery and resolution tools is broader and could be dealt with separately.

While some respondents suggested prioritising one or more parameters, the proposals were largely incompatible and would not have balanced the divergent views of stakeholders. The proposed changes in the definition of parameter D were not incorporated as these would have altered the intended meaning of the parameter.

In light of the above, no changes have been made to the report in response to the comments received regarding Q1 and Q2.

2.2. Scope of analysis on resolution resources and tools (Section 3 Q3-4)

Comments received on whether the resource and tool descriptions are appropriate and clear in order to underpin the remaining analysis in the consultation report (Q3)

Respondents offered different perspectives on the appropriateness of the resource and tool descriptions for supporting the subsequent analysis in the report.

Respondents representing CCPs expressed concerns about specific proposed tools, such as resolution funds and bail-in bonds, questioning their practicality and potential impacts on incentive structures and clearing costs.

One respondent representing CCPs highlighted the need for international guidance to be consistent with existing EU regulations to avoid misalignments and competitive disparities.

Some respondents representing clearing members underscored the necessity for more clear and detailed tool descriptions to understand their limitations and implications fully.

One respondent representing CCPs found the qualitative assessment of the tools largely complete, subject to specific reservations on individual tools Another respondent representing CCPs questioned the lack of supporting data and analysis in the proposal, arguing against the need for additional resolution resources and tools. Two further respondents representing CCPs questioned the necessity for additional resolution resources or tools, pointing out that the FSB's report recognises the need for proper quantification but lacks data and analysis to justify the need for such resolution and tools.

Comments received on whether other resolution-specific resources or tools should be considered or removed from consideration (Q4)

Most respondents considered that most of the proposed resources and tools are appropriate. While some raised diverse viewpoints on the consideration of other resolution-specific resources and tools, with some removal and addition proposals, no consensus was found among respondents to add or remove any specific resource or tool.

Some respondents representing CCPs proposed the inclusion of partial tear-ups in the resolution toolbox, citing previous FSB publications and the alignment with CCP resolution objectives. Conversely, some respondents representing clearing members welcomed the absence of partial tear-ups in the resolution toolbox as a loss allocation tool although acknowledged that resolution authorities may need the tool to restore a CCP to a matched book.

Other tools proposed by a few respondents representing CCPs included sale of business and bridge CCP tools.

One respondent representing CCPs suggested referencing the potential for CCPs' access to central bank facilities as a last resort tool.

Two respondents representing CCPs asserted that existing post-GFC reforms were sufficient, suggesting no need for additional resources or tools.

Most respondents representing CCPs proposed removing bail-in bonds or resolution funds or both from consideration, arguing these tools are unsuitable for CCPs and could negatively impact their business models and risk management.

One respondent expressed concerns about including VMGH, considering it inconsistent with the FSB's consultation report parameters and potentially harmful to non-defaulting customers. Some respondents representing clearing members recommended distinguishing between insurance mechanisms and intra-group financial support due to their differing applicability in various scenarios.

Another respondent highlighted the importance of considering the availability of wind-down tools, alongside recovery tools, in the resolution toolbox.

Changes to the report in response to comments

In relation to the comments received on the description of resources and tools, no additional tools were included in the report but it was amended:

- To clarify that the focus is on financial resources and tools that can absorb losses, support recapitalisation or provide liquidity in resolution. There are other resolution tools that serve other objectives and are therefore not included in the report.[1] Resolution authorities have the flexibility to select their own financial resources and tools for their own toolbox. They continue to have the full scope of resolution strategies and tools to effectuate a successful resolution, including but not limited to the toolbox for financial resources and tools for CCP resolution.

- To incorporate the specific changes proposed on resource and tool descriptions, to the extent they are not already within the text, that would help better describe the limitations and implications of specific resources and tools;[2]

- To clearly distinguish between insurance and third-party support and, within the latter, between intra-group and other third-party support.

