10 March 2010

Promoting global adherence to international cooperation and information exchange standards

I. FSB Framework for Strengthening Adherence to International Standards

The Financial Stability Board is launching an initiative to encourage the adherence of all countries and jurisdictions to international financial standards, including by identifying non-cooperative jurisdictions and assisting them to improve their adherence. This initiative responds to a call by the G20 Leaders at the April 2009 London Summit. It complements similar initiatives by the Global Forum and OECD to promote adherence to international standards in the tax area, and by FATF for standards concerning anti-money laundering and combating the financing of terrorism.

The initial focus of the initiative is on adherence to international cooperation and information exchange standards in the financial regulatory and supervisory area.[1] Financial markets are global in scope and, therefore, weaknesses in cooperation and information exchange can undermine the efforts of regulatory and supervisory authorities to ensure that laws and regulations are followed and that the global operations of the financial institutions for which they have responsibility are adequately supervised. These weaknesses therefore present risks to the global financial system.

The initiative is part of a framework that the FSB is putting in place for encouraging stronger adherence to international standards more broadly. In this framework, FSB member jurisdictions will lead by example. They have committed to implement international financial standards, participate in international assessments, and disclose their degree of adherence. In addition, FSB members will undergo periodic peer reviews focused on the implementation and effectiveness of international financial standards and of policies agreed within the FSB.

Section II summarises the process to be followed by the FSB for evaluating adherence to international cooperation and information exchange standards in the financial regulatory and supervisory area. Sections III, IV and V provide a more detailed description of the initiative. The FSB Standing Committee on Standards Implementation (SCSI), which is composed of senior officials from central banks, finance ministries, supervisory agencies and international bodies (see Annex A), is responsible for managing the initiative, under the direction of the FSB Plenary. An Expert Group under the SCSI has been formed to implement the initiative.

[1] The three key financial regulatory and supervisory standards are the BCBS Core Principles for Effective Banking Supervision, the IAIS Insurance Core Principles, and the IOSCO Objectives and Principles of Securities Regulation. The relevant international cooperation and information exchange principles for each of these standards are listed in Annex B.

II. Overview of the process to evaluate adherence

The FSB has prioritised a pool of jurisdictions to be further evaluated, based on their importance in the financial system and the available information on their compliance with the relevant standards. These jurisdictions will be invited to engage in a confidential dialogue with the FSB in order to further evaluate their adherence and identify ways to improve adherence. The identities of the jurisdictions invited to engage in a confidential dialogue will not be disclosed outside the FSB.

Jurisdictions to be engaged in dialogue

To determine the jurisdictions to be engaged in dialogue, two criteria were used:

- Financial importance has been gauged based on a combination of economic and financial indicators.
- Existing information on adherence to international cooperation and information exchange standards (listed in Annex B) has been collected based on the Reports on the Observance of Standards and Codes (ROSCs) prepared by the IMF and World Bank, as well as signatory status under the IOSCO Multilateral Memorandum of Understanding (MMoU). Jurisdictions may be engaged in dialogue either because the most recent available information (which may be outdated) showed weaknesses in compliance or because there is insufficient information on compliance available.

In order to lead by example, all FSB member jurisdictions for which there is not at present sufficient existing evidence of strong compliance will be assigned a high priority for further evaluation.

Evaluation process

The dialogue with jurisdictions has four purposes:

- to examine a jurisdiction's compliance against international supervisory and regulatory standards relating to cooperation and information exchange;
- to examine the reasons for shortcomings in adherence;
- to discuss the jurisdiction's progress in meeting the relevant recommendations set out in any ROSC; and
- to make recommendations on steps to improve compliance.

The FSB will form an expert team to examine all relevant, existing information, including information provided by the authorities on developments since the latest IMF-World Bank ROSC. The expert team will be composed of specialists in banking, insurance and securities regulation and supervision as appropriate. The expert team will engage in dialogue with the jurisdiction and, if needed, encourage the authorities to request a new assessment of compliance from the IMF/World Bank, either through a Financial Sector Assessment Programme assessment or through stand-alone ROSCs.

The expert team will prepare a preliminary evaluation report, on which the jurisdiction will be invited to comment. The report will evaluate compliance and recommend a timetable of actions to address the weaknesses identified. The authorities will be invited to discuss the revised evaluation report with the FSB Standing Committee on Standards Implementation (see Annex A). The FSB will then approve the report and the measures to promote adherence, including whether to list the jurisdiction as non-cooperative (see below).

A simplified flow chart of the process presented in Annex C.

Toolbox of measures to promote adherence

To promote the adherence of jurisdictions to international financial standards concerning cooperation and information exchange, the FSB will consider a toolbox of possible measures. The toolbox (see Annex D) is a balance of both positive and negative measures.

The appropriate measures to promote adherence will vary from jurisdiction to jurisdiction depending on the types of weaknesses in adherence that are identified. The FSB will seek to use positive measures in the first instance, such as policy dialogue and technical assistance, where possible and likely to be effective. Capacity-building mechanisms will be made available as needed to provide technical assistance. The FSB is currently reviewing the availability of capacity-building mechanisms to support this initiative.

