

Removing Remaining Obstacles to Resolvability

Report to the G20 on progress in resolution

9 November 2015

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Executive Summary

The FSB reports on the finalisation of remaining important post-crisis reforms to complete its policy agenda to end “too big to fail” and on the remaining actions required to improve the resolvability of global systemically important financial institutions (G-SIFIs) and promote the full implementation in substance and in scope of the [*Key Attributes of Effective Resolution Regimes for Financial Institutions*](#) (*‘Key Attributes’*).

The FSB has now finalised and agreed a new [standard on the adequacy of Total Loss-absorbing Capacity \(TLAC\) for global systemically important banks \(G-SIBs\)](#). The FSB standard sets a new minimum requirement for loss absorbing capacity on both a going concern and gone concern basis, incorporating existing Basel 3 minimum capital requirements.

FSB Members are on course to meet their commitment to take action to promote the broad adoption of contractual recognition of cross-border stays on close-out rights. Industry groups have taken action to extend the ISDA Resolution Stay Protocol to securities financing transactions in addition to existing coverage for bilateral OTC derivatives, and a majority of G-SIBs are expected to adhere to the extended Protocol. A number of FSB jurisdictions are in the course of finalising regulations and supervisory measures that will ensure that non-bank counterparties trade with G-SIBs on similar terms in order to limit the potential for arbitrage within the market and ensure wide cross-border enforceability of temporary stays on close out rights in resolution.

The FSB has issued a set of [guiding principles to promote the cross-border effectiveness of resolution actions](#). The principles cover both statutory frameworks and contractual approaches to cross-border recognition. Contractual approaches are critical pending the adoption of statutory frameworks and may also complement such frameworks once they are in place.

The FSB issued further [guidance on cross-border cooperation and information sharing with host authorities](#). The new guidance covers cooperation and information sharing with authorities in host jurisdictions not represented on Crisis Management Groups (CMGs) where a global systemically important financial institution (G-SIFI) has a systemic presence (*‘non-CMG host jurisdictions’*).

G-SIB home and host authorities completed the first round of the Resolvability Assessment Process (RAP). The RAP demonstrated that resolution planning within the CMGs for G-SIBs has come far from the state of preparedness for failure-management that existed in the wake of the global financial crisis. However, the findings also indicate that significant work remains in a number of critical areas to remove obstacles to resolvability and to make resolution strategies and plans operational.

The FSB issued a [consultative document on the temporary funding needed to support the orderly resolution of a G-SIB](#). The consultative document proposes principles on ways to encourage and maintain as much private sector funding as possible for the firm in resolution; the roles and types of public sector backstop mechanisms for providing temporary

liquidity to support the orderly resolution of a G-SIB; and elements of public sector backstop mechanisms that support the minimisation of moral hazard risks.

The FSB issued a [consultative document on arrangements to support operational continuity in resolution](#). The consultative document proposes guidance to help address obstacles identified in the RAP that arise from uncertainties about continuity of services provided within the firm or by third parties that are necessary for the continued provision of critical functions to the economy (critical shared services). It covers 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) to support continuity of critical shared services in resolution and sets out elements to support their effectiveness.

The FSB will undertake further work in the coming year to make resolution strategies operational. This includes work on maintaining continuity of access to financial market infrastructure (FMI) services in resolution; addressing the legal and operational complexities in relation to the write-down and conversion into equity of bail-in instruments; and developing implementation guidance for the new TLAC standard, in particular on internal TLAC mechanisms to provide loss absorbing and recapitalisation capacity to material subsidiaries or sub-groups.

Reforms to resolution regimes and resolution planning are less advanced for insurers and FMIs than for banks. CMGs are in place for most global systemically important insurers (G-SIIs); recovery and resolution planning is progressing and broad resolution strategies are being developed for most G-SIIs. A first round of the RAP for G-SIIs will be launched in 2016. Work is underway to establish systematic cross-border resolution planning processes for the largest central counterparties (CCPs), and the majority of FSB jurisdictions are in the process of developing, or plan to develop, resolution regimes or policies for CCPs.

The FSB issued a [consultative document on effective resolution strategies and plans for systemically important insurers](#). The consultative document proposes a set of considerations that should help authorities develop effective resolution strategies and plans for systemic insurers. It has been developed in consultation with the International Association of Insurance Supervisors (IAIS) and builds on the guidance published in October 2014 on how provisions of the *Key Attributes*, including resolution powers and the details of recovery and resolution planning, should be interpreted for different types of financial institution, including insurers.¹

The FSB will, in close cooperation with CPMI-IOSCO, undertake further work on CCP resolution and resolution planning. This includes monitoring progress in resolution planning for CCPs and identifying and addressing obstacles to the resolvability of CCPs that may arise from legal structures; relationships and interdependencies between the CCP and participants and links with other FMIs; CCP rules including default management and recovery procedures; or the lack of adequate financial resources and liquidity arrangements.

The preliminary findings from the ongoing FSB peer review of resolution regimes indicate that, at present, only a subset of the FSB jurisdictions, mostly G-SIB home

¹ See http://www.financialstabilityboard.org/2014/10/r_141015/

jurisdictions, have a bank resolution regime with a range of powers that are broadly in line with the *Key Attributes*. The powers that are most commonly lacking are the powers to write down and convert liabilities into equity ('bail-in') and to impose a temporary stay on early termination rights. The absence of these powers in several FSB jurisdictions continues to pose obstacles to resolvability.

Introduction

Effective resolution and resolution planning are important components of the FSB's policy agenda to end "too big to fail". They should enable authorities to resolve systemically important financial institutions (SIFIs) without a threat to wider stability and without recourse to public solvency support (or bail-out).

Most of the building blocks of this policy agenda are now in place. A large effort has gone into the development of effective resolution regimes for systemic entities, whether banks, insurance companies or financial market infrastructures (FMIs). Significant progress has been made in the reform of resolution regimes for banks. Most home jurisdictions of global systemically important banks (G-SIBs) are now close to having resolution regimes in place that match the powers and tools set out in the *Key Attributes of Effective Resolution Regimes for Financial Institutions* adopted by the FSB in 2011 ('*Key Attributes*'),² and cross-border resolution planning has come far from the state that existed in the wake of the global financial crisis.

This report responds to a request from the G20 to report on progress in the work on resolution and on the findings of the first round of the Resolvability Assessment Process (RAP) for G-SIBs which indicate areas where further efforts are needed to improve resolvability.

1. Putting in place crucial remaining elements of the policy agenda to end "too-big-to-fail"

1.1. A new standard on Total Loss Absorbing Capacity (TLAC) for G-SIBs

The premise set out in the September 2013 report on *Progress and Next Steps Towards "Ending Too Big To Fail" (TBTF)*³ is that there must be sufficient loss absorbing and recapitalisation capacity available in resolution of a G-SIB to implement an orderly resolution that minimises impact on financial stability, ensures the continuity of critical functions and avoids exposing taxpayers to loss. On 10 November 2014, the FSB released for public consultation a set of principles on loss absorbing capacity of G-SIBs in resolution and an accompanying term-sheet.⁴ In parallel to the public consultation, experts at the FSB, Basel Committee on Banking Supervision (BCBS) and Bank for International Settlements (BIS) conducted a comprehensive impact assessment comprising a quantitative impact study (QIS), Economic Impact Assessment, survey of historical losses and recapitalisation needs and a market survey.

