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Banking supervision
And Accounting issues Unit
The Director

Paris, December 7th 2012

French Banking Federation comments on the Financial Stability Board Consultative Document on Making the Key Attributes Requirements Operational.

Dear Sir,

The French Banking Federation (FBF) is the professional body representing the interests of the banking industry in France. Its membership is composed of all credit institutions authorized as banks and doing business in France, i.e. more than 450 commercial and cooperative banks. FBF member banks have 40,000 permanent branches in France. They employ 400,000 people, and service 60 million clients.

The French Banking Federation (FBF) welcomes the opportunity to share its view with the Financial Stability Board (FSB) on its Consultative Document on Recovery and Resolution Planning "Making the Key Attributes Requirements Operational".

We think indeed the banks' management body should be aware of and accountable for any potential situation that could lead to a recovery action. We insist on the fact that recovery plans shall not be disclosed.

Although there are many interesting aspects within this consultation document, the FBF wants to point out some of its concerns, especially as regards to Annex 1 and Annex 2. We consider that recovery triggers are non-relevant as French banks already use and monitor many key indicators that are reported systematically to the top management; then when implementing the resolution, we believe the resolution authorities of a group should decide whether the best strategy is a Single Point of Entry (SPE) or a Multiple Point of Entry (MPE), and adapt it if necessary when faced with reality.

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You will find our comments here attached with our general remarks about the guidance and specific answers to your questions. We thank you for the consideration of our remarks and remain at your disposal for any question or additional information you might have.

Yours sincerely,

Jean-Paul CAUDAL

French Banking Federation comments on the Financial Stability Board Consultative Document on Making the Key Attributes Requirements Operational.

Annex 1 : Guidance on Recovery Triggers and Stress Scenarios

The guidance focuses in a first part on the design and nature of triggers, the breach of them, and the response of the authorities, and in a second one on the design of stress scenarios, and their severity. We are not in favor of an automatic entry in a recovery phase following the breach of a specific trigger.

French banks use and monitor many key indicators that are reported systematically to the top management. The latter already receives a constant flow of qualitative data which it is not possible to capture in a dashboard. Their accumulation, as there are so many possible events, can possibly influence the top management views on their respective banks soundness. We do not believe this can be reflected in a dashboard. Furthermore we think that only the management board is able to decide whether a recovery action is necessary or not.

Secondly we don't see any interest in setting up "early warning triggers", and also "hard triggers" as described on page 7. Of course, indicators (and not triggers) should try to capture negative events in advance. However the guidance asserts "firms should continue to separate their recovery triggers from automatic, compulsory reactions in order to provide decision makers with flexibility to develop a discretionary response in accordance with the specifics of the situation. Conversely automatic, compulsory recovery responses to breached triggers could potentially lead to firms having unnecessarily disclose, which could be counterproductive in a stress scenario", which seems right to us, but inconsistent with the proposition of "hard triggers".

Regarding stress-tests, we consider that each bank should design its own stress, as banks are better able to know what the potential threats to their viability are. These are especially the duties dedicated to risk managers. However French banks would not be against a limited number of scenarios given by the regulators, which would be common to all banks.

This is only in this case that we consider reverse stress-testing may be of use, i.e. supervisors anticipating on possible/probable identified negative externalities. While reverse stress-tests may be useful to identify points of weaknesses, we do not believe that they are a particularly useful tool in designing recovery and resolution plans, which should be robust enough to cater for many scenarios.

Q1: Does Annex 1 appropriately identify key emerging practices regarding recovery triggers and stress scenarios? What additional triggers of an institution-specific or general nature may be useful?

The FBF estimates that the board of managers is the appropriate level of decision-making in all kinds of situations that could threat the firms' viability.

As already explained above, French banks do not want the breach of one trigger to automatically lead to a recovery action. They already use many indicators in order to be warned of specific developments. Some banks may wish to compile different indicators highlighting a potential requirement for a recovery action in a specific dashboard dealing with recovery matters and reported to the management board. Each bank should devise its own "recovery dashboard", and will be able to provide it to the supervisor on request.

