FSB- G20 - MONITORING PROGRESS – Germany September 2010 [For Publication in March 2011]

#		G20/FSB RECOMMENDATIONS		DEAD-LINE	PROGRESS TO DATE Explanatory notes: In addition to information on progress to date, specifying steps taken, please address the following questions: 1. Have there been any material differences from relevant international principles, guidelines or recommendations in the steps that have been taken so far in your jurisdiction? 2. Have the measures implemented in your jurisdiction achieved, or are they likely to achieve, their intended results? Also, please provide links to the relevant documents that are published.	PLANNED NEXT STEPS Explanatory notes: Timeline, main steps to be taken and key mileposts (Do the planned next steps require legislation?) Are there any material differences from relevant international principles, guidelines or recommendations that are planned in the next steps? What are the key challenges that your jurisdiction faces in implementing the recommendations?
I. Building high quality capital and mitigating procyclicality						
1	(Pitts)	Basel II Adoption	All major G20 financial centres commit to have adopted the Basel II Capital Framework by 2011.	By 2011	Germany has adopted Basel II as of 1.1.2007.	
2	(FSB 2009) (Tor)	Basel II trading book revision	Significantly higher capital requirements for risks in banks' trading books will be implemented, with average capital requirements for the largest banks' trading books at least doubling by end-2010. We welcomed the BCBS agreement on a coordinated start date not later than 31 December 2011 for all elements of the revised trading book rules.	By end-2011	The German Finance Ministry has published for consultation changes to the relevant national regulation (Solvency Ordinance, "Solvabilitätsverordnung", SolvV) concerning banks. The consultation period for the Solvency Ordinance ended in Feb 2010. The draft regulation is fully consistent with the draft EU directive 2010/76/EU (which transposes the Basel Committee's "Revisions to the Basel II market risk framework" and "Guidelines for computing incremental risk in the trading book" into EU regulations).	

3	(Pitts)	Build-up of capital by banks to support lending	We call on banks to retain a greater proportion of current profits to build capital, where needed, to support lending.	Ongoing	Supervisors would typically expect banks to hold capital well above the minimum capital requirements and encourage them to do so. However, according to the German Banking Act ("Kreditwesengesetz", KWG, Section 10 (1b)) which has been further specified by the Law strengthening the Supervision of Financial Markets' and Insurance Supervision („Gesetz zur Stärkung der Finanzmarkt- und Versicherungsaufsicht") of July 2009, BaFin can also explicitly require higher capital levels to address particular circumstances of an institution, e.g. higher capital needs during the first years after taking up a business or to cover risks that are not completely captured by the minimum capital requirements.	Forthcoming recommendations by the BCBS are expected to be transposed into EU legislation through the CRD IV, which will be transposed into German law.
4	(FSF 2009)	Basel II – Pillar 2 enhancement	1.4 Supervisors should use the BCBS enhanced stress testing practices as a critical part of the Pillar 2 supervisory review process to validate the adequacy of banks' capital buffers above the minimum regulatory capital requirement.	End-2009 and ongoing	Germany has transposed the FSB and BCBS recommendations in the Minimum Requirements for Risk Management ("Mindestanforderungen an das Risikomanagement", MaRisk; revised version for the banking sector published on 14 August 2009, circular R 15/2009 (BA)) for financial institutions, requiring financial institutions to have sound stress testing practices in place. Stress test results must be taken into account as part of the institutions internal capital adequacy assessment process. Accordingly, banks' stress testing practices form part of BaFin's Supervisory Review and Evaluation Process. An amendment of the German Banking Act authorizes banking supervisors, inter alia, to determine an individual add-on above the minimum capital requirements when an institution fails to comply with sound risk management practices, including stress testing obligations.	Ongoing bank specific review.
5	(Lon)	Supplementation of Basel II by simple, transparent, non-risk based measure	Supplement risk-based capital requirements with a simple, transparent, non-risk based measure which is internationally comparable, properly takes into account off-balance sheet exposures, and can help contain the build-up of leverage in the banking system.	Ongoing	Germany has implemented in the German Banking Act (§ 24(16)) a requirement to report quarterly any change of at least 5 percent of the following ratio: numerator: own funds according to the respective accounting framework; denominator: sum of balance sheet total, off-balance sheet liabilities and replacement costs for claims resulting from off-balance sheet transactions.	Forthcoming recommendations by the BCBS are expected to be transposed into EU legislation, which will be transposed into German law.

6	(Pitts) (Tor)	Development of international rules to improve quantity & quality of bank capital	We commit to developing by end-2010 internationally agreed rules to improve both the quantity and quality of bank capital and to discourage excessive leverage. These rules will be phased in as financial conditions improve and economic recovery is assured, with the aim of implementation by end-2012. We agreed that all members will adopt the new standards and these will be phased in over a timeframe that is consistent with sustained recovery and limits market disruption, with the aim of implementation by end-2012, and a transition horizon informed by the macroeconomic impact assessment of the FSB and BCBS.	End-2009, implement over a timeframe that is consistent with sustained recovery and limits market disruption	Legislation to transpose CRD II into German law has been finalised. It will be applicable from 31 December 2010. (Directive 2009/111/EU (CRD II) has set out rules for the eligibility and the limits of Tier 1 hybrid instruments as well as a clarification of the definition of equity in Art. 57 (a).)	The recommendations by the BCBS from 12/13 September 2010 are expected to be transposed into EU legislation through the CRD IV, which will be transposed into German law. It is expected that the commission will publish a first proposal of CRD IV in the first quarter of 2011. If so, the national transposition shall happen during the year 2012.
7	(FSF 2008)	Monitoring of banks' implementation of the updated guidance	II.10 National supervisors should closely check banks' implementation of the updated guidance on the management and supervision of liquidity as part of their regular supervision. If banks' implementation of the guidance is inadequate, supervisors will take more prescriptive action to improve practices.	Ongoing	The updated guidance is implemented in the Minimum Requirements for Risk Management and is subject of on-site inspections. It is also part of the guidance for the regular compilation of the risk profile of an institution and taken into account when judging an institution's liquidity management. In case of inadequate implementation banks are required to take remedial action. The implementation is then closely supervised.	Part of ongoing supervision.