² The FSB adopted the '*Key Attributes*' at its Plenary meeting in October 2011. The G20 Heads of States and Government subsequently endorsed the '*Key Attributes*' at the Cannes Summit in November 2011 as "a new international standards for resolution regimes." On 15 October 2014, the FSB adopted additional guidance that elaborates on specific KAs relating to information sharing for resolution purposes and sector-specific guidance that sets out how the *Key Attributes* should apply for insurers, financial market infrastructures (FMIs) and the protection of client assets in resolution.

³ See http://www.fsb.org/publications/r_130902.htm

⁴ See <http://www.fsb.org/wp-content/uploads/TLAC-Condorc-6-Nov-2014-FINAL.pdf>

Based on the consultation and findings of the impact assessment studies⁵ the FSB, in consultation with the BCBS, has now finalised and agreed a new standard on the adequacy of total loss-absorbing capacity for G-SIBs in resolution (the TLAC standard).⁶

Objective of the TLAC standard

The new TLAC requirement should improve market confidence that each G-SIB can be resolved in an orderly manner that minimises any impact on financial stability and supports the continuity of critical functions. By strengthening the credibility of authorities' commitments to resolve G-SIBs without exposing public funds to loss, TLAC, in conjunction with other measures, should help remove the implicit public subsidy from which G-SIBs may benefit when they issue debt and incentivise creditors to better monitor G-SIBs' risk taking. It should also help achieve a level playing field internationally, reducing funding cost advantages and ensuring that firms compete on a more equal footing within their home and foreign markets.

Instruments and liabilities that qualify as TLAC

TLAC should consist only of instruments and liabilities that can be effectively written down or converted into equity during resolution of a G-SIB without disrupting the provision of critical functions or giving rise to material risk of successful legal challenge or compensation claims. To this end, the FSB term sheet proposes a set of specific eligibility criteria for TLAC. However, recognising that losses in resolution may exceed a G-SIB's TLAC, instruments and liabilities that are not eligible as TLAC remain subject to potential exposure to loss in resolution, in accordance with the applicable resolution law.

Application of a minimum TLAC requirement to resolution entities

In determining the individual requirements for specific firms, which must be at least equal to and may be higher than the common Minimum TLAC requirement, authorities have to take into account their preferred resolution strategies and identify the entity or entities within a group to which resolution tools would be applied ('resolution entity or entities'). Depending on the resolution strategy, resolution entities may be the top-tier parent or holding company, intermediate holding companies or subsidiary operating companies. The resolution entity and any direct or indirect subsidiaries of the resolution entity which are not themselves resolution entities form the resolution group. A G-SIB may form a single resolution group with the parent company, which may be a holding company or an operating entity, as the sole resolution entity or, alternatively, consist of two or more resolution groups and/or resolution entities. The Minimum TLAC requirement will apply to each resolution entity within each G-SIB and will be set in relation to the consolidated balance sheet of each resolution group.

⁵ For a summary of the findings of the impact assessment studies, see <http://www.fsb.org/2015/11/summary-of-findings-from-the-tlac-impact-assessment-studies/>

⁶ See <http://www.fsb.org/2015/11/total-loss-absorbing-capacity-tlac-principles-and-term-sheet/>

Bail-in of TLAC

When a resolution entity enters resolution, TLAC would be written down and/or converted into the equity of the (re-capitalised) resolution entity or of a newly established bridge entity. Losses would be absorbed in the first instance by the shareholders and thereafter by the creditors of the resolution entity, including the holders of TLAC resources and of other liabilities eligible for bail-in in accordance with the applicable creditor hierarchy.

Home-host cooperation and internal TLAC

A key objective of the new TLAC standard is to provide home and host authorities with confidence that G-SIBs can be resolved in an orderly manner and thereby to minimise incentives to ring-fence assets domestically. A resolution entity should generally act as a source of loss absorbing and recapitalisation capacity for its subsidiaries where those subsidiaries are not themselves resolution entities. Internal TLAC refers to loss absorbing resources that a resolution entity has committed to its material sub-group(s). A material sub-group consists of an individual subsidiary or a group of subsidiaries that meet certain criteria, including quantitative measures, or are identified by a firm's CMG as material to the exercise of the firm's critical functions.

The presence of an adequate amount of internal TLAC should provide host authorities of G-SIB subsidiaries with comfort that resources will be available through the write-down or conversion of the pre-positioned internal TLAC to recapitalise subsidiaries without applying resolution measures to them, as necessary to implement the resolution strategy and support the continued provision of essential financial services and the maintenance of financial stability in their jurisdictions.

TLAC disclosure requirements

To enhance the credibility and feasibility of resolution and strengthen market discipline, G-SIBs will be required to disclose, consistent with disclosure requirements to be specified by the BCBS, the amount, maturity and composition of TLAC and the position of TLAC-eligible liabilities in the creditor hierarchy so that creditors and other counterparties of G-SIBs have notice and clarity regarding the order in which they will absorb losses in resolution.

Calibration and conformance

The TLAC standard will be brought into effect in two stages. Firms that have been designated by the FSB as G-SIBs before the end of 2015 and continue to be designated thereafter, with the exception of such firms headquartered in emerging market economies (EMEs), must comply with the TLAC standard from 1 January 2019 and meet Minimum TLAC requirements of at least 16% RWA and 6% of the Basel III leverage ratio denominator. From 1 January 2022, such firms must meet Minimum TLAC requirements of at least 18% RWA and 6.75% of the Basel III leverage ratio denominator. The TLAC standard provides for an extended conformance period for G-SIBs headquartered in EMEs.

1.2. Making resolution actions effective across borders

Guiding Principles for Cross-border Effectiveness of Resolution Actions

Following a public consultation on proposals in 2014⁷ the FSB has finalised a set of Guiding Principles for Cross-border Effectiveness of Resolution Actions.⁸ The Principles cover both statutory frameworks to enable resolution measures taken by a foreign resolution authority to have cross-border effect and contractual approaches to cross-border recognition, which the FSB agreed were critical pending the adoption of such statutory frameworks and which may also complement such regimes once they are in place. The Principles provide that authorities should pursue a close alignment of resolution powers and tools with the *Key Attributes* to facilitate the process of giving cross-border effect to resolution actions. Domestic legal frameworks should confer on a domestic authority or authorities the legal capacity to give effect to foreign resolution measures.⁹ They should clearly establish the conditions for recognition, enforcement or support of foreign resolution actions and the limited grounds for refusal; and the process and scope for the exercise of discretion by the competent authority or authorities in deciding whether or not to give effect to foreign resolution measures. The process for giving effect to foreign resolution measures should be guided by the principles of equitable treatment of creditors and regard for financial stability in host as well as home jurisdictions and provide for the necessary speed and predictability. The Principles also state that, where appropriate, authorities should require, or provide incentives for, firms to adopt contractual approaches to fill the gap until statutory approaches have been fully implemented or to reinforce the legal certainty and predictability of cross-border recognition under the statutory frameworks already in place.

