

**Resilience through resolvability – moving from policy
design to implementation**

5th Report to the G20 on progress in resolution

18 August 2016

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Executive Summary

1. FSB jurisdictions are moving from the design of post-crisis resolution reforms to their implementation. The development of policies to address the risks posed by too-big-to-fail banks is largely completed. If fully implemented and underpinned by robust legal or regulatory frameworks, these policies will contribute to greater resolvability of systemically important firms and resilience of the financial system. There is still some work necessary to put in place effective policies and regimes for systemically important non-bank financial institutions, in particular systemic insurers and central counterparties (CCPs). Good progress has been made in the implementation of the *Key Attributes for Effective Resolution Regimes for Financial Institutions* adopted by the FSB in 2011 (*'Key Attributes'*)¹ through legislative reforms in many jurisdictions, but renewed efforts are necessary to ensure that regimes consistent with the *Key Attributes* are in place in all FSB jurisdictions.

CCP resolution and resolution planning

2. With mandatory central clearing, CCPs have become an increasingly important component in the overall safety and soundness of the financial system. Robust recovery and resolution planning for systemically important CCPs should help ensure that greater reliance on central clearing does not result in a new category of entity that is “too big to fail”. The FSB, together with the Basel Committee on Banking Supervision (BCBS), the Committee on Payments and Markets Infrastructures (CPMI), and the International Organization of Securities Commissions (IOSCO), agreed on a joint workplan to coordinate actions to enhance the resilience, recovery and resolvability of CCPs.²
3. Because CCPs provide critical economic functions, authorities need to be prepared to deal with the extreme event where resolution is necessary because recovery has failed or financial stability may be threatened. Building on the *Key Attributes*, the FSB issued a discussion paper which identifies elements that are considered to be core to the development of effective resolution strategies and plans for CCPs. It will be the basis for further dialogue with all stakeholders on suitable resolution strategies and will also help in developing more granular guidance to be published for consultation in 2017.

Resolvability of global systemically important banks (G-SIBs)

4. The Crisis Management Groups (CMGs) of all G-SIBs conducted a second round of the Resolvability Assessment Process (RAP) to gauge progress in making the resolution of G-SIBs feasible and credible. Substantial progress has been made in a number of areas. G-SIBs are putting in place arrangements to support operational continuity of critical shared services in resolution, including by amending service level agreements to add resolution

¹ See http://www.fsb.org/wp-content/uploads/r_141015.pdf. 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 Key Attributes 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.

² See “2015 CCP Workplan” (<http://www.fsb.org/wp-content/uploads/Joint-CCP-Workplan-for-2015-For-Publication.pdf>), 15 April 2015.

clauses, and have adopted contractual provisions to ensure that temporary stays on early termination rights have cross-border effect. In addition, the FSB has finalised *Guidance on Arrangements to Support Operational Continuity in Resolution*³ and *Guiding Principles on the Temporary Funding Needed to Support the Orderly Resolution of a Global Systemically Important Bank*⁴ to assist CMG authorities in their resolution planning.

5. Challenges remain in a number of areas. These include the assessment of liquidity needs and resources in resolution; operationalising bail-in; management information systems; and continuity of access in resolution to financial market infrastructures. The FSB is undertaking work on a number of these aspects of resolvability, and expects to issue further guidance for public consultation later in 2016 and in 2017.
6. Institution-specific Cross-border Cooperation Agreements (CoAg)s are now in place for more than half of the G-SIBs. CoAg)s are an important element of the work of CMGs on resolution planning. Authorities should renew efforts to put in place CoAg)s for all G-SIBs.

Implementation of the Total Loss-absorbing Capacity (TLAC) standard

7. G-SIBs have started developing TLAC issuance strategies, and policy proposals or consultation documents on national implementation of TLAC have been published by G-SIB home authorities in Japan, Sweden, the United Kingdom and the United States, and Switzerland has adopted final rules to implement TLAC. Several European jurisdictions have proposed or adopted legislation amending the statutory creditor hierarchy to help achieve effective subordination of TLAC. The FSB expects to issue a consultative document proposing guidance on internal TLAC by the end of 2016. The FSB is monitoring the implementation of the TLAC standard and will undertake a review of the technical implementation of the TLAC standard by end 2019.

Cross-border effectiveness of resolution actions

8. Home authorities must have a clear understanding of extent to which the effective implementation of a preferred resolution strategy depends on obtaining recognition or support for its resolution actions from host authorities. This will enable them to identify and plan in advance what actions they need to take to obtain such recognition or support and reduce the risk of legal challenge that could undermine the effectiveness of the chosen resolution strategy. A stock-take of the implementation of the FSB's *Principles for Cross-border Effectiveness of Resolution Actions* ('*Cross-border Effectiveness Principles*')⁵ found that a number of FSB jurisdictions have reformed or are in the process of reforming their resolution regimes to confer powers on their resolution authority to give effect to foreign resolution actions. The FSB will continue to monitor implementation of the *Cross-*

³ See <http://www.fsb.org/wp-content/uploads/Guidance-on-Arrangements-to-Support-Operational-Continuity-in-Resolution1.pdf>, 18 August 2016.

⁴ See <http://www.fsb.org/wp-content/uploads/Guiding-principles-on-the-temporary-funding-needed-to-support-the-orderly-resolution-of-a-global-systemically-important-bank-“G-SIB”.pdf>, 18 August 2016.

⁵ See <http://www.fsb.org/wp-content/uploads/Principles-for-Cross-border-Effectiveness-of-Resolution-Actions.pdf>, 3 November 2015. The *Cross-border Effectiveness Principles* set out statutory and contractual mechanisms that jurisdictions should consider including in their legal frameworks to give cross-border effect to resolution actions in accordance with the *Key Attributes*.

border Effectiveness Principles and review any experience, relevant legal cases and emerging practices of statutory and contractual recognition and supportive measures.

Resolvability of global systemically important insurers (G-SIIs)

9. The home and host authorities of all G-SIIs designated in 2014 have completed or are close to completing the first round of the RAP this year. The RAP demonstrated that resolution planning work has steadily progressed although the work is less advanced as compared to G-SIBs. The absence of comprehensive resolution regimes in home and key host jurisdictions with the full range of powers and tools set out in the *Key Attributes* remains an important impediment to the development of effective resolution strategies. The RAP also identified some gaps with respect to the use of specific resolution tools, the determination of the timing for entry into resolution and *ex ante* cooperation and coordination. The adoption of FSB's guidance on *Developing Effective Resolution Strategies and Plans for Systemically Important Insurers*⁶ should further assist authorities in meeting the resolution planning requirement under the *Key Attributes*.

Progress in reforms of resolution regime for banks

10. The FSB's *Second Thematic Review on Resolution Regimes*⁷ noted improvements in the availability of resolution powers and tools across FSB jurisdictions since the 2013 peer review.⁸ However, only a subset of the FSB membership – primarily home jurisdictions of G-SIBs – currently have a bank resolution regime with a comprehensive set of powers broadly in line with the *Key Attributes*. The bank resolution powers that are most often lacking are: bail-in powers and powers to impose a temporary stay on the exercise of early termination rights.

Progress in reforms of resolution regime for insurers

11. Overall, reforms are significantly less advanced in the insurance sector as compared to the banking sector. A number of jurisdictions report that they have initiated, and one has recently completed, reforms to bring their insurance resolution regimes closer in line with the *Key Attributes*.

International Monetary Fund (IMF) and World Bank Assessments of Implementation of the Key Attributes

12. The FSB, with the involvement of experts from FSB jurisdictions and representatives of CPMI, International Association of Deposit Insurers (IADI), International Association of Insurance Supervisors (IAIS), IOSCO, the IMF and the World Bank, has been working on finalising an assessment methodology for the *Key Attributes* in the banking sector. The staff of the IMF and World Bank will submit the final assessment methodology to their Boards for approval, so that it can be used in assessments as part of the Financial Sector Assessment Program (FSAP) and the Standards & Codes initiative. The FSB will continue to monitor implementation and all FSB jurisdictions agree to undergo an assessment of their bank resolution regimes and to publish the findings. The development of the

⁶ See <http://www.fsb.org/wp-content/uploads/Final-guidance-on-insurance-resolution-strategies.pdf>, 6 June 2016.

⁷ See <http://www.fsb.org/wp-content/uploads/Second-peer-review-report-on-resolution-regimes.pdf>, 18 March 2016.

⁸ See “Thematic Review on Resolution Regimes” (http://www.fsb.org/wp-content/uploads/r_130411a.pdf), 11 April 2013.

assessment methodology for the insurance sector will take into account the work undertaken from 2015 to 2017 by the FSB in this area and therefore extend into 2017.

Effects of resolution-related reforms

13. The FSB has begun to evaluate the effects of financial reforms to enable the G20 to assess whether those reforms are achieving their intended results in an effective manner. Qualitative information suggests that some progress has been made. Most empirical studies document a decline of implicit public subsidies since the crisis peaked, but the findings differ in terms of the estimates of implicit subsidies for systemic banks, partly reflecting varying stages of implementation across jurisdictions and differences in analytical approaches. The FSB will continue to update and deepen the analysis of the effects of resolution-related reforms and approaches to evaluate and communicate progress in this area.

Introduction

FSB jurisdictions are moving from the design of post-crisis resolution reforms to their implementation. Much has now been done to achieve what is necessary to make too-big-to-fail banks resolvable. A particular milestone was the FSB's publication in November 2015 of the finalised standard for Total Loss-Absorbing Capacity (TLAC).⁹ This policy taken together with the other policy measures to enhance the resolvability of systemic banks will, if implemented at firm level and underpinned by robust legal or regulatory measures, contribute to greater resilience of the financial system.

There is still some further work necessary to put in place effective resolution policies and regimes for systemically important non-bank financial institutions, in particular systemic insurers and central counterparties (CCPs). The FSB is working with the International Association of Insurance Supervisors (IAIS), the Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO), to make progress in this area.

Whereas good progress has been made in the implementation of legislative reforms consistent with the *Key Attributes for Effective Resolution Regimes for Financial Institutions* adopted by the FSB in 2011 ('*Key Attributes*')¹⁰, progress remains uneven across jurisdictions. Renewed efforts are therefore necessary to ensure that regimes consistent with the *Key Attributes* are in place in all FSB jurisdictions.

This report takes stock of the progress made and responds to the FSB's commitment to report to the G20 on progress towards a full and consistent implementation of post-crisis reforms. It covers commitments set out in the FSB's resolution progress report of November 2015.¹¹

- **Section 1** reports on the work on CCP resolution which responds to a mandate from the G20 to assess policies on CCP resilience, recovery and resolvability, and recommending any necessary improvements.
- **Section 2** reports findings from the second Resolvability Assessment Process (RAP) for global systemically important banks (G-SIBs) and further work to address impediments to resolvability.
- **Section 3** reports on the results of the stock-take that the FSB agreed to undertake on approaches and measures planned or being undertaken by jurisdictions consistent with the FSB's *Principles for Cross-border Effectiveness of Resolution Actions*.¹²
- **Section 4** reports findings from the first RAP for global systemically important insurers (G-SIIs).

⁹ See "Total Loss-Absorbing Capacity (TLAC) Principles and Term Sheet" (<http://www.fsb.org/wp-content/uploads/TLAC-Principles-and-Term-Sheet-for-publication-final.pdf>), 9 November 2015.

¹⁰ See footnote 1.

¹¹ See "Removing Remaining Obstacles to Resolvability" (<http://www.fsb.org/wp-content/uploads/Report-to-the-G20-on-Progress-in-Resolution-for-publication-final.pdf>), 9 November 2015.

¹² See footnote 5.

- **Section 5** reports on the results from peer reviews and stock-takes with respect to the implementation of the *Key Attributes* in the banking and insurance sector across FSB jurisdictions.
- **Section 6** reports on work underway to evaluate the effects of resolution-related reforms.

