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Secretariat of the Financial Stability Board
c/o Bank for International Settlements
CH-4002 Basel
Switzerland

13 February 2017

Comments on FSB's Consultation Document on Guiding principles on the Internal Total Loss-absorbing Capacity of G-SIBs ('Internal TLAC')

Dear Sir/Madam,

The Dubai Financial Services Authority (DFSA) is pleased to provide its comments on the Financial Stability Board's consultative document on "Guiding principles on the Internal Total Loss-absorbing Capacity of G-SIBs ('Internal TLAC')". Please accept our apologies for missing the deadline of 10 February for submission of comments.

The DFSA reviewed the proposal in light of the nature and level of activities being conducted by financial institutions in our jurisdiction, as well as the potential outcome of the proposed measures in term of enhancing the resilience and stability of the global financial sector. In instances where we do not have a strong or settled view, we have not provided any comments.

If you require any clarification in respect of our comments please do not hesitate to contact me on +971 4 362 1660 or by e-mail on psmith@dfsa.ae.

Yours faithfully,



Peter Smith
Managing Director
Policy & Strategy

Internal Total Loss-absorbing Capacity of G-SIBs ('Internal TLAC')

DFSA General Comments

The DFSA supports the introduction of Guiding Principles on the Internal Total Loss-absorbing Capacity of G-SIBs ('Internal TLAC'). We note that the population, to whom the proposed principles apply, covers the material sub-groups identified in accordance with Section 17 of the TLAC Standard (Section 17).

The DFSA is of the view that it is essential to give more consideration to the term 'material' in this context. Specifically, it would be appropriate to expand the criteria for assessing materiality to capture geographical and domestic considerations if resolution planning is to be a fully integrated process with a goal of reducing both the probability and impact of failure.

For example, a subsidiary may not meet the criteria of Section 17 even though its activities may cover a broad geographical area. A crisis event in such a subsidiary, which spans a broad footprint, may lead to uncertainty regarding the G-SIFI and may have a material impact on the entire group. Furthermore, the multi-jurisdictional reach of such a subsidiary could increase its domestic importance to the host authority, which its resolution strategy and TLAC requirements should reflect. These are all factors that the relevant Crisis Management Group (CMG) needs to be aware of, and act on, albeit in a proportionate manner. The current criteria set out in Section 17 would not capture such a subsidiary and its host authority would likely not be included in the relevant CMG.

In addition, as resolution planning evolves, and institutions strive to meet the TLAC targets, the implications of this will be evidenced since the G-SIFIs will need to support all their subsidiaries in meeting domestic TLAC requirements.

Lastly, should the need arise to trigger internal TLAC, we support the view that it should follow the process outlined in Section V of the consultative document. While it is agreed that it is sensible to prioritise in terms of materiality when carrying out resolution planning, the criteria for this should ensure that the geographical reach of the G-SIFI is appropriately reflected.

Question 1: What factors should the relevant authorities take into account when determining the composition of material sub-groups and the distribution of internal TLAC between the entities that form the material sub-group (guiding principle 2)?

DFSA Comments:

The DFSA generally supports the proposed approach on the distribution of internal TLAC between the entities that form a material sub-group. Consistency between the

distribution of internal TLAC and the resolution strategy is important and merits supervisory effort to ensure it is achieved. The proposed role of the host authority in explaining to the CMG and the home authority how this consistency is achieved is imperative. However, to give real effect to the resolution strategy, the removal of impediments to the availability of TLAC is important. Further emphasis should be placed on how the host authority can ensure that there are no operational or legal impediments to such availability. This ensures that the TLAC can be relied upon and that the likely effectiveness of a resolution plan is based on robust assumptions. It may also be appropriate to consider minimum criteria for conducting such effectiveness assessments and encouraging the sharing of appropriate evidence (for example, legal opinions) among the relevant authorities and the CMG. This may be especially relevant considering the current early stages of much resolution planning.