As shown in the monitoring table in the Annex only a handful of jurisdictions have transparent and expedited processes to give effect to foreign resolution actions as required by the *Key Attributes* (KA 7.5). The Principles should assist authorities in putting in place such processes. The FSB will monitor progress in this area and will undertake follow-up work as necessary to support implementation of these Principles. The FSB will also undertake a stock-take on approaches and measures planned or being taken by jurisdictions consistent with the Principles.

Contractual recognition of statutory stays on early termination rights

FSB Members agreed to pursue a rapid implementation of contractual solutions in particular with regard to the cross-border recognition of temporary stays on early termination rights. To this end, ISDA developed the 2014 ISDA Resolution Stay Protocol which supports the cross-border enforcement of a temporary stay of early termination rights imposed under specified

⁷ See http://www.fsb.org/publications/r_130812b.pdf

⁸ See <http://www.fsb.org/2015/11/principles-for-cross-border-effectiveness-of-resolution-actions/>. The consultative document on Cross-border Recognition of Resolution Actions was issued for public consultation in September 2014 (see http://www.fsb.org/2014/09/c_140929/) and has been revised in light of the comments received (see <http://www.fsb.org/2015/11/overview-of-responses-to-the-public-consultation-to-principles-for-cross-border-effectiveness-of-resolution-actions/>) during that consultation.

⁹ Jurisdictions may achieve this objective by establishing any of the following: (i) an administrative and/or judicial framework for recognition; (ii) an administrative and/or judicial framework for taking supportive measures; or (iii) a framework that combines recognition and supportive measures in an administrative and/or judicial form. To the extent judicial involvement is required under national law, the safeguards under KA 5.4 to KA5.6 should be in place.

resolution regimes where both counterparties to a transaction governed by the ISDA Master Agreement for bilateral OTC derivatives have adhered to the Protocol.¹⁰

To extend the Protocol beyond OTC derivatives and include securities lending and repurchase (repo) agreements (collectively, ‘securities financing transactions’ or ‘SFT’) ISDA, in cooperation with other relevant trade associations,¹¹ G-SIBs, other banks and buy-side participants,¹² has drawn up an SFT Annex which incorporates the terms of the ISDA Protocol into the relevant SFT agreements. The FSB expects the majority of G-SIBs to adhere to the extended protocol, including those firms that had previously adhered to the 2014 Protocol.¹³

G-SIBs that are headquartered in a jurisdiction where a *Key Attributes*-compliant stay regime has not been fully implemented and that is not an “identified regime”¹⁴ under the ISDA Protocol may be less advanced in their preparations for adherence to the Protocol. Those G-SIBs should be expected to adhere by end 2016 at the latest.

ISDA should complete the process for including additional regimes within the scope of the Protocol through a specific Annex for that regime as soon as possible once jurisdictional reforms to introduce the powers to stay early termination rights along with the safeguards¹⁵ set out in the *Key Attributes* have been adopted by the relevant jurisdictions.¹⁶

A number of FSB member jurisdictions are in the course of finalising regulations and supervisory measures that will ensure that non-bank counterparties of G-SIBs adhere to the ISDA Protocol or trade on similar terms, thereby limiting the potential for arbitrage within the market and ensuring wide cross-border enforceability of temporary stays on close out rights in resolution. The FSB will continue to monitor progress in this area.

2. Results of the first Resolvability Assessment Process (RAP) for G-SIBs

The objective of the RAP is to promote adequate and consistent reporting on the resolvability of each G-SIFI and concerted action to address any identified remaining impediments. The

¹⁰ See http://www.fsb.org/2014/10/pr_141011/

¹¹ The other trade associations involved are: the International Capital Markets Association (ICMA); the International Securities Lending Association (ISLA); and the Securities Industry and Financial Markets Association (SIFMA).

¹² That is, the Global Master Repurchase Agreement (GMRA); the Master Repurchase Agreement (MRA); the Global Master Securities Lending Agreement (GMSLA); the Master Gilt Edged Stock Lending Agreement (MGESLA); the Master Securities Loan Agreement (MSLA); and the Overseas Securities Lending Agreement (OSLA).

¹³ Firms that had previously adhered to the 2014 Protocol had to re-adhere so that the wider scope of the revised Protocol will apply to *all covered transactions* between those G-SIBs (rather than only OTC derivatives contracts).

¹⁴ Specific jurisdictional Annexes set out the provisions in each regime relevant to the temporary stay to which counterparties ‘opt in’. Jurisdictional Annexes currently exist for France, Germany, Japan, Switzerland, UK, and the US.

¹⁵ These safeguards include that the regime: limits the stay to two business days or fewer; requires satisfaction of certain payment and delivery obligations during the stay; requires protection of all netting and set-off rights under the applicable agreements; and requires the party in resolution (or its transferee) to remain subject to the same obligations under the applicable agreement as prior to the resolution intervention.

¹⁶ It should be noted that the extension of the Protocol to the stay provisions under a national resolution regime also depends upon the existence of netting protections under the legal framework of that jurisdiction.

reporting takes the form of letters sent by the G-SIB home authorities to the FSB Chair. The letters summarise senior level discussions within the G-SIBs’ CMGs on any material recurring issues with respect to the G-SIBs’ resolvability.

The G-SIB home country resolution authorities have now completed a RAP for 28 of the 29 G-SIBs (as designated in 2013¹⁷). The results of this first round of the RAP demonstrate that resolution planning work has progressed significantly in certain areas over the past years. See Figure 1.

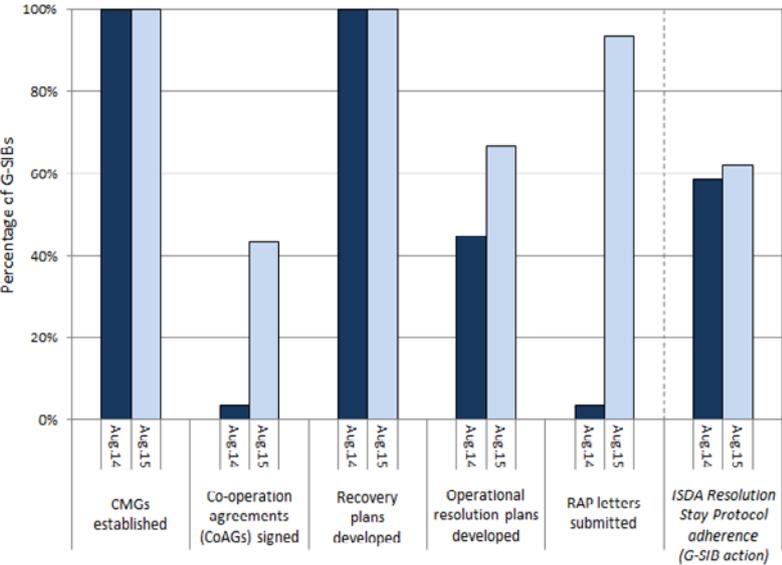


Figure 1: Authorities’ resolution planning status for G-SIBs (August 2014-August 2015)

However, some areas of G-SIB resolution planning are less advanced. Some G-SIB home authorities identified material impediments to the resolvability of the G-SIB or G-SIBs in their jurisdiction and stated that they would not consider the G-SIB or G-SIBs resolvable until these issues have been addressed.