1. Central Counterparties (CCPs)

1.1 Overview of the joint CCP workplan on resilience, recovery and resolution

In 2009, the G20 Leaders committed to ensuring that all standardised over-the-counter (OTC) derivatives contracts are cleared through CCPs.¹³ Mandatory clearing has intensified the importance of robust recovery and resolution planning for systemically important CCPs to help ensure that the greater reliance of the global financial system on CCPs does not result in a new category of entity that is “too big to fail”. In 2015 the FSB, together with the Basel Committee on Banking Supervision (BCBS), the CPMI, and IOSCO, agreed on a joint workplan to coordinate their respective international policy work to enhance the resilience, recovery planning and resolvability of CCPs.¹⁴

The CPMI and IOSCO have undertaken significant work to address the resilience and recovery of CCPs. On 16 August the CPMI and IOSCO published the findings of the assessment of CCPs’ implementation of the *Principles for Financial Market Infrastructures* (PFMI) with respect to their financial risk management and recovery practices.¹⁵ The report identifies some gaps and shortcomings, and calls for CCPs’ prompt action to address these. Together with this assessment report, the CPMI and IOSCO also published a consultative document that proposes further guidance on the PFMI, with a view to further improving the resilience of CCPs, with respect to governance, credit and liquidity stress testing, coverage of financial resources, margin, and a CCP’s contributions of own funds to losses.¹⁶ This guidance benefited from the findings of the above-mentioned assessment exercise, as well as a detailed stock-taking survey and industry input. The report also provides guidance that is intended to facilitate a CCP’s development of its recovery plan by building on and reiterating certain aspects of the CPMI-IOSCO’s *Recovery of financial market infrastructures*.¹⁷

1.2 Essential aspects of CCP resolution and resolution planning

Focusing on the resilience and recovery of CCPs is necessary, but not sufficient. Authorities should be prepared to deal with the very extreme event where resolution is necessary because

¹³ See the G20 Leaders Statement from the Pittsburgh Summit 24-25 September 2009 (http://www.fsb.org/wp-content/uploads/g20_leaders_declaration_pittsburgh_2009.pdf).

¹⁴ See footnote 2.

¹⁵ See “Implementation monitoring of PFMI: Level 3 assessment – Report on the financial risk management and recovery practices of 10 derivatives CCPs” (<https://www.bis.org/cpmi/publ/d148.pdf>), August 2016.

¹⁶ See “Resilience and recovery of central counterparties (CCPs): Further guidance on the PFMI” (<https://www.bis.org/cpmi/publ/d149.pdf>), August 2016.

¹⁷ See <http://www.bis.org/cpmi/publ/d121.pdf>, October 2014.

recovery has failed, is not reasonably likely to return the CCP to viability or would otherwise be likely to compromise financial stability.

The *Key Attributes* and implementation guidance on financial market infrastructure (FMI) resolution in II-Annex 1 to the *Key Attributes* (*FMI Annex*)¹⁸ set out a framework for CCP resolution which sits alongside the *PFMI* and its additional guidance. They set out the objectives of FMI resolution and the powers and tools that should be available to resolution authorities to resolve a CCP in a manner that maintains the continuity of clearing services while minimising risks to financial stability and to taxpayers. For CCPs that are systemically important in more than one jurisdiction, they also set out how authorities should develop resolution strategies and plans and conduct resolvability assessments within cross-border Crisis Management Groups or other equivalent arrangements (CMGs). However, they do not discuss how resolution tools should be used and how they may be combined in effective resolution strategies in a range of scenarios of distress, including default events (where losses arise from failure by clearing members to honour their obligations to a CCP) and non-default events (where losses arise for reason of for example business, custody, investment, legal or operational failures).

On 16 August 2016 the FSB published a discussion note for comment by 17 October 2016 which identifies a set of questions and considerations that are core to the development of effective resolution strategies and plans for CCPs.¹⁹ They include, in particular, the following:

- *The timing of entry into resolution.* Authorities should be able to place a CCP into resolution when the recovery measures, including any rules and procedures for loss allocation, have failed or are not reasonably likely to return the CCP to viability or would otherwise be likely to compromise financial stability. Authorities should also consider whether a presumptive point in time for assessing the conditions for entry into resolution can or should be determined and, if so, whether such a presumptive point should be disclosed in advance including to the CCP and its participants.
- *The adequacy of financial resources in resolution.* Authorities should make appropriately prudent assumptions about the quantum of resources needed to achieve an orderly resolution and will need to consider whether additional (*ex-ante* or *ex-post* funded) resources need to be set aside for resolution or whether planning for timely intervention will suffice to ensure the availability of sufficient funds in resolution.
- *The allocation of losses in resolution.* A key question for authorities to consider is to what extent the resolution strategy should be based on a fixed order of loss allocation (e.g. the order established in the rules of the CCP), and consider the consequences of allocating losses differently in resolution. In allocating losses, authorities need to consider the appropriate “no creditor worse off” counterfactual to assess the losses that participants would have borne had the authorities not intervened.
- *Cross-border cooperation and coordination in resolution.* Authorities should consider the nature and scope of their cross-border cooperation and coordination arrangements,

¹⁸ See footnote 1.

¹⁹ See “Essential Aspects of CCP Resolution Planning” (<http://www.fsb.org/wp-content/uploads/Essential-Aspects-of-CCP-Resolution-Planning.pdf>), 16 August 2016.

including the composition of their CMGs, in light of the cross-border cooperation that will be required in a resolution and the resolution actions that may need to be given effect in different jurisdictions. CMGs should be established in a manner consistent with the *FMI Annex* for all CCPs that are determined to be systemically important in more than one jurisdiction. But cross border cooperation may need to be broader and authorities should consider how to engage with other jurisdictions not represented on the CMG in which the CCP is systemically important.

- *The overall effects of the resolution strategy on the incentives of the CCP's various stakeholders.* A key question for authorities to consider is whether the resolution strategy and plan provide appropriate incentives for the CCP, its owners and its clearing members to avoid resolution and achieve a successful recovery and whether it incentivises good governance and risk management without adversely affecting incentives to clear.

Based on the feedback received in response to the public consultation, the FSB will develop a proposal for more granular guidance on CCP resolution which will be issued for consultation in early 2017, with the aim of finalising the guidance by the G20 summit in mid-2017.

1.3 Interactions with other work

There is a close relationship between resolution planning for CCPs and resolution planning for G-SIBs which is discussed further below (Section 2). Effective resolution planning for G-SIBs that are significant clearing members of several, if not all, of the largest CCPs is key to helping ensure the safety and soundness of CCP (see Figure 1 for G-SIB membership of selected CCPs). BCBS, CPMI, FSB and IOSCO have launched work to identify, quantify and analyse interdependencies between CCPs and major clearing members and any resulting systemic implications which should help understand potential consequences in extreme circumstances with implications for resolvability of both CCPs and major clearing members. To the extent that the largest G-SIB clearing members have in place effective resolution plans that ensure that in resolution they remain in a position to meet their obligations to a CCP the likelihood of a default event causing a CCP to fail may be reduced. It is therefore critical to consider CCP resolution plans and G-SIB resolution plans together and to help ensure that they are consistent and mutually reinforcing.

| | HKSCC | CCIL | JSCC | SGX-DC | LCH SA | Eurex | EuroCCP | ICE-EU | LME | LCH LTD | BM&F Bovespa | NSCC | FICC | CME | ICE-US |
|-------------------------|-------|------|------|--------|--------|-------|---------|--------|-----|---------|--------------|------|------|-----|--------|
| BANK OF CHINA | | | | | | | | | | | | | | | |
| CHINA CONSTRUCTION BANK | | | | | | | | | | | | | | | |
| ICBC | | | | | | | | | | | | | | | |
| MITSUBISHI UFJ | | | | | | | | | | | | | | | |
| MIZUHO FG | | | | | | | | | | | | | | | |
| SUMITOMO MITSUI FG | | | | | | | | | | | | | | | |
| BNP PARIBAS | | | | | | | | | | | | | | | |
| CREDIT AGRICOLE | | | | | | | | | | | | | | | |
| GROUPE BPCE | | | | | | | | | | | | | | | |
| SOCIETE GENERALE | | | | | | | | | | | | | | | |
| DEUTSCHE BANK | | | | | | | | | | | | | | | |
| UNICREDIT | | | | | | | | | | | | | | | |
| ING BANK | | | | | | | | | | | | | | | |
| SANTANDER | | | | | | | | | | | | | | | |
| NORDEA | | | | | | | | | | | | | | | |
| CREDIT SUISSE | | | | | | | | | | | | | | | |
| UBS | | | | | | | | | | | | | | | |
| BARCLAYS | | | | | | | | | | | | | | | |
| HSBC | | | | | | | | | | | | | | | |
| ROYAL BANK OF SCOTLAND | | | | | | | | | | | | | | | |
| STANDARD CHARTERED | | | | | | | | | | | | | | | |
| BANK OF AMERICA | | | | | | | | | | | | | | | |
| BNY- MELLON | | | | | | | | | | | | | | | |
| CITIBANK | | | | | | | | | | | | | | | |
| GOLDMAN SACHS | | | | | | | | | | | | | | | |
| JP MORGAN CHASE | | | | | | | | | | | | | | | |
| MORGAN STANLEY | | | | | | | | | | | | | | | |
| STATE STREET BANK | | | | | | | | | | | | | | | |
| WELLS FARGO | | | | | | | | | | | | | | | |

Figure 1: G-SIB membership of selected CCPs²⁰

2. Global Systemically Important Banks (G-SIBs)

2.1 Results of the 2nd round of the Resolvability Assessment Process (RAP)

In its report to the G20 of September 2013, the FSB made a commitment to assess the resolvability of each G-SIB.²¹ The objective of the RAP is to promote adequate and consistent reporting on the resolvability of each global systemically important financial institutions (G-SIFI) and help determine what should be done to address material recurring issues with respect to resolvability. A first full round of the RAP was undertaken for all G-SIBs in 2015. A second round of the RAP was launched in 2016.

Overall, G-SIB recovery and resolution planning work has progressed significantly over the past few years (see Figure 2 below). However, some areas of G-SIB resolution planning remain less advanced. The number of cross-border cooperation agreements (CoAgs) executed by home and host authorities in G-SIB CMGs increased from 13 in August 2015 to 19 in August 2016.

²⁰ Cells highlighted in green indicates that the G-SIB is a member of the CCP. Abbreviations of CCPs are as follows: HKSCC: Hong Kong Securities Clearing Company, CCIL: The Clearing Corporation of India, JSCC: Japan Securities Clearing Corporation, SGX-DC: Singapore Exchange Derivatives Clearing, LCH SA: LCH.Clearnet SA, Eurex: Eurex Clearing, ICE-EU: ICE Clear Europe, LME: LME Clear, LCH LTD: LCH.Clearnet Limited, NSCC: National Securities Clearing Corporation, FICC: Fixed Income Clearing Corporation, CME: CME Clearing, ICE-US: ICE Clear U.S.

²¹ See “Progress and Next Steps Towards Ending ‘Too-Big-To-Fail’ (TBTF)” (http://www.fsb.org/wp-content/uploads/r_130902.pdf), 2 September 2013.