Question 2: *What are your views on the treatment of regulated or unregulated non-bank entities as set out in guiding principle 4? If such entities were included within a material sub-group, how should the relevant authorities calculate an internal TLAC requirement?*

DFSA Comments:

The integration of regulated or unregulated non-bank entities would be prudent and essential to ensure the viability of the resolution strategy, in particular from a continuity of critical services perspective.

However, it is unclear as to how a non-bank entity could contribute to the internal TLAC requirement. Since TLAC does not mitigate all risks, it would seem more appropriate to focus on capital allocation and ensuring operational continuity through other appropriate means. If TLAC for these entities were to be adopted, the calculation of TLAC requirements should be based on an expected loss basis rather than on a RWA basis.

Question 3: *Do you agree with the roles of home and host authorities in relation to the host authority's determination of the size of the internal TLAC requirement, as set out in guiding principles 5 and 6? What additional factors, if any, should the host authority take into account when setting the internal TLAC requirement?*

DFSA Comments:

The DFSA agrees with the points made under Guiding Principle 5 (the role of the host authority) regarding the implications the host authority's requirements may have on the resolution group and the home authority's rationale for any additional firm-specific internal TLAC requirements.

However, although - under the consultative document - only the material sub-groups are considered, we are of the view that there should also be a role for the home authority to ensure that it is familiar with the TLAC requirements of the broader group so that it can consider their implications on the G-SIFI. This will be particularly important during the initial phases of the G-SIFI achieving its TLAC requirements in various jurisdictions. The flow of information should also be a two-way process. This is to ensure that host authorities possess the necessary information in order to be able to: (1) support the host's determination of internal TLAC requirements; and (2) keep the host authority informed of any specific challenges faced by the domestic entity in achieving resolvability and TLAC requirements.

Question 5: *What are your views on the composition of internal TLAC, as set out in guiding principle 8? In particular, should there be an expectation of the inclusion within internal TLAC of debt liabilities accounting for an amount equal to, or greater than, 33% of the material sub-group's internal TLAC?*

DFSA Comments:

We suggest that appropriate margining policy should be added to the list of items to be considered by the authorities in the context of collateralised guarantees under Guiding Principle 9. Notably, the necessary elements of the policy should include frequent and regular collateral valuation and appropriate margining practices, including regular margin calls to maintain the required level of collateral.

Question 6: *What are your views on the potential benefits or drawbacks of different approaches to the issuance of internal TLAC instruments as set out in guiding principle 10, and what steps could be taken to mitigate the drawbacks that you have identified?*

DFSA Comments:

The DFSA agree that the process for issuing internal TLAC should be legally enforceable and credible in order to support the resolution strategy and recapitalisation effectively. Many authorities have identified structural impediments to effecting a preferred resolution strategy resulting from the use of "daisy chains". The use of daisy chains has several weaknesses:

- (1) it does not fully consider the time factor in implementing a resolution tool;
- (2) it would appear to be inconsistent with the concept and practical operation of the resolution entity, in that the minimum TLAC requirement will be set at that level and it is the entity to which resolution tools will be applied. The approach to

internal TLAC issuance should allow for as much direct connectedness as possible;

- (3) the direct issuance approach would support the resolution strategy, the passing of losses and recapitalisation needs to the resolution entity more effectively, which would build more confidence among the various host authorities; and
- (4) complexities arise, as identified in the consultative document, regarding double counting which would require a deduction mechanism. The efforts applied to manage these complexities may not justify the benefits.

In the DFSA's view, any challenges which prevent the use of the direct issuance approach should be considered as impediments to resolution and as such they should be addressed.

Question 10: Do you agree with the process for triggering internal TLAC in Section V? In particular, what are your views on the timeframe for the home authority to decide whether to consent to the write-down and/or conversion into equity of internal TLAC?

DFSA Comments:

Regarding the timeframe for the home authority to decide whether to consent to a write-down and/or conversion, the consideration of the urgency of such actions is useful. It would also be useful to include in the guiding principles some practical suggestions on how home and host authorities can proactively prepare for such events. While acknowledging that this may not always be possible or effective, continued sharing of information regarding the entity and, in particular, its recovery plan can assist with understanding the risks, the approach to resolution and what options have already been exhausted.