8	(Lon)	Development of liquidity framework	The BCBS and national authorities should develop and agree by 2010 a global framework for promoting stronger liquidity buffers at financial institutions, including cross-border institutions.	By 2010	Strengthened qualitative requirements for liquidity risk management will be required at national level by EU-law (CRD II) by end 2010. In Germany, they are part of the revisions of the Pillar 2-related Minimum Requirements for Risk Management. Banks are also now required to have a liquidity buffer (highly liquid assets) available, in order to be able to cope with a rapidly deteriorating liquidity situation. http://www.bafin.de/cln_152/nn_721228/SharedDocs/Veroeffentlichungen/EN/Service/Circulars/rs__0915__ba__marisk.html?__nnn=true	The CEBS guidelines on liquidity buffers will be implemented into German regulation by end 2010 at the latest and have to be applied by institutions by this date. Forthcoming recommendations by the BCBS and at the EU-level (CEBS) will be transposed into the German liquidity regulation.
9	(FSB 2009)	Enhancement of supervision of banks' operation in foreign currency funding markets	Regulators and supervisors in emerging markets will enhance their supervision of banks' operation in foreign currency funding markets.	Ongoing		
10	(FSF 2008)	Strengthening of regulatory and capital framework for monolines	II.8 Insurance supervisors should strengthen the regulatory and capital framework for monoline insurers in relation to structured credit.	Ongoing	No monoline insurers operate in Germany.	

II. Strengthening accounting standards						
11	(WAP)	Consistent application of high-quality accounting standards	Regulators, supervisors, and accounting standard setters, as appropriate, should work with each other and the private sector on an ongoing basis to ensure consistent application and enforcement of high-quality accounting standards.	Ongoing		Ongoing monitoring
12	(FSF 2009)	The use of valuation reserves or adjustments by accounting standard setters and supervisors	3.4 Accounting standard setters and prudential supervisors should examine the use of valuation reserves or adjustments for fair valued financial instruments when data or modelling needed to support their valuation is weak.	End-2009		Ongoing monitoring

13	(FSF 2009)	Dampening of dynamics associated with FVA.	3.5 Accounting standard setters and prudential supervisors should examine possible changes to relevant standards to dampen adverse dynamics potentially associated with fair value accounting. Possible ways to reduce this potential impact include the following: (1) Enhancing the accounting model so that the use of fair value accounting is carefully examined for financial instruments of credit intermediaries; (ii) Transfers between financial asset categories; (iii) Simplifying hedge accounting requirements.	End-2009		Ongoing monitoring
14	(FSF 2008)	Enhanced disclosure of securitised products	III.10-III.13 Securities market regulators should work with market participants to expand information on securitised products and their underlying assets.	Ongoing	BaFin currently requests specific data from and interviews with senior management of banks, insurance companies, and asset management companies, to better assess the risk exposure of their securitised products.	BaFin requests quarterly specific data on securitized products of systemically relevant banks. Other banks, insurance companies, and asset management companies are queried on a case-by-case basis where necessary. Interviews with senior management at banks and insurance companies with significant risks.
III. Reforming compensation practices to support financial stability						

15	(Lon) (Pitts) (Tor)	Implementation of FSB/FSF compensation principles	National supervisors should ensure significant progress in the implementation of FSF sound practice principles for compensation by financial institutions by the 2009 remuneration round. We fully endorse the implementation standards of the FSB aimed at aligning compensation with long-term value creation, not excessive risk-taking. Supervisors should have the responsibility to review firms' compensation policies and structures with institutional and systemic risk in mind and, if necessary to offset additional risks, apply corrective measures, such as higher capital requirements, to those firms that fail to implement sound compensation policies and practices. Supervisors should have the ability to modify compensation structures in the case of firms that fail or require extraordinary public intervention. We call on firms to implement these sound compensation practices immediately. We encouraged all countries and financial institutions to fully implement the FSB principles and standards by year-end, We call on the FSB to undertake ongoing monitoring in this area and conduct a second thorough peer review in the second quarter of 2011.	End-2010	Germany has implemented the FSB Principles and Standards. In December 2009 BaFin published new requirements for remuneration policies of banks and insurers through two BaFin circulars (circulars 22/2009 for the banking sector and 23/2009 for the insurance sector). These new provisions incorporate the FSF Principles for Sound Compensation Practices and the FSB Implementation Standards as well as the CEBS principles and recommendations of the EU. The new provisions had in general to be implemented by institutions by end 2009. The efforts of the financial industry to fulfil those requirements are monitored by BaFin and Deutsche Bundesbank. Legislative amendments that entered into force in July 2010 incorporate the new requirements for remuneration systems of banks and insurers into substantive law. The aim of these legislative amendments is twofold. First, they allow the Ministry of Finance to transform the BaFin-circulars of December 2009 into ministerial ordinance. Second, the new law implements FSB-Standard 3 which allows the supervisory authority to limit variable compensation when it is inconsistent with the maintenance of a sound capital base. The governmental ordinances are expected to enter into force in October 2010. The BaFin-circulars will expire at that date and banks and insurers falling so far under the scope of application of the two BaFin-circulars will be required to comply with the governmental regulations in future.	Unspecified details within the law will be regulated by two ordinances, one for the banking, the other for the insurance sector. Monitoring of financial institutions is ongoing.