Negative measures are also available as appropriate. The toolbox includes the option of publishing by the end of 2010 the names of non-cooperative jurisdictions in the event that other measures to promote adherence to international cooperation and information exchange standards are not achieving sufficient progress.

Monitoring progress

Going forward, the FSB will maintain regular contact with the jurisdiction for updates on the implementation of the recommended timetable of actions to address weaknesses. Once a new IMF/World Bank assessment (or signature to the IOSCO MMoU) demonstrates evidence of sufficient compliance, the evaluation process would be ended. On the other hand, if a jurisdiction does not make sufficient progress, the FSB may call upon its members to take stronger measures.

The remaining sections of this document describe the various elements of the process in detail.

III. Criteria for identifying jurisdictions to be evaluated

The FSB, working through the SCSI and its Expert Group, has established the following criteria for identifying a pool of jurisdictions that could pose a risk to the financial system because of their financial importance and weak compliance with international cooperation and information sharing standards.

III.1 Financial importance

The first criterion is financial importance. Financial importance can derive notably from size, interconnectedness or substitutability. The financial importance of a jurisdiction will be assessed according to objective measures that are transparently applied. For each case considered, a combination of the following indicators will be used to assess financial importance.

- domestic financial assets, both in absolute terms and relative to national GDP, where domestic financial assets are estimated by summing the domestic deposit base and the capitalisation of domestic equity and bond markets;
- external financial assets and liabilities of a jurisdiction as measured by creditor-side data, specifically the BIS international banking statistics and the IMF Coordinated Portfolio Investment Survey;
- gross capital flows, both in absolute terms and relative to GDP;
- market share in selected global market segments: cross-border interbank assets, pension fund assets, hedge fund assets (based on both the location of the manager and the legal domicile of the fund), OTC derivatives markets, and insurance premiums.

These measures will be compiled from publicly available information. The Secretariat, in consultation with the Expert Group, will combine these indicators to rank jurisdictions according to a transparent and objective methodology. The ranking is intended to assist with the prioritisation of jurisdictions for further evaluation; the ultimate goal is to promote adherence by all countries and jurisdictions.

III.2 Compliance with standards

The second criterion is compliance with standards as listed in Annex B. A hierarchy of information will be used to assess compliance.

III.2.1 Standards compliance grades

The first source of information on compliance is the detailed assessment from ROSCs related to BCBS, IAIS and IOSCO standards, which may be part of a FSAP or a stand-alone report. If a jurisdiction publishes the detailed assessment, then the grades can be used to assess directly the degree of compliance with the relevant principles for the three key regulatory and supervisory standards (listed in Annex B). A jurisdiction is not to be further evaluated if it was assessed by the IMF and World Bank and found to be “compliant” or “largely compliant” with all, or all except one, of the relevant principles in the three standards considered collectively, or with the relevant principles in those standards for which the jurisdiction’s activity in that sector is of systemic importance relative to GDP. For the purposes of the current exercise, jurisdictions meeting these conditions based on old versions of the standards or methodology will not be evaluated at this stage, regardless of when the IMF-World Bank assessment was done.

III.2.2 Multilateral Memoranda of Understanding

For jurisdictions (i) whose level of compliance does not meet the conditions in III.2.1, (ii) did not publish the detailed assessment reports, or (iii) did not complete an FSAP or ROSCs for the BCBS, IAIS and IOSCO standards, additional indirect indicators of adherence need to be considered. An important additional source of information is adherence to IOSCO and IAIS MMoUs.

In particular, the acceptance by IOSCO of a jurisdiction as a signatory to the IOSCO MMoU is evidence of that jurisdiction's adherence to standards of cooperation and information exchange that is of equivalent strength to an assessment of full compliance with the relevant securities principles through a ROSC. Therefore, signatories to the IOSCO MMoU who have been assessed as compliant or largely compliant with all, or all except one, of the relevant principles in the BCBS and IAIS standards considered together need not be further evaluated. Signatories are listed in Appendix A of the IOSCO MMoU.

The IAIS MMoU process was launched in 2007 and so experience to date is limited. This should be considered when deciding how to take this information into account. Therefore, becoming a signatory to the IAIS MMoU would not be considered as a substitute for full compliance with relevant standards in the insurance sector. This could change in the future, as the IAIS gains more experience with its MMoU process.

III.2.3 Other sources of information

If a jurisdiction's level of compliance does not meet the conditions outlined in III.2.1 or III.2.2, then other sources of information could be considered as part of the subsequent process to evaluate cooperation and information exchange. However, careful consideration needs to be given to ensuring that these other sources meet the desired principles of objective and relevant criteria and transparent process. Possible other sources of information include:

- progress made by jurisdictions towards becoming signatories to the IOSCO or IAIS MMoUs;
- jurisdictions that IOSCO has identified as non-cooperative[2]; or
- documentary evidence provided by FSB and non-FSB members of non-compliance with international cooperation and information exchange standards.

III.3 Outreach and transparency of process

The criteria and information used to identify jurisdictions to be further evaluated, and the process followed, should be accessible to and verifiable by the jurisdiction to which the information relates.