However, authorities will need to renew efforts to put in place CoAgs for all G-SIBs given that CoAgs are an important element of the work of CMGs on resolution planning and for cooperation in a crisis. Other areas that were assessed in the 2016 RAP are the following:

- *Total Loss-absorbing Capacity (TLAC)* – since the adoption of the TLAC standard in November 2015²², G-SIBs have started developing TLAC issuance strategies. A number of G-SIBs have begun the process of replacing ineligible liabilities with TLAC (e.g. by replacing maturing senior debt with new issuance from holding companies). Several G-SIB home authorities have also taken steps to implement the TLAC standard (see section 2.2 below).
- *Operational continuity* – G-SIBs and authorities have made progress in identifying critical shared services; mapping services to business lines and legal entities; and defining target service delivery models for the provision of critical shared services. Several G-SIBs have also begun the process of amending service level agreements for critical shared services to include resolution clauses. However, for a number of G-SIBs the establishment of service delivery models is expected to take several years (especially where critical shared services are being transferred to intra-group service companies).
- *Adherence to the ISDA resolution stay protocol* – 23 G-SIBs²³ have adhered to the 2015 ISDA Universal Resolution Stay Protocol (2015 Universal Protocol), which extended the 2014 ISDA Resolution Stay Protocol beyond bilateral OTC derivatives contracts to securities financing transactions. Adherents to the 2015 Universal Protocol agree to be bound by temporary stays under identified resolution regimes with respect to their financial contracts with other adhering parties. Identified regimes include those in France, Germany, Japan, Switzerland, the United Kingdom and the United States. Additional regimes will be included in specific country annexes. A country annex for Spain has been finalised in June 2016. Country annexes for the Netherlands, Italy, and Sweden are expected by end 2016.

The 2015 Universal Protocol is designed for inter-dealer financial contracts governed by foreign law. G-SIBs' financial contracts governed by foreign law with non-G-SIB counterparties will be captured through regulatory measures, and ISDA has developed a separate Jurisdictional Modular Protocol that provides these counterparties with a standardised means of complying with the regulatory measures. G-SIB home jurisdictions have made important progress in adopting such regulatory measures. In particular, rules have been finalised in Germany, Japan and the United Kingdom, and policy proposals have been published in the United States. Legislation in Switzerland is expected to be finalised in early 2017. Authorities should renew their efforts in respect

²² See footnote 9.

²³ Bank of America, Bank of New York Mellon, Barclays, BNP Paribas, Citigroup, Credit Suisse, Deutsche Bank, Goldman Sachs, HSBC, ING Bank, JP Morgan Chase, Mitsubishi UFJ FG, Mizuho FG, Morgan Stanley, Nordea, Royal Bank of Scotland, Société Générale, Standard Chartered, State Street, Sumitomo Mitsui FG, UBS, Unicredit Group, and Wells Fargo.

The seven G-SIBs that have not yet adhered to the 2015 Universal Protocol are Agricultural Bank of China, Bank of China, China Construction Bank, Groupe BPCE, Groupe Crédit Agricole, Industrial and Commercial Bank of China Limited and Santander.

of these different actions, the completion of which is expected to result in substantively all developed economy G-SIBs' foreign law governed financial contracts being subject to contractual stay provisions to prevent early termination in resolution.²⁴

- *Funding in resolution* – G-SIBs are progressing work to assess likely funding needs in resolution, identify unencumbered collateral and identify pre-conditions for access to temporary public sector backstop mechanisms. Nevertheless, deficiencies were identified by a number of authorities, including insufficiently developed methodologies and G-SIBs' analyses to assess likely funding needs in resolution and identify possible sources of unencumbered collateral.
- *Valuation* – Several G-SIB home authorities highlighted impediments to resolvability arising from firms' valuation capabilities. In particular, firms' Management Information Systems (MIS) may not facilitate the provision of rapid and effective valuations, and questions remain regarding the ability to replicate month-end processes in the event of resolution and the capacity of MIS to incorporate resolution specific valuation assumptions. The FSB is considering issues relating to valuation as part of work on the operational execution of bail-in (see section 2.4 below).
- *Management Information Systems (MIS)* – A recurring impediment to resolvability identified by G-SIB home authorities relates to limitations in firms' MIS. In many cases, authorities do not have comfort in the ability of firms' MIS to aggregate data and provide up-to-date global and detailed reporting on a timely basis. Some authorities are taking action to encourage firms to invest in their MIS and one other has conducted a data gathering exercise to identify limitations in firms' capabilities.

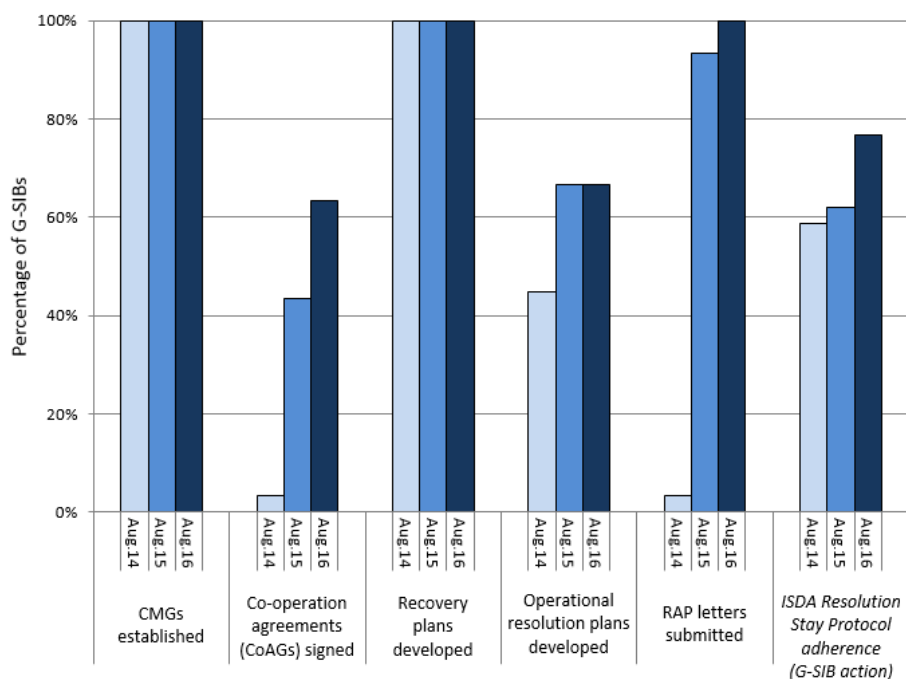


Figure 2: Authorities' resolution planning status for G-SIBs (August 2014-August 2016)

²⁴ G-SIBs' financial contracts governed under domestic law are captured by statutory stay provisions in all developed economy G-SIB home jurisdictions.

G-SIB home authorities will conduct a third RAP in 2017 with a focus on progress in the implementation of the TLAC standard and the areas with remaining weaknesses as identified above.

2.2 Implementation of the Total Loss-absorbing Capacity (TLAC) Standard

On 9 November 2015, the FSB published a new standard on the adequacy of TLAC for G-SIBs in resolution.²⁵ The TLAC standard defines a minimum requirement for the instruments and liabilities that should be readily available for bail-in within a G-SIB resolution. It has been designed so that failing G-SIBs will have sufficient loss-absorbing and recapitalisation capacity available for authorities to implement an orderly resolution that minimises impacts on financial stability, maintains the continuity of critical functions, and avoids exposing public funds to loss.

The TLAC standard will be brought into effect in two stages. Firms designated by the FSB as G-SIBs before the end of 2015²⁶ (and that continue to be designated thereafter, and with the exception of firms headquartered in emerging market economies for which there is an extended conformance period) must comply with the TLAC standard from 1 January 2019. Such firms must meet Minimum TLAC requirements of at least 16% of risk-weighted assets (RWA) and 6% of the Basel III leverage ratio denominator (LRE) from 1 January 2019 and at least 18% RWA and 6.75% LRE from 1 January 2022.

The calibration of the Minimum TLAC requirement and the conformance period were informed by a comprehensive impact assessment study, comprising a Quantitative Impact Study (QIS) conducted by the BCBS and micro- and macroeconomic impact analyses of the costs and benefits of TLAC conducted by a group of experts chaired by the Bank for International Settlements (BIS). In particular, the two stage conformance period provides time for G-SIBs subject to Minimum TLAC requirements to, as necessary, reissue maturing debt in the form of TLAC eligible instruments or complete any additional issuance to close TLAC shortfalls in a way that minimises any impact on the cost of funding or the supply of credit to the real economy.

To implement the TLAC standard at a national level, FSB jurisdictions will need to transpose the TLAC standard into rules and regulations at jurisdictional levels. Over the course of the last year, a majority of G-SIB home authorities have published policy proposals or consultation documents setting out their expectations regarding TLAC requirements for G-SIBs in their jurisdiction (see Box 1). Many of these proposals are expected to be finalised by the end of 2016.

²⁵ See footnote 9.

²⁶ See “2015 update of list of global systemically important banks (G-SIBs)” (<http://www.fsb.org/wp-content/uploads/2015-update-of-list-of-global-systemically-important-banks-G-SIBs.pdf>), 3 November 2015.

Box 1: Implementation of the TLAC standard by G-SIB home jurisdictions

Since the publication of the final TLAC standard in November 2015, policy proposals or consultation documents on national implementation of TLAC have been published by G-SIB home authorities in Japan, Sweden, United Kingdom and the United States, and Switzerland has adopted final rules to implement TLAC. The European Union (EU) resolution framework includes a firm-specific requirement for own funds and eligible liabilities (MREL) that is applicable to all banks. The EU is working to transpose the FSB's TLAC standard into EU law in a manner consistent with MREL, which shares the same regulatory objectives as TLAC. The high-level features of policy proposals published by G-SIB home authorities are set out below:

- **Japan:** In April 2016, the Financial Services Agency (FSA) published its [Approach to Introduce the TLAC Standard](#). Based on this approach document, the FSA will set requirements at the level of the Minimum TLAC requirement in the TLAC Term Sheet. The 16% RWA requirement will apply from 31 March 2019 and the 18% RWA requirement from 31 March 2022, in line with the Japanese financial year and mirroring the implementation of Basel III. The Japanese G-SIBs will be required to issue external TLAC from the top-tier bank holding companies. The FSA's approach document also outlines the preferred single point of entry resolution strategy for an orderly resolution of Japanese G-SIBs.
- **Sweden:** In April 2016, the Riksgälden (the Debt Office) published a [Consultation Paper on the minimum requirement for own funds and eligible liabilities \(MREL\)](#).²⁷ The consultation proposes an MREL requirement comprising for systemically important banks a loss absorption amount equal to an institution's total capital requirements (excluding the combined buffer requirement and the Pillar 2 systemic risk component) and a recapitalisation amount equal to an institution's total capital requirements. The paper also sets out the Debt Office's view that liabilities used to meet MREL requirements should be subordinated.
- **Switzerland:** In May 2016, the Federal Council adopted [measures to reinforce the "too big to fail" regime](#). The changes include the introduction of gone concern requirements alongside existing going concern requirements. Taken together, the Swiss G-SIBs will be subject to a total requirement (including all buffers, except the countercyclical buffer) of 28.6% RWA and 10% of total exposure, to be phased in until the end of 2019. This translates into a higher requirement than the Minimum TLAC requirement in the TLAC Term Sheet. A reduction in the gone-concern requirement of up to two percentage points for the unweighted measure is possible, subject to further improved resolvability.
- **United Kingdom:** In December 2015, the Bank of England published a [Consultation Paper on the Bank of England's Approach to Setting MREL](#).²⁸ Based on this consultation paper, the Bank of England would set MREL for UK G-SIBs to implement the TLAC standard. For institutions for which bail-in is the appropriate resolution strategy (expected to include the UK G-SIBs), the Bank of England would generally set MREL equivalent to two times the current minimum capital requirements (Pillar 1 and Pillar 2A), to be met from 1 January 2020 for the UK G-SIBs (which would also be required to comply with the 1 January 2019 TLAC minimum). This would be expected to translate into a higher requirement than the Minimum TLAC requirement in the TLAC Term Sheet. These institutions would generally be required to issue MREL from the holding company and downstream it in the form of capital or another form of subordinated claim to material operating subsidiaries (structural subordination).
- **United States:** In October 2015, the Federal Reserve Board (FRB) issued a Notice of Proposed Rulemaking (NPR) on [TLAC, Long-Term Debt, and Clean Holding Company Requirements for Systemically Important U.S. Bank Holding Companies and Intermediate Holding Companies of Systemically Important Foreign Banking Organizations](#). Under the proposed rule, U.S. G-SIBs would

²⁷ Under the European Union Bank Recovery and Resolution Directive (BRRD), MREL requirements must be set for all credit and investment firms in the European Union, including those firms designated as G-SIBs that must also meet TLAC requirements.

