



February 1, 2018

*Via Electronic Mail*

Secretariat to the Financial Stability Board  
Bank for International Settlements  
Centralbahnplatz 2  
CH-4002 Basel  
Switzerland

Re: Funding Strategy Elements of an Implementable Resolution Plan – Consultative Document, dated November 30, 2017

Ladies and Gentlemen:

The Clearing House Association L.L.C., the Global Financial Markets Association and the Institute of International Finance (the “**Associations**”)<sup>1</sup> appreciate the opportunity to comment on the Consultative Document<sup>2</sup> addressing funding strategy elements of an implementable resolution plan.

At the outset, we observe that the focus by the Consultative Document on concrete operational aspects of executing a funding strategy in resolution reflects the advanced state of progress in the international effort to achieve a durable end to “too-big-to-fail” for global systemically important banks (“**G-SIBs**”). As is reflected in the substantial body of finalized FSB standards and guidance in this area, the major legal, financial and structural foundations of orderly G-SIB resolution have already been put in place at the international level. The Consultative Document’s focus on enhancing the operational readiness of resolution authorities to execute a resolution transaction is welcome and appropriate against this backdrop of accomplishment on the major issues in cross-border resolution. We view the Consultative Document and the companion consultative document addressing principles on bail-in execution<sup>3</sup> as indicators that the G-20 resolvability agenda with respect to G-SIBs is now substantively complete.

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<sup>1</sup> See **Annex A** for descriptions of the Associations.

<sup>2</sup> FSB, Consultative Document – Funding Strategy Elements of an Implementable Resolution Plan (Nov. 30, 2017), available at <http://www.fsb.org/wp-content/uploads/301117-2.pdf>.

<sup>3</sup> FSB, Consultative Document – Principles on Bail-in Execution (Nov. 30, 2017), available at <http://www.fsb.org/wp-content/uploads/P301117-1.pdf>.

In framing our comments, we recognize that the Consultative Document is expressly limited to the funding strategy elements of resolution plans that are developed and executed by public sector resolution authorities and excludes funding strategies in resolution plans developed by G-SIBs themselves.<sup>4</sup> Thus, for U.S. G-SIBs, the Consultative Document applies to the funding strategies in resolution plans developed and executed by the Federal Deposit Insurance Corporation (“FDIC”) exercising its orderly liquidation authority under Title II of the Dodd-Frank Act<sup>5</sup> and does not apply to the funding strategies in resolution plans that such firms are required to develop themselves under Title I of the Dodd-Frank Act.<sup>6</sup>

We generally support the FSB’s proposed guidance on the funding strategy elements of an implementable resolution plan, but suggest a few enhancements and clarifications below. In particular, we agree with the FSB that each G-SIB’s home resolution authority should prepare a resolution funding plan as part of its development of a resolution plan for the G-SIB, and that the funding plan should be reviewed and discussed within the G-SIB’s Crisis Management Group. Additionally, we support the Consultative Document’s acknowledgement that resolution planning, including the development of the resolution funding plan, should take into account likely actions under a G-SIB’s recovery plan. We further support the emphasis that the proposed guidance places on the maintenance by G-SIBs of appropriate capabilities for monitoring and estimating funding needs in resolution, as opposed to any notion of a one-size-fits-all quantitative liquidity standard to be imposed by authorities for resolution purposes.

We also recommend that the FSB’s final guidance should suggest that home resolution authorities publicly provide a general, non-firm specific overview of their resolution funding plans and preferred resolution strategies once they are fully developed. Such disclosure should increase market confidence about how public authorities will exercise their resolution powers during periods of financial distress and ultimately allow the market to assess the residual value of failed institutions more accurately, which will help to preserve financial stability and reduce the tendency toward destructive panic-and-run behavior that has been exhibited during such periods in the past.

**I. We agree with the emphasis on the use of firm assets and private sources of resolution funding where feasible, as well as the principle that an effective temporary public sector backstop funding mechanism should be available when private sector liquidity resources are unavailable or insufficient.**

We agree with the Consultative Document’s statement that, “[c]onsistent with the Guiding Principles [on temporary funding published by the FSB in 2016],<sup>7</sup> a recapitalised firm’s

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<sup>4</sup> Consultative Document at 1 n.1.

<sup>5</sup> 12 U.S.C. § 5381 *et seq.*

<sup>6</sup> *Id.* § 5365(d).