Access to central bank liquidity was not added to the analysis of resolution resources and tools, as this option is relevant to viable CCPs only and is outside the scope of this analysis. Bail-in bonds or resolution funds are financial resources and tools which can absorb losses, recapitalise or provide liquidity in resolution, hence they were not removed from the analysis. A sale of business or product lines could support recovery or wind-down and is also applicable for exit from resolution, but it does not represent a resolution-specific financial resource or tool with the capacity for loss absorption, recapitalisation or provision of liquidity, so it was not included in the analysis. A bridge CCP is an approach available to RAs in a number of jurisdictions, but it is a transfer mechanism and not a financial resource, so it was not within the scope of the analysis. Partial tear-up (PTU) can be an effective way to return a CCP to a matched book in recovery and could be available to the RA, but it should not be used to allocate losses.[3]

2.3. Qualitative analysis (Section 4, Q5-8)

Comments received on whether descriptions of the dimensions are sufficient and other dimensions that should be considered? (Q5)

Most respondents agreed with the proposed dimensions.

Several respondents representing CCPs considered the dimensions clear and sufficient.

A respondent representing CCPs suggested adding the dimension of "Reusability" under the parameter B "Be reliable and readily available in resolution". Some other respondents representing clearing members suggested that the definition of dimension 1 "purpose and usability" could be aligned more clearly with the definition of the 2017 guidance.[4]

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1 FSB (2024), *Key Attributes of Effective Resolution Regimes for Financial Institutions*, April

2 Limitations were mainly mentioned regarding the use of bail-in bonds and resolution funds, as well as VMGH. Without strong safeguards, VMGH could easily lead to financial stability issues; the use of cash calls or VMGH, ahead of using equity or third-party support, could lead to legal NCWO challenges.

3 See FSB (2017), *Guidance on Central Counterparty Resolution and Resolution Planning*, July.

4 Address uncovered losses, replenish resources, meet costs associated with maintaining and operating critical functions, and meet temporary liquidity needs.

One respondent representing CCPs suggested that the standard differentiates DL and NDL scenarios and clarifies for which type of loss scenario (DL, NDL) particular resources and tools are suited.

Comments received on whether the key costs and benefits have been appropriately identified for each resolution-specific resource or tool discussed in the report and whether there are additional cost/benefit factors that should be considered (Q6)

Respondents agreed that the key costs and benefits had generally been identified but specific remarks were made on certain resources and their use by the RA. Particularly, the use of equity should be better aligned to the FSB 2020 Guidance and the use of VMGH should consider compatibility with contractual agreements on central clearing.

Some respondents representing clearing members made the comment that, for all tools, the cost of resolution would be borne ultimately by clearing participants and that a better distribution of this cost would incentivise CCPs to manage their risks better. In their view, CCPs should initially pay the cost, in the form of pre-funded resources, such as additional equity or a layer of bail-in bonds. Additionally, the report should clarify that no resolution tools (especially VMGH) should put netting provisions in question as, in such case, clearing could become overly expensive or impossible. Several respondents agreed that a distinction in the analysis of tools between DL and NDL scenarios should be made. Other respondents representing CCPs suggested that financial resources would already be calibrated to balance mutualised loss absorption against the cost that would be imposed to clearing members and that holding resolution-specific resources would impact the cost of clearing, hurt incentives for central clearing and ultimately impact financial stability. Some respondents representing CCPs suggested that holding resolution-specific resources could incentivise resolution over recovery.

On CCP equity / equity write-down, some respondents representing clearing members considered that CCP equity levels were too low and that equity requirements across recovery and resolution should be right-sized by standard setters to incentivise risk management at CCPs. Skin-in-the-game (SITG), especially the first tranche, is too small in their view, especially compared to CCPs' yearly profits. For DLs, SITG could be divided into two tranches, with a tranche of pre-funded mutualised resources in the middle. For NDLs, equity, as a whole, should withstand losses in plausible scenarios. They noted the CPMI-IOSCO report of August 2023 on CCPs' practices to address NDLs as well as PFMI 15 KC 3 that states that an FMI should maintain a viable recovery and orderly wind-down plan and should hold sufficient liquid net assets funded by equity to implement this plan. RAs should have an explicit power to write off equity under certain safeguards (such as maintaining critical services) and a reference could be made to the FSB 2020 Guidance that offers various mechanisms for adjusting equity in resolution.

One respondent representing CCPs argued that potential equity write-down would disincentivise clearing members from actively participating in the recovery process. Another respondent representing CCPs asked for the differentiation of equity requirements between member-owned CCPs and publicly traded CCPs. They noted that member-owned CCPs would already be incentivised to recapitalise the failed CCP or capitalise a bridge entity.