²⁸ Ibid.

be required to hold at a minimum a TLAC amount of the greater of 18% RWA and 9.5% total leverage exposure, and a long-term debt amount of the greater of 6% RWA (plus G-SIB surcharge) and 4.5% total leverage exposure. This is expected to translate into a higher requirement than the Minimum TLAC requirement in the TLAC Term Sheet. The proposal also includes a corresponding internal TLAC and internal long-term debt requirement for the U.S. Intermediate Holding Companies of foreign G-SIBs, and clean holding company requirements for the parent holding companies of U.S. G-SIBs.

In Europe, several jurisdictions have proposed or adopted legislation amending the insolvency creditor hierarchy to help achieve effective subordination of TLAC-eligible instruments, as required by the TLAC Term Sheet.²⁹ See Box 2 below.

Box 2: Changes to the creditor hierarchy to achieve subordination of TLAC

- **France:** A draft Bill was unveiled in December 2015 that would change the hierarchy of banks' creditors to create a new category of "unpreferred senior" debt instruments: junior to other senior debts, but senior to subordinated debts. This proposal would only apply to new debt instruments issued in the new category.
- **Germany:** From 1 January 2017, a new category of claims will be created for unsecured, non-structured debt instruments issued by credit institutions. These instruments will rank senior to subordinated instruments but junior to general creditors' claims. The amendment applies retroactively (i.e., it will be applied to existing unsecured, non-structured debt instruments issued by credit institutions).
- **Italy:** A new creditor class will be created from 2019 to effectively prefer all uninsured deposits to other senior creditors. This means that uninsured deposits could only be exposed to loss after all senior unsecured liabilities had been bailed-in and prior to eligible deposits of natural persons and small and medium-sized enterprises (SMEs).
- **Switzerland:** legislation was adopted in May 2016 creating a new class for debt that has been issued for the purpose of resolution measures ("bail-in bonds"). Such bonds rank senior to subordinated debt but junior to other debt and all deposits (including non-preferred deposits).

The FSB will continue to monitor the implementation of the TLAC standard and undertake a review of its technical implementation by the end of 2019.

2.3 Internal TLAC

A key objective of the 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

²⁹ Subordination of TLAC is necessary to ensure that TLAC absorbs losses prior to liabilities that are excluded from TLAC, in particular operational liabilities on which the performance of critical functions depends. Section 11 of the TLAC Term Sheet (<http://www.fsb.org/wp-content/uploads/TLAC-Principles-and-Term-Sheet-for-publication-final.pdf>) requires TLAC to be contractually or statutorily subordinated to excluded liabilities on the balance sheet of the resolution entity, or issued by a resolution entity which does not have excluded liabilities on its balance sheet that rank pari-passu or junior to TLAC-eligible instruments (structurally subordinated).

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). The triggering of internal TLAC passes losses and recapitalisation needs to the resolution entity, without entry of the material sub-group into statutory resolution proceedings.

While the TLAC Term Sheet sets out the core features of internal TLAC in relation to quantum, triggers and eligibility of instruments, CMG authorities will need to consider a number of technical and practical issues as they develop and implement internal TLAC mechanisms.³⁰ The FSB is therefore developing additional guidance covering in particular the following elements:

- *Identification and composition of ‘material sub-groups’ subject to an internal TLAC requirement* – the process for identifying material sub-groups, the scope of consolidation of material sub-groups, and the treatment of unregulated or non-bank entities;
- *Size and composition of the internal TLAC requirement* – factors that home and host authorities should consider when determining the size of the internal TLAC requirement and the composition and distribution of internal TLAC within a material sub-group;
- *Design of the trigger mechanism for internal TLAC* – features of the trigger mechanism for internal TLAC, including the use of contractual triggers or statutory powers; and
- *Cross-border cooperation* – cooperation and coordination between home and host authorities in determining the internal TLAC requirement and in triggering the write-down and/or conversion into equity of internal TLAC.

The FSB expects to publish guidance for public consultation by the end of 2016.

2.4 Bail-in execution

Bail-in execution refers to the process of writing-down and/or converting into equity bail-inable instruments (including, in the case of G-SIBs, TLAC) to absorb losses and recapitalise a failed firm as part of an orderly resolution that minimises impacts on financial stability, ensures the continuity of critical functions, and avoids exposing taxpayers to loss. This entails a range of operational processes to write-down and/or convert bail-inable instruments and return or issue instruments in tradeable form. The FSB is undertaking work on these issues to support CMG authorities’ resolution planning. The work will consider in particular:

- *Bail-in scope* – information or other requirements that should apply to liabilities that fall within the scope of an authority’s bail-in powers so as to ensure that market participants have *ex-ante* clarity as regards the scope of the bail-in;
- *Valuation* – principles governing the valuation process that informs the decisions of resolution authorities as they exercise bail-in powers, and the roles and responsibilities of home and host authorities during the valuation process;
- *Exchange mechanics and securities law issues* – the operational processes to suspend or cancel the listing of securities, to notify creditors, and to deliver new securities or

³⁰ See sections 16 to 19 of the TLAC Term Sheet for the provisions relating to internal TLAC: <http://www.fsb.org/wp-content/uploads/TLAC-Principles-and-Term-Sheet-for-publication-final.pdf>

tradeable certificates following the entry into resolution, considering in particular the roles of firms and other market participants and utilities such as Central Securities Depositories (CSDs) and share registrars;

- *Communications* – the approaches that should be taken in regard to communications in resolution and market disclosures; and
- *Governance* – the process for transferring governance and control rights and establishing a new board for the firm in resolution.

The FSB expects to publish a consultative document by the end of 2017.

2.5 Continuity of access in resolution to Financial Market Infrastructures (FMIs)

G-SIB resolution strategies seek to ensure that the entity or group of entities emerging from resolution meet the conditions for authorisation and are sufficiently well capitalised to command market confidence. FMIs should not be expected to withdraw access to a G-SIB in resolution, provided that the G-SIB continues promptly to meet its obligations to the FMI and that such continued access does not jeopardise the safe and orderly operations of the FMI. As such, the *FMI-Annex* to the *Key Attributes* provides that:

*“The entry into resolution of an FMI member or use of a resolution tool should not lead to an automatic termination of its participation in the FMI. Jurisdictions should ensure that laws and regulations applicable to FMIs should not prevent FMIs from maintaining the participation of a firm in resolution provided that the safe and orderly operation of the FMI is not compromised”.*³¹

However, FMIs and intermediaries to FMIs continue to reserve wide discretion under their rules and contractual arrangements to terminate or suspend access both prior to and during the execution of a resolution strategy; or to modify the conditions and requirements that an FMI member or a client of an intermediary must satisfy. Resolution 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 is therefore undertaking work to consider ways in which access to FMIs can be maintained in resolution, balanced against the FMI’s need to exercise prudent risk management. The FSB expects to publish guidance, building on the *FMI-Annex* to the *Key Attributes*, for public consultation by the end of 2016.

2.6 Funding of G-SIBs in resolution

The recapitalised firm or newly established bridge entity emerging from resolution that continues the failed firm’s operations may experience heightened liquidity needs generated by market volatility and lack of information. Following a public consultation on proposals in 2015, the FSB has finalised a set of guiding principles regarding the temporary funding of firms in

³¹ See footnote 1.

resolution to support implementation of the preferred resolution strategies of G-SIBs.³² The guiding principles focus on:

- ways to encourage and maintain as much private sector funding as possible to the firm in resolution;
- the role and types of public sector backstop mechanisms for providing temporary liquidity to the extent necessary to support the orderly resolution of a G-SIB; and
- elements of temporary public sector backstop mechanisms that support the minimisation of moral hazard risks.

Funding in resolution remains a key issue at the level of G-SIB resolution planning in CMGs. In particular, CMG authorities will need to consider their plans for resolution funding in relation to the operational process for accessing different sources of resolution funding and the processes for G-SIBs to identify and mobilise assets that could be used as collateral.

The FSB will undertake a review of existing practices and approaches to resolution funding being developed by CMG authorities and, on this basis, will consider the need for further work to support the implementation of plans for funding in resolution.

2.7 Operational continuity in resolution

To resolve a failing firm in a manner that maintains continuity of its critical functions, it is important that there is continuity of those services that are provided within a firm or that are provided by third parties for the firm and that are necessary to support the continued provision of critical functions in resolution. 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.

Following a public consultation on proposals in 2015, the FSB has finalised guidance on arrangements to support operational continuity.³³ The guidance should assist supervisory and resolution authorities and firms to evaluate whether firms that are subject to resolution planning requirements have appropriate arrangements to support operational continuity if the firm enters resolution. In particular, the guidance identifies a number of arrangements that may support operational continuity both at the point of entry into resolution and during a restructuring or wind-down of services following the stabilisation of the firm. Those arrangements are discussed in the context of three service delivery models: (i) service provision within a

³² See "Guiding principles on the temporary funding needed to support the orderly resolution of a global systemically important bank ("G-SIB")" ([http://www.fsb.org/wp-content/uploads/Guiding-principles-on-the-temporary-funding-needed-to-support-the-orderly-resolution-of-a-global-systemically-important-bank-"G-SIB".pdf](http://www.fsb.org/wp-content/uploads/Guiding-principles-on-the-temporary-funding-needed-to-support-the-orderly-resolution-of-a-global-systemically-important-bank-)), 18 August 2016. The consultation document was published on 3 November 2015 (see <http://www.fsb.org/wp-content/uploads/Funding-in-Resolution-Guiding-Principles-Consultative-Documents.pdf>) and has been revised in light of the comments received during that consultation (see <http://www.fsb.org/2016/01/public-responses-to-the-november-2015-consultative-document-temporary-funding-needed-to-support-the-orderly-resolution-of-a-global-systemically-important-bank/>).

³³ See "Guidance on Arrangements to Support Operational Continuity in Resolution" (<http://www.fsb.org/wp-content/uploads/Guidance-on-Arrangements-to-Support-Operational-Continuity-in-Resolution1.pdf>), 18 August 2016. The consultation document was published on 3 November 2015 (see <http://www.fsb.org/wp-content/uploads/Guidance-on-Arrangements-to-Support-Operational-Continuity-in-Resolution.pdf>) and has been revised in light of the comments received during that consultation (see <http://www.fsb.org/2016/01/public-responses-to-the-november-2015-consultative-document-arrangements-to-support-operational-continuity-in-resolution/>).

regulated entity; (ii) service provision by an intra-group service company; and (iii) service provision by a third party service provider. They include contractual provisions in Service Level Agreements; governance and cost structures; financial resources; and operational resilience.

The FSB will continue to monitor and report on CMG authorities' progress in putting in place arrangements to support operational continuity in resolution.

3. Cross-border effectiveness of resolution actions

In its 2015 report on progress in resolution to the G20³⁴ the FSB made a commitment to report on the implementation of the FSB's *Principles for Cross-border Effectiveness of Resolution Actions* ('*Cross-border Effectiveness Principles*').³⁵ The FSB took stock of approaches and measures planned or being taken consistent with those principles, in particular in relation to resolution actions for banks and banking groups. Twenty two jurisdictions participated in the survey³⁶:

- *A number of jurisdictions³⁷ conferred an administrative 'recognition power' on the resolution authority alongside a broad range of resolution powers.* Such recognition power empowers the resolution authority to recognise and give effect to a foreign resolution action in its jurisdiction upon request or application by a foreign resolution authority. A number of other jurisdictions³⁸ have judicial recognition processes to give effect to foreign resolution actions.
- *With the exception of the framework that applies in the European Union (EU) with respect to intra-EU resolution measures, there is no automaticity for recognition of foreign resolution actions.* Authorities generally enjoy some degree of discretion in determining whether or not to recognise a foreign resolution action. The conditions for recognition (and grounds for refusal) are broadly consistent with those set out in the Cross-border Effectiveness Principles for recognition although the manner in which these safeguards and conditions are applied may vary. They generally relate to consistency with public policy objectives, the absence of adverse effects on domestic financial stability as a result of recognising and enforcing a foreign resolution action, and the equitable treatment of creditors. In several jurisdictions the "no creditor worse off than in liquidation" (NCWOL) safeguard or a similar test is a relevant consideration for determining whether or not to recognise a foreign resolution.
- *Home authorities need to gain a clear understanding of the extent to which the effective implementation of a preferred resolution strategy depends on obtaining recognition of*

³⁴ See footnote 11.