Importantly, reforms to legal frameworks for resolution are still on-going in a number of jurisdictions (see Section 7 below). Some EU Member States have not yet fully transposed the Bank Recovery and Resolution Directive (BRRD) into national law.

Cross-border Cooperation Agreements (CoAgs)

Institution-specific Crisis Management Groups (CMGs) consisting of home and key host authorities are in place for all G-SIBs that were identified in 2014. Since last year significant progress has been made in the adoption of Cross-border Cooperation Agreements (CoAgs) that underpin cooperation between home and host authorities on CMGs: 13 such agreements have now been signed. CoAgs are an important element of the work of CMGs on resolution planning and for cooperation in an actual crisis. They set out the processes for cooperation, coordination and information sharing in developing recovery and resolution plans, carrying out resolvability assessments, and for coordination both in the run up to a potential resolution

¹⁷ “2013 update of group of global systemically important banks (G-SIBs)”, [11 November 2013](#).

and in the resolution itself. The absence of clear terms of engagement may affect the readiness of authorities to cooperate in a crisis. G-SIB home and key host authorities should therefore make renewed efforts to put in place robust CoAgs for all G-SIBs.

Further efforts will also be necessary for engagement with authorities in jurisdictions where G-SIBs have a systemic presence where such authorities are not represented on CMGs. The adoption of the FSB Guidance (see Section 4 below) is a first step and authorities will need to put in place in a timely manner appropriate arrangements for such engagement.

To promote comparability of the results in the next round of the RAP the FSB will start a process to enhance the effectiveness of future RAPs.

2.1. Impediments to resolvability of G-SIBs

The RAP identified a number of impediments to resolvability that remain to be addressed. Some of the impediments that were identified across several G-SIBs are the following:

- *Funding and liquidity needs in resolution.* The RAP found that there was need for more analysis and understanding of funding, liquidity needs and availability of unencumbered collateral in resolution and how they can be addressed, taking into account needs in different currencies. Insufficient liquidity to maintain critical operations and meet increased margin requirements, the risk of termination or inability to roll over short-term borrowing or the loss of access to alternative sources of credit all have the potential to hinder the execution of the preferred resolution strategy.
- *Continuity of shared services that are necessary to maintain the provision of a firm's critical functions in resolution.* Inadequate arrangements for operational continuity pose an obstacle to the effective resolution of many G-SIBs. Particular obstacles identified include firms' interconnectedness and complexity; insufficiently detailed contractual arrangements; contractual provisions that allow termination of services upon entry into resolution; and an inability of firms to provide timely and accurate information relating to critical shared services. Work to map critical shared services to legal entities and business lines is ongoing, but further work is necessary to ensure that robust arrangements are in place so that critical shared services can continue as necessary in resolution.
- *Continued access to payment, settlement and clearing services.* Abrupt termination of access to FMIs or other payment, settlement and clearing services provided indirectly through correspondent banks can exacerbate financial crises. Authorities identified the need to better ensure continuity of access in resolution, assess the resilience of existing arrangements and identify back-up solutions. They acknowledged the need to coordinate between the goal of continued access and FMI risk management procedures that support the safe and orderly operation of FMIs.
- *Capabilities to generate accurate and timely information in resolution.* Adequate Management Information Systems (MIS) that have the capacity to generate accurate and timely information to resolution authorities on a legal entity basis, to aggregate risk data and to provide up-to-date global and detailed reporting to the resolution authorities are necessary for authorities to prepare for and implement a resolution strategy, in particular a

strategy that involves bail-in. Authorities noted that improvements are still needed in this area.

- *Implementation of the new TLAC standard.* All authorities noted that the effective implementation of the new TLAC standard will improve resolvability. Authorities will need to monitor G-SIBs' strategies for issuance of TLAC and for putting in place mechanisms and forms of allocation of internal TLAC.
- *Making bail-in operational.* Effective bail-in execution requires advance planning and processes for conducting rapid and accurate valuation for purposes of bail-in; suspending or cancelling securities and delivering new securities or tradeable certificates; transferring governance and control rights; and obtaining regulatory approvals and licenses. The nature of the challenges in executing bail-in may differ depending on the resolution strategy and applicable national framework. Several authorities indicate that such challenges remain to be addressed in their resolution work, noting that in several instances those challenges may in part be addressed by legal changes that are underway.
- *Cross-border effectiveness of resolution actions.* Most authorities identified remaining obstacles in relation to the cross-border effectiveness of resolution actions. Although a number of G-SIBs have adhered to the 2014 ISDA Protocol for OTC derivative contracts and are expected to adhere to the extended Protocol which will also cover SFT, some other G-SIBs have not yet done so and a broad adherence to the Protocol is necessary for it to be effective. These issues are discussed in Section 1.2.

3. Addressing remaining impediments to resolvability of G-SIBs

The first RAP demonstrated that significant work remains to be undertaken by resolution authorities to make resolution strategies and plans operational in order to provide authorities with comfort that they can be implemented in a timely manner and with legal certainty. Consistent with this finding, the focus of the FSB's future work is moving increasingly towards addressing operational aspects in resolution. As set out below, the FSB is prioritising work on funding in resolution; operational continuity; maintaining continued access to payment, settlement and clearing services; internal TLAC; and bail-in execution.

3.1. Funding of G-SIBs in resolution

An effective resolution regime, as set out in the *Key Attributes*, should allow authorities to resolve financial institutions in an orderly manner without taxpayer exposure to loss, while maintaining continuity of their vital economic functions. An important part of an orderly resolution, particularly in relation to continuity of critical functions, is ensuring that the recapitalised firm or newly established bridge entity maintains access to liquidity to refinance its liabilities as they fall due. Even a recapitalised firm or newly established bridge entity that continues the failed firm's operations is likely to experience heightened liquidity needs generated by market volatility and lack of information regarding the firm's viability, and private market participants may stand back from providing liquidity if there is a lack of confidence with respect to the firm's ability to meet its increased liquidity needs while in

resolution. The *Key Attributes* (KA 6) set out requirements in relation to the funding of firms in resolution.

To provide further guidance and address the risks outlined above, the FSB issued a draft guidance paper for public consultation.¹⁸ The consultative document outlines a number of guiding principles on the temporary funding needed to support the orderly resolution of a G-SIB. In particular, the guiding principles focus on ways to encourage and maintain as much private sector funding as possible to the firm in resolution; the roles and types of public sector backstop mechanisms for providing temporary liquidity to support the orderly resolution of a G-SIB; and elements of public sector backstop mechanisms that support the minimisation of moral hazard risks.

The FSB expects to finalise the guiding principles on funding in resolution in 2016 in light of the findings from the public consultation and will consider follow-up work as necessary to operationalise plans for funding in resolution.

3.2. Operational continuity

To resolve a failing firm in a manner that maintains continuity of its critical functions, a key objective of an effective resolution regime as set out in the *Key Attributes*, it is important that there is continuity of those services (‘critical shared services’) that are provided within a firm or that are provided by third parties for the firm that are necessary to support the continued provision of critical functions in resolution, such as e.g., risk management and treasury-related functions, IT infrastructures, facilities management. 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.