On bail-in bonds, some respondents representing clearing members asserted that bail-in bonds would be useful only to absorb losses and recapitalise, while another respondent representing CCPs asked to revise the description because bail-in bonds would provide debt-financing and liquidity in recovery, but only loss-absorption in resolution. These respondents also asserted that the use of bail-in bonds could be linked to the level of equity or temporary liquidity required to maintain critical functions, and if so, a requirement should be made that the proceeds are held in liquid assets.

Several respondents argued that, if owned by a third-party, bail-in bonds could create incentive trade-offs (parameter D), however, funding by intra-group entities of a CCP owner would not. Respondents suggested that, based on their loss-absorption purpose, bail-in bonds should be sized in consideration of loss-absorbing equity. Those respondents argued that bail-in bonds would likely be triggered in volatile markets, thus impacting financial stability, especially if contagion could be transmitted to the bondholders (parameter C). Some respondents representing clearing members argued that bail-in bonds could be deployed just after equity and triggered before any loss is allocated to market participants. Ideally, these respondents believed bail-in bonds should be owned by intra-group entities if intended for recapitalisation, to avoid disrupting existing governance and incentives.

On resolution fund, one respondent asked for additional clarity on the source of contributions, as such contributions would be a significant cost factor and may not be easily calibrated. Some respondents representing clearing members argued that the issue of contributions should be raised, as it would be closely linked to the definition of the fund's purpose, calibration and incentives. They argued that CCP equity should be written-off before the resolution fund is used and that, to align incentives, a funding model in which the CCPs contribute should be preferred. Several respondents agreed that a resolution fund would be highly challenging to structure, govern, and administer.

Two respondents representing CCPs argued that both instruments (bail-in bonds and resolution fund) would not be effective as resolution tools for CCPs, in particular for member-owned CCPs, since in resolution losses would already be allocated to the owners. They would also raise clearing costs, thus disincentivising central clearing and ultimately financial stability.

On third-party contractual support and resolution-specific insurance, respondents representing CCPs shared diverse views on the assessment of their performance, one supporting the report view that performance could be low in resolution, another that it could be higher than described. The latter further argued that in recovery, the timely availability of these tools would be challenging. However, the performance of these tools in resolution should be good and effectively help absorb losses, assuming contracts are well monitored and have strong counterparties. Some respondents representing clearing members insisted that insurance claims should be deployed early after entry into resolution, for the RA to have a clear picture of available resolution resources and remaining shortfall once all pre-funded resources have been used. In their view, insurance could be used to absorb losses, would be particularly suitable in NDL scenarios, and should not be used for recapitalisation or provision of temporary liquidity.

On cash calls, one respondent representing CCPs argued that it would be rule-based, predictable, and proportionate to member volume, hence the best tool. However, they believed strong coordination between the supervisory and resolution authorities would be required to use it effectively. Another respondent representing CCPs warned against disincentivising small

members to centrally clear. Some respondents representing clearing members disagreed with the use of cash calls in NDL scenarios and argued that they should be used in DL scenarios only, especially as cash calls would be calibrated based on the default fund required for member default and not on operational risks or NDL. They believed using it as a resolution tool in NDL scenarios would be inconsistent with the recovery phase under NDL scenarios in which the default fund remains untapped and would therefore create high no-creditor-worse-off (NCWO) claims for clearing members. They also disagreed with the ability to determine the obligation in advance, as this would depend on the impact on clearing members, and financial stability consequences would depend on the specific circumstances. In any case, such cash calls should in their view be a low multiple of the default fund across both recovery and resolution and clearing members should be consulted in the design phase. If a cap were to be set ex-ante, it should take into account cash calls that can be used in recovery. To avoid disrupting incentives, compensation for cash calls should be mandatory. If used for recapitalisation, it should be after equity write-off and result in a change in CCP ownership.

On VMGH, one respondent representing CCPs asked to mention that such tool would only be suitable for CCPs clearing long-term financial exposures. Another respondent representing clients asked to provide guidance on its severity and its proposed usage, indicating that its use in resolution should be narrowly defined and it should be used only after other tools are exhausted. In its view, RAs should be guided to treat this instrument as a financing resource, explicitly requiring compensation to non-defaulting customers, the cost of which should be factored in when replenishing financial resources to bring the CCP back to viability. Its use should be subject to pre-determined caps and RAs should use it in a non-discriminatory and transparent manner. One respondent representing CCPs indicated that, if defined as a resolution tool, VMGH may incentivise participants to reposition their portfolios, thus reducing recovery resources. Some respondents representing clearing members argued that VMGH should be used in DL scenarios only. In their opinion, as an involuntarily funded resource, VMGH should be for last resort use to absorb losses after all other pre-funded and committed resources have been used and with adequate safeguards on amount and time. A compensation should be mandatory, as for cash calls. A preferred use should be for temporary liquidity. In any case, the compatibility with “qualifying master netting agreements” and regulatory capital treatment should be verified.