The FSB will communicate publicly on the process in place through press releases and reports issued by the Plenary. International bodies, including the IMF, World Bank, IOSCO, BCBS and IAIS, could also be requested to disseminate information to their membership about the FSB's initiative. Any bilateral communication with jurisdictions will be conducted by the FSB itself.

[2] If available, similar information from the BCBS and IAIS could also be considered.

A number of jurisdictions identified as high priority in terms of financial importance but that did not publish their detailed assessment reports were already contacted individually by the FSB. The list of jurisdictions contacted, and the communication between the jurisdiction and the FSB, will not be disclosed outside the FSB. The jurisdictions contacted were requested to share their detailed assessment reports with the FSB Secretariat to determine whether they would fall into the pool of jurisdictions to be evaluated.

If a jurisdiction did not provide the requested assessment reports or has never been assessed by the IMF-World Bank, or if the compliance levels in its assessment reports are not consistent with the criteria set in section III.2.1 or III.2.2 for the jurisdiction not to be further evaluated, it will enter into the pool for further evaluation.

III.4 Pool of jurisdictions to be further evaluated

The above criteria will be used to determine a pool of jurisdictions to be further evaluated. The first pool was drawn up by the Expert Group in February 2010 and will be regularly reviewed and reassessed against the criteria to ensure its relevance. The pool is intended to assist prioritisation for further evaluation and is not intended to be published or distributed outside of the FSB.

Jurisdictions in the pool will be categorised according to a combination of their degree of financial importance and degree of compliance, from greatest financial importance and weakest compliance to lowest financial importance and greatest compliance. The prioritisation will also take into account whether the jurisdiction is currently undergoing an FSAP or ROSC evaluation or updates to avoid duplication of process. All FSB members that have not met the criteria for compliance will be part of the pool, and will be assigned high priority for evaluation.

IV. The evaluation process

Following review by the SCSI of the pool of jurisdictions to be further evaluated, the FSB is initiating an evaluation for each of the relevant jurisdictions. The purpose of the evaluation is fourfold:

- to examine compliance against standards relating to cooperation and information exchange as listed in Annex B;
- to examine the reasons for the shortcomings in compliance;
- to discuss the jurisdiction's progress in meeting the relevant recommendations set out in any ROSC; and
- to make recommendations on steps to improve compliance.

This evaluation will be closely coordinated, if relevant, with the FSB peer review process. Annex C shows a simplified flow chart of the evaluation process.

IV.1 Initiation of the process

The Minister of Finance of each jurisdiction in the pool of jurisdictions for further evaluation will be sent a letter by the FSB. The letter will make clear that the FSB is starting a process which will include substantive and confidential dialogue with the authorities concerned in order to further evaluate compliance with the relevant standards and possible ways to improve adherence to standards. The letter will in particular inform them:

- of the importance for the stability of the global financial system that all jurisdictions adhere to international financial standards, for which the FSB members are committed to lead by example;
- of the process followed by the FSB;
- of the reasons why they have been identified as needing further evaluation, i.e. they are considered to be financially important and either (i) their level of adherence does not meet the conditions outlined in sections III.2.1 or III.2.2, (ii) they did not complete a FSAP or ROSCs for the three relevant standards, or (iii) the detailed assessment reports requested in section III.3 were not made available to the FSB;
- of the objective of the process, i.e. to bring them to full compliance with cooperation and information sharing standards, and the measures – both positive and negative – that may be applied towards that objective;
- that additional factual information is requested within a clearly defined timeframe, including a request that they share with the FSB any detailed assessment reports and IOSCO and IAIS evaluations;[3]
- that if the additional information provided within the timeframe does not resolve the FSB's concerns, then they will be invited to pursue a confidential dialogue with the FSB in order to identify areas of weakness or lack of sufficient information on compliance and an action plan to improve adherence with standards;
- that they are encouraged to request a new assessment from the IMF/World Bank (provided that (i) the latest ROSC for a relevant standard is more than five years old, (ii) significant reforms or developments have taken place since the latest ROSC, or (iii) the jurisdiction has never completed a ROSC);
- that if a jurisdiction is unwilling to participate in a dialogue, then they will be publicly listed by the FSB by the end of 2010 as a non-cooperative jurisdiction regarding cooperation and information exchange in the area of financial regulation and supervision and additional negative incentives could be applied to promote compliance.

[3] As a procedural matter, a jurisdiction would need to obtain authorisation from the IMF and World Bank before sharing the detailed assessment reports.

IV.2 Consideration of additional information

Detailed ROSC assessments provided in response to the letter will be used as part of the criteria outlined in III.2. If the criteria are met and the jurisdiction should not remain in the pool of jurisdictions for further evaluation, the Expert Group will recommend to the SCSI that the jurisdiction be removed from the pool.

IV.3 Formation of an expert team

If there is no detailed assessment available or if the detailed assessments do not establish compliance with standards as defined in III.2, then expert teams will be formed by the Expert Group to engage in dialogue with each jurisdiction in the pool and prepare a preliminary evaluation report. Several teams will be needed, depending on the number of jurisdictions in the pool.