<sup>7</sup> FSB, Guiding Principles on the Temporary Funding Needed to Support the Orderly Resolution of a Global Systemically Important Bank (“G-SIB”) (Aug. 18, 2016), available at <http://www.fsb.org/wp-content/uploads/Guiding-principles-on-the-temporary-funding-needed-to-support-the-orderly-resolution-of-a-global-systemically-important-bank-“G-SIB”.pdf>.

internal liquidity sources should be used to meet funding needs to the extent possible and private markets should be the preferred source of funding in resolution.”<sup>8</sup>

We also agree with the Consultative Document that “an effective temporary public sector backstop funding mechanism should be available for use when necessary and appropriate in order to provide temporary funding to promote market confidence and to encourage private sector counterparties to provide or to continue to provide funding to the material operating entities of a G-SIB in resolution.”<sup>9</sup> In particular, we agree with the Consultative Document’s statement that “public sector backstop mechanisms should only provide temporary funding to the extent that (i) market access to funding is temporarily not available or not sufficient for effectuating an orderly G-SIB resolution; (ii) such funding is necessary to foster financial stability and enable successful implementation of the preferred resolution strategy; and (iii) the terms of the funding include conditions that minimise moral hazard risk.”<sup>10</sup> Indeed, as noted in the 2016 Guiding Principles, “[t]he existence of effective public sector backstop mechanisms and sufficient clarity around their use could provide confidence to existing and prospective creditors that the G-SIB in resolution is capable of meeting its liabilities as they fall due, thereby reducing the ultimate need to rely on the public sector backstop.”<sup>11</sup>

Additionally, we believe that the FSB should clarify in its final guidance that temporary public sector backstop facilities, should be regarded as maintaining appropriate conditions to minimize moral hazard risk if they:

- are made available only to recapitalized or otherwise solvent borrowers,
- are fully secured by any type of collateral subject to appropriate valuation haircuts; and
- impose interest rates at levels that (i) create incentives for the G-SIB to return to private markets, (ii) do not crowd out private sources of funding, and (iii) do not impede the G-SIB’s continued provision of critical functions.

**II. We agree with the Consultative Document that fully recapitalized operating entities not themselves in resolution should have access to ordinary central bank lender-of-last-resort facilities and payment and settlement systems if they otherwise meet all of the conditions for access.**

We agree with the Consultative Document that each “resolution funding plan should contain measures to promote continuity of access by material operating entities of a firm in resolution to ordinary central bank facilities, including payment and settlement systems, in home and host jurisdictions as required to implement the resolution strategy and operationalise access

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<sup>8</sup> Consultative Document at 12.

<sup>9</sup> *Id.* at 15 (citation omitted).

<sup>10</sup> *Id.*

<sup>11</sup> Guiding Principles at 13.

to relevant private and public funding mechanisms, where local requirements and conditions for access are met (e.g., where those entities are not themselves in resolution).”<sup>12</sup>

We note that the Bank of England has recently led the way in converting this notion of an international best practice into stated central bank policy. In its updated policy statement, *The Bank of England’s Approach to Resolution*, the Bank states that “a firm in resolution would have access to the Bank’s published facilities, as set out in the ‘Red Book’, subject to meeting the necessary eligibility criteria.”<sup>13</sup>

Equally, we endorse the Consultative Document’s call for adequate preparation within the resolution funding plan for the maintenance of continuity of access by a G-SIB to central bank-operated payment and settlement systems. This represents an important complement to the principles covering private sector FMIs that were outlined in the FSB’s 2017 Guidance on Continuity of FMI Access.<sup>14</sup>

### **III. We support the Consultative Document’s emphasis on effective international coordination among home and host authorities with respect to the formulation and execution of the resolution funding plan.**

We agree with the Consultative Document’s emphasis on advancing cooperation and information sharing among the relevant home and host authorities, both in the planning and execution phases of a G-SIB resolution.<sup>15</sup> In addition, we recommend that the FSB’s final guidance specifically underscore the importance of home and host authority cooperation in developing and carrying out a communications strategy for use with public stakeholders that makes clear, at the time of commencement of a G-SIB resolution, the key elements of the funding plan (e.g., use and availability of internal and private sources of funding, availability of temporary public sector backstop funding mechanisms, availability of ordinary central bank facilities). In other words, we believe that the concern articulated by the FSB in the Principles on Bail-in Execution – that “[u]nclear or incomplete communication at the point of entry into resolution could result in multiple queries from unaffected creditors and stakeholders”<sup>16</sup> – is equally crucial in the context of executing the resolution funding plan.