Comments received on whether section 4.3 on the Implications of different compositions of resources and tools adequately captures the relevant considerations or whether other factors should be considered (Q7)

Most respondents agreed on the need to differentiate the analysis in DL and NDL scenarios and to specify more clearly the purpose of each resource.

Some respondents representing both clearing members and CCPs agreed that DL and NDL scenarios should be differentiated in the analysis. In DL scenarios, the default waterfall in recovery would be designed to avoid resolution by fully allocating losses, primarily to non-defaulting clearing members. In NDL scenarios, they suggested the different sources of risk would call for resources and tools to address the specific circumstances, taking into account probability and scale of risk. Some respondents suggested that the analysis would be more helpful if it covered for each resource or tool the purpose, whether it is intended to absorb losses, fund critical functions, meet temporary liquidity needs or support recapitalisation.

Another respondent representing CCPs suggested to treat member-owned CCPs separately from publicly traded CCPs as a number of loss-absorption obligations in resolution would already be embedded in the ownership model.

Comments received on whether the analysis by parameter and dimension provide sufficient clarity around how resources and tools may or may not contribute to a resolution toolbox such that the toolbox, in aggregate, would meet the parameters and dimensions (Q8)

A few respondents representing CCPs disagreed with the FSB's conclusion that all of the parameters are essential to assessing the sufficiency of the resolution toolbox, and would instead prioritise parameters C and D.

Some respondents representing clearing members suggested placing the toolbox analysis in the context of broader resolution strategy development and analysis, referring to the FSB 2020 Guidance and its 5-step approach, that supports RAs in the assessment of the adequacy of resolution resources.

Some respondents representing both clearing members and CCPs argued that the flexibility afforded by the toolbox approach would not provide sufficient predictability and transparency for market participants as to how the resolution objectives would be achieved for a given CCP. Some respondents representing clearing members argued that, in the absence of a quantum of resources available for resolution, the question of whether a toolbox would meet the resolution objectives would be only partly answered. One respondent representing CCPs noted that in the absence of a quantitative impact analysis, jurisdictions would lack the foundation on which to base their decision to adopt their framework.

Some respondents representing clearing members suggested that, as a follow-up, the FSB and CPMI-IOSCO work on a holistic approach to resources available across the recovery and resolution continuum, as well as the treatment of CCP equity to ensure NCWO challenges are addressed.

Changes to the report in response to comments on the qualitative analysis

In relation to the comments received on the sufficiency of considered dimensions (Q5), no change to the report was made.

The dimension 4 "impact on financial stability" is meant to refer to the time of resolution. The proposed new dimension of "reusability" under parameter B "be reliable and readily available in resolution" would not be useful, as even after differentiating resources in "reusable" and "not reusable" resources, a resource qualified as "reusable" may not "be reliable and readily available in resolution". The proposed differentiation of DL and NDL scenarios is discussed below.

In relation to the comments received on whether the key costs and benefits have been appropriately identified for each resolution-specific resource or tool (Q6), the report was amended as follows:

- To underline that a resolution framework should not aim at promoting resolution over recovery, but rather provide further resilience to the system in the event that the CCP's recovery arrangements prove inadequate, or where their use might threaten financial stability.

- To discuss (in section 4.3, in the description of the Purpose Dimension) whether each resource and tool is suitable in DL and NDL scenarios and specify the purpose of each resource and tool, such as absorb losses, meet temporary liquidity needs or support recapitalisation.

- On Bail-in Bonds, to add a footnote to clarify that, depending on whether or not proceeds are accessible only in resolution or not, bail-in bonds may or may not provide additional fresh liquidity to an entity upon its entry into resolution.

- On Resolution-specific insurance and third-party contractual support, to add that performance (Parameter B) highly depends on the clarity of contract provisions, and the strength of the insurer / third-party.