The members of each team should come from different jurisdictions and should be knowledgeable in the areas to be further evaluated. To the extent possible, the teams should include one FSB representative each from a central bank, regulatory agency and ministry of finance, plus one expert nominated by BCBS, IAIS or IOSCO. The composition and the Head of each team will be proposed by the Chair of the Expert Group, reviewed by the Expert Group, and approved by the Chair of the SCSI. The size of each team will be limited to five persons. The jurisdiction under review will be informed of the composition of the team. The work of the teams will be supported by the FSB Secretariat.

IV.4 Dialogue with the expert team

The expert team will engage in dialogue with the jurisdiction to understand and examine its compliance with international cooperation and information exchange standards. However, the expert team would not itself conduct an assessment or re-assessment of compliance. Dialogue can be in written form, by telephone or through face-to-face meetings, as necessary.

The expert team would examine all relevant, available information including: information from detailed and summary ROSC assessments (if any); more recent information since the latest assessment; participation in MMoUs, including the degree of compliance with the various MMoU provisions; and self-assessments of compliance[4]. If documentary evidence of non-compliance was provided by FSB and non-FSB members, the expert team should consult with the relevant members to understand fully the nature of the problems. If the jurisdiction was identified as non-cooperative by BCBS, IAIS or IOSCO, or is an IOSCO member listed on Appendix B of the IOSCO MMoU having committed to becoming a signatory to the MMoU, the expert team should consult with the relevant organisation to understand the obstacles and discuss possible ways forward. The jurisdiction being evaluated should be informed about the results of these consultations.

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[4] Self assessments of compliance should be based on the methodologies followed by the IMF and the World Bank.

For a jurisdiction that does not meet the conditions in III.2.1 or III.2.2, if (i) the latest ROSC for a relevant standard is more than five years old, or if (ii) the jurisdiction has never completed a ROSC, then the jurisdiction would be encouraged to request within four weeks of the initiation of the evaluation process an assessment from the IMF/World Bank of the relevant principles, either through an FSAP or through stand-alone ROSCs. In that case, the expert team will suspend its dialogue until the result of the assessment.

For a jurisdiction that does not meet the conditions in III.2.1 or III.2.2 and completed a ROSC for a relevant standard within the last five years, the expert team will evaluate whether significant enough reforms have taken place since the latest ROSC that it would be appropriate to encourage the jurisdiction to request a new IMF-World Bank assessment.

If a jurisdiction is encouraged to request a new assessment and does so, then the FSB evaluation will be suspended until the results of the assessment are known. The expert team would not encourage a jurisdiction to request a new assessment of a standard if the latest IMF/World Bank assessment of that standard had found the jurisdiction to be "compliant" or "largely compliant" with all the relevant principles or, in the case of the IOSCO principles, if the jurisdiction had signed the IOSCO MMoU.

Reprioritisation of assessments and allocation of the necessary resources will be needed by the IMF and World Bank to ensure that they complete by end-2010 as many as possible of the requested assessments necessary to evaluate the pool of jurisdictions. In order to achieve this, standard-setting bodies and FSB member jurisdictions will need to make assessors available to participate in the teams led by the IMF and World Bank. If there is insufficient evidence of compliance relating to IOSCO's standards, the jurisdiction could be encouraged to work with IOSCO to take the necessary steps to become a signatory to the IOSCO MMoU. The expert team would stay in contact with IOSCO to monitor progress in this area.

IV.5 Preliminary report

Based on all available information, the expert team will prepare a written report that:

- summarises the jurisdiction's participation in assessment processes, the availability of assessment results, and participation in MMoU processes;
- examines the jurisdiction's compliance with the relevant standards;
- examines the extent to which jurisdictions have taken action to follow up on past recommendations for improving compliance;
- explains the reasons for the areas of weakness identified, including, where relevant, possible institutional and capacity weaknesses, and identifies priorities for reform;
- recommends actions to address the weaknesses identified, and a timetable for those actions that, if implemented, will lead to the jurisdiction's removal from the pool of jurisdictions under evaluation[5];
- in cases of weak compliance leading to a potential threat to the financial system, recommended actions could include listing publicly the jurisdiction as non-cooperative.

[5] Removal from the pool will be subject to confirmation of compliance through an IMF/World Bank assessment or signature to the IOSCO MMoU.

The preliminary report will be sent by the expert team to the authorities in the evaluated jurisdiction and to the Expert Group. The authorities should be invited to comment on the report. The period for comment should be no more than 4 weeks.

IV.6 Final report

The Expert Group will review the preliminary report and the comments of the authorities and revise the report as necessary. The revised report will be submitted to the Minister of Finance in the jurisdiction under review and to the SCSI. The SCSI will discuss the report, with the authorities invited to be present and to respond, and will recommend which measures from the toolbox the FSB members jurisdictions may apply, including whether to list the jurisdiction as non-cooperative. The report, including a timeframe for recommended actions to be taken by the evaluated jurisdiction and the FSB, will be submitted to the Plenary, for final approval.

IV.7 Future rounds of evaluations

While the focus of the first round is on jurisdictions ranked highest in financial importance, the ultimate goal is to promote adherence by all countries and jurisdictions to regulatory and supervisory standards concerning international cooperation and information exchange. Following completion of the first round of evaluations, the Expert Group will engage in a further round of dialogue with a different group of jurisdictions, subject to approval by the Plenary after review by the SCSI.