Indeed it is the top management responsibility to draw the attention of the supervisor if he thinks a recovery action is needed. Under no circumstances, the supervisor should be allowed to take decision instead of the management.

As well the guidance mentions page 8 that "G-SIFIs generally view triggers as a pre-identified point in time at which the firm will notify senior management and its board, and its supervisory authority, that a triggering event has occurred, in order to develop and implement a discretionary response in accordance with the specifics of the situation". This is a perfect illustration of our position.

Regarding "stress scenarios", please see our comment in the introductive paragraph. We have no comments about "additional triggers".

<u>Q2: Are there certain quantitative recovery triggers that are likely to be more effective than others across different types of financial institutions?</u>

We have no comments on this point. Triggers and indicators to be monitored depend on the risk profile of the bank and should be tailor-made.

<u>Q3: What kind of qualitative recovery triggers are likely to be most helpful to decision makers within the banking group?</u>

Qualitative indicators (rather than triggers), such as the market perception of a firm, are indeed one of the most helpful indicators for the top management to decide if recovery actions are needed. They should be part of the risk management process and properly escalated. However, in our view, only quantitative data are easily monitored in a dashboard.

Indeed qualitative indicators are normally linked to quantitative data. As an example of qualitative trigger, the guidance focuses on a potential counterparty risk event, and specifically on the difficulty for a firm to issue debt at current market spreads. Normally this kind of situation follows a rating downgrade, which is described in the consultation paper as a potential quantitative trigger.

<u>Q4: How can financial institutions achieve the goal of early and effective internal triggers, while avoiding negative market reaction to recovery actions taken?</u>

Our understanding is that this question is relative to the public disclosure of a recovery situation. We are clearly against any disclosure of any recovery measure. Market participants should not be informed that a bank has triggered its recovery plan, in order to avoid any negative and unwelcome reaction. Whatever the origin of an action taken by an institution, the market should only be able to see the quality of the response of the institution when coping with serious difficulties.

<u>Q5: Are there certain triggers that are more suitable as early warning indicators for pre-emptive recovery actions versus trigger events that are more suitable for particular recovery actions?</u>

We do prefer the notion of indicator rather than of trigger that implies immediate reaction. In addition, forward looking indicators are already in place within banks in order to alert of any potential risk. This is in substance the consequence of the stress-testing exercise and their outcome could be seen as "early warning indicators".

Q6: Are there any other issues in relation to the implementation of the Key Attributes requirements for recovery planning that it would be helpful for the FSB to clarify in further guidance?

We have no comments on this point.

Annex 2 : Guidance on Developing Resolution Strategies and Operational Resolution Plans

The guidance illustrates how the resolution authority, in accordance with the relevant authorities, is going to draw up resolution plans, firstly defining a resolution strategy and then describing the operational implementation of the plan. This plan should be sent to the institution.

We believe that when implementing the resolution, the resolution authorities of a group should decide whether the best strategy is a Single Point of Entry (SPE) or a Multiple Point of Entry (MPE). Insofar as the resolution authority is in charge of the management of the bank it should find the best way to build alternatives when preparing the resolution plan so as to be able to face different crisis situations. The resolution college should find the best way to deal with the situation of the group according to the very nature of the crisis. It shall not hesitate to implement different strategies if they appear more appropriate as nobody can preclude such situation.

Actually the SPE involves the application of resolution powers at the top holding company by a single resolution authority. The assets and operations of particular subsidiaries are preserved on a going concern basis, avoiding the need to apply resolution at a lower level within the group. This may require intra-group arrangements to ensure that losses incurred by subsidiaries are assumed by the parent company, and that sufficient loss absorbing capacity is available at this level to ensure that the surviving parts are viable.