To provide further guidance and address the risks relating to operational continuity, the FSB issued draft guidance for public consultation¹⁹ which 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. The guidance covers 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. It sets out a number of elements that are necessary to support the resilience of those arrangements in resolution including the legal, contractual and governance frameworks underpinning those arrangements, resourcing, management information systems and financial resources.

The FSB expects to finalise the guidance in 2016 following the public consultation.

¹⁸ See <http://www.fsb.org/2015/11/consultative-document-on-temporary-funding-needed-to-support-the-orderly-resolution-of-a-global-systemically-important-bank/>

¹⁹ See <http://www.fsb.org/2015/11/consultative-document-on-arrangements-to-support-operational-continuity-in-resolution/>

3.3. Continuity of access to FMIs

Maintaining a G-SIB's continued access to payment, settlement and clearing services whether through direct participation or indirectly through correspondent banks will be essential to restoring stability and market confidence and ensuring that the G-SIB's critical functions can be maintained without disruption. A key finding from the RAP is that authorities do not yet have an appropriate level of confidence that direct or indirect access to FMIs can be maintained for a G-SIB in resolution provided it meets all payment obligations to the FMI. The FSB therefore agreed to undertake further work on this issue and in particular consider the synchronisation of G-SIB resolution planning and FMI rules and actions (including changes to collateral eligibility or haircuts in stressed conditions); coordination between the resolution authority responsible for a participant and the FMI and the relevant authorities responsible for oversight or supervision of the FMI; continuity of access where critical functions have been transferred to a bridge institution and in particular any cross-border issues (e.g. legal recognition, coordination with overseas authorities) in maintaining continuity of access in a manner that does not compromise the safe and orderly operation of the FMI.

The FSB expects to submit a report and, if appropriate, a proposal for guidance by the end of 2016.

3.4. Internal TLAC

The TLAC standard sets out core features of internal TLAC in relation to quantum, triggers and eligibility of instruments. The presence of an adequate amount of pre-positioned internal TLAC should provide G-SIB host authorities with comfort that resources will be available through the write-down and/or conversion of the pre-positioned internal TLAC to recapitalise subsidiaries without applying resolution measures to them, as necessary to implement the resolution strategy and support the continued provision of critical functions while maintaining financial stability in their jurisdictions. For a resolution entity to act as a source of loss absorbing and recapitalisation capacity for its material subsidiaries or sub-groups, where the subsidiaries are not themselves resolution entities, internal TLAC mechanisms need to be put in place to down-stream resources to material subsidiaries or sub-groups. The FSB has agreed to undertake further work and provide guidance as necessary to support the implementation of the TLAC standard and internal TLAC mechanisms. It will do so prior to the beginning of the TLAC conformance period and expects to present first results and, if appropriate, guidance by the end of 2016.

3.5. Bail-in execution

The effective implementation of a bail-in transaction entails a number of legal and operational complexities with regard to the processes required in writing-down and converting instruments and returning or issuing instruments in tradeable form to holders of bailed-in liabilities. The nature of the issues and range of resolution actions differ depending on whether bail-in recapitalises the failed entity or capitalises a newly established bridge institution to which assets and liabilities have been transferred. Unless the complexities have

been addressed in advance, authorities may not be able to execute bail-in in a timely manner consistent with the resolution strategy.

The FSB has therefore agreed to take forward further work on these issues, which may include among other things the following aspects.

- (i) The valuations necessary to determine the appropriate recapitalisation of a firm in resolution or capitalisation of a newly established bridge entity and the distribution of new instruments to creditors; the allocation of responsibilities between resolution authorities for undertaking valuation for different resolution strategies; and the information needs for undertaking an effective valuation.
- (ii) Processes required to suspend or cancel the listing of affected securities, to freeze securities in Central Securities Depositories (CSDs), and to deliver new securities or tradeable certificates following resolution; the types of ad hoc and periodic disclosure obligations that a firm may be subject to in resolution; the listing of new securities, the trading of certificates of entitlement or ‘hope certificates’.
- (iii) Governance aspects of bail-in execution, such as the process of the transferring governance and control rights to new equity holders (bailed-in creditors); and obtaining domestic and international change-of-control approvals, including fit and proper approvals for new controlling shareholders.

The FSB plans to undertake the work in stages and plans to report on progress in a first phase of the work covering a sub-set of issues including valuation and bail-in exchange mechanics by the end of 2016.

4. Co-operation with non-CMG host authorities

For reasons of operational efficiency and effective decision-making, CMG membership is generally limited to home authorities and host authorities from jurisdictions that are host to entities that are material to an effective resolution of a G-SIFI as a whole. It is therefore possible that some jurisdictions where operations of the G-SIFI are locally systemic to the host jurisdiction but not material to the resolution of the overall group are not represented in the CMG. The *Key Attributes* acknowledge that authorities in such host jurisdictions have special information needs given the potential impact of a G-SIFI’s failure in their jurisdiction. The *Key Attributes* therefore require cooperation and information sharing between CMGs and authorities in jurisdictions where the firm has a systemic presence locally but that do not participate in the CMG (‘non-CMG host jurisdictions’). The FSB has issued guidance for cooperation and sharing information with host authorities in such jurisdictions (‘non-CMG host authorities’).²⁰ The Guidance covers the process for identifying non-CMG host

²⁰ See http://www.fsb.org/2014/10/c_141017/. The guidance was issued for public consultation in September 2014 (see http://www.fsb.org/2014/10/c_141017/) and has been revised in light of the comments received (see <http://www.fsb.org/2015/11/overview-of-responses-to-the-public-consultation-to-guidance-on-cooperation-and-information-sharing-with-host-authorities-of-jurisdictions-where-a-g-sifi-has-a-systemic-presence-that-are-not-represent/>) during that consultation.

jurisdictions; criteria for assessing the systemic nature of a G-SIFI's presence in a non-CMG host jurisdiction; cooperation and information sharing arrangements with non-CMG host authorities; and classes of information to be shared between home authorities and non-CMG host authorities. The Guidance stresses the importance of adequate confidentiality frameworks consistent with the *Key Attributes* and the Annex on information sharing²¹ as a prerequisite for effective information sharing with non-CMG host authorities.

The FSB will monitor the approaches and measures planned or being taken by jurisdictions to adopt arrangements in accordance with the Guidance and the requirement of the *Key Attributes* for cooperation and information sharing with non-CMG host authorities.

5. Resolution and resolvability in the insurance sector

5.1. Resolution regimes for insurers

Implementation of the *Key Attributes* in the non-bank financial sectors continues to be less advanced than in the banking sector although a number of jurisdictions (e.g., Hong Kong, Japan, South Africa) have taken a cross-sectoral approach and initiated reforms of their resolution regimes that also cover the non-bank financial sector. As the work on resolution plans for global systemically important insurers (G-SIIs) demonstrates, a combination of tools may be required not all of which appear to be available in national frameworks. In 2016, the FSB will undertake a comprehensive stock-take of resolution powers and regimes in the insurance sector and continue work on the application of the *Key Attributes* in that sector.