V. Measures to promote adherence and cooperation

Information on the toolbox of potential measures to promote adherence and cooperation will be made available to jurisdictions at the time that the dialogue is initiated. The toolbox of measures is designed to be a balance of both positive and negative measures, and the list of possible incentives ranges from the provision of technical assistance to a public list of non-cooperative jurisdictions and restrictions on market access (see Annex D).

The toolbox will be used by the FSB to address weaknesses identified in jurisdictions in the pool. According to the type of weaknesses noted in each jurisdiction, the expert team will recommend specific actions. The FSB will seek to use positive measures in the first instance, such as policy dialogue and technical assistance, where possible and likely to be effective. Nevertheless, negative measures are available also as appropriate. Judgement will need to be applied by the FSB regarding which of the measures to apply and when, and by FSB member jurisdictions in the implementation.

V.1 List of non-cooperative jurisdictions

The toolbox will include the option of publishing the names of non-cooperative jurisdictions resulting from the evaluation process by the end of 2010 in the event that other measures are not achieving sufficient progress.

The reason for a jurisdiction being placed on the list should be clearly identified:

- lack of cooperation with the evaluation process; or
- weak compliance with the relevant principles, in which case the main areas of weakness will be identified.

Jurisdictions whose level of adherence does not meet the conditions outlined in sections III.2.1 or III.2.2, but which have implemented the recommended actions according to the timetable set by the Expert Group in the final report in order to address weaknesses, would not be placed on the list at the end of 2010. However, the list should be updated regularly to take account of progress in implementing the agreed actions to address weaknesses.

Jurisdictions will be removed from the list of non-cooperative jurisdictions when they meet the conditions for compliance outlined in sections III.2.1 and III.2.2. Jurisdictions on the list because they did not cooperate with the evaluation process will only be removed when they provide sufficient evidence of compliance.

V.2 Other measures

The Expert Group will review the scope of current technical assistance measures available to support jurisdictions in meeting information exchange, supervisory cooperation and other prudential standards. The Expert Group will also analyse the type of negative measures that could be applied to jurisdictions unwilling to implement these standards and specify the process for applying such measures. When implementing possible measures, the FSB member jurisdictions may consider any legal constraints that FSB member jurisdictions might face in applying measures in the selected jurisdictions as well as "prudential carve out" provisions, which permit jurisdictions to impose restrictions for prudential reasons, such as ensuring the integrity and stability of the financial system. The Expert Group will make recommendations to the SCSI, and decisions by the SCSI regarding the application of measures are subject to approval by the Plenary and the judgement of the FSB member jurisdictions in their implementation.

V.3 Monitoring progress

Progress made by jurisdictions in the pool to address areas of weakness should be closely monitored by the expert team, and for the first year following the finalisation of the evaluation report an update should be prepared for each meeting of the SCSI. This monitoring would take account of ongoing work by the standard-setting bodies and international financial institutions to monitor and improve compliance. Technical assistance might be provided during this period.

Jurisdictions will be removed from in the pool for further evaluation when they meet the conditions for compliance outlined in sections III.2.1 and III.2.2, i.e. the jurisdiction completes a new IMF-World Bank assessment for the areas of weakness and receives grades corresponding to "compliant" or "largely compliant" for all, or all except one, of the relevant principles, or for IOSCO principles signs the IOSCO MMoU. The Expert Group will evaluate whether a jurisdiction meets these conditions and should be removed from the pool of jurisdictions to be further evaluated, and from the list of non-cooperative jurisdictions if it has been publicly listed, subject to approval by the Plenary after review by the SCSI.

If, one year after the approval of the evaluation report by the Plenary, a jurisdiction has not made sufficient progress, the FSB may call upon its members to take stronger measures, including sanctions, to promote the jurisdiction’s adherence to international standards and reduce risks to the global financial system.

Annex A

Members of the FSB Standing Committee on Standards Implementation

Chairman	**Tiff Macklem** G7 Deputy & Senior Associate Deputy Minister Department of Finance
Australia	**Mike Callaghan** Executive Director, and Prime Minister's Special Envoy for the International Economy Department of the Treasury
Brazil	**Alexandre Tombini** Deputy Governor Central Bank of Brazil
China	**Zhou Xiaochuan** Governor People's Bank of China
France	**Jean-Pierre Jouyet** Chairman L'Autorité des Marchés Financiers (AMF)
Germany	**Jörg Asmussen** State Secretary Federal Ministry of Finance
Hong Kong	**Martin Wheatley** Chief Executive Officer Securities and Futures Commission
India	**Ashok Chawla** Finance Secretary Ministry of Finance
Italy	**Vittorio Grilli** Director General of the Treasury Department of the Economy and Finance
Japan	**Masamichi Kono** Vice Commissioner for International Affairs Financial Services Agency
Russia	**Dmitry Pankin** Deputy Minister of Finance Ministry of Finance
Saudi Arabia	**Khalid Alsebayel** Director, Banking Inspection Saudi Arabian Monetary Agency