16	(Pitts)	Supervisory review of firms' compensation policies etc.	Supervisors should have the responsibility to review firms' compensation policies and structures with institutional and systemic risk in mind and, if necessary to offset additional risks, apply corrective measures, such as higher capital requirements, to those firms that fail to implement sound compensation policies and practices. Supervisors should have the ability to modify compensation structures in the case of firms that fail or require extraordinary public intervention.	Completed	German supervisors can take strong measures, including capital add-ons, if a firm fails to implement sound compensation policies and practices. *Banking sector:* The German Banking Act enables the banking supervisor to review compensation policies in the banking sector as to whether they are in line with the new governmental regulations (see section 15). *Insurance sector:* The German Insurance Supervision Act enables the insurance supervisor to review compensation policies in the insurance sector as to whether they are in line with the new governmental regulations (see section 15) If a firm requires extraordinary public intervention the German Financial Markets Stabilization Fund ("Finanzmarktstabilisierungsfonds", SoFFin) may limit compensations.	See section 15.
IV. Improving OTC derivatives markets						

17	(Lon)	Development of action plan on the standardization of CDS markets (eg CCP)	We will promote the standardization and resilience of credit derivatives markets, in particular through the establishment of central clearing counterparties subject to effective regulation and supervision. We call on the industry to develop an action plan on standardisation by autumn 2009.	Autumn 2009	In July 2009, first European CCPs for CDS went operational at EU level. One of them is Eurex Credit Clear, a business unit of Eurex Clearing, which is located in Frankfurt and supervised by BaFin. The European Commission together with the industry and regulators monitors adherence to the self commitment. EU-Regulation on OTC derivatives, Central Counterparties and Trade Repositories is under negotiation. The EU Commission has adopted a proposal for a Regulation on OTC derivatives, Central Counterparties and Trade Repositories on 15 September 2010. Link: http://ec.europa.eu/internal_market/financial-markets/docs/derivatives/20100915_proposal_en.pdf	Further negotiations will follow on the EU Commission's legislative proposal. The EU regulation is supposed to be adopted in early 2011, so that implementation can take place before the end of 2012, the G20's deadline. The topic of trading of OTC derivatives will be covered by the review of the EU MiFID (Markets in Financial Instruments Directive) in late 2010.
18	(Pitts)	Trading of all standardized OTC derivatives on exchanges etc.	All standardized OTC derivative contracts should be traded on exchanges or electronic trading platforms, where appropriate, and cleared through central counterparties by end-2012 at the latest. OTC derivative contracts should be reported to trade repositories. Non-centrally cleared contracts should be subject to higher capital requirements.	By end-2012 at the latest	See section 17.	See section 17.
V. Addressing cross-border resolutions and systemically important financial institutions						

19	(Pitts)	Consistent, consolidated supervision and regulation of SIFIs	All firms whose failure could pose a risk to financial stability must be subject to consistent, consolidated supervision and regulation with high standards.	Ongoing	Banking institutions and insurance undertakings of systemic importance were already under close scrutiny before the financial crisis. Accordingly, pursuant to the Ongoing Monitoring Guideline (“Aufsichtsrichtlinie”, Article 6) of February 2008, supervision of banking institutions of systemic importance is more rigorous, with a particular emphasis on detailed analyses of the risks and their possible repercussions on the institution's risk-bearing capacity. In addition, cooperation between BaFin and the Deutsche Bundesbank, as the institutions sharing supervisory functions, has been intensified. Prudential supervision is carried out on the consolidated capital of both banking and financial holding groups as well as financial conglomerates (German Banking Act, Sections 10, 10a and 10 b). In addition, all these groups have to report on risk concentrations and intra-group transactions (German Banking Act, Sections 13b, 13c and 13d). Furthermore, the provisions in the Minimum Requirements for Risk Management are also addressing consolidated risk management for all material risks and their coverage at the group level for banking and financial holding groups as well as financial conglomerates (MaRisk, Section AT 4.5 – see http://www.bafin.de/cln_152/SharedDocs/Downloads/EN/Service/Rundschreiben/rs__0915__ba__marisk,templateId=raw,property=publicationFile.pdf/rs_0915_ba_marisk.pdf). *Insurance sector* All insurance groups have to regularly submit to BaFin the calculation of the group solvency margin and a report about important intra-group transactions. In addition, since September 2009 the groups have to quarterly report on important risk concentrations concerning counterparts outside the group (German Insurance Supervision Act, § 104i)	*Insurance sector* At the EU level Solvency II will provide for improved supervision of insurance groups.

20	(Pitts)	Development of resolution tools and frameworks for the effective resolution of financial groups to help mitigate the disruption of financial institution failures and reduce moral hazard in the future	We should develop resolution tools and frameworks for the effective resolution of financial groups to help mitigate the disruption of financial institution failures and reduce moral hazard in the future. Our prudential standards for systemically important institutions should be commensurate with the costs of their failure. The FSB should propose by the end of October 2010 possible measures including more intensive supervision and specific additional capital, liquidity, and other prudential requirements.	October 2010	The German Banking Act (Sections 45 pp) and the German Insurance Supervision Act (Sections 81b pp, 104h and 104t pp) already contain a number of resolution tools. These rules apply at solo as well as at group level, including financial holding companies. They focus - in line with the competences of the German legislator - on a resolution at national level.	On 25 August 2010 the Government adopted a draft proposal for the so-called “bank restructuring law”. The draft encompasses: • Rules and mechanisms for the reorganisation of banks • Introduction of instruments to resolve crises at systemically important banks, including the possibility for the BaFin to transfer the systemically relevant parts of the bank to a “good bank”. • Establishment of a restructuring fund for credit institutions • Extension of the limitation periods for management and supervisory board members’ liability towards listed stock corporations and banks. Link: http://www.bundesfinanzministerium.de/nn_82/DE/BMF__Startseite/Aktuelles/Aktuelle__Gesetze/Gesetzentwuerfe__Arbeitsfassungen/20100825-Gesetzentwurf-Restrukturierungsgesetz.html The act is planned to enter into force by end 2010. At the EU level, following the consultation of its Communication on “An EU framework for cross-border crisis management in the banking sector”, the EU Commission is currently working on the “Contours of a possible European framework for crisis management”, comprising preventive measures as well as early intervention and resolution/restructuring measures. A public consultation ended in January 2010.