- On Cash calls, to add that resolution cash calls should be sized so that they remain measurable, manageable and predictable so that clearing members are adequately prepared to meet the additional cash calls when used.

- On VMGH, to add that the design of the tool and its use should be compatible with contractual netting provisions as "qualifying master netting agreements" for their regulatory capital treatment.

- On Equity, to add a reference to the FSB 2020 Guidance noting the mechanisms for adjusting the treatment of equity in resolution but that the form analysed for the purposes of the toolbox is full or partial write-down of CCP equity.

All respondents agreed and the report already noted that all resolution-specific resources and tools may entail costs.

In relation to the comments received on the implications of different compositions of resources and tools and whether other factors should be considered (Q7), no further change to the report beyond the already mentioned differentiation between DL and NDL under section 4.3 was made.

A differentiation between member-owned or listed CCPs was not made, as it is an example of CCP-specific characteristics that home authorities will consider when applying the toolbox approach.

In relation to the comments received on whether the analysis by parameter and dimension provides sufficient clarity around how resources and tools may or may not contribute to a resolution toolbox such that the toolbox, in aggregate, would meet the parameters and dimensions (Q8), the report was amended:

- To clarify how the standard fits with the FSB 2020 Guidance and the 5-Step approach, so authorities are clear when they proceed with their toolbox analysis.

- To incorporate a few specific comments received on resource and tool descriptions (see above) that would help better explain their limitations and implications.

It is acknowledged that the question around a specific quantum of resources available in resolution is not addressed in the analysis. Such analysis should be made by the RA.

2.4. Framework for resolution resources and tools (Section 5, Q9-14)

Comments received on whether the toolbox approach and standard described is a clear and effective means to support resolution objectives while providing flexibility to jurisdictions and resolution authorities (Q9)

All respondents welcomed the large degree of flexibility of the toolbox approach. Some expressed concerns that the guidance should go further to provide more certainty and predictability to market participants.

Most respondents representing CCPs welcomed the flexibility of the toolbox approach, which allows the jurisdictions to customise within a standardised framework. One respondent representing CCPs recommended that, if the FSB would decide to move ahead with a standard relating to resolution-specific resources, it should ensure that the design is suitable for systemically important CCPs, providing sufficient flexibility to the authorities overseeing them. In that regard, some respondents representing CCPs signalled that consideration should be given to existing resolution systems in place. One respondent representing CCPs suggested that the toolbox should be viewed as a reference, without being binding to any particular application.

However, some respondents representing clearing members and clients expressed concerns whether the toolbox would provide sufficient clarity for market participants and advocated for more guidance to help them better understand how RAs would evaluate the availability and the potential use of resources. Currently, some authorities could decide to use cash calls and VMGH simply for reasons of ease and speed. Not considering the question of the calibration of resources and tools would not provide much in terms of transparency or predictability. One respondent suggested that regulators should find a balance between transparency and flexibility that (i) provides market participants certainty and predictability on the steps that would be taken to resolve a CCP and (ii) allows RAs flexibility to deviate from a resolution plan if doing so would improve substantially the outcome of the resolution proceeding.

Comments received on whether the toolbox approach is an effective means to achieve each of the four parameters (Loss absorption, Reliability and availability, Mitigation of financial stability impact, Alignment of incentives across recovery and resolution) (Q10)

Most respondents agreed that the four parameters are sufficient to comprehensively support the objectives of CCP resolution, that the proposed resources and tools are appropriate, and that the key costs and benefits of each resource and tool had generally been identified. Most respondents also welcomed the flexibility of the proposed toolbox approach, though some respondents wanted the standard for the toolbox to more prescriptively guide RAs such that market participants would have increased certainty and predictability.

Some respondents reiterated the need to distinguish between DL and NDL scenarios in the design of the toolbox and argued that a more holistic approach across recovery and resolution was necessary to be able to ensure that the resolution objectives are met.

Some respondents representing CCPs reiterated that a distinction between DLs and NDLs was required due to the differences between such scenarios, but also that consideration should be given to operational risks that could be triggers for DL and NDL scenarios. In that regard, they believed a reference to ongoing FSB work on operational resilience would be appropriate along with a clear definition of extreme but plausible scenarios.