5.2. Developing effective resolution strategies and plans for G-SIIs

Cross-border CMGs have now been established, recovery and resolution planning is progressing and resolution strategies are being developed, for most G-SIIs. However, further work is necessary to develop operational resolution plans on the basis of the strategies.

To support this process the FSB, with participation of the IAIS, has developed draft guidance on developing effective resolution strategies and plans for systemically important insurers.²² The guidance complements the Insurance Annex to the *Key Attributes*, published in October 2014, which discusses sector-specific implementation guidance on how provisions of the *Key Attributes*, including resolution powers and the details of recovery and resolution planning, should be interpreted for insurers.

The draft guidance sets out considerations in determining a resolution strategy for G-SIIs, including elements that should be considered as part of the analysis that underpins the strategy, and identifies issues that should be addressed as authorities develop an operational

²¹ See I-Annex 1 at http://www.fsb.org/wp-content/uploads/r_141015.pdf

²² See <http://www.fsb.org/2015/11/consultative-document-on-developing-effective-resolution-strategies-and-plans-for-systemically-important-insurers/>

resolution plan. The guidance should also assist authorities in conducting the first RAP for G-SIIs, which is expected by the end of 2016.

The FSB expects to finalise the guidance in 2016 in light of the findings from the public consultation and will consider follow-up work as necessary to operationalise resolution strategies and plans for G-SIIs.

6. Resolution of Financial Market Infrastructures

Resilient and resolvable FMIs make an essential contribution to financial stability and make markets more resilient in the face of the default of a major market participant. Robust recovery and resolution planning for systemically important FMIs should help ensure that the greater reliance of the global financial system on FMIs does not result in a new category of entity that is “too big to fail”. To this end, the CPMI-IOSCO *Principles for Financial Market Infrastructures* (PFMI) and the *Key Attributes* along with the FMI Annex provide important guidelines.²³

6.1. Resolvability of CCPs

Policymakers have focused more recently on central counterparties (“CCPs”) given their growing role in central clearing of OTC derivatives. Together with the BCBS, the Committee on Payments and Markets Infrastructures (CPMI), and the International Organization of Securities Commissions (IOSCO), the FSB agreed on a workplan to coordinate international policy work aimed at enhancing the resilience, recovery planning and resolvability of CCPs.²⁴

An initial survey of resolution frameworks for CCPs across FSB jurisdictions indicated that such frameworks are not well developed. In several jurisdictions the existing resolution regime for banks and other financial institutions applies to CCPs, either because CCPs are licensed as banks and as such fall within the scope of the regime, or because the regime itself extends beyond banks to other types of financial institutions, such as FMIs generally or CCPs. However, the majority of FSB jurisdictions are in the process of developing, or plan to develop, resolution regimes or policies for CCPs. Systematic cross-border resolution planning processes are not yet in place for any of the largest CCPs, although efforts are underway to establish such processes. Only few jurisdictions require the development of resolution plans for CCPs, although several more report that authorities are carrying out work on resolution strategies for CCPs and that there are plans to develop such requirements.

There was broad agreement among FSB members on the need for further work on CCP resolution and resolution planning and for a structured process of implementation monitoring. The FSB therefore agreed to undertake further work. In close cooperation with CPMI-IOSCO, it will:

²³ See II-Annex 1 at http://www.financialstabilityboard.org/wp-content/uploads/r_141015.pdf

²⁴ See <http://www.fsb.org/2015/09/2015-ccp-workplan/> and <http://www.fsb.org/2015/09/progress-report-on-the-ccp-workplan/>

- monitor progress in the establishment and composition of CMGs (or equivalent arrangements) for CCPs, including the determination of the CCPs that would require such arrangements given their systemic importance in more than one jurisdiction;
- monitor progress in the development of resolution strategies and operational resolution plans for CCPs and of institution-specific cross-border CoAgs or other appropriate agreements that underpin cooperation, coordination and information sharing for purposes related to resolution planning between members of CMGs; and
- analyse how the resolution powers specified in the *Key Attributes* and its FMI Annex would be exercised in practice in relation to a CCP and identify obstacles, if any, to the resolvability of CCPs arising from legal structures; arrangement of clearing activities or other services; relationships and interdependencies between the CCP and participants and with other FMIs; CCP rules including default management and recovery procedures; and the lack of adequate financial resources and liquidity arrangements.

In 2016 the FSB will examine the need for and, if appropriate, develop proposals for further guidance to support CCP resolvability and resolution planning and to enhance pre-funded financial resources and liquidity arrangements for CCPs in resolution.

7. Monitoring Implementation of the *Key Attributes*

Preliminary findings from the thematic peer review of resolution regimes

The FSB is currently conducting its second thematic peer review of resolution regimes, which focuses on the resolution powers that are available in FSB jurisdictions for the banking sector and the requirements for recovery and resolution planning for systemically important banks in FSB jurisdictions. The preliminary findings from the peer review indicate that, at present, a subset of the FSB jurisdictions, mostly G-SIB home jurisdictions, have a resolution regime with a scope and range of powers that are broadly in line with the *Key Attributes*. See the [Annex](#) for a snapshot of the status of implementation of certain elements of the *Key Attributes* in FSB jurisdictions' bank resolution regimes.

The powers that are most commonly lacking are the powers to write down and convert liabilities (bail-in) and to impose a temporary stay on early termination rights. The absence of these powers in a large number of FSB jurisdictions continues to pose obstacles to resolvability. Many jurisdictions also lack sufficient powers to require continuity of services and functions in resolution.

Since the 2013 peer review,²⁵ the main source of improvement has been the transposition by a majority of EU member States of the BRRD into national law (which is not yet completed). See Figure 2. Most jurisdictions report that they have ongoing or planned reforms to their regimes, although the timelines for implementation are not generally known.

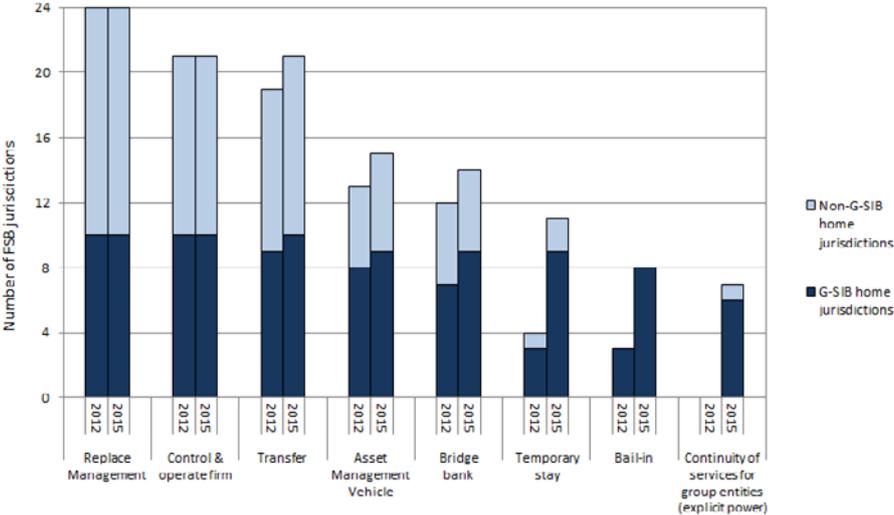


Figure 2: Availability of resolution powers in FSB jurisdictions (2012-2015)

Resolution regimes in the large majority of FSB jurisdictions apply broadly across all types of banks. However, the application of resolution powers to holding companies remains limited. Extending the scope of resolution regimes to those entities is generally necessary to make the resolution of financial institutions credible and feasible.