VI. Strengthening adherence to international supervisory and regulatory standards.						
21	(Lon)	Adherence to international prudential regulatory and supervisory standards	We call on all jurisdictions to adhere to the international standards in prudential, tax and AML/CFT areas. We are committed to strengthened adherence to international prudential regulatory and supervisory standards.	Ongoing	*Prudential area:* Germany adheres to the international standards in the prudential area. Compliance was assessed in an FSAP in 2003. Germany is committed to regularly undergoing FSAPs/FSAP-Updates and FSB Peer reviews to assess its adherence to international financial standards and policies agreed within the FSB and to publish results. Germany participated in the FSB thematic peer review on compensation and is currently participating in ongoing thematic peer reviews. See also sections 22 and 23. *Tax area:* Germany acknowledges and has implemented the OECD Standard on Tax Information exchange. On 10 July 2009, Germany has adopted a law providing powers for defensive measures against uncooperative jurisdictions (Law on Combatting Tax Evasion, "*Steuerhinterziehungsbekämpfungsgesetz*"); the decree implementing these defensive measures was approved by the Federal Council of Germany (*Bundesrat*) on 18 September 2009. *AML/CFT area:* Essentially, Germany adheres to the international standards in the AML/CFT area. It has implemented the 40 + 9 Recommendations of the Financial Action Task Force (FATF) and the 3rd EC-Anti-Money Laundering Directive (2005/60/EC) mainly by the Act Supplementing the Act to Fight Money Laundering and Terrorist Financing ("Geldwäschebekämpfungsergänzungsgesetz") which entered into force on 21 August 2008. Germany was subject to a detailed AML/CFT-assessment by the IMF in the context of the 3rd round of FATF's mutual evaluations (adoption and publication of the report by the FATF in February 2010, (http://www.fatf-gafi.org/dataoecd/44/19/44886008.pdf) and has to report back to the FATF in February 2012. The report revealed some deficiencies which mainly concern areas outside the financial sector (such as the supervision in the field of the "designated non financial businesses and professions – DNFBPs"). In order to remedy minor deficiencies in the financial sector, the Ministry of Finance introduced in June 2010 a bill ("Gesetz zur Umsetzung der zweiten E-Geld-Richtlinie") which contains further preventive measures regarding the financial sector by amending the German Banking Act, the German Insurance Supervision Act Payment and the Services Supervision Act.	*Prudential area*: An FSAP-Update has been initiated and will be finalised in 2011 (see also section 23); a FSB country peer review will follow within the timeframe agreed in the FSB (see also section 22). Germany is committed to implementing recommendations resulting from the FSAP/FSAP-Updates and the peer reviews. Implementation of recommendations may require legislative steps. *AML/CFT area:* The Government is currently examining appropriate measures to further strengthen the AML/CFT regime.

22	(Lon)	Periodic peer reviews	FSB members commit to pursue the maintenance of financial stability, enhance the openness and transparency of the financial sector, implement international financial standards, and agree to undergo periodic peer reviews, using among other evidence IMF / World Bank FSAP reports.	Ongoing	Germany honours its commitments under the FSB charter, including to regularly undergoing FSB thematic and country peer reviews. Germany participated in the FSB thematic peer review on compensation and is currently participating in ongoing thematic peer reviews. (See also section 21)	Germany is committed to participating in future thematic peer reviews; a country peer review will follow within the timeframe agreed in the FSB. (See also section 21)
23	(WAP)	Undertaking of FSAP	All G20 members commit to undertake a Financial Sector Assessment Program (FSAP) report and support the transparent assessment of countries' national regulatory systems.	Ongoing	Germany has undertaken an FSAP (including AML/CFT-ROSC) in 2003. The 2003 FSAP was partly published; http://www.imf.org/external/pubs/cat/longres.cfm?sk=16998.0 Relevant detailed assessment grades were shared with the FSB for publication. A stand-alone AML/CFT-ROSC-Update was finalised in March 2010; results have been published http://www.imf.org/external/pubs/cat/longres.cfm?sk=23740.0 (see also section 21.)	An FSAP update has been initiated and will be finalised in 2011. See also section 21

24	(FSF 2008)	Additional steps to check the implementation of int'l guidance	V.11 National supervisors will, as part of their regular supervision, take additional steps to check the implementation of guidance issued by international committees.	Ongoing	Guidance by international committees already serves as a benchmark for German supervisors, unless it is explicitly in contradiction to formal German law or guidance from EU bodies. No major issues have been identified.	The revised supervisory standards for risk management (which contain the new requirements recommended by the FSB and the amended CRD) will be subject of the annual audits and special audits (on-site inspections) by German supervisors as well. Similarly, Minimum Requirements for Risk Management concerning Investment Funds and Management Companies (InvMaRisk) issued by BaFin in June 2010 contain international standards (e.g. CESR Guidelines on Risk Management, Joint Forum Risk Management Recommendations) and already anticipates future standards (e.g. UCITS IV Level 2 Measures entering into force in July 2011). The Minimum Requirements are subject to the annual audits and on-site inspections by BaFin.
VII. Other issues						
Developing macroprudential frameworks and tools, realigning and ensuring an adequate balance between macroprudential and microprudential supervision						
25	(Lon)	Amendment of regulatory systems to take account of macro-prudential risks	Amend our regulatory systems to ensure authorities are able to identify and take account of macro-prudential risks across the financial system including in the case of regulated banks, shadow banks and private pools of capital to limit the build up of systemic risk.	Ongoing	Ongoing supervision carried out by the Deutsche Bundesbank greatly benefits from synergies to other central bank functions by combining macro-prudential aspects to micro-prudential supervision. National measures to flank the European structures have also been implemented by BaFin and Bundesbank with the formation of a joint Risk Committee in December 2009 to link macro-prudential and micro-prudential supervision. Macro-prudential analysis units have been established in the Bundesbank.	Ongoing: Macro-prudential analysis will be further enhanced – also taking account of discussions in international fora. The joint risk committee continues its structured dialogue in its quarterly meetings.