Some respondents representing clearing members argued that a toolbox comprising of (i) a set of resolution-specific resources and (ii) if available, resources from access to non-exhausted recovery tools in itself would not be sufficient to ensure that the resolution objectives are met. Therefore, the FSB should consider working on a more holistic approach across the recovery and resolution continuum, rather than in isolation, to avoid a situation where RAs could be prompted to trigger entry into resolution too early to make use of non-exhausted recovery resources. Such a holistic approach would provide the opportunity to right-size equity and make it a credible tool for loss-absorption across recovery and resolution. Additionally, these respondents argued that in the case of recapitalisation, the new ownership of the CCP should be defined as a function of the total of resources provided to absorb losses and fund the running of critical functions, instead of the resources provided for the mere purpose of recapitalisation, once losses have been absorbed.

One representing CCPs argued that the FSB March 2022 report would make clear that further resources or tools for CCP resolution would not be necessary.

Comments received on whether the standard should specify potential approaches for calibrating the quantum of one or more resolution-specific resources and tools to support resolution (Q11)

Most respondents agreed with a global alignment based on a flexible standard, and as consistent with existing frameworks as possible. Whereas diverse views exist on how the quantum of one of more resolution-resources should be calibrated, respondents supported the need for further work on calibration and transparency of calibration approaches.

Several respondents representing CCPs advocated for global alignment with the EU framework established by the Central Counterparty Recovery and Resolution Regulation (CCP RRR). They claimed that harmonising the calibration of resolution-specific resources and tools with the EU framework would enhance consistency and facilitate efficient resolution planning across multiple jurisdictions. While they recognise the need for some regional flexibility, these respondents argued for a harmonised approach to promote regulatory certainty and support the resilience and stability of CCPs in a global context.

Another respondent representing CCPs supported the FSB's approach of not prescribing a specified quantum of resources in resolution, but called for more information on the methodology and substance of the calibration approach. They sought clarity on cost, regulatory disclosure, alignment with governance and capital structure, and how RAs would communicate their approach to CCPs.

One respondent representing clearing members encouraged further quantitative work to determine appropriate calibrations of resolution resources and tools and stressed the importance of transparency in their use and calibration.

Some respondents representing clearing members expressed a desire for clearer standards regarding right-sizing of CCP equity and complementary layers of Bail-in Bonds, suggesting a more prescriptive approach could reduce the likelihood of entering into resolution and enhance predictability around the availability of resources.

Comments received on whether the standard should include transparency into jurisdictions' approaches to calibrating one or more of the resolution-specific resources and tools in the toolbox (such as a function or multiple of the default fund)? (Q12)

There was a general agreement among respondents on the importance of including transparency in jurisdictions' approaches within the standard. Responses generally focused on potential means for jurisdictions to achieve transparency around calibration, and trade-offs of different approaches.

Two respondents representing CCPs, while supporting the inclusion of transparency in the standard for resolution resources and tools, stressed that different tools and resources serve different objectives and should not be used as multipliers.

Another respondent representing clearing members emphasised that transparency in resolution plans is crucial for clearing members and end-user customers. They advocated for clarity regarding the likely steps a RA would take in various scenarios, the resources and tools expected to be used at each step, and their calibration. They also noted a tension between promoting transparency and providing RAs with adequate flexibility. They suggested a balance that would offer predictability to market participants while allowing authorities some flexibility to deviate from plans if it would substantially improve the resolution outcome.

Other respondents representing clearing members advocated for clear guidelines on which tools authorities would consider for different scenarios (DL and NDL), their ranking, and purposes. They also argued for explicit limitations on the use of loss allocation tools (VMGH and cash calls), suggesting these should be last resort options with strict limitations.

Two respondents representing CCPs highlighted the need for coordination between resolution and supervisory authorities, especially if they are different entities. This collaboration would ensure a holistic approach to calibrating incentives and considering the effects of tool use across the recovery and resolution continuum.

Comments received on what the scope of application for the standard should be (all systemically important CCPs or just CCPs that are systemically important in more than one jurisdiction) (Q13)

The few respondents answering this question favoured applying the standard to all systemically important CCPs, due to their linkages and the related contagion risks.

One respondent representing CCPs suggested that if the FSB proceeds with a standard related to resolution-specific tools and resources, it should be flexible and appropriately designed for systemically important CCPs. This approach would allow jurisdictions to continue employing practices suited to the markets they oversee.

