

## I. Introduction

The Financial Stability Board (FSB) issued the consultative document *“Principles on Bail-In Execution”* to propose a set of principles to guide the actions of the authorities during the execution of bail-ins. These principles complement the bail-in powers that authorities should have to achieve or help achieve the continuity of critical functions of banks (*Key Attributes of Effective Resolution Regimes for Financial Institutions*, FSB, 2014). Specifically, the principles address six aspects of the bail-in execution: bail-in scope, valuation, exchange mechanics, securities law and securities exchange requirements, governance and communications. The consultative document requests general comments as well as answers to specific questions regarding the proposed principles.

The following section sets forth the comments about the consultative document, and the questions posed in it, made by the associate members and General Secretariat of the Association of Supervisors of Banks of the Americas (ASBA).

## II. General Comments

1. The principles outlined in the consultative document provide proper guidelines for implementing bail-in processes in an orderly manner.
2. Additionally, the proposed principles complement existing regulations in some jurisdictions, thereby reducing the cost of the promotion of market discipline and transparency.
3. Although the principles aim at guiding bail-in processes of G-SIBs, they can be tailored to instruct bail-in processes of D-SIBs and smaller financial institutions

## III. Answers to the questions

1. **Do the principles in the draft guidance address all relevant aspects of a Bail-in transaction, including cross-border aspects? What other aspects, if any, should be considered?**

The principles consider all relevant aspects of the bail-in process of G-SIBs. However, the principles may be extended to provide explicit guidance for the bail-in processes of institutions other than G-SIBs, namely D-SIB and smaller financial institutions.

2. **Should any of the principles differentiate, or further differentiate, between different (i) resolution strategies (e.g., single point of entry vs. multiple point of entry); (ii) resolution entities (e.g., operating bank vs. holding company); or (iii) approaches to Bail-in (e.g., open bank vs. closed bank Bail-in)? If so, please describe how.**

The Association has no comment on this matter.

3. **Do you agree with the information and disclosure requirements on the scope of Bail-in as identified in principles three and four, respectively? Is the provision or disclosure of certain information likely to present any challenges for firms?**

In general, we agree with the information and disclosure requirements included in these principles. However, we have some observations regarding the requirements and the challenges that they may pose.

Principle 3 sets forth the information requirements of the scope of bail-in. These requirements could also include information about relevant judicial processes, identified administrative flaws, and critical contracts with service providers.

Principle 4 proposes a list of information for disclosure during the bail-in process. This may present a challenge in emerging economies; thus, we would be welcome to have more guidance on the possibility to restrict some items from the list for confidentiality purposes or to comply with current legal requirements.

4. Do you agree with the approach for valuations in resolution set out in principles five to eight, including with respect to (i) the valuation process and type of valuations that are necessary to inform a Bail-in; and (ii) the methodology and assumptions for the valuations?

In general, we agree with the approach outlined in principles 5 to 8. However, further guidance is sought regarding the disclosure of ex-ante valuation. Should some information of the ex-ante valuation be kept confidential if, in the authority's opinion, its disclosure may jeopardize resolution objectives?

5. Does principle 10 identify all relevant challenges to the development of a Bail-in exchange mechanic? What other challenges, if any, do you see?

In general, we agree that principle 10 identifies all the relevant challenges to that development. However, we believe that the development of further guidance to deal with insider trading based on privileged information may be required.

6. Do you agree with the approach to meeting securities law and disclosure requirements set out in principles 11 to 14? Are there other aspects of securities law or securities exchange requirements that should be considered by resolution authorities as part of resolution planning?

Yes, we agree with the said approach. Moreover, it is our opinion that it includes all relevant aspects regarding the securities law or securities exchange requirement that should be considered by resolution authorities as part of their planning.

7. Do principles 15 and 17 adequately describe the actions that the home resolution authorities should carry out regarding (i) the management and control of the firm during the Bail-in period and (ii) the transfer of control to new owners and management?

Yes. We have no further comments about principles 15 to 17.

8. Does principle 21 adequately identify all relevant types of information that the home resolution authority should communicate at the point of entry into resolution? What other information might creditors and/or market stakeholders require?

We believe principle 21 is comprehensive enough about the information the home resolution authority should share at the time of entering a resolution. However, it is important to stress that the communication strategy shall be coordinated with all relevant supervisory authorities.

The Association has a couple of concerns about the discretionary exclusions from pari passu treatment. First, it is important to make sure that the exclusions do not relate or violate

the expected equal treatment of creditors during the resolution process. Second, it is important to add language or further guidance to manage the trade-off between the encouragement market discipline and the criterion “no creditor worse off than in liquidation” (NCWOL).

9. **Are there any other actions that could be taken by firms or authorities to help facilitate the execution of a Bail-in transaction and enhance market confidence?**

Authorities could share previous bail-in experiences with stakeholders to instill additional confidence in this process. In doing so, the benefits of this process may be highlighted and timely resolution may be facilitated.