26	(Lon)	Powers for gathering relevant information by national regulators	Ensure that national regulators possess the powers for gathering relevant information on all material financial institutions, markets and instruments in order to assess the potential for failure or severe stress to contribute to systemic risk. This will be done in close coordination at international level in order to achieve as much consistency as possible across jurisdictions.	Ongoing	BaFin and Deutsche Bundesbank obtain the necessary information from the institutions regularly through the regulatory reporting. If needed, BaFin and Bundesbank have the right to request further information according to the German Banking Act (Sections 44, 44a and 44b).	
27	(Lon)	Review of the boundaries of the regulatory framework	We will each review and adapt the boundaries of the regulatory framework to keep pace with developments in the financial system and promote good practices and consistent approaches at an international level.	Ongoing	Monitoring of structural developments in the financial system is an integral part of macro-prudential analyses and is conducted by relevant authorities in Germany (BaFin, Deutsche Bundesbank, and the German government). It also encompasses reviewing the adequacy of the respective scope of regulation.	Ongoing.

28	(FSF 2009)	Use of macro-prudential tools	3.1 Authorities should use quantitative indicators and/or constraints on leverage and margins as macroprudential tools for supervisory purposes. Authorities should use quantitative indicators of leverage as guides for policy, both at the institution-specific and at the macroprudential (system-wide) level. On leverage ratios for banks, work by the BCBS to supplement the risk based capital requirement with a simple, non-risk based leverage measure is welcome. Authorities should review enforcing minimum initial margins and haircuts for OTC derivatives and securities financing transactions.	End-2009 and ongoing	A leverage ratio reporting requirement was introduced into German supervisory law as an indicator under Pillar 2 (see section 5)	Expected EU legislation on the leverage ratio will be transposed into German law. BaFin is not empowered to impose any particular minimum initial margins or haircuts for OTC derivatives and securities financing transactions. However, based on the information provided in particular by Deutsche Bundesbank BaFin seeks to ensure that firms have the financial means to support the risks that they take.
29	(WAP)	Monitoring of asset price changes	Authorities should monitor substantial changes in asset prices and their implications for the macro economy and the financial system.	Ongoing	Monitoring capital market and asset prices and assessing their implications for the financial system and the macro economy at large is part of financial macro-prudential analyses in relevant German authorities, in particular BaFin and Deutsche Bundesbank. The joint BaFin-Bundesbank Risk Committee (see section 25) monitors their implications for the institutions.	Ongoing; see also section 25.

30	(FSF 2008)	Supervisory resources and expertise to oversee the risks of financial innovation	V.1 Supervisors should see that they have the requisite resources and expertise to oversee the risks associated with financial innovation and to ensure that firms they supervise have the capacity to understand and manage the risks.	Ongoing	BaFin and Deutsche Bundesbank have implemented personnel policies allowing the recruitment of highly qualified supervisors. They provide and permanently develop training programs. BaFin and Bundesbank have, for example, initiated in 2009 a European-wide training network called the “European Supervisor Education Initiative”. With regard to institutions, German supervisors require firms to have adequately trained and experienced staff with regard to their competencies and responsibilities within the firm. This requirement is part of the Supervisory Review and Evaluation Process assessment. The existent supervisory standards already provide for measures to ensure that firms only invest in products if they have the capacity to understand and manage the associated risks.	Ongoing.
31	(FSF 2008)	Supervisory communication with firms’ boards and senior management	V.2 Supervisors and regulators should formally communicate to firms’ boards and senior management at an early stage their concerns about risk exposures and the quality of risk management and the need for firms to take responsive action. Those supervisors who do not already do so should adopt this practice.	Ongoing	BaFin and Deutsche Bundesbank already have adopted this approach in their on-going supervision. For example, there are generally annual meetings between each bank's and insurance´s management and their supervisors. In addition, relevant issues are discussed and clarified with institutions at short notice when necessary. When on-site inspections are conducted, institutions always receive a formal report that contains supervisors' findings, including, as a main focus, findings with regard to the quality of risk management processes and methods.	

32	(FSF 2008)	Improved cooperation between supervisors and central banks	V.8 Supervisors and central banks should improve cooperation and the exchange of information including in the assessment of financial stability risks. The exchange of information should be rapid during periods of market strain.	Ongoing	Deutsche Bundesbank and BaFin have fora at different levels to exchange information including on financial stability (including the newly established joint BaFin-Bundesbank Risk Committee). Meetings at executive level take place quarterly.	Ongoing.
Hedge funds						
33	(Lon)	Registration of hedge funds	Hedge funds or their managers will be registered and will be required to disclose appropriate information on an ongoing basis to supervisors or regulators, including on their leverage, necessary for assessment of the systemic risks they pose individually or collectively. Where appropriate registration should be subject to a minimum size. They will be subject to oversight to ensure that they have adequate risk management.	End-2009	Germany already has in force a regulatory framework for hedge funds. This framework is focused - besides the regulation of the manager - on the direct regulation of the funds themselves (e.g. manager as well as funds are subject to an approval process). BaFin started using the IOSCO (Task Force on Unregulated Entities) template for gathering systemically relevant information of hedge funds on an ongoing basis in September 2010. BaFin gathers information from all supervised hedge funds irrespective of size.	The EU Commission has published a draft directive proposal for the regulation of alternative investment fund managers. Approval of European legislation is scheduled for late 2010. EU legislation will be transposed into German law.