³⁵ See footnote 5.

³⁶ Jurisdictions participating in the survey are Australia, Brazil, Canada, China, France, Germany, Hong Kong, India, Indonesia, Italy, Japan, Korea, Mexico, Saudi Arabia, Singapore, South Africa, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States.

³⁷ Hong Kong, Switzerland, France, Germany, Italy, Spain, Sweden and the United Kingdom. (Singapore intends to introduce an administrative recognition process.)

³⁸ Australia, Canada, Hong Kong, India, Japan, Mexico, Singapore, South Africa, the United Kingdom and the United States. (Some of them have administrative recognition processes also.)

or support for its resolution actions from host authorities. This would enable the authority to identify and plan in advance what steps they need to take to obtain relevant recognition or supportive measures and to reduce the risk of creditor actions in host jurisdictions or other sources of uncertainty that could undermine the effectiveness of the resolution strategy. Depending on the nature and operations of the entity to which resolution actions would be applied under the preferred resolution strategy (‘resolution entity’); for example, whether the resolution entity operates branches in a foreign jurisdiction, transacts business governed by foreign (host or third country) law, has assets in a foreign jurisdiction, or has issued debt under foreign law; different approaches to cross-border effectiveness may be relevant.

- *Under some resolution strategies, authorities may be able to reduce the necessity of obtaining recognition of resolution actions, but need to rely on other supportive measures from foreign authorities.* This is the case under a single point of entry (SPE) strategy if the resolution entity is a non-operational holding company which only transacts business under domestic law and does not itself directly engage in foreign operations other than through subsidiaries. The transfer of control and ownership in its foreign subsidiaries to a bridge entity may require supportive measures from host supervisory authorities to maintain relevant licenses and authorisations for the subsidiaries operating in the host jurisdictions, or access to FMIs in host jurisdictions.

To facilitate advance planning, the legal framework conditions for the specific recognition and supportive measures that are relevant for the preferred resolution strategy and any material risk of legal challenge need to be clearly understood. If shareholders or creditors could easily enjoin resolution actions in court, the resolution strategy risks being ineffective.

The FSB will continue to monitor implementation of the *Cross-border Effectiveness Principles* and review relevant legal cases and emerging practice and experience with contractual and statutory cross-border recognition and supportive measures.

4. Global Systemically Important Insurers (G-SIIs)

4.1 Results of the 1st round of the Resolvability Assessment Process (RAP)

In the FSB’s report to the G20 of November 2014³⁹, G-SII home authorities agreed to complete by end 2016 the first resolvability assessment process (RAP) for G-SIIs designated in 2014.⁴⁰

The home and host authorities of all G-SIIs subject to the RAP have completed or are close to completing the first round of the RAP this year. The RAP demonstrated that resolution planning work has steadily progressed although the work is less advanced as compared to G-SIBs. See

³⁹ See “Towards full implementation of the FSB Key Attributes of Effective Resolution Regimes for Financial Institutions” (<http://www.fsb.org/wp-content/uploads/Resolution-Progress-Report-to-G20.pdf>), 12 November 2014.

⁴⁰ The FSB identified nine primary insurers as G-SIIs (Allianz SE, American International Group, Inc., Assicurazioni Generali S.p.A., Aviva plc, Axa S.A., MetLife, Inc., Ping An Insurance (Group) Company of China, Ltd., Prudential Financial, Inc. and Prudential plc.) in the “2014 update of list of global systemically important insurers (G-SIIs)” (http://www.fsb.org/wp-content/uploads/r_141106a.pdf), 6 November 2014; however, the RAP is not conducted for Assicurazioni Generali S.p.A. since it was not designated as G-SII in 2015. For Aegon N.V., which was newly designated as G-SII in 2015, the RAP will be conducted starting in 2017.

Figure 3 below for authorities' resolution planning status for G-SIIs and, for comparison, see Figure 2 above for G-SIBs.

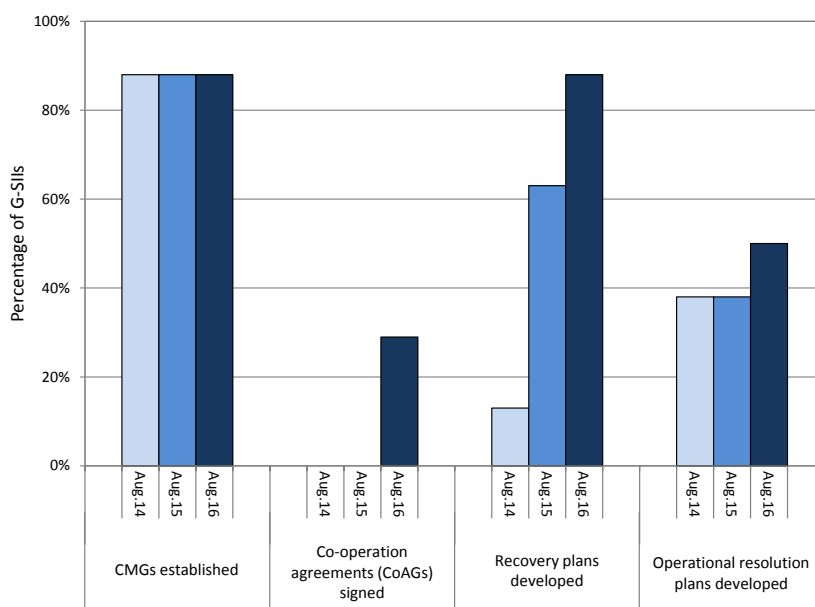


Figure 3: Authorities' resolution planning status for G-SIIs (August 2014-August 2016)⁴¹

The key findings from the RAP are the following:

- *Lack of comprehensive resolution regime in G-SII home and key host jurisdictions.* Resolution planning is limited by the fact that there are few comprehensive resolution regimes in home and key host jurisdictions that provide for the full range of powers and tools set out in the *Key Attributes* and its implementation guidance on insurance resolution in II-Annex 2 to the *Key Attributes* ('*insurance-Annex*')⁴², including powers to require G-SIIs to remove potential impediments to resolvability. Several jurisdictions have plans to develop or improve their frameworks for resolution of insurers in order to address a range of barriers and potential impediments to effective resolution (see section 5.2 below).
- *Slow progress in analysing G-SIIs' critical functions.* The identification of the insurer's critical functions is key to identifying the most suitable resolution strategy and tools. It determines the choice between stabilisation and restructuring options aimed at achieving continuity of critical business operations and functions and resolution options aimed at ensuring the orderly run-off of the whole or part of the existing business lines and insurance products. However, so far only one jurisdiction has completed a comprehensive analysis of the critical functions of a G-SII located in its jurisdiction.

⁴¹ Sample: 8 insurers designated as G-SIIs for three years in a row from 2013-2015.

⁴² See footnote 1.

- *More work needed to operationalise resolution strategies.* Further work is needed on key resolution planning issues, such as the execution of specific resolution tools, the determination of the timing for entry into resolution and definition of triggers for resolution actions, and the valuation, in particular in the case of complex long-term liabilities and for purposes of applying the NCWOL safeguard.
- *Need for an effective framework for ex ante cooperation and coordination and clear processes.* G-SII home authorities identified the risk that a G-SII resolution give rise to multiple competing administrative and insolvency proceedings both in the home jurisdiction and in relevant host jurisdictions, in part due to the absence of a framework for *ex ante* cooperation and coordination and clear processes for giving effect to foreign resolution actions where this is necessary. Although several G-SII home authorities reported that they are close to finalising their CoAgs, only two have so far been signed.
- *Internal and external connectedness posing challenges in resolution.* The resolution of insurance groups and conglomerates and their component parts may be complicated in the presence of multiple financial and operational interdependencies (such as the provision of critical internal (shared) services or existence of internal reinsurance pools).
- *Capacity of policyholder protection schemes (PPSs) to support a G-SII resolution and availability of resolution funding.* The capacity of PPS to support a G-SII resolution and limits to that capacity as well as the availability of other resolution funding sources need to be clearly understood. PPS may have limited capacity to provide support in a G-SII resolution due to caps on funding and the scale of compensation that is likely required, as well as the risk that compensation through PPSs funded by ex-post levies may also cause some financial strain to levy firms.

Authorities expect to make further progress on the identified impediments to resolvability in the coming year, in part due to reforms of resolutions regimes coming into effect (see section 5.2 below). Also, the adoption of guidance on developing effective resolution strategies and plans (see section 4.2 below) should assist authorities in progressing their resolution planning.

G-SIIs home authorities will gauge the progress made on the above items in the second round of the RAP which will be conducted in 2017.

4.2 Guidance on developing effective resolution strategies and plans

On 6 June 2016, the FSB published guidance on *Developing Effective Resolution Strategies and Plans for Systemically Important Insurers*⁴³ to assist authorities in meeting the resolution planning requirement under the *Key Attributes*. It sets out considerations for determining a preferred resolution strategy based on a strategic analysis of insurers' business models, the criticality of insurers' functions and policyholder protection arrangements. It also identifies a range of elements that need to be in place so that a resolution strategy can be effectively implemented, including cross-border cooperation, information systems and resources to absorb loss. The guidance has been developed with the participation of the IAIS and builds on the *insurance-Annex* to the *Key Attributes* on how provisions of the *Key Attributes*, including resolution powers and the details of recovery and resolution planning, should be interpreted for

⁴³ See footnote 6.

insurers. The guidance also incorporates elements from a separate consultation on critical insurance functions⁴⁴ and the responses received⁴⁵ from the public consultation of October 2014.

The FSB will monitor implementation of the guidance in the second round of the RAP in 2017.

5. Monitoring progress in resolution regime reforms

5.1 Reforms of bank resolution regimes

The FSB published three peer review reports (one thematic and two country reviews) since November 2015 that covered reforms to resolution regimes. These reports form part of a series of peer reviews to support timely and consistent implementation of the *Key Attributes*.

Second thematic review on resolution regimes

On 18 March 2016, the FSB published the *Second Thematic Review on Resolution Regimes*.⁴⁶ The peer review examined the range and nature of resolution powers available to authorities for the banking sector in FSB jurisdictions, as well as any requirements for recovery and resolution planning and resolvability assessments for domestically incorporated banks:

- Notwithstanding improvements in the availability of resolution powers across FSB jurisdictions since the 2013 peer review⁴⁷ (see Figure 4 below), only a subset of the FSB membership – primarily home jurisdictions of G-SIBs – currently have a bank resolution regime with a comprehensive set of powers broadly in line with the *Key Attributes*. The bank resolution powers that are most often lacking are bail-in powers and powers to impose a temporary stay on the exercise of early termination rights. In addition, the majority of jurisdictions continue to lack explicit powers to require banks to adopt appropriate measures to improve their resolvability.
- *There is significant variation across FSB jurisdictions in the scope of application and conditions for the use of resolution powers.* While resolution regimes generally apply to all types of commercial banks, the extension of resolution powers to holding companies of banks, branches of foreign banks and material non-regulated operational entities within a financial group is more variable across FSB jurisdictions.
- *Several jurisdictions continue to lack requirements for resolution planning.* Progress has also been made in putting in place processes for recovery planning whereas resolution planning and resolvability assessments have so far mostly been adopted in G-SIB home jurisdictions.