Other respondents representing clearing members advocated for applying the standard to all systemically important CCPs, not just those that are systemically important in more than one jurisdiction. They emphasised the interconnectivity of systemically important CCPs and the significant risk of contagion if recovery or resolution is unsuccessful. Moreover, they supported broader adoption of resolution plans and tools, even for non-systemically important CCPs, and suggested that jurisdictions using a resolution fund constituted through contributions from all CCPs could consider including CCPs that are not systemically important.

Comments received on the extent to which jurisdictions' calibration analysis and choice of resolution-specific resources and tools in the toolbox should take into account the home resolution authority's ability to (i) use resources and tools that are available to the CCP in recovery; and (ii) capability to intervene before they have been exhausted in recovery (Q14)

Most respondents agreed with the need to consider the ability of the home authority to use recovery resources and the capability to intervene before they were exhausted for the choice and calibration of resolution-specific resources and tools and mentioned the need for a holistic approach across recovery and resolution.

Some respondents representing CCPs cautioned against early intervention, arguing it could undermine incentives for market participants to engage in default management and recovery, and potentially create a crisis of confidence in the CCP. They emphasised that CCP recovery should be allowed to fully play out.

Other respondents representing CCPs focused on the importance of coordination and timely decision-making in the calibration and selection of resolution-specific resources and tools. They advocated for considering the home resolution authority’s ability to use resources and tools available during the CCP’s recovery phase and highlighted the value of early intervention in enhancing the success of resolution processes.

One respondent representing clearing members supported the standard’s expectation that RAs should have access to resolution-specific resources and tools and make their approach to selecting and calibrating these tools transparent. They noted that if an RA only has access to recovery tools, their ability to resolve a CCP may be limited in certain scenarios.

Another group of respondents representing clearing members agreed that the authority’s ability to intervene while recovery resources are still available would impact the calibration of resolution-specific resources. They advocated for a holistic view of resources across recovery and resolution.

One respondent representing CCPs emphasised that early intervention by a resolution authority should be limited to circumstances where the CCP poses a risk to financial stability. They

stressed the importance of continuity and minimising systemic disruption through cooperation between resolution and supervisory authorities.

Changes made to the report in response to the framework for resolution resources and tools.

In relation to the comments received on whether the toolbox approach and standard described is a clear and effective means to support resolution objectives while providing flexibility to jurisdictions and RAs (Q9), the report was amended:

- To indicate that the toolbox approach aims at providing flexibility to jurisdictions (including those that already have CCP resolution frameworks in place).
- To clarify the standard's interaction with the 5-Step approach of the FSB 2020 Guidance.

In relation to the comments received on whether the toolbox approach is an effective means to achieve each of the four parameters (Loss absorption, Reliability and availability, Mitigation of financial stability impact, Alignment of incentives across recovery and resolution) (Q10), the report was amended:

- To refer to operational risks for both DL and NDL scenarios and to include a reference to CPMI-IOSCO ongoing work on FMIs' practice for NDLs, including an assessment of the implementation of Principle 15 on general business risk and related principles.
- To highlight the existing expectations for effective cooperation and communication between RAs and supervisory authorities (SAs) in recovery to enable the resolution authority to act in a timely manner.

In relation to the comments received on whether the standard should specify potential approaches for calibrating the quantum of one or more resolution-specific resources and tools to support resolution (Q11), the report was amended:

- To add a sentence suggesting future RAP survey processes include information on calibration approaches.

In relation to the comments received on whether the standard should include transparency into jurisdictions' approaches to calibrating one or more of the resolution-specific resources and tools in the toolbox (such as a function or multiple of the default fund)? (Q12), the report was amended:

- To highlight the benefits from jurisdictions and their RAs publishing their approaches to the calibration of resources and tools. The disclosure should provide predictability to market participants while allowing the required flexibility to the RA.
- In relation to the comments received on what the scope of application for the standard should be (to all systemically important CCPs or just to CCPs that are systemically important in more than one jurisdiction) (Q13), it is proposed To apply the standard to all systemically important CCPs in view of their interconnectedness and implied contagion risks.

In relation to the comments received on whether jurisdictions' calibration analysis and choice of resolution-specific resources and tools in the toolbox should take into account the home resolution authority's ability to (i) use resources and tools that are available to the CCP in recovery; and (ii) capability to intervene before they have been exhausted in recovery (Q14), no change to the report was made.