34	(Lon)	Effective oversight of cross-border funds	We ask the FSB to develop mechanisms for cooperation and information sharing between relevant authorities in order to ensure effective oversight is maintained when a fund is located in a different jurisdiction from the manager. We will, cooperating through the FSB, develop measures that implement these principles by the end of 2009.	End-2009	BaFin cooperates and shares information with authorities on the basis of relevant IOSCO and CESR MMoUs.	BaFin is preparing to share information with other IOSCO Members on the basis of the information sharing exercise conducted by the IOSCO Task Force on Unregulated Entities.
35	(Lon)	Effective management of counter-party risk associated with hedge funds	Supervisors should require that institutions which have hedge funds as their counterparties have effective risk management, including mechanisms to monitor the funds' leverage and set limits for single counterparty exposures.	Ongoing	German regulations require financial institutions to have an effective risk management in place, which covers all counterparties. This includes counterparty limits and monitoring mechanisms for hedge funds. In addition to these general requirements, the revised Minimum Requirements for Risk Management requires explicitly that institutions have to implement an internal policy regarding credit deals with hedge funds or private equity firms, where applicable. Amongst other things, this comprises a policy regarding gathering financial and non-financial information about their counterparties and an analysis of the structure and the purpose of the transaction financed. The investment of insurance undertakings in hedge funds is regulated in BaFin circular 7/2004 <u>(Bafin - Circular 7/2004 (VA) Investments in Hedge Funds).</u>	*Insurance Sector* For the insurance sector the Solvency II Directive requires improved risk management systems for insurance undertakings. Currently the EU-Commission is drafting more specific implementing measures in this respect. The Solvency II Directive has to be transposed into German law by end-October 2012 [this date might be changed to end 2012].
36	(FSF 2008)	Guidance on the management of exposures to leveraged counterparties	II.17 Supervisors will strengthen their existing guidance on the management of exposures to leveraged counterparties	Ongoing	German regulations require financial institutions to consider every relevant risk which they are exposed to. This includes also the specific risks of exposures to leveraged counterparties. See also section 35.	

Credit rating agencies						
37	(Lon)	Registration of CRAs etc.	All CRAs whose ratings are used for regulatory purposes should be subject to a regulatory oversight regime that includes registration. The regulatory oversight regime should be established by end 2009 and should be consistent with the IOSCO Code of Conduct Fundamentals.	End-2009	EU legislation entered into force in December 2009. A German statute necessary to execute the provisions of the EU Regulation in practice has also entered into force on 19 June 2010.	It is envisaged that the European Securities and Markets Authority (ESMA) would be endowed with the direct oversight and regulation of Credit Rating Agencies.

38	(Lon)	CRA practices and procedures etc.	National authorities will enforce compliance and require changes to a rating agency's practices and procedures for managing conflicts of interest and assuring the transparency and quality of the rating process. CRAs should differentiate ratings for structured products and provide full disclosure of their ratings track record and the information and assumptions that underpin the ratings process. The oversight framework should be consistent across jurisdictions with appropriate sharing of information between national authorities, including through IOSCO.	End-2009		See section 37.
39	(FSB 2009)	Globally compatible solutions to conflicting compliance obligations for CRAs	Regulators should work together towards appropriate, globally compatible solutions (to conflicting compliance obligations for CRAs) as early as possible in 2010.	As early as possible in 2010		See section 37. IOSCO is coordinating international supervisors' work on CRAs (BaFin is a member).

40	(FSF 2008)	Review of roles of ratings in regulations and supervisory rules	IV. 8 Authorities should check that the roles that they have assigned to ratings in regulations and supervisory rules are consistent with the objectives of having investors make independent judgment of risks and perform their own due diligence, and that they do not induce uncritical reliance on credit ratings as a substitute for that independent evaluation.	Ongoing		
Supervisory colleges						
41	(Lon)	Supervisory colleges	To establish the remaining supervisory colleges for significant cross-border firms by June 2009.	June 2009	Supervisory colleges for those German large and complex cross-border banks and insurance undertakings identified by the FSB have been established and college meetings have taken place.	EU law (CRD II) requires the establishment of supervisory colleges by the end of 2010 for cross-border banking groups with at least one subsidiary or two significant branches within the EEA. The respective banking groups have been identified and the process for setting-up these colleges is under way. EU-law (Solvency II) will require the establishment of supervisory colleges for all cross-border insurance groups by end 2012.

42	(FSF 2008)	Supervisory exchange of information and coordination	V.7 To quicken supervisory responsiveness to developments that have a common effect across a number of institutions, supervisory exchange of information and coordination in the development of best practice benchmarks should be improved at both national and international levels.	Ongoing	Within BaFin each Directorate has set up a risk-committee (see section 25). Information between these three risk-committees is transferred by representatives joining all risk-committees. Cross-sectoral risks are dealt within BaFin's executive board. In the Banking Supervision Directorate the risk-committee and a task force deal with the effects of the financial crisis. Both bodies are specifically charged with collating and analysing information and undertaking best practice studies. Several other bodies exist to facilitate co-ordination with Deutsche Bundesbank (a working group on risk-oriented supervision) and the Ministry of Finance ("Domestic Standing Committee"). In the Insurance Supervision Directorate the duties of the task force are carried out by a special section dealing with the risk orientation of insurance supervision. Furthermore, the information and coordination between supervision of different sectors benefits from the fact of BaFin being an integrated supervisor. At the international level, exchange of information and coordination regarding specific institutions take place mainly through colleges, while overarching issues are addressed through many multilateral fora, including EU-level-3 committees (e.g. CEBS) to the BCBS, FSB-working groups and more."	

Crisis management						
43	(Lon)	Implementation of FSF principles for cross-border crisis management	To implement the FSF principles for cross-border crisis management immediately. Home authorities of each major financial institution should ensure that the group of authorities with a common interest in that financial institution meets at least annually.	Immediate	Germany regards supervisory colleges as an important forum to strengthen the efficiency of the supervision of cross-border banking groups. Colleges facilitate the cooperation and coordination on key supervisory tasks and actions, both in ongoing supervision and emergency situations. They are considered to play an important role in assisting cross-border crisis management and ensuring an effective information exchange. Specifically, core colleges are considered to serve as the basis for Crisis Management Groups, to discuss specific cross-border crisis management issues and develop principles and processes for cross-border crisis management cooperation. On the establishment of supervisory colleges see also section 41.	The colleges meet on a regular basis, at least annually, while core colleges are expected to meet even more often.
44	(Pitts)	Development of contingency and resolution plans by SIFIs and the establishment of crisis management groups etc.	Systemically important financial firms should develop internationally-consistent firm-specific contingency and resolution plans. Our authorities should establish crisis management groups for the major cross-border firms and a legal framework for crisis intervention as well as improve information sharing in times of stress.	End-2010	Within the relevant scope, systemically important financial firms have been asked to provide BaFin with an initial contingency and de-risking plan in early 2010. The results were already discussed and further work has been initiated to refine the planning.	Discussions within crisis management groups have been taking place since early 2010. The Federal Government has adopted a draft proposal for the so-called “bank restructuring law”, which introduces instruments to resolve systemically important banks. Additional provisions for cross-border crisis resolution are subject to ongoing work at the EU level (see sections 20 and 45).