The MPE consists on the application of resolution powers by several resolution authorities to multiple parts of the group; the home authority plays the role of coordinator of the resolution. This requires that the group could be divided into two or more separate parts without a cessation of critical functions. Each subsidiary is then responsible for covering its individual funding needs.

In our opinion the resolution plan does not need to change the contractual relationships within a sound group, requiring for instance guarantees by the holding company; subordination of holding company claims to the reimbursement of external creditors or contractual financial support between subsidiaries.

Q7: Does Annex 2 adequately capture the key elements of a resolution strategy and operational resolution plan? If not, what aspects are missing or need to be changed?

The resolution plan should not have an impact on the existing contractual relations between a bank and its subsidiaries; actually there is an important risk to force a bank to systematically be liable for its subsidiaries, unless these house critical functions.

At last, the possible alternatives between SPE and MPE should be considered as regards of the banks' structure and the real crisis situation at the time of the resolution. Then the choice of an approach in the resolution plan should not prevent the possibility to adopt another way of proceeding, a crisis is by definition not predictable.

Q8 : What are potential obstacles to the effective implementation of either the 'multiple point of entry' (MPE) or 'single point of entry' (SPE) approaches that could arise from national legal frameworks (e.g., insolvency law)? How could they be addressed?

Regarding MPE there is a potential obstacle that could emerge due to different legal regimes between jurisdictions, so for instance between US and France. A wide legal harmonization is therefore essential to support this mechanism.

On top of this, some activities (especially linked to financial markets such as global clearing) can be subject to multiple regulations in the same country and there is no evidence that this impediment is considered by the relevant national authorities.

Q9: What are the implications of the MPE and SPE approaches for the way financial institutions are structured, and what are the likely benefits and costs of any consequential changes in structure?

We want to point out that MPE and SPE approaches shall be fit to the bank structure, and not conversely.

Q10: Does the Guidance adequately draw out the key commonalities and differences between the MPE and SPE approaches to resolution?

We have no comments on this point.

Q11: Does the Guidance adequately accommodate the needs and perspectives of host authorities that are not members of the CMGs for G-SIFIs, especially in those jurisdictions where a G-SIFI may be systemic?

We insist on the fact that CMG shall only include the main authorities.

Q12 : Are there any additional issues in relation to the development of resolution strategies and plans that it would be helpful for the FSB to clarify in further guidance?

We have no comments on this point.

Annex 3 : Guidance on Identification of Critical Functions and Critical Shared Services

The guidance invites banks, by using the recommended methods, to identify what are the critical functions and critical shared services.

We think that critical functions are those which are systemic for the market as a whole. So it should be the Central Banks' role to identify generic potential systemic functions of the banking profession, in order to avoid multiple definitions within banks of a unique critical shared service. However, the definition of specific critical functions/services should remain with the banks.

Q13: Is the two-part definition of 'critical' and the distinction between 'critical functions' and 'critical shared services' a useful taxonomy?

We consider it useful, even though the exact terminology might vary from one bank to another.

Q14: Is the framework for determining 'critical functions' appropriate? If not, what aspects are missing or need to be changed?

We agree with the structure approach defined to identify critical economic functions.

Q15: Do the five broad categories of activities outlined in the Appendix - that is, deposit taking, lending, payments, clearing and settlement, wholesale activities and capital market activities - cover all relevant and potentially critical G-SIFI activities? What additional categories of activities should be added?

We have no comments on this point.

Q16: Is the framework flexible enough to cover the different types of business undertaken by G-SIFIs?

We have no comments on this point.

Q17:. Is the framework flexible enough to take account of the external environment in which failure is occurring, for example, an idiosyncratic event or in the context of more severe distress in the financial system?

We have no comments on this point.

Q18: Is the definition and framework for determining 'critical shared services' appropriate? If not, what aspects are missing or need to be changed?

We have no comments on this point.

Q19: Are there any other issues in relation to the identification of critical functions and critical shared services that it would be helpful for the FSB to clarify in further guidance?

We have no comments on this point.