Whereas seventeen jurisdictions report that they have put in place a requirement for systemically important banks to develop recovery plans, less progress has been made putting in place processes for resolution planning and resolvability assessments.

Only nine jurisdictions currently have explicit statutory powers to require banks to adopt appropriate measures where necessary to improve their resolvability. Several other jurisdictions report that supervisory authorities have some powers to require banks to make changes to their business organisation and legal structure, but the purposes for and circumstances under which authorities can exercise such powers vary. Given that these measures should take effect in advance of any deterioration in a bank’s condition, an explicit power to require changes for the purposes of improving resolvability is necessary.

Once the report and recommendations of the peer review are finalised, the FSB will review the need for further actions to address any identified shortcomings in resolution regimes.

Development of an Assessment Methodology for the Key Attributes

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

²⁵ See http://www.fsb.org/wp-content/uploads/r_130411a.pdf?page_moved=1

Deposit Insurers (IADI), International Association of Insurance Supervisors (IAIS), International Organisation of Securities Commissions (IOSCO), the IMF and the World Bank, has been working on the development of an assessment methodology for the *Key Attributes*.²⁶

The draft methodology was first tested in a first pilot assessment carried out with IMF and World Bank in 2013/14. A revised draft of the methodology was used as reference document in the IMF's review of the US resolution regimes for banks and insurers, and in a second pilot assessment that is being carried out by the IMF and World Bank with the support of the FSB. The aim of this second pilot is to test the adequacy of the methodology for use in countries with different financial systems and at different stages of development.

The draft assessment methodology will be reviewed in light of the experience with its use, the lessons drawn from the resolution peer review and the further work in 2016 on resolution of insurers and FMIs.²⁷ The assessment methodology should be finalised in 2016 with priority being given to the development of the methodology for assessments of bank resolution regimes so that it can be used in assessments as part of Financial Sector Assessment Programs (FSAPs) and the Standards & Codes initiative thereafter. The FSB will also include guidance on how the features and level of development of a jurisdiction's financial market should be taken into account and reflected in assessing compliance with the *Key Attributes*. The development of the assessment methodology for insurance and FMI resolution will need to take into account the further work undertaken by the FSB in this area and therefore may extend into 2017.

Regional meetings

To promote implementation of the *Key Attributes* beyond jurisdictions represented on the FSB, the FSB will continue to work with its RCGs, its members, the IMF and the World Bank to raise awareness and further the understanding in non-FSB jurisdictions of how the *Key Attributes* apply in emerging markets and to domestically and regionally systemic financial firms.

²⁶ A first draft of the assessment methodology was published for consultation in 2013.

²⁷ See Sections 5. and 6. above.

Summary of actions and timelines

| I. Total Loss-absorbing Capacity (TLAC) | | |
|--|--|---|
| Action | Responsible | Completion by |
| Specify TLAC disclosure requirements under Basel III | BCBS | 2016 |
| Specify deductions regime for banks' holdings of TLAC of other banks | BCBS | 2016 |
| Develop further guidance, as appropriate, on the implementation of the Internal TLAC requirement | FSB | 2016 |
| Comply with the TLAC standard and meet a TLAC requirement of at least 16% RWA and 6% of the Basel III leverage ratio denominator | (non-EME) G-SIBs designated before the end of 2015 | January 2019 |
| Review of technical implementation of the TLAC standard | FSB, BCBS Members | By the end of 2019 |
| Meet a TLAC requirement of at least 18% RWA and 6.75% of the Basel III leverage ratio denominator. | (non-EME) G-SIBs designated before the end of 2015 | January 2022 |
| Meet a TLAC requirement of at least 16% RWA and 6% of the Basel III leverage ratio denominator | EME G-SIBs designated before the end of 2015 | January 2025 (at the latest) |
| Meet a TLAC requirement of at least 18% RWA and 6.75% of the Basel III leverage ratio denominator. | EME G-SIBs designated before the end of 2015 | January 2028 (at the latest) |
| II. Cross-border effectiveness of resolution actions | | |
| Action | Responsible | Completion by |
| G-SIBs in identified regimes (France, Germany, Japan, Switzerland, UK and US) to adhere or re-adhere to the 2014 ISDA Resolution Stay Protocol and the 2015 Securities Financing Transaction Annex | G-SIBs | November 2015 |
| ISDA to complete the process for including additional regimes within the scope of the Protocol through a specific Annex | ISDA | 2016 (once <i>Key Attributes</i> -compliant temporary stay) |

| | | |
|---|--------------------------|------------------------|
| | | powers are in place) |
| G-SIBs in other jurisdictions to adhere to the revised 2015 ISDA Resolution Stay Protocol | G-SIBs | End-2016 |
| Adoption and implementation of regulatory measures to promote adherence by significant non-G-SIB counterparties (significant dealer banks and buy-side firms) to the non-G-SIB protocol modules amending relevant financial agreements in line with national requirements | G-SIB home jurisdictions | 2016 |
| Monitor and report on adherence to the revised 2015 ISDA Resolution Stay Protocol and on the adoption by jurisdictions of supporting regulatory measures | FSB | End-2016 |
| Undertake a stock-take on approaches and measures planned or being taken by jurisdictions consistent with the Principles on Cross-border Effectiveness of Resolution Actions to give effect to resolution actions in a cross-border context | FSB | End-2016 |
| III. Resolvability Assessment Process (RAP) for G-SIBs | | |
| Action | Responsible | Completion by |
| G-SIB CMGs to conduct second RAP | G-SIB CMGs | End-2016 |
| Report on G-SIB RAP findings | FSB | End-2016 |
| IV. Work to address remaining impediments to resolvability | | |
| Action | Responsible | Completion by |
| <i>Funding in resolution</i> : finalise guiding principles on funding in resolution following public consultation | FSB | Q3 2016 |
| <i>Operational continuity</i> : finalise guidance on arrangements to support operational continuity in resolution following public consultation | FSB | Q3 2016 |
| <i>Co-operation and information sharing with non-CMG host authorities</i> : survey on progress towards implementation of <i>Key Attributes</i> requirement for cooperation arrangements | FSB | Q3 2016 |
| <i>Continuity of access to FMIs</i> : consider the need for and, if appropriate, develop a proposal for draft guidance on maintaining access to FMIs | FSB | End-2016 |
| <i>Bail-in execution</i> : consider the need for and, if appropriate, develop a proposal for draft guidance on issues relating to bail-in execution | FSB | End-2016 (first phase) |

| V. Resolution and resolvability in the insurance sector | | |
|--|----------------------------------|----------------------|
| Action | Responsible | Completion by |
| Finalise guidance on developing effective resolution strategies and plans for systemically important insurers | FSB with participation from IAIS | Q2 2016 |
| Undertake a stock-take of implementation of the <i>Key Attributes</i> in the insurance sector in FSB jurisdictions | FSB with participation from IAIS | End-2016 |
| G-SII CMGs to conduct first RAP | G-SIB and G-SII CMGs | End-2016 |
| Report on G-SII RAP findings | FSB | End-2016 |
| VI. Financial Market Infrastructures – resolvability of CCPs | | |
| Action | Responsible | Completion by |
| Consider the need for and, if appropriate, develop a proposal for draft guidance on CCP resolution covering resolution strategies and planning, resolution tools, cross-border cooperation and financial resources | FSB | End-2016 |
| VII. Monitoring implementation of the <i>Key Attributes</i> | | |
| Action | Responsible | Completion by |
| Finalise the thematic peer review on resolution regimes | FSB | Q1 2016 |
| Finalise the Key Attributes Assessment Methodology for use in the banking sector | FSB | End-2016 |
| Finalise the Key Attributes Assessment Methodology for use in the insurance and FMI sectors | FSB | 2017 |

