

**Response to the Financial Stability Board's
Consultative Document of *Effective Resolution of
Systemically Important Financial Institutions* from
Financial Competitive Regime Perspective**

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- 1. All views in this submission are presented on behalf on the writer, and may not necessarily be construed as those of the People's Bank of China.**
- 2. For the writing tradition and reading convenience, this paper is drafted in English and Chinese. The meaning shall be construed as the same.**

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September 2011

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从金融竞争制度视角评述金融稳定理事会发布的《系统重要性金融机构有效处置》征求意见稿

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- 1、 本文仅代表作者个人观点，并不必然代表中国人民银行观点。
- 2、 考虑到行文传统和阅读方便，文章以英文和中文书写，核心内容一致。

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General Comments

Dear Sir or Madam:

I welcome the opportunity to provide comments on the July 2011 consultative document on **Effective Resolution of Systemically Important Financial Institutions** issued by the Financial Stability Board (FSB).

Even though the consultative document contains a package of measures to resolve systemically important financial institutions (SIFIs), it neglects the importance to implement the regime to secure competition in the financial market. **It is recommended that in the process of designing the final policy measures to resolve the SIFIs, the FSB should consider from the financial competitive regime perspective.**

During the current financial crisis, in order to ensure financial stability, authorities have been making large-scale short-term interventions such as recapitalization, guarantee and nationalization to rescue SIFIs. However, these emergency measures will distort competition in the financial sector in the medium to longer term. In

the context of modern institutional economy, the key to defend effectively the competition in financial sector is to establish the financial competitive regime. As a result, the FSB should explicate at least the competition ensured by implementing the regime as one of the key principles to resolve SIFIs.

The first paragraph of page 8 in the consultative document describes “...SIFIs that are ‘too-big, too-complex and too-interconnected-to-fail’”. In determining SIFIs, authorities can calculate SIFIs in terms of size, interconnectedness, substitutability and complexity,¹ and all of these indicators reflect directly or indirectly either the competitiveness of financial institutions or the competitiveness conditions in the financial market.²

It is six times that the consultative document quotes “market discipline”, the 3rd Pillar of Basel Capital Accord. In practice, the effectiveness of market discipline depends primarily on a sound competitive environment, and the financial competitive regime concentrates on fostering competitive environment and preserving the level of playing field in the financial market.

¹ When calculating global SIFIs (G-SIFIs), the authorities will consider cross-jurisdictional activity additionally.

² Zhen Li, “Response to the Basel Committee’s Consultative Document of *Global Systemically Important Banks: Assessment methodology and the additional loss absorbency requirement* from Financial Competitive Regime Perspective”, August 2011. Available at: <http://www.bis.org/publ/bcbs201/zhenli.pdf>

In the light of the coordination between laws, the legislatures should specify the Financial Stability as a new public interest consideration, modify Anti-monopoly Act, Antitrust Act or Competition Policy, and exempt the SIFIs' merger from financial anti-monopoly scrutiny on public interest grounds.

It is worth pointing out Zhen Li submitted one proposal on establishing Financial Competitive Regime to Chinese national decision makers in December 2010,³ and “The National Economic and Social Development twelfth Five-Year Plan Compendium” adopts Zhen Li’s opinion. Besides, Deputy Mr. Yang Xiaoping of the 11th NPC proposed setting up promptly Financial Competitive Regime in March 2011.⁴

³ Zhen Li, “Enhancing the Financial Competition to Promote the Scientific Development in the 12th Five-Year National Plan”, *China Economic Herald*, December 21, 2010. Available at: http://www.ceh.com.cn:8080/epaper/ceh/20101221/B05/B05_56.htm

⁴ Yang Xiaoping, “Proposal on Establishing Financial Competitive Regime”, *Financial News*, March 11, 2011; Ou Yang and Dong Xiao, “Financial Representatives of NPC & CPPCC Discuss Over Domestic Issues”, *Financial Analyst*, March 2011.

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总 评

尊敬的女士和先生：

非常感谢有机会对金融稳定理事会 2011 年 7 月发布的《系统重要性金融机构有效处置》征求意见稿发表评论。

征求意见稿包含了一整套处置系统重要性金融机构（以下简称 SIFIs）的措施，但却忽略了以制度维护金融市场竞争的重要作用。建议在设计最终政策措施时，金融稳定理事会能从金融竞争制度角度考虑。

金融危机期间，为确保金融稳定，当局采取了大规模的短期的例如注资、担保和国有化等干预手段来救助 SIFIs，但从中长期来看，这些紧急措施会扭曲金融领域的竞争。在现代制度经济之下，有效捍卫金融市场竞争的关键在于建立金融竞争制度。所以，金融稳定理事会至少应明确以制度确保的竞争是 SIFIs 处置制度的主要原则之一。

征求意见稿第 8 页第一段指出，“‘太大、太复杂和太关联以至于不能失败’的SIFIs”。在认定SIFIs时，当局可从规模、关联度、

可替代性和复杂程度等 4 方面衡量⁵，这些指标直接或间接地凸现了金融机构的竞争力或者金融市场的竞争状况。⁶

征求意见稿 6 次提及了巴塞尔资本协议第三支柱的“市场约束”。实践中，市场约束效能的充分发挥必须得主要依托于良性的竞争环境，而金融竞争制度旨在培育竞争环境并维护金融市场的公平竞争平台。

考虑到法律之间的协调性，立法部门应规定“金融稳定”是新型的公共利益，修订反垄断法、反托拉斯法或者竞争政策，明确基于维护公共利益考虑而实施的 SIFIs 并购享有金融反垄断审查豁免权。

值得一提的是，李震于 2010 年 12 月向中国国家决策层提交了建立金融竞争制度的建议⁷，在《国民经济和社会发展第十二个五年规划纲要》中得到采纳。此外，十一届全国人大代表杨小平先生也于 2011 年 3 月建议尽快建立金融竞争制度。⁸

⁵ 全球性 SIFIs（即 G-SIFIs）还需考虑“跨管辖区域活动（cross-jurisdictional activity）”。

⁶ 李震，“从金融竞争制度视角评述巴塞尔银行委员会公布的《全球系统性重要银行：测评方式和附加损失吸收要求》征求意见稿”，载于“巴塞尔委员会”，2011 年 8 月。网址：<http://www.bis.org/publ/bcbs201/zhenli.pdf>

⁷ 李震，“以金融竞争促‘十二五’科学发展”，载于《中国经济导报》，2010 年 12 月 21 日，B05。网址：http://www.ceh.com.cn:8080/epaper/ceh/20101221/B05/B05_56.htm

⁸ 杨小平，“关于建立金融竞争制度的建议”，载于《金融时报》，2011 年 3 月 11 日；欧阳、冬晓，“金融界部分两会代表委员为‘十二五’建言献策”，载于《中国金融家》，2011 年 3 月，第 3 期。

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