45	(Tor) (WAP) (FSF 2008)	Implementation of BCBS recommendations on the cross-border bank resolution	We endorsed and have committed to implement our domestic resolution powers and tools in a manner that preserves financial stability and are committed to implement the ten key recommendations on cross-border bank resolution issued by the BCBS in March 2010. National and regional authorities should review resolution regimes and bankruptcy laws in light of recent experience to ensure that they permit an orderly wind-down of large complex cross-border financial institutions. VI.6 Domestically, authorities need to review and, where needed, strengthen legal powers and clarify the division of responsibilities of different national authorities for dealing with weak and failing banks.	Ongoing	See section 20.	See section 20.

46	(FSF 2008)	Review of national deposit insurance arrangements	VI.9 National deposit insurance arrangements should be reviewed against the agreed international principles, and authorities should strengthen arrangements where needed.	Ongoing	Germany enacted an amendment to the Act on Deposit Guarantee and Investor Compensation ("Einlagensicherungs- und Anlegerentschädigungsgesetz", Link: http://www.bafin.de/cln_171/nn_721176/SharedDocs/Aufsichtsrecht/EN/Gesetze/eaeg__en.html?__nnn=true which entered into force in June 2009. Current national deposit insurance arrangements are compliant with the agreed set of international 18 Core Principles by IADI/BCBS (June 2009). According to the Act on Deposit Guarantee and Investor Compensation supervision of DGS by BaFin is mandatory. BaFin is empowered to counteract irregularities which may impair the proper handling of the compensation or jeopardise the assets accumulated for paying compensation. BaFin also monitors whether national regulation complies with international principles. To this end, BaFin and Deutsche Bundesbank regularly receive broad information on the national DGSs (such as: on risk oriented contribution systems, monitoring procedures within the guarantee schemes, financial statements, stresses and strains of the funds).	

Risk management						
47	(WAP)	Development of enhanced guidance for banks' risk management practices	Regulators should develop enhanced guidance to strengthen banks' risk management practices, in line with international best practices, and should encourage financial firms to re-examine their internal controls and implement strengthened policies for sound risk management.	Ongoing	*Banking sector* Requirements for an appropriate and effective risk management are laid down in the revised Minimum Requirements for Risk Management (circular R 15/2009 (BA)).The revised Requirements are strengthened especially in the areas of stress testing, liquidity risk management, risk concentrations, compensation systems and group risk management. (The provisions on compensation systems have recently been replaced by governmental regulations, see section 15). *Insurance Sector* Detailed provisions on risk management are laid down in the Minimum Requirements for Risk Management in Insurance Undertakings" (circular R 3/2009 (VA)). (The provisions on compensation systems of insurers are laid down in governmental regulations, see section 15) The legal powers concerning risk-based insurance supervision have been strengthened further by the Law strengthening the Supervision of Financial Markets' and Insurance Supervision (e.g. reporting of securitisations and risk concentrations at group level).	Institution specific monitoring ongoing.
48	(Pitts)	Robust, transparent stress test	We commit to conduct robust, transparent stress tests as needed.	Ongoing	*Banking sector* Robust stress testing for institutions is required by the Minimum requirements for risk management. Supervisory stress tests are conducted on a regular basis. Germany participates in the EU stress tests conducted by CEBS. *Insurance sector* Based on the German Insurance Supervision Act (circulars R 15/2005 (VA) and 1/2004 (VA)) the insurance undertakings have to conduct a stress test at least quarterly and to submit the stress test annually. BaFin predefines the stress test model and the scenarios in the annual stress tests. Quarterly stress tests have to meet appropriate criteria.	Ongoing, incl. ongoing further refinements of supervisory stress test methodology.

49	(Pitts)	Efforts to deal with impaired assets and raise additional capital	Our efforts to deal with impaired assets and to encourage the raising of additional capital must continue, where needed.	Ongoing	The programmes for asset relief and recapitalisation administered by the German Financial Markets Stabilization Fund are being taken up by banks and show the desired effects. The Deutsche Bundesbank in its Financial Stability Report (Nov 2009) underlined the need to build capital buffers; Bundesbank Board members continue to apply moral suasion in publicly encouraging the strengthening of capital.	The programmes for asset relief, recapitalization and liquidity support will expire on 31 December 2010. In 2011 a new law will be enacted that provides measures to restructure banks if they are systemically important.
50	(FSB 2009)	Implementation of BCBS/IOSCO measures for securitisation	During 2010, supervisors and regulators will: implement the measures decided by the Basel Committee to strengthen the capital requirement of securitisation and establish clear rules for banks' management and disclosure; implement IOSCO's proposals to strengthen practices in securitisation markets.	During 2010		BCBS recommendations to strengthen the capital requirements for securitisation positions have been transposed into EU Directives (CRD II and CRD III). EU-legislation will be transposed into German law by amendments to existing laws (German Banking Act, Solvency Ordinance) without any material differences. See also sections 52 and 53. The IOSCO recommendation to require originators and/or sponsors to retain a long-term economic exposure to the securitisation has been implemented in Europe via the inclusion of a new Article 122a in the CRD in May 2009. The relevant amendments to the EU-CRD have been transposed into German law. See also section 53. Forthcoming further IOSCO recommendations are envisaged to be implemented.