In this context, we agree with the Consultative Document that “[a]n effective exit from temporary public sector backstop funding is directly related to the overall effectiveness of the

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<sup>12</sup> Consultative Document at 17.

<sup>13</sup> The Bank of England’s Approach to Resolution at 22 (Oct. 2017) (citation omitted), *available at* <https://www.bankofengland.co.uk/-/media/boe/files/news/2017/october/the-bank-of-england-approach-to-resolution.pdf?la=en&hash=FC806900972DDE7246AD8CD1DF8B8C324BE7652F>. We also note that the Bank of England has concurrently announced the establishment of a “flexible Resolution Liquidity Framework,” which is distinct from, and in addition to, the Bank’s ordinary published facilities. *Id.* We understand this Resolution Liquidity Framework as performing the function of providing a “public sector backstop liquidity facility” as distinct from “ordinary central bank facilities.”

<sup>14</sup> FSB, Guidance on Continuity of Access to Financial Market Infrastructures (“FMIs”) for a Firm in Resolution (Jul. 6, 2017), *available at* <http://www.fsb.org/wp-content/uploads/P060717-2.pdf>.

<sup>15</sup> *See* Consultative Document at 18-19.

<sup>16</sup> Principles on Bail-in Execution at 24.

authorities' implementation of the resolution strategy," and, in particular, that "a clearly communicated funding strategy" is part of "the necessary foundation" for an exit from public sector backstop funding mechanisms.<sup>17</sup>

**IV. The FSB's final guidance should suggest that home resolution authorities publicly provide a general overview of their resolution funding plans and preferred resolution strategies once they are fully developed.**

As noted in the introduction, we believe the FSB's final guidance should suggest that home resolution authorities publicly provide a general, non-firm specific overview of their resolution funding plans and preferred resolution strategies once they are fully developed. Such disclosure should increase market confidence about how public authorities will exercise their resolution powers during periods of financial distress and ultimately allow the market to assess the residual value of failed institutions more accurately, which will help to preserve financial stability and reduce the tendency toward destructive panic and run behavior that has been exhibited during such periods in the past.

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The Associations appreciate the opportunity to comment on the Consultative Document. If you have any questions, please contact John Court ([John.Court@theclearinghouse.org](mailto:John.Court@theclearinghouse.org)) at the Clearing House, Allison Parent ([arent@gfma.org](mailto:arent@gfma.org)) or Charlie Bannister ([Charlie.Bannister@afme.eu](mailto:Charlie.Bannister@afme.eu)) at GFMA, or Andrés Portilla ([aportilla@iif.com](mailto:aportilla@iif.com)) or Thilo Schweizer ([tschweizer@iif.com](mailto:tschweizer@iif.com)) at the IIF.

Respectfully submitted,



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<sup>17</sup> Consultative Document at 17.

## ANNEX A

### The Clearing House

The Clearing House is a banking association and payments company that is owned by the largest commercial banks and dates back to 1853. The Clearing House Association L.L.C. is a nonpartisan organization that engages in research, analysis, advocacy and litigation focused on financial regulation that supports a safe, sound and competitive banking system. Its affiliate, The Clearing House Payments Company L.L.C., owns and operates core payments system infrastructure in the United States and is currently working to modernize that infrastructure by launching a new, ubiquitous, real-time payment system. The Payments Company is the only private-sector ACH and wire operator in the United States, clearing and settling nearly \$2 trillion in U.S. dollar payments each day, representing half of all commercial ACH and wire volume.

### The Global Financial Markets Association

The Global Financial Markets Association (GFMA) brings together three of the world's leading financial trade associations to address the increasingly important global regulatory agenda and to promote coordinated advocacy efforts. The Association for Financial Markets in Europe (AFME) in London, Brussels and Frankfurt, the Asia Securities Industry & Financial Markets Association (ASIFMA) in Hong Kong and the Securities Industry and Financial Markets Association (SIFMA) in New York and Washington are, respectively, the European, Asian and North American members of GFMA. For more information, visit <http://www.gfma.org>.

### The Institute of International Finance

The Institute of International Finance is the global association of the financial industry, with close to 500 members from 70 countries. Its mission is to support the financial industry in the prudent management of risks; to develop sound industry practices; and to advocate for regulatory, financial and economic policies that are in the broad interests of its members and foster global financial stability and sustainable economic growth. IIF members include commercial and investment banks, asset managers, insurance companies, sovereign wealth funds, hedge funds, central banks and development banks.