Status of Implementation of Specific Aspects of Bank Resolution Regimes by FSB Jurisdictions

The colours in this table are based on information from the ongoing thematic peer review on resolution regimes and from self-reporting by national authorities as regards the implementation of certain elements of the *Key Attributes* in bank resolution regimes in FSB jurisdictions. This information does not cover all Key Attributes, or all elements of individual Key Attributes. In particular, the table sets out whether certain resolution tools as described in the *Key Attributes* are provided for in the legal frameworks and resolution regimes of FSB jurisdictions. The availability of such powers, as indicated in the table, should not lead to the conclusion that resolution will necessarily be effective, nor does the absence of such powers necessarily mean that a jurisdiction will not be able to achieve an effective resolution. As such, the table does not provide a full or independent assessment of the extent to which regimes comply with the *Key Attributes* and does not reflect a judgement on whether national implementation is effective in achieving the outcomes that are intended under the *Key Attributes*.

| FSB Jurisdiction | Powers to transfer or sell assets and liabilities | Powers to establish a temporary bridge institution | Powers to write down and convert liabilities (bail-in) | Power to impose temporary stay on early termination rights | Resolution powers in relation to holding companies | Mechanisms to give effect to foreign resolution actions | Resolution planning for systemic firms | Powers to require changes to firms' structure and operations to improve resolvability |
|------------------|---|--|--|--|--|---|--|---|
| Argentina | | | | | | | | 4 |
| Australia | | | | (B) | (B) | | | ⁴ (B) |
| Brazil | | (B) | (B) | (B) | | (B) | (B) | (B) |
| Canada | | | (B) | 1 | 2 | | | |
| China | | | | | | | 3 | 4 |
| France* | | | | | | | | |
| Germany* | | | | | | | | |
| Hong Kong | ⁵ (B) | (B) | (B) | (B) | (B) | (B) | (B) | ⁴ (B) |
| India | | | | | | | | |
| Indonesia | | | | | | | | 4 |
| Italy* | | | | | | | | |
| Japan | | | 7 | | | | | |
| Korea | | | (B) | (B) | | | (B) | 4 |

| FSB Jurisdiction | Powers to transfer or sell assets and liabilities | Powers to establish a temporary bridge institution | Powers to write down and convert liabilities (bail-in) | Power to impose temporary stay on early termination rights | Resolution powers in relation to holding companies | Mechanisms to give effect to foreign resolution actions | Resolution planning for systemic firms | Powers to require changes to firms' structure and operations to improve resolvability |
|------------------|---|--|--|--|--|---|--|---|
| Mexico | | | | | 8 | | | 4 |
| Netherlands* | | | | | | | | |
| Russia | | | | | | | | |
| Saudi Arabia | (B) | (B) | (B) | (B) | 2 | | (B) | 4 (B) |
| Singapore | | | (B) | (B) | | | | 4 (B) |
| South Africa | (B) | (B) | (B) | (B) | (B) | (B) | (B) | (B) |
| Spain* | | | | | | | | |
| Switzerland | | | | 1 (A) 6 | (A) 6 | | | |
| Turkey | | (B) | | | | | | |
| United Kingdom* | | | | | | | | |
| United States | | | | | | 9 | | |

| Current status of implementation | |
|----------------------------------|---|
| | Implemented |
| | Partially implemented (all elements in the KA provision are satisfied but powers/requirements can be exercised only in limited circumstances) |
| | Not implemented (some or all of the elements in the KA provision are not satisfied) |
| | Not applicable |

| Status of any pending reforms | |
|-------------------------------|---|
| A | Reforms agreed (final legislation or rule approved) but not yet in force |
| B | Reforms under development (policy proposals published or issued for intra-governmental consultation; draft legislation submitted to legislative body or rule-making process initiated under existing statutory authority) |

* The status of implementation for FSB jurisdictions that are EU Member States is based on their actual or expected national implementation of the Bank Recovery and Resolution Directive (BRRD).

¹ The stay power is limited to circumstances of transfer to a bridge bank.

² Bank holding companies not present in jurisdiction.

³ Jurisdiction is developing resolution plans only for G-SIBs, and not for other domestically incorporated banks that could be systemically significant or critical if they fail.

⁴ Supervisory authorities have some powers to require supervised institutions to make changes to their business organisation and legal structure, but the purposes for and circumstances under which authorities can exercise such powers vary.

⁵ The Hong Kong Monetary Authority (HKMA) is able to give directions and to appoint a Manager to manage the affairs, business and property of an authorised institution. However, the ability of a Manager to sell or dispose of the institution's business or property is subject to applicable requirements for consent by shareholders and creditors, and neither the HKMA nor the Manager has the power to override or disregard any such requirements.

⁶ Reforms approved and will enter into force on 1 January 2016.

⁷ The Japanese authorities report that they are able to achieve the economic objectives of bail-in by capitalising a bridge institution to which functions have been transferred and by liquidating the residual firm via powers to separate assets and liabilities of a failed institution. However, it is not clear that the resolution regime provides for powers to convert claims of creditors of the failed institution into equity of that institution or of any successor in resolution as required by KA 3.5 (ii).

⁸ The Mexican authorities report that due to the operational characteristics of and the legal framework for current holding companies in Mexico, the resolution of a bank that could be systemically significant or critical if it fails can be achieved without specific resolution powers for holding companies.

⁹ US law provides for court-based processes to give effect to foreign resolution actions in certain circumstances. In some circumstances, e.g. where a foreign bank in resolution has a US bank branch or agency, Chapter 15 of the US Bankruptcy Code may be unavailable, but it would still be possible for courts to consider giving effect to foreign resolution actions through the principle of comity.

Notes

The columns in this table cover the following elements of the *Key Attributes* (KAs):

- Resolution powers: KA 3.2, points (vi), (vii), (ix) and (x);
- Power to impose temporary stay on early termination rights: KA 4.3 (first paragraph) and 4.3 (i);
- Resolution powers in relation to holding companies: KAs 1.1 (i);
- Expedited and transparent mechanisms to give prompt effect to foreign resolution actions: KA 7.5;
- Resolution planning for systemic firms (requirements and/or current practice): KA 11.2;
- Powers to require changes to improve firms' resolvability: KA 10.5.