FSB FINANCIAL STABILITY BOARD

Press release

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FSB welcomes industry initiative to remove cross-border close-out risk

The Financial Stability Board (FSB) welcomes the announcement today by the International Swaps and Derivatives Association (ISDA) of the agreement of a protocol to the ISDA Master Agreement as an important step to improve the effectiveness of cross-border resolution actions.[1] Under this protocol, counterparties agree to the cross-border enforceability of temporary stays on early termination and cross-default rights in over-the-counter (OTC) bilateral derivatives contracts. As part of this announcement, an initial set of 18 global systemically important banks (G-SIBs) and other large dealer banks have committed to execute the protocol by the time of the Brisbane G20 Summit in November. Once enacted, the protocol will help to reduce the risk that resolution of a bank with significant cross-border operations triggers a cascade of termination events in bilateral OTC derivatives contracts that leads to disruption in the wider market and undermines the measures that the authorities are taking to maintain financial stability and to prevent costs to the taxpayer.

The FSB calls on all G-SIBs and other firms with significant derivatives exposures to adhere to the protocol by the end of 2015 and ensure that the derivatives and similar financial contracts that they enter into include appropriate contractual language that gives effect to stays in resolution on a cross-border basis. FSB members have committed to support this adoption process through the necessary regulatory or supervisory action.

Mark Carney, Chairman of the FSB, stated that "today's announcement marks another important step towards completion of our comprehensive global reform agenda to end "too big to fail". The global financial crisis exposed critical cross-border obstacles to resolution that contributed to substantial public funds being put at risk to save multiple private entities. When the protocol goes live in November, it will close off much of the cross-border close-out risk that statutory stays have not been able to eliminate because their reach is limited to

[1] The ISDA press release announcing the protocol is available at http://assets.isda.org/media/de778136/58b5618f.pdf

national borders. This is a major achievement, by the industry. We now need to extend this process to other financial market participants, and to other financial contracts that pose cross-border close-out risk in resolution." With the adoption of the protocol by the top 18 dealer G-SIBs in November, over 90% of their OTC bilateral trading activity will be covered by stays of either a contractual or statutory nature.

At the St. Petersburg Summit in 2013, the G20 committed 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". In response to that request, the FSB published on 29 September 2014 a consultation paper with proposals to achieve the cross-border recognition of resolution actions, including through contractual approaches to the cross-border recognition of temporary restrictions or stays on early termination and cross-default rights in financial contracts. Industry initiatives of the kind announced today are consistent with those proposals and, together with the other policy measures proposed by the FSB, will enhance the predictability and likely success of resolving a cross-border institution, thereby improving systemic stability and moving the international community closer to ending 'too big to fail'.

Notes to editors

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 G20, the FSB and other international bodies to complete the policy initiative to end "too-big-to-fail". It 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 G20 Brisbane Summit in November 2014.

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.