



POLISH BANK ASSOCIATION

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The Financial Stability Board
Bank for International Settlements
Basel, Switzerland

Dear Sirs,

Polish Bank Association welcomes the opportunity to respond to the FSB consultative document concerning Guidance on Cooperation and Information Sharing with Host Authorities of Jurisdictions Not Represented on CMGs where a G-SIFI has a Systemic Presence.

The Financial Stability Board plays an important role in promoting the good cooperation between different resolution regimes. The Key Attributes of Effective Resolution Regimes for Financial Institution ("Key Attributes") dated on 15 October 2014 are a very important step in this direction. The following steps are to be Guidance on Cooperation and Information Sharing with Host Authorities of Jurisdictions Not Represented on CMGs where a G-SIFI has a Systemic Presence ("Guidance on Cooperation") and Cross- border recognition of resolution action.

Nevertheless, in our opinion consultative document concerning Guidance on Cooperation contains some proposals which seem to be quite different from the principles set up in Key Attributes. We would like to concentrate our attention on two important topics: composition of Crisis Management Groups and the right of discretionary national action for each resolution authority.

Regarding first topic Key Attributes identify the principles of composition and activity of Crisis Management Group for resolution purpose. According to point 8.1. of this document CMG should include the right authorities of jurisdiction which are home or host to entities of the group that are material to its resolution. In our opinion this point indicates that host authorities have to be member of CMG in situation when the part of resolution group is material for stability of local financial market. The materiality for resolution purpose is analyzed not only from perspective of whole resolution group but also how important it is for stability of local financial market.

The consultative document concerning Guidance on Cooperation shows in our opinion other approach. From formal point of view the proposed document concerns other aspects of cooperation in process of resolution regime - cooperation with authorities which are a non-CMG. However, the definition of resolution authorities outside CMG generates the consequences concerning composition of CMG. Point 3.1. of proposal recommend to assess the systemic presence of a G-SIFI's operations in a non-CMG host jurisdiction having regard to a number of considerations, which include size, interconnectedness, substantiality and complexity. Additionally, point 4.1. indicates that a G-SIFI may have a systemic presence in non-CMG host jurisdiction.

We would like to express our opinion that in situation when a G-SIFI has a systemic presence in host jurisdiction, it means also that the impact of the failure of G-SIFI is material on the host economy. In such circumstances the host authorities of resolution group should be included in CMG, having the rights indicated for such members in Key Attributes. The materiality can not be seen only from entities group level, because it could limit the trust to whole financial systems where G-SIFIs play important role on local financial market.

Concerning the ways of cooperation between different resolution regimes which are engaged in the process of resolution of G-SIFI bank Key Attributes contains the general principles of such cooperation. These principles underline the important role of home and host resolution authorities in solving the cross-border problem of international bank. Both authorities should play important role during the process of bank resolution. Point 7.2. indicates that legislation and regulations in jurisdictions should not contain provisions that trigger automatic action in that jurisdiction as a result of official intervention or the initiation of resolution or insolvency proceedings in another jurisdiction, while reserving the right of discretionary national action if necessary to achieve domestic stability in the absence of effective international cooperation and information sharing. Where a resolution authority takes discretionary national action it should consider the impact on financial stability in other jurisdiction.

In other document, the consultative document concerning Guidance on Cooperation, there is proposal that the home authority and non-CMG host authorities should to reach an understanding of how they might support each other in a resolution and any condition for that support (point 4.5.).

Further are indicated few examples of that support, treated only as example of cooperation. However, it is remarkable, that the proposal of Guidance on Cooperation does not give the host authorities all rights which are presented in Key Attributes. We fully support promoting the best solution in this area – to reach mutual understanding, but we have to be conscious that the best solution sometimes can not be reached. In such situations, taking into consideration the significance of the resolution group for host economy, the host authorities should have the right to play active role in resolution regime, also initiate the resolution process concerning the parts of group which are situated in jurisdiction of host countries. Such model will allow all parties to coordinate their works in process of resolution and simultaneously all resolution authorities will maintain sufficient room for manoeuvre to react smoothly in order to minimize the impact of failure of G-SIFI on local economy. The lack of right of discretionary national action for each engaged resolution authorities, when the common solution has not been achieved, is crucially important for the trust to the resolution process and to the financial market.

The best and favored solution should be the reaching of mutual understanding and well-coordinated action by all engaged resolution authorities but it can not be the unique approach included in the FSB documents. The consultative document does not give the host resolution authorities the clear power to take up discretionary action inside its jurisdiction. We can understand that such power does not have been granted to all resolution authorities in host jurisdiction because it could generate the risk of non-coordinated activity and it could be counterproductive for achieving the goals of resolution, but the resolution authorities in host jurisdiction where the G-SIFI has a systemic presence has to have power for active, also unilateral activity which has big impact on stability of the local financial market.

We strongly recommend to review existing and proposed regulations concerning the effective resolution regime and make clear division of rights of possible action in resolution process. This division should depend on impact the failure of G-SIFI has on local economy. If the impact is material the host resolution authorities should have broader rights, including the right of discretionary national action. If the impact of failure of G-SIFI is not material, the rights indicated for host resolution authorities as non-CMG can be treated as satisfactory.

Yours sincerely

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