Singapore	**Heng Swee Keat** Managing Director The Monetary Authority of Singapore
South Africa	**Lesetja Kganyago** Director General National Treasury
Switzerland	**Peter Siegenthaler** Director Swiss Federal Department of Finance
Turkey	**Durmus Yilmaz** Governor Central Bank of the Republic of Turkey
UK	**Tom Scholar** Second Permanent Secretary HM Treasury
USA	**Mark Sobel** Deputy Assistant Secretary Department of the Treasury
	Kathleen Casey Commissioner Securities and Exchange Commission
IMF	**José Viñals** Counsellor and Director
World Bank	**Vincenzo La Via** Chief Financial Officer
Organisation for Economic Cooperation and Development (OECD)	**Carolyn Ervin** Director, Financial and Enterprise Affairs
European Commission	**Jörgen Holmquist** Director General, Internal Market & Services
Basel Committee on Banking Supervision (BCBS)	**Stefan Walter** Secretary General
International Association of Insurance Supervisors (IAIS)	**Yoshihiro Kawai** Secretary General
International Organization of Securities Commissions (IOSCO)	**Greg Tanzer** Secretary General
Committee on Payment and Settlement Systems (CPSS)	**Daniel Heller** Secretary General

Regulatory and supervisory standards concerning international cooperation and information exchange

There are three key standards in the financial regulatory and supervisory area: the BCBS Core Principles for Effective Banking Supervision, the IAIS Insurance Core Principles, and the IOSCO Objectives and Principles of Securities Regulation. The FSB in consultation with the BCBS, IAIS and IOSCO identified, within each of these standards, principles concerning international cooperation and information exchange. This built on earlier work by the Financial Stability Forum to identify a list of standards for priority implementation.[6]

The principles listed below were selected based on two criteria: principles that relate directly to cooperation and information exchange, and principles that relate to essential supervisory powers and practices, without which effective cooperation and information exchange cannot take place. While the issues covered by some of the principles listed below are broader than cooperation and information exchange, these principles are the most relevant to the focus of the FSB. Principles that solely or mainly concern cooperation and information exchange in the areas of tax, anti-money laundering or combating the financing of terrorism were excluded because adherence to these is evaluated by other international bodies, notably the OECD and FATF.

BCBS Core Principles for Effective Banking Supervision[7]

Licensing and Structure

3. Licensing criteria: The licensing authority must have the power to set criteria and reject applications for establishments that do not meet the standards set. The licensing process, at a minimum, should consist of an assessment of the ownership structure and governance of the bank and its wider group, including the fitness and propriety of Board members and senior management, its strategic and operating plan, internal controls and risk management, and its projected financial condition, including its capital base. Where the proposed owner or parent organisation is a foreign bank, the prior consent of its home country supervisor should be obtained.

Methods of Ongoing Banking Supervision

21. Supervisory reporting: Supervisors must have a means of collecting, reviewing and analysing prudential reports and statistical returns from banks on both a solo and a consolidated basis, and a means of independent verification of these reports, through either on-site examinations or use of external experts.

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6 See Annex H of the April 2000 Report of the FSF Working Group on Offshore Centres.

7 The principles listed below refer to the 2006 version. Corresponding principles in the 1997 version are principles 3, 18, 19, 20, 23, 24 and 25.

Consolidated and cross-border banking supervision

24. Consolidated supervision: An essential element of banking supervision is that supervisors supervise the banking group on a consolidated basis, adequately monitoring and, as appropriate, applying prudential norms to all aspects of the business conducted by the group worldwide.

25. Home-host relationships: Cross-border consolidated supervision requires cooperation and information exchange between home supervisors and the various other supervisors involved, primarily host banking supervisors. Banking supervisors must require the local operations of foreign banks to be conducted to the same standards as those required of domestic institutions.

IAIS Insurance Core Principles and Methodology[8]

The supervisory system

5. Supervisory cooperation and information sharing: The supervisory authority cooperates and shares information with other relevant supervisors subject to confidentiality requirements.

The supervised entity

6. Licensing: An insurer must be licensed before it can operate within a jurisdiction. The requirements for licensing are clear, objective and public.

7. Suitability of persons: The significant owners, board members, senior management, auditors and actuaries of an insurer are fit and proper to fulfil their roles. This requires that they possess the appropriate integrity, competency, experience and qualifications.

Ongoing supervision

17. Group-wide supervision: The supervisory authority supervises its insurers on a solo and a group-wide basis.

IOSCO Objectives and Principles of Securities Regulation

C. Principles for the Enforcement of Securities Regulation

8. The regulator should have comprehensive inspection, investigation and surveillance powers.

9. The regulator should have comprehensive enforcement powers.

10. The regulatory system should ensure an effective and credible use of inspection, investigation, surveillance and enforcement powers and implementation of an effective compliance program.

[8] The principles listed below refer to the 2003 version. Corresponding principles in the 2000 version are principles 2, 15 and 16. The Insurance Core Principles are currently under revision, and the revisions are envisaged to be completed by the end of 2011.