⁴⁴ See “Guidance on Identification of Critical Functions and Critical Shared Services” (http://www.fsb.org/wp-content/uploads/c_141016.pdf), 16 October 2014.

⁴⁵ See “Public responses to the October 2014 consultative document ‘Identification of Critical Functions for Systemically-Important Insurers’” (<http://www.fsb.org/2014/12/public-responses-to-the-october-2014-consultative-document-identification-of-critical-functions-for-systemically-important-insurers/>), 18 December 2014.

⁴⁶ See footnote 7.

⁴⁷ See footnote 8.

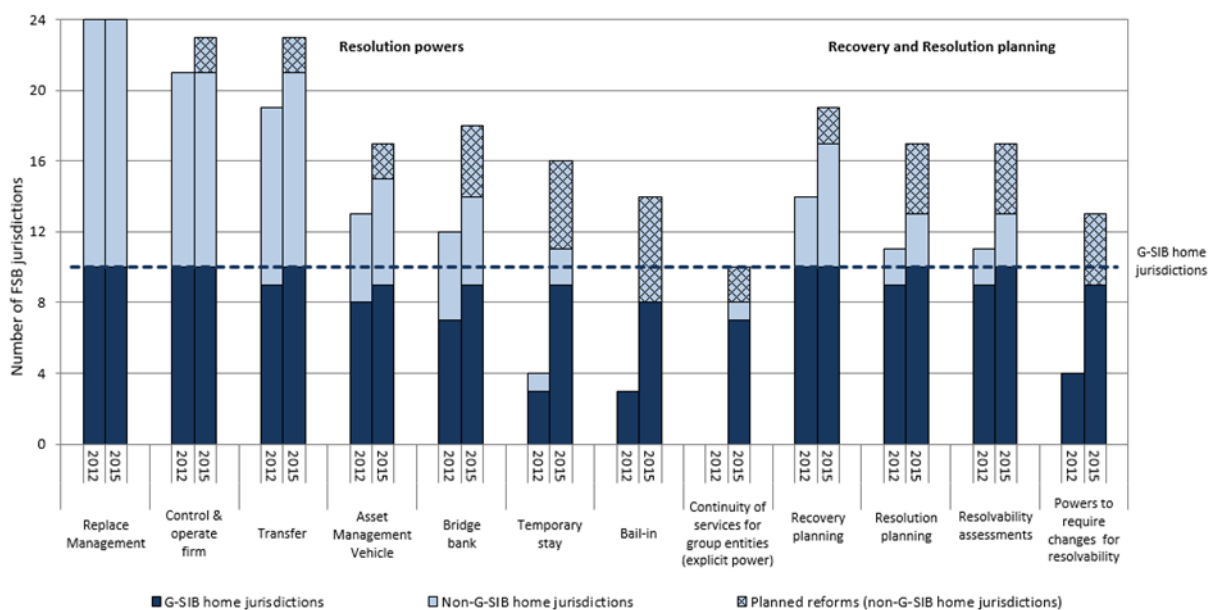


Figure 4: Availability of bank resolution powers, recovery and resolution planning and resolvability assessments in FSB jurisdictions⁴⁸

By December 2016 jurisdictions will report to the FSB what actions they have taken or plan to take (including implementation timeframes) to address identified gaps.

Reforms underway in a number of FSB jurisdictions address some, but not all, of the gaps in bank resolution powers compared with the *Key Attributes*. Since the completion of the peer review, a couple of jurisdictions have made progress in implementing certain aspects of their resolution regimes – in particular, power to impose temporary stay on early termination rights and recovery and resolution planning for systemic banks. (See [Annex 1](#) for a snapshot of the status of implementation of certain elements of the *Key Attributes* in FSB jurisdictions’ bank resolution regimes as of July 2016.) In June 2016, Hong Kong adopted a resolution regime that has cross-sectoral application in that it applies to any financial institution that could be systemically significant or critical if it fails. More than ten jurisdictions, including not only G-SIB home jurisdictions but also other FSB member jurisdictions, report that they are in the process of adopting reforms to their bank resolution regimes, aiming to bring their resolution regimes more in line with the *Key Attributes*. (See [Annex 2](#) for planned reforms to bank resolution regimes in FSB jurisdictions as of July 2016.)

Peer reviews of Saudi Arabia and Turkey

The peer reviews of Saudi Arabia⁴⁹ and Turkey,⁵⁰ which were published in November 2015, focused on the steps taken to implement reforms to bank resolution.

- *Saudi Arabia* - The peer review of Saudi Arabia noted that there is no specific insolvency or resolution framework in place for banks. The authorities have drafted

⁴⁸ Source: FSB’s *Second Thematic Review on Resolution Regimes* (see footnote 7).

⁴⁹ See <http://www.fsb.org/wp-content/uploads/Saudi-Arabia-peer-review-report.pdf>, 5 November 2015.

⁵⁰ See <http://www.fsb.org/wp-content/uploads/Turkey-peer-review-report-19Nov15.pdf>, 19 November 2015.

legislation to develop a resolution framework that contains many of the elements described in the *Key Attributes*. The review recommended the prompt adoption of the draft legislation and the development of implementing regulations detailing the operation of the resolution regime to take account of the specificities of the Saudi financial system and to ensure that the provisions in the draft law can be made operational. It also recommended that the authorities initiate recovery and resolution planning for banks designated as systemically important to help inform the development of the implementing regulations.

- *Turkey* - The peer review of Turkey found that the authorities already have a fairly comprehensive bank resolution framework in place that reflects the experience gained from resolving banks during the 2000-01 banking crisis. The peer review concluded that the current framework could be further strengthened by incorporating additional resolution powers and provisions for cross-border cooperation and information sharing. It also recommended that the authorities review arrangements for funding of banks in resolution and develop recovery and resolution plans and conduct resolvability assessments for all banks that could be systemic in the event of failure.

5.2 Reforms of insurance resolution regimes

In its 2015 report on progress in resolution to the G20⁵¹ the FSB made a commitment to undertake a stock-take of resolution powers and regimes in the insurance sector to evaluate the extent to which the elements set out in the *Key Attributes* and its *insurance-Annex* have been implemented for the insurance sector. Based on a comprehensive survey⁵², the FSB found that overall reforms are significantly less advanced in the insurance sector as compared to the banking sector. Yet, a number of jurisdictions have initiated reforms that will bring their insurance resolution regimes closer in line with the *Key Attributes* (see Figure 5 below).

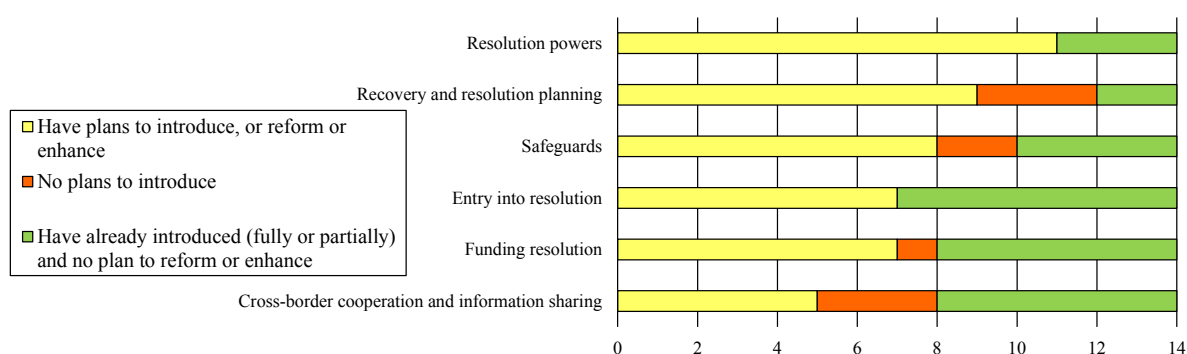


Figure 5: Number of jurisdictions that report having plans to develop a framework for resolution of insurers as of July 2016⁵³

⁵¹ See footnote 11.

⁵² Jurisdictions participating in the survey are Australia, Brazil, Canada, China, France, Germany, Hong Kong, India, Indonesia, Italy, Japan, Korea, Mexico, the Netherlands, Saudi Arabia, Singapore, South Africa, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States.

⁵³ Sample: 14 jurisdictions (Australia, Brazil, China, France, Hong Kong, Indonesia, Japan, Korea, Netherlands, Saudi Arabia, Singapore, South Africa, Switzerland and Turkey). Some jurisdictions are not included in the sample since, for instance, some of them are currently still reviewing their existing insurance resolution frameworks to ensure the robustness

The key findings from the survey are as follows:

- *Many jurisdictions do not have in place resolution regimes for insurers that provide for all the powers and tools set out in the Key Attributes.* The resolution powers that are most commonly lacking are: powers to impose a temporary stay on early termination rights; powers to restructure, limit or write down insurance and reinsurance and other liabilities; powers to create and operate a bridge institution to which the business of a failing insurer can be transferred; and powers to write down liabilities (other than insurance or reinsurance liabilities) and to convert them to equity (‘bail-in’). See Figure 6 below. The absence of such powers may limit authorities’ options in identifying the most suitable strategies to resolve systemic insurers in their jurisdictions. Moreover, resolution powers to the extent that they are available may not extend to all entities of an insurance group or financial conglomerates that include insurers and other entities (e.g., holding companies, banks and non-regulated entities).

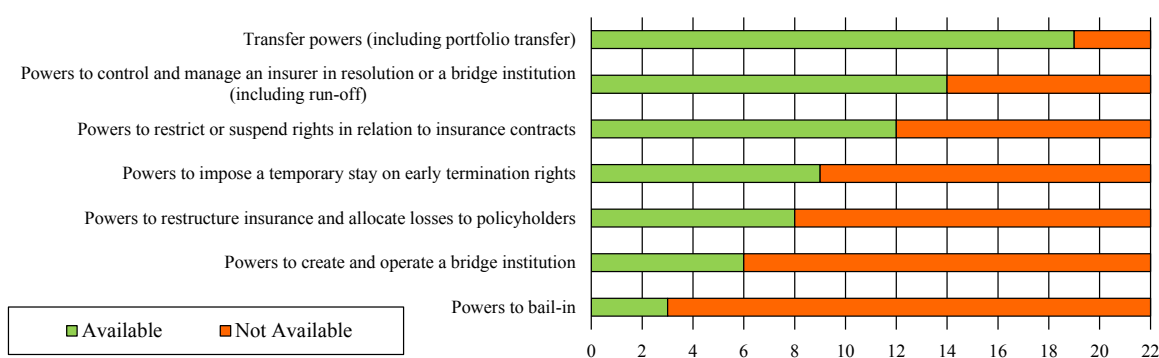


Figure 6: Number of jurisdictions that report having resolution powers as of July 2016⁵⁴

- *Whereas a number of jurisdiction have recently put in place administrative resolution regimes for insurers, several jurisdictions rely in whole or part on court-based insolvency or bankruptcy procedures for resolving insurers.* Even where an administrative resolution regime is in place or is being put in place, court-based insolvency or bankruptcy procedures remain available and could be relied on, in particular where the objective of resolution is primarily that of achieving a run-off and orderly wind-down of operations.
- *In most jurisdictions, there is no explicit legal requirement for recovery and resolution planning.* Authorities have to rely on their supervisory powers and on moral suasion

and identify specific undesired gaps between their frameworks and international frameworks including the *Key Attributes*. Also, some EU jurisdictions note that they will await developments of the EU-level work before they start their reforms of national legislation.

