FSB FINANCIAL STABILITY BOARD

Press release

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FSB releases proposals on cross-border recognition of resolution actions and action to address cross-border close-out risk

The Financial Stability Board (FSB) is launching today a [public consultation] on a set of proposals to achieve the cross-border recognition of resolution actions and remove impediments to the cross-border resolution.

At the St. Petersburg Summit in 2013 the G-20 made a commitment to undertake the necessary actions to remove obstacles to cross-border resolution and asked the FSB to "develop policy proposals on how legal certainty in cross-border resolution can be further enhanced".

The consultative document published today proposes a set of policy measures and guidance consisting of:

(i) elements that jurisdictions should consider including in their statutory cross-border recognition frameworks to facilitate effective cross-border resolution as required by the *FSB Key Attributes of Effective Resolution Regimes for financial institutions* and

(ii) contractual approaches to cross-border recognition that focus on two particular cases where achieving cross-border recognition is a critical prerequisite for orderly resolution: temporary restrictions or stays on early termination and cross-default rights in financial contracts; and the 'bail-in' of debt instruments that are governed by the laws of a jurisdiction other than that of the issuing entity.

The FSB's proposals come alongside important work in the industry to establish contractual solutions to enforcing stays in resolution. The FSB welcomes the progress being made in the development by the International Swaps and Derivatives Association, Inc. ("ISDA") of a protocol that will address the enforceability of stays in relation to the majority of OTC bilateral derivatives contracts.

The FSB looks forward to the completion of this work over the coming weeks with an initial set of global systemically important banks (G-SIBs) and other large dealer banks adhering to the new ISDA protocol by the time of the Brisbane Summit. FSB members have given their commitment to support this process and will seek to provide for the necessary regulatory or supervisory action so that derivatives and similar financial contracts entered into by G-SIBs and, where appropriate, other firms with significant derivatives exposures include appropriate contractual language that gives effect to stays in resolution on a cross-border basis by the end of 2015.

The finalisation of the protocol and its broad adoption will be an important step towards addressing the risk that resolution triggers a cascade of termination events in derivatives contracts that lead to disruption in the wider market and undermine the stability measures that the authorities are taking. Together with the FSB’s proposed policy measures they will enhance the predictability and likely success of executing a resolution of a cross-border institution, thereby improving systemic stability and moving the international community ever closer to ending “too big to fail”.

Notes to editors

The *Key Attributes of Effective Resolution Regimes for Financial Institutions* are the international standard for resolution regimes for financial institutions. They are a key component of the FSB's policy framework to address the moral hazard and systemic risks associated with institution that are “too big to fail”. They were released by the FSB in November 2011 following their endorsement by G20 Leaders at the Cannes Summit.

The FSB’s report to the G20 on *Progress and Next Steps Towards “Ending Too Big To Fail” (TBTF Report)* of September 2013 set out the further actions required from the G-20, the FSB and other international bodies to complete the policy initiative to end “too-big-to-fail”. It set identified uncertainties about the cross-border effectiveness of resolution measures as an important impediment to cross-border resolution and set out the FSB’s commitment to “develop policy proposals on how legal certainty in cross-border resolution can be further enhanced” by the time of the Brisbane Summit.

The FSB has been established to coordinate at the international level the work of national financial authorities and international standard setting bodies and to develop and promote the implementation of effective regulatory, supervisory and other financial sector policies in the interest of financial stability. It brings together national authorities responsible for financial stability in 24 countries and jurisdictions, international financial institutions, sector-specific international groupings of regulators and supervisors, and committees of central bank experts. The FSB also conducts outreach with 65 other jurisdictions through its six regional consultative groups.

The FSB is chaired by Mark Carney, Governor of the Bank of England. Its Secretariat is located in Basel, Switzerland, and hosted by the Bank for International Settlements.

For further information on the FSB, visit the FSB website, www.financialstabilityboard.org.