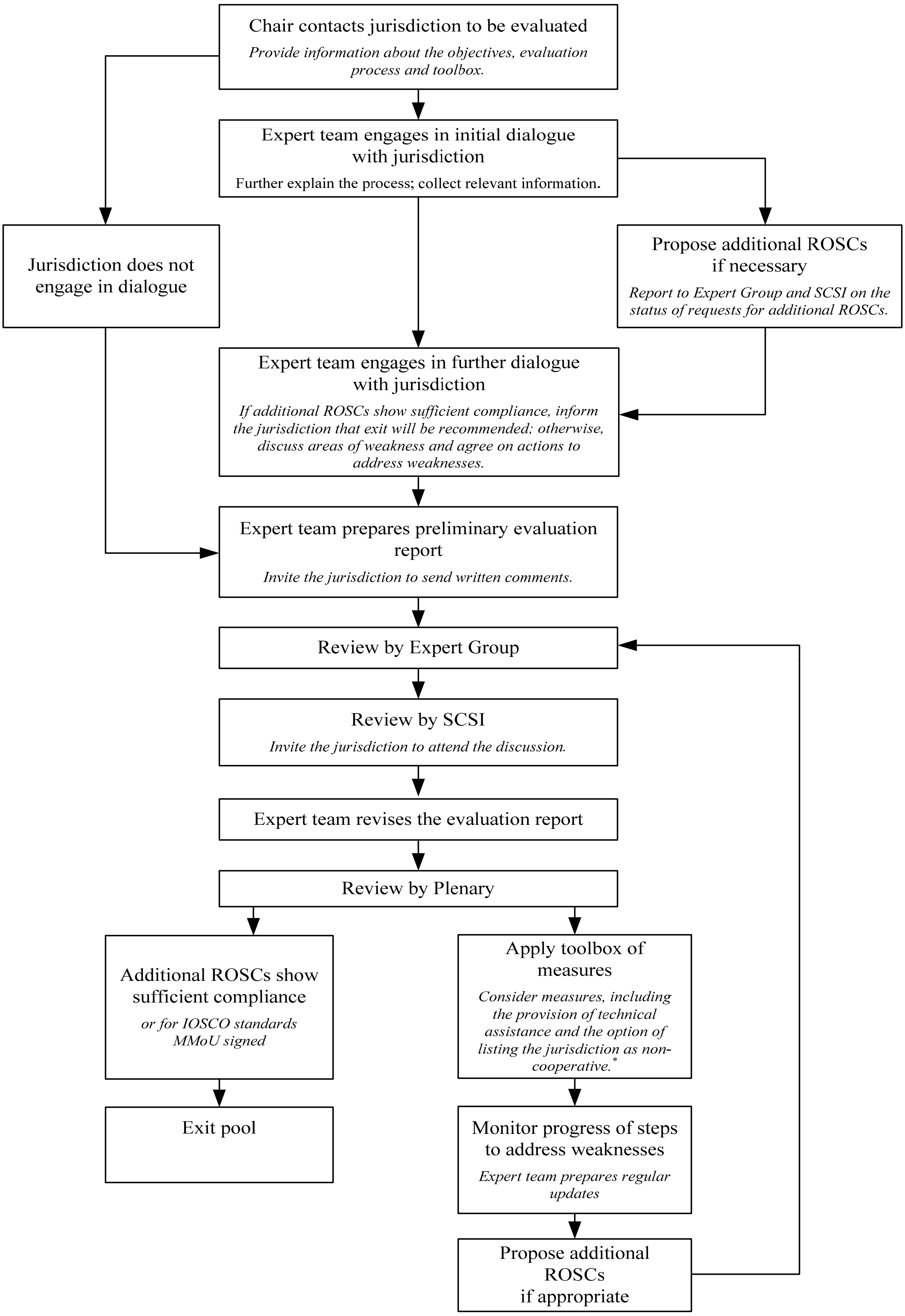
D. Principles for Cooperation in Regulation

11. The regulator should have authority to share both public and non-public information with domestic and foreign counterparts.

12. Regulators should establish information sharing mechanisms that set out when and how they will share both public and non public information with their domestic and foreign counterparts.

13. The regulatory system should allow for assistance to be provided to foreign regulators who need to make inquiries in the discharge of their functions and exercise of their powers.

Simplified flow chart of the evaluation process



* Technical assistance could also be provided earlier in the evaluation process.

Annex D

Toolbox of possible measures to promote the implementation of international financial standards

The list of measures below provides a menu of options for fostering adherence to international financial standards. Judgement will need to be applied by the FSB regarding which of the options below to apply and when, and by FSB member jurisdictions in the implementation. The appropriateness of each measure will depend on three factors:

- participation in the FSB evaluation process;
- the reasons for the areas of weakness identified; and
- progress in implementing recommendations for improving adherence.