⁵⁴ Sample: 22 jurisdictions (Australia, Brazil, Canada, China, France, Germany, Hong Kong, India, Indonesia, Italy, Japan, Korea, Mexico, the Netherlands, Saudi Arabia, Singapore, South Africa, Spain, Switzerland, Turkey, the United Kingdom and the United States.)

which may limit them in their ability to require firms to engage in recovery planning or take actions to support the resolution planning process. Few jurisdictions have therefore extended resolution planning beyond G-SIIs to other large and potentially systemically important insurers. Requirements for information management systems could support the timely production of resolution-related information for resolution and resolution planning. However, few jurisdictions have adopted such requirements specifically for resolution.

- *Frameworks for cross-border cooperation and coordination are not well developed.* The arrangements to coordinate multiple proceedings, exchange information amongst all relevant authorities and give effect to resolution actions across jurisdictions are not fully developed. Jurisdictions will need to put in place an effective framework for ex-ante cooperation and coordination and clear processes for giving effect to foreign resolution actions where this is necessary.
- *There is significant variation in the design of policyholder protection schemes (PPS) and their role in resolution.* Most jurisdictions have in place schemes that are established to protect policyholders when an insurer fails and cannot meet policyholder claims. However, there is significant variation as regards the financing of such schemes (*ex-ante* or *ex-post*), the scope of coverage, in terms of the types of product and maximum amount that is protected under such schemes, and the ways in which such schemes can be relied on to support a resolution other than through pay-out to policyholders.

(See [Annex 3](#) for a snapshot of the status of implementation of certain elements of the *Key Attributes* in FSB jurisdictions' insurance resolution regimes as of July 2016.)

5.3 Development of the assessment methodology for the *Key Attributes*

The FSB, with involvement of experts from FSB jurisdictions and representatives of CPMI, International Association of Deposit Insurers (IADI), IAIS, IOSCO, the International Monetary Fund (IMF) and the World Bank, has been working on finalising an assessment methodology for the *Key Attributes*.⁵⁵

A draft methodology was tested in a pilot assessment carried out with IMF and World Bank in 2013/14. A revised draft of the methodology was used as reference document for the IMF's review of the US resolution regimes for banks and insurers,⁵⁶ and in a second pilot assessment carried out by the IMF and World Bank with the support of the FSB in Colombia.⁵⁷ In light of the experience with its use, the assessment methodology has now been finalised for the banking sector.

⁵⁵ A first draft of the assessment methodology was published for consultation in 2013. See http://www.fsb.org/wp-content/uploads/r_130828.pdf, 28 August 2013.

⁵⁶ See "United States: Financial Sector Assessment Program-Review of the Key Attributes of Effective Resolution Regimes for the Banking and Insurance Sectors-Technical Note" (<https://www.imf.org/external/pubs/ft/scr/2015/cr15171.pdf>), July 2015.

⁵⁷ See "Colombia: Technical Assistance Report-Detailed Assessment of Observance of Key Attributes of Effective Resolution Regimes for Financial Institutions-Pilot of the Draft Assessment Methodology" (<https://www.imf.org/external/pubs/ft/scr/2016/cr1699.pdf>), April 2016.

The staff of the IMF and World Bank will submit the final assessment methodology to their Boards for approval, so that it can be used in assessments as part of the Financial Sector Assessment Program (FSAP) and the Standards & Codes initiative which are an effective mechanism to promote consistent implementation of international standards. The FSB will continue to monitor implementation and all FSB jurisdictions agree to undergo an assessment of their bank resolution regimes and to publish the findings.

The development of the assessment methodology for insurance resolution needs to take into account the work undertaken from 2015 to 2017 by the FSB in this area and therefore extends to 2017.

5.4 Regional FSB meetings on resolution issues

The FSB is coordinating with its Regional Consultative Groups (RCGs)⁵⁸ in addition to its members (including 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.

Regional developments in the resolution area were discussed at meetings of the RCG for the Commonwealth of the Independent States in December 2015, the RCG for Sub-Saharan Africa in November 2015 and May 2016, the RCG for the Middle East and North Africa in April 2016, the RCG for Europe in May 2016, and the RCG for Asia in May 2016, and the RCG for the Americas in May 2016. Members of RCGs shared views and experiences on their progress and the challenges that they face in the design of resolution frameworks in their jurisdictions. Topics discussed included, for instance, cross-border cooperation, CMGs and information sharing, and appropriate implementation of such resolution frameworks. At some RCG meetings, members specifically discussed implications of the TLAC standard for jurisdictions in their regions that host G-SIBs, such as issues related to depth of local markets, home-host issues, the need for enhanced cross-border coordination and technical aspects of implementing bail-in contractual clauses.

On 28 July 2016, the FSB published *Nordic Experience of Cooperation on Cross-border Regulation and Crisis Resolution*⁵⁹, which had been developed by the RCG for Europe. This report sets out lessons that could be drawn from cooperation and coordination amongst Nordic central banks and supervisory authorities as regards crisis management and resolution with respect to the highly integrated Nordic banking system.

⁵⁸ The FSB has six RCGs, established under the FSB Charter, to bring together financial authorities from FSB member and non-member countries to exchange views on vulnerabilities affecting financial systems and on initiatives to promote financial stability. The RCGs cover the following regions: Americas, Asia, Commonwealth of Independent States, Europe, Middle East and North Africa, and Sub-Saharan Africa.

⁵⁹ See <http://www.fsb.org/wp-content/uploads/RCG-Europe-Nordic-experience-of-cooperation.pdf>.

6. Evaluating the effects of resolution-related reforms

The FSB has begun to evaluate the effects of financial reforms so as to enable the G20 to assess whether those reforms are achieving their intended results in an effective manner.⁶⁰

Evaluating the effects of resolution-related reforms can be approached from two perspectives: (i) effectiveness in achieving their stated objectives;⁶¹ and (ii) contribution to a broader set of economic and financial conditions that relate to system-level resilience, the orderly functioning of financial markets, the cost and availability of financing, and economic growth. The two perspectives are complementary, and both of them are the focus of evaluation efforts.

Many resolution reforms are still in the process of implementation and in some cases have not advanced sufficiently to allow initial analyses of their effects. Moreover, it is difficult to single out the effects of such reforms from other factors, such as (for example) structural banking reforms or conjunctural macroeconomic developments. Whether resolution reforms are truly effective in that they enable authorities to resolve firms in an orderly manner without taxpayer loss may only be ascertained based on actual experience in applying resolution powers and tools to systemic financial institutions.

A range of qualitative and quantitative indicators can be used to gauge the effectiveness of resolution reforms. While neither type can offer conclusive evidence on its own, they can provide an indication of improvements made and remaining gaps:

- *Qualitative indicators* – These include evidence relating to: the adoption of a comprehensive resolution regime that is aligned with the *Key Attributes* (e.g. based on findings of FSB peer reviews and FSAP/Reports on the Observance of Standards and Codes (ROSC) assessments); improved resolvability of G-SIFIs (e.g. based on RAP findings); and the extent to which regimes are perceived as credible by market participants, i.e. in terms of functioning as intended for banks that could be systemic in failure.
- *Quantitative indicators* – Indicators used in the empirical literature⁶² have largely focused on the implicit public subsidies of larger or more systemic banks, in terms of the perceived funding cost advantage that those institutions enjoy. Most of these studies, which rely on strong assumptions and are subject to conceptual challenges, examine the aggregate impact of too-big-to-fail (TBTf) reforms rather than trying to single out the effects of resolution-related reforms. The studies focus on the evolution of market prices for equity, debt (bonds, deposits) or other instruments (e.g. credit default swaps), by comparing post-reform with pre-reform periods, normal versus stressed conditions, and systemic versus non-systemic banks. However, isolating the structural element of TBTf

⁶⁰ See the first annual report to the G20 on the “Implementation and effects of the G20 financial regulatory reforms” (<http://www.fsb.org/wp-content/uploads/Report-on-implementation-and-effects-of-reforms-final.pdf>), 9 November 2015.

⁶¹ As noted in the Preamble of the *Key Attributes*, “the objective of an effective resolution regime is to make feasible the resolution of financial institutions without severe systemic disruption and without exposing taxpayers to loss, while protecting vital economic functions”.

⁶² See <https://www.fdic.gov/news/news/speeches/literature-review.pdf> for a literature review until August 2014, and “Estimating the extent of the ‘too big to fail’ problem — a review of existing approaches” by Siegert and Willison (http://www.bankofengland.co.uk/financialstability/Documents/fpc/fspapers/fs_paper32.pdf), April 2015, Bank of England Financial Stability Paper No. 32.

subsidies has proven difficult, not least given the variability of estimated subsidies over time and the contribution of other factors. Other quantitative analyses, such as in the case of TLAC,⁶³ look more broadly at the *ex-ante* benefits and costs of resolution-related reforms.

Qualitative information suggests that some progress has been made and most empirical studies document a decline of implicit subsidies since the crisis peaked, but the findings are uneven. This is partly due to varying stages of implementation across jurisdictions and use of differing analytical approaches. The FSB, in collaboration with standard-setting bodies (SSBs) and international financial institutions, will continue to update and deepen the analysis on the effects of resolution-related reforms, including the introduction of the TLAC standard; to this end, it will focus also on the implementation challenges of the resolution-related reforms and key tools - such as the bail-in - and the possible wider consequence of their application.

7. Summary of actions and timelines

| I. Central Counterparties (CCPs) | | |
|--|-------------------------------------|-----------------------------------|
| Action | Responsible | Completion by |
| Discussion paper on essential elements of CCP resolution | FSB in consultation with CPMI-IOSCO | End 2016 |
| Public consultation on further guidance on CCP resolution | FSB in consultation with CPMI-IOSCO | Q1 2017 (final guidance in Q2) |
| Establish CMGs for CCPs that are systemically important in more than one jurisdictions | CCP home authorities | Q2 2017 |
| II. Global Systemically Important Banks (G-SIBs) | | |
| Action | Responsible | Completion by |
| TLAC Implementation | | |
| Finalise TLAC disclosure requirements under Basel III | BCBS | End-2016 |
| Finalise regime for banks' holdings of TLAC of other banks | BCBS | End-2016 |
| Consult on the technical implementation of internal TLAC | FSB | End-2016 (final guidance in 2017) |

⁶³ See "Assessing the economic costs and benefits of TLAC implementation" by a BIS group (<http://www.fsb.org/wp-content/uploads/Assessing-the-economic-costs-and-benefits-of-TLAC-implementation.pdf>), November 2015.

| | | |
|--|--|-----------------------------------|
| 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 |
| Establishment of monitoring process and 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) |
| Bail-in Execution | | |
| Consult on the operational execution of bail-in | FSB | End-2017 (final guidance in 2018) |
| Continuity of Access to Financial Market Infrastructures (FMIs) | | |
| Consult on ways in which access to FMIs can be maintained in resolution | FSB | End-2016 (final guidance in 2017) |
| Funding in Resolution | | |
| Take stock of existing practices and approaches to resolution funding and consider the need for further work to support the implementation of plans for funding in resolution | FSB | End- 017 |
| Resolvability Assessment Process (RAP) | | |
| Conduct a third RAP | G-SIB CMGs | 2017 |
| III. Cross-border Effectiveness of Resolution Actions | | |
| Action | Responsible | Completion by |
| Continue monitoring implementation of the <i>Cross-border Effectiveness Principles</i> and emerging practice and experience with statutory and contractual recognition and supportive measures | FSB | 2017-18 |

| IV. Global Systemically Important Insurers (G-SIIs) | | |
|--|--------------------------------------|----------------------|
| Action | Responsible | Completion by |
| Conduct second RAP with focus on the implementation of the guidance on <i>Developing Effective Resolution Strategies and Plans for Systemically Important Insurers</i> | G-SII CMGs | 2017 |
| V. Monitoring the Implementation and Effects of Reforms to Resolution Regimes | | |
| Action | Responsible | Completion by |
| Report to the FSB the actions undertaken or planned (including implementation timeframes) in order to address the recommendations of the second thematic peer review | Members | End-2016 |
| Conduct implementation monitoring on the basis of standardised templates for the bank and insurance sector | FSB | 2017 |
| Undergo a Key Attributes assessment by the IMF-World Bank for the banking sector and publish the findings | FSB Members | Starting in 2017 |
| Deepen the analysis to evaluate and report on the effects of resolution-related reforms and of improved resolvability | FSB | 2017 |
| Develop a Key Attributes Assessment Methodology for use in IMF and World Bank compliance assessments for insurers | FSB, IMF, World Bank, and IAIS | 2017 |