51	(Lon)	Improvement in the risk management of securitisation	The BCBS and authorities should take forward work on improving incentives for risk management of securitisation, including considering due diligence and quantitative retention requirements by 2010.	By 2010	*Banking Sector* The revised Minimum Requirements for Risk Management already include requirements for stress testing for all relevant risk areas which also covers securitizations. Furthermore, banks must not rely solely on external ratings. They are rather obliged to assess the quality of securitization positions on their own.	*Banking Sector* Enhanced risk management practices for securitization portfolios and retention requirement for originators/-sponsors of securitizations will be required by EU-law (CRD II) by end 2010. EU-legislation has been transposed into Germany law by amendments to existing laws (German Banking Act) and the applicable regulations. See also section 52 and 53. *Insurance Sector* The new EU-Solvency II framework will establish an enhanced risk management. With respect to quantitative retention it is planned to adopt the same quality criteria for investments in securitisation in the insurance sector as applied in the CRD in the banking sector (Possible implementation within the new investment ordinance by end 2010).Transposition of Solvency II Directive in national law no later than 31 October 2012.
52	(Pitts)	Retainment of a part of the risk of the underlying assets by securitisation sponsors or originators	Securitization sponsors or originators should retain a part of the risk of the underlying assets, thus encouraging them to act prudently.	Ongoing	Relevant regulation is contained in the CRD II (Directive 2009/111/EC, Art.122a, stipulates, in particular, that investors may assume exposures to securitisation risk only if the originator or sponsor (or original lender) has confirmed that it will retain at least 5% of the risk.)	EU-legislation has been transposed into German law; a retention requirement of 10 % has to be applied to new securitisations from January 2013 onwards, for 2011 and 2012 it shall be 5 %. The national legislation transposing that part of CRD II is implemented and will be applied by end 2010. Germany's legislative body has decided to fix the net economic interest at 10 % after an interim period of two years with a retention requirement of 5 %.
53	(WAP)	Enhanced risk disclosures by financial institutions	Financial institutions should provide enhanced risk disclosures in their reporting and disclose all losses on an ongoing basis, consistent with international best practice, as appropriate.	Ongoing	German supervisory authorities have strongly advised the relevant international banks and insurance companies to adhere to this recommendation and informed industry about upcoming requirements at an early stage. Information from the main financial institutions shows that important banks have significantly improved their respective disclosure practices.	Ongoing. (Germany is currently participating in the FSB thematic peer review on risk disclosure.)

54	(FSF 2008)	Strengthening of supervisory requirements or best practices fir investment in structured products	II.18 Regulators of institutional investors should strengthen the requirements or best practices for firms' processes for investment in structured products.	Ongoing	For financial institutions (esp. banks) the requirements in Germany for risk management, including the new product process, have been enhanced. Financial institutions must have a clear understanding of the products and the risk profile of all investments.	The respective enhancements of EU legislation (CRD) are transposed into German law, e.g. the strengthened management requirements for structured investment products and further due diligence requirements especially for re-securitisations. Ongoing.
Others						
55	(Pitts)	Development of cooperative and coordinated exit strategies	We need to develop a transparent and credible process for withdrawing our extraordinary fiscal, monetary and financial sector support, to be implemented when recovery becomes fully secured. We task our Finance Ministers, working with input from the IMF and FSB, to continue developing cooperative and coordinated exit strategies recognizing that the scale, timing and sequencing of this process will vary across countries or regions and across the type of policy measures.	Ongoing	*Financial sector support* Germany continues to develop exit strategies from financial support measures in the framework of EU state aid procedures as well as on the level of the ECOFIN Council in order to assure the level playing field within the EU. *Fiscal policy:* Consolidating the public budgets in accordance with a credible exit strategy is a central political task in Germany from 2011 onwards. In line with the obligations of the new constitutional budget rule, the federal Government has presented the required consolidation measures in its draft budget 2011 and fiscal plan for the period up to 2014, which have been passed by the cabinet on 7 July 2010. The growth friendliness of the fiscal consolidation plan is an objective of high priority. Click here for further information: Federal Ministry of Finance: Bundestag approves 2011 budget	*Financial sector support* Within the existing frameworks, Germany established a committee of experts on exit strategies that currently reviews the existing recapitalisation measures. It will present its report to the German government by December 2010. The rescue programme will end by December 2010 and no new stabilisation measures will be possible under this framework. *Fiscal exit:* The federal budget 2011 will pass parliamentary procedure by end 2010. The consolidation measures of overall about 80 billion € included in the fiscal plan until 2014 will contribute to meet the recommendations at the European and G20 level.

Origin of recommendations:

Pitts: Leaders' Statement at the Pittsburgh Summit (25 September 2009)
Lon: The London Summit Declaration on Strengthening the Financial System (2 April 2009)
Tor: The G-20 Toronto Summit Declaration (26-27 June 2010)
WAP: The Washington Summit Action Plan to Implement Principles for Reform (15 November 2008)
FSF 2008: The FSF Report on Enhancing Market and Institutional Resilience (7 April 2008)
FSF 2009: The FSF Report on Addressing Procyclicality in the Financial System (2 April 2009)

FSB 2009: The FSB Report on Improving Financial Regulation (25 September 2009)

German regulations and legislation referenced in the template:

- Solvency Ordinance, “Solvabilitätsverordnung“, SolvV
- German Banking Act, “Kreditwesengesetz”, KWG
- Law Strengthening the Supervision of Financial Markets’ and Insurance Supervision, „Gesetz zur Stärkung der Finanzmarkt- und Versicherungsaufsicht“
- Minimum Requirements for Risk Management, “Mindestanforderungen an das Risikomanagment”, MaRisk; (circular R 15/2009 (BA); circular R 3/2009 (VA))
- German Insurance Supervision Act Versicherungsaufsichtsgesetz, VAG
- German Financial Markets Stabilization Fund (“Sonderfonds Finanzmarktstabilisierung”, SoFFin
- Law on Combatting Tax Evasion – *Steuerhinterziehungsbekämpfungsgesetz*
- Act Supplementing the Act to Fight Money Laundering and Terrorist Financing, “Geldwäschebekämpfungsergänzungsgesetz”
- Law Strengthening the Supervision of Financial Markets’ and Insurance Supervision, ”Gesetz zur Stärkung der Finanzmarkt- und Versicherungsaufsicht“
- Act on Deposit Guarantee and Investor Compensation, “Einlagensicherungs- und Anlegerentschädigungsgesetz”