Policy dialogue and capacity-building

International policy dialogue can assist jurisdictions in identifying reforms. Where needed, technical assistance could be provided to jurisdictions to build capacity to design and implement reforms:

- **Policy dialogue**: The IMF/World Bank assessment process and policy dialogue of the jurisdiction with the FSB, including through the dialogue with the expert team in drawing up the evaluation report, could help a jurisdiction to improve its adherence to information sharing and cooperation standards. Such dialogue can help to promote country ownership and can provide useful impetus for reform. Regular follow up can help to provide assistance to a jurisdiction in implementing the standards.
- **Technical assistance**: Technical assistance (including training and secondments) could be provided – by bilateral donors, national supervisors, standard-setting bodies, the IMF, multilateral development banks (including the World Bank), other international institutions, such as UN agencies, the Financial Stability Institute, and other training providers – to jurisdictions to help them implement relevant international standards.
- **Multilateral memoranda of understanding**: Jurisdictions can be encouraged to work with standard-setting bodies to fulfil the conditions for signature of MMoUs, thereby assisting them to raise adherence.
- **Letter to the Minister**: The Chair of the FSB, on behalf of all members, could send a letter to the Minister of Finance of a given jurisdiction to highlight the problems and emphasise the importance that the international community places on addressing weaknesses in adherence.

- **Membership processes**: Adherence to standards could be taken into account as a condition for granting membership to international groupings (e.g., IOSCO, IAIS, BCBS, etc), or for certain aspects of membership, such as participation in working groups.[9]

Market incentives

The FSB could take the following measures to incentivise market participants to take account of a jurisdiction's adherence to standards in their lending and investment decisions, or to incorporate assessment grades directly in their pricing and allocation decisions.

- **Raise awareness about standards**: The FSB could reach out to rating agencies, global financial institutions and large institutional investors to educate them about its efforts to improve compliance with standards and to highlight the role that information on compliance can play when evaluating the riskiness of jurisdictions.
- **Highlighting compliant jurisdictions**: Information could be published by the FSB highlighting those jurisdictions that are in compliance with standards.
- **Market access**: Financial institutions' location in a jurisdiction that adheres to international standards could be considered as a positive factor by jurisdictions to consider in making market access determinations, in a manner consistent with prudential requirements and trade, investment and other international obligations. For example, supervisors in jurisdictions could consider, as a positive factor, the fact that a jurisdiction adheres to international standards when evaluating applications for licences from financial institutions in that particular jurisdiction.
- **List of non-cooperative jurisdictions**: If other measures are not making sufficient progress, the jurisdiction could be included on a published list of non-cooperative jurisdictions.

Non-cooperative jurisdictions

After a jurisdiction is listed as non-cooperative, the following measures could be appropriate to safeguard the global financial system and to apply additional pressure to improve jurisdictions' adherence. In particular, if one year after the approval of the evaluation report by the Plenary a jurisdiction has not made sufficient progress towards adherence, then FSB could call upon its members to take further measures. The implementation of any such measures will be subject to any legal constraints that member jurisdictions might face in applying the following measures as well as "prudential carve out" provisions (for instance in international trade agreements), which permit jurisdictions to impose restrictions for prudential reasons, such as ensuring the integrity and stability of the financial system.

- **Progress reports**: Publication of jurisdictions' progress in implementing their action plan to adhere to the relevant international standards could be made on the basis of the evaluation process.

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[9] IOSCO already applies this measure. Applicants to become IOSCO members are required to apply to become signatories to the IOSCO MMoU and to sign the IOSCO MMoU as a condition for being accepted as IOSCO members.

- **Suspension of membership privileges**: Jurisdictions publicly listed as non-cooperative could be suspended from participating in the FSB and other bodies.
- **Advisory letter to financial institutions**: An advisory could be published to serve as a warning letter to financial institutions to be careful in conducting business in the identified non-cooperative jurisdiction.
- **Increased regulatory requirements on financial institutions**: Increased "know-your-customer" obligations could be applied for financial institutions doing business with individuals or legal entities established or registered in non-cooperative jurisdictions. Also, increased reporting requirements could be applied for financial institutions doing business with individuals or legal entities established or registered in non-cooperative jurisdictions.
- **Increased supervisory examination**: Home country supervisors could consider location in a non-cooperative jurisdiction as a factor in deciding to increase examinations of its financial institutions' operations in the jurisdictions.
- **Increased audit requirements**: Home country supervisors could consider location in a non-cooperative jurisdiction as a factor in deciding to require increased external audit requirements of its financial institutions' operations in the jurisdictions.
- **Higher capital requirements**: Supervisory bodies could be asked to apply stricter requirements, such as higher capital requirements, to financial institutions operating in jurisdictions that are publicly listed as non-cooperative.
- **Restrictions on financial institutions**: Home country supervisors, in a manner consistent with the legal framework of each country and with their international obligations, could refuse to allow their financial institutions to open new operations in jurisdictions that are publicly listed as non-cooperative, or could require them to close existing operations in jurisdictions that are publicly listed as non-cooperative.
- **Restrictions on transactions by international financial institutions**: The FSB could ask international financial institutions to review their policies for investment in non-cooperative jurisdictions and for conducting financial transactions through intermediaries operating in non-cooperative jurisdictions. Any such actions by international institutions would have to be taken in a manner consistent with their respective articles and rules.
- **Restrictions on cross-border financial transactions**: In extreme cases of continued non-adherence to international standards, governments or supervisory authorities, as appropriate and according to the legal framework of each country and in a manner consistent with international law and international obligations, including those under the Articles of Agreement of the IMF, could restrict or even prohibit financial transactions with counterparties located in non-cooperative jurisdictions. Measures could include restrictions on home financial institutions from entering into correspondent banking relationships with counterparties located in non-cooperative jurisdictions.