Annex 1: Status of Implementation of Aspects of Bank Resolution Regimes by FSB Jurisdictions as of July 2016

The colours in this table are based on information 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 | Recovery planning for systemic firms | Resolution planning for systemic firms | Powers to require changes to firms' structure and operations to improve resolvability |
|------------------|---|--|--|--|--|--------------------------------------|--|---|
| Argentina | | | | | | | | 1 |
| Australia | | | | | (B) | | (B) | ¹ (B) |
| Brazil | | (B) | (B) | (B) | | | (B) | ¹ (B) |
| Canada | | | (A) | | 2 | | | |
| China | | | | | | | 3 | 1 |
| France | | | | | | | | |
| Germany | | | | | | | | |
| Hong Kong | 4 | 4 | 4 | 4 | 4 | | 4 | 4 |
| India | (B) | (B) | (B) | (B) | (B) | (B) | (B) | (B) |
| Indonesia | | | 5 | | | | | 1 |
| Italy | | | | | | | | |
| Japan | | | 6 | | | | | |

| 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 | Recovery planning for systemic firms | Resolution planning for systemic firms | Powers to require changes to firms' structure and operations to improve resolvability |
|------------------|---|--|--|--|--|--------------------------------------|--|---|
| Korea | | | (B) | (B) | | (B) | (B) | 1 |
| Mexico | | | | | 7 | | | 1 |
| Netherlands | | | | | | | | |
| Russia | | | (B) | | | | | |
| Saudi Arabia | (B) | (B) | (B) | (B) | 2 | (B) | (B) | 1 (B) |
| Singapore | | | (B) | (B) | | | | 1 (B) |
| South Africa | (B) | (B) | (B) | (B) | | (B) | (B) | (B) |
| Spain | | | | | | | | |
| Switzerland | | | | | | | | |
| Turkey | | (B) | | | | | | |
| United Kingdom | | | | | | | | |
| United States | | | | | | | | |

| 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 |
| Cells highlighted in bold indicate that the jurisdiction reports progress in implementation of a specific aspect of its bank resolution regime compared to September 2015. ⁶⁴ | |

⁶⁴ See Annex of the FSB's report to the G20 on "Removing Remaining Obstacles to Resolvability" (see footnote 11).

| 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) |

- ¹ 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.
- 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 Hong Kong’s Financial Institutions (Resolution) Ordinance was passed by the legislative council on 22 June 2016 and will commence operation on a date to be appointed by the Secretary for Financial Services and the Treasury.
- ⁵ Indonesian authorities report that the powers conferred under the 2004 Law on Indonesia Deposit Insurance Corporation “to review, annul and terminate and/or alter any contracts between the Failing Bank that is rescued and third parties that are burdensome to the bank” also enable authorities to write down unsecured and uninsured creditor claims whereas the 2016 Law on Prevention and Resolution of Financial System Crisis confers powers to convert such claims into equity once the state of a general financial crisis has been declared.
- ⁶ 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).
- ⁷ 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. The March 2016 peer review report noted that the review did not evaluate the scope that the regime should have to ensure effective resolution in all conceivable scenarios, which can best be addressed in onsite compliance assessments of the *Key Attributes*.

Notes

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

- 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: KA 1.1 (i);
- Recovery and resolution planning for systemic firms (requirements and/or current practice): KA 11.2;
- Powers to require changes to improve firms’ resolvability: KA 10.5.

**Annex 2: Planned reforms to bank resolution regimes in FSB jurisdictions
as of July 2016**

| Jurisdiction | Planned reforms | | | Current stage |
|--|--|--|--|--|
| | Scope of regime | Resolution powers | Recovery and resolution planning, resolvability assessments | |
| <i>Reforms issued for consultation or submitted to the legislature</i> | | | | |
| Canada | | Introduce bail-in power and enhance temporary stay power | | Legislation passed. Regulations necessary for full coming into force of bail-in regime under development. |
| China | | | Introduce resolution planning requirements, resolvability assessments, and measures to allow authorities to require changes to improve resolvability | Draft rules submitted |
| India | Financial institutions (including banks and holding companies) | Introduce control and operate, transfer and bridge bank powers | Introduce recovery and resolution planning and resolvability assessments | Legislation is under development. A ‘Code on Resolution of Financial Firms’ for resolution of financial institutions (including banks) will be introduced in the Parliament this Financial Year 2016-17 (April-March). |
| Korea | | Introduce bail-in power and temporary stay power | Introduce recovery and resolution regime including resolution plans and resolvability assessments | Reform or policy proposals published |
| Saudi Arabia | | Introduce resolution regime with all powers found in the <i>Key Attributes</i> | Introduce recovery and resolution planning regime, including resolvability assessments and powers to require measures to improve resolvability | Reform or policy proposals prepared (draft law submitted to Council of Ministers and is under review by Bureau of Experts) |
| Singapore | | Introduce statutory bail-in power and temporary stay power | Introduce specific powers to require recovery and resolution planning and explicit power to make changes to remove barriers and impediments to resolvability | Draft legislation prepared and put in public domain for consultation |

| | | | | |
|--|--|--|---|--|
| South Africa | Broaden scope to include holding companies | Introduce bridge bank, bail-in and temporary stay powers | Introduce recovery and resolution planning requirements, resolvability assessments, and measures to allow authorities to require changes to improve resolvability | Reform or policy proposals published |
| Turkey | | Introduce bridge bank and Purchase & Assumption (in bank liquidation) powers | | Draft legislation submitted |
| <i>Reforms under discussion</i> | | | | |
| Australia | Broaden scope to include increased powers over holding companies, branches and unregulated group companies | Strengthen existing statutory management and directions powers | Development of a formal framework for recovery and resolution planning and power to require changes to improve resolvability | Policy development pre-consultation |
| Brazil | | Introduce bail-in, bridge bank and temporary stay powers | Allow Central Bank of Brazil to determine changes to banks' structures based on a resolvability assessment | Legislation being drafted |
| China | | Introduce additional resolution powers, including bridge bank | | Implementation rules being drafted |
| Russia | | Introduce bail-in power | Introduce Regulation (to replace Direction) of the Bank of Russia as a legally binding directive in relation to guidelines for the development of recovery plans | Legislation being drafted |
| Turkey | | Introduce bail-in and temporary stay powers | Introduce recovery and resolution planning, resolvability assessments and power to require changes to improve resolvability | Banking Regulation and Supervision Agency and Savings Deposit Insurance Fund currently drafting legislative amendments |

Annex 3: Status of Implementation of Specific Aspects of Insurance Resolution Regimes by FSB Jurisdictions as of July 2016

The colours in this table are based on information from self-reporting by national authorities as regards the implementation of certain elements of the *Key Attributes* in insurance 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 | Existence of administrative resolution authority | Powers to undertake a transfer (including a portfolio transfer) | Powers to establish a temporary bridge institution | Powers to administer existing insurance contracts and fulfil obligations (including run-off) | Power to impose temporary stay on early termination rights | Powers to restructure, limit or write down insurance and reinsurance and other liabilities | Existence of privately-financed policyholder protection schemes or resolution funds |
|------------------|--|---|--|--|--|--|---|
| Argentina | n/a | n/a | n/a | n/a | n/a | n/a | n/a |
| Australia | | ¹ (B) | | ¹ (B) | | | (B) |
| Brazil | | | | | | | |
| Canada | | | | | | | |
| China | | | | | | | |
| France | (B) | (B) | (B) | | (B) | (B) | |
| Germany | | | | | 2 | 2 | |
| Hong Kong | | 3 | 3 | 3 | 3 | 3 | 3 |
| India | | | | | | | |
| Indonesia | | | | | | | |
| Italy | | | | | | | |
| Japan | | | | | | | |
| Korea | | | | | | | |
| Mexico | | | | | | | |
| Netherlands | (B) | | | (B) | (B) | (B) | (B) |
| Russia | | | | | | | |
| Saudi Arabia | | (B) | (B) | (B) | (B) | (B) | (B) |

| FSB Jurisdiction | Existence of administrative resolution authority | Powers to undertake a transfer (including a portfolio transfer) | Powers to establish a temporary bridge institution | Powers to administer existing insurance contracts and fulfil obligations (including run-off) | Power to impose temporary stay on early termination rights | Powers to restructure, limit or write down insurance and reinsurance and other liabilities | Existence of privately-financed policyholder protection schemes or resolution funds |
|------------------|--|---|--|--|--|--|---|
| Singapore | | | | | (B) | | |
| South Africa | | | | | | | |
| Spain | | | | | | | |
| Switzerland | | 4 | | | 4 | | |
| Turkey | | | | | | | |
| United Kingdom | | | | | | | |
| United States | | | | | | | |

| 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) |
| n/a | Information not available at the time of the release of the report |

| 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) |

- ¹ The power is not currently exercisable in relation to authorised non-operating holding companies of the insurer, or subsidiaries of the insurer or holding company.
- ² The power is currently only exercisable if a company can no longer fulfil its liabilities but the opening of insolvency proceedings is not in the best interest of the policy holders.
- ³ Hong Kong's Financial Institutions (Resolution) Ordinance was passed by the legislative council on 22 June 2016 and will commence operation on a date to be appointed by the Secretary for Financial Services and the Treasury.
- ⁴ The power is available in a resolution proceeding; however, it is unavailable in an insolvency proceeding.

Notes

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

- Administrative resolution authority: KA 2.1
- Resolution powers: KA 3.2, points (iii), (vi), (vii) and (x); KA3.7, points (i) and (ii); Appendix II-Annex 2, paragraphs 4.3, 4.4, 4.6 and 4.7
- Power to impose temporary stay on early termination rights: KA 4.3 (first paragraph) and 4.3 (i);
- Privately-financed policyholder protection scheme (PPS): Appendix II-Annex 2, paragraph 6.1

Abbreviations

| | |
|---------|---|
| BCBS | Basel Committee on Banking Supervision |
| BIS | Bank for International Settlements |
| CCPs | Central counterparties |
| CMG | Crisis Management Group |
| CoAgs | Cross-border Cooperation Agreements |
| CPMI | Committee on Payments and Market Infrastructures |
| CSDs | Central securities depositaries |
| EME | Emerging market economy |
| EU | European Union |
| FMI | Financial market infrastructures |
| FSAP | Financial Sector Assessment Program |
| FSB | Financial Stability Board |
| G-SIBs | Global systemically important banks |
| G-SIFIs | Global systemically important financial institutions |
| G-SIIs | Global systemically important insurers |
| IADI | International Association of Deposit Insurers |
| IAIS | International Association of Insurance Supervisors |
| IMF | International Monetary Fund |
| IOSCO | International Organization of Securities Commissions |
| ISDA | International Swaps and Derivatives Association |
| KA | Key Attribute |
| LRE | Leverage ratio denominator |
| MIS | Management Information Systems |
| NCWOL | No creditor worse off than in liquidation |
| OTC | Over-the-counter (derivatives) |
| PFMI | Principles for Financial Market Infrastructure (CPMI-IOSCO) |
| PPS | Policyholder protection scheme |
| QIS | Quantitative Impact Study |
| RAP | Resolvability Assessment Process |
| RCG | Regional Consultative Group |
| ROSC | Reports on the Observance of Standards and Codes |
| RWA | Risk-weighted assets |
| SPE | Single point of entry |
| SSBs | Standard-setting bodies |
| TBTF | Too-big-to-fail |
| TLAC | Total Loss-Absorbing Capacity |