



COMMENTS FROM THE ASSOCIATION OF SUPERVISORS OF BANKS OF THE AMERICAS (ASBA) TO THE CONSULTATIVE DOCUMENT

“Guiding Principles on the Temporary Funding Needed to Support the Orderly Resolution of a Global Systemically Important Bank (“G-SIB”)

*(ISSUED BY THE FINANCIAL STABILITY BOARD FOR COMMENTS BY
4 January 2016)*

I. Introduction

Recapitalization of a G-SIB in resolution is not, by itself, a sufficient reason to ensure the continuity of a firm’s critical functions if, for instance, the troubled firm cannot maintain access to liquidity to refinance its liabilities as they fall due.

The above implies that funding poses a material impediment to the resolution of global systemically important banks (G-SIBs). For instance, other market participants stand back from providing liquidity to the firm when there are doubts regarding its future viability or, because of asymmetrical information, or lack of confidence. Thus, liquidity providers may charge an extra premium for the funds allocated to the troubled firm.

II. Purpose of the revision

The Financial Stability Board (FSB) is seeking comments on its consultative document “Guiding Principles on the Temporary Funding Needed to Support the Orderly Resolution of a Global Systemically important Bank (“G-SIB”)” to address the impediments to a resolution related with funding. This paper complements prior FSB work, identifying the provision of temporary funding in resolution as an outstanding issue to be addressed to complete the FSB’s systemically important financial institution (SIFI) reform agenda.

To address those mentioned above and other impediments to resolution, the FSB Plenary agreed to develop a set of guiding principles that are the purpose of this consultative document. These guiding principles should be consistent, and should complement the “FSB Key Attributes of Effective Resolution Regimes for Financial Institutions” (KA) published on 15 October 2014.

In this respect, the Association of Supervisors of Banks of the Americas (ASBA) offers the following comments on this consultative document.

I. General Comment

1. ASBA agrees on the need to address the impediments to resolution related to funding to complete the international agenda regarding systemically important financial institutions. The latter would allow G-SIBs to meet their increased liquidity needs while under resolution, given that recapitalization may not be sufficient to ensure their continuity.



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II. Specific Comments on Questions Contained in the Document

1. *Are the principles on temporary funding in resolution identified in the report appropriate? What additional elements, if any, should be considered for inclusion?*

The Principles on temporary funding identified throughout the Report are appropriate. However, the Association suggests adding the following elements.

Provided that the key attributes state under KA 6.3 that jurisdictions should have in place privately-financed deposit insurance or resolution funds, or a funding mechanism with ex-post recovery from the industry, the possibility of recurring to deposit insurance funds handled by international (private) insurance companies, may be added.

(Cf. Section Private Sources of Funding starting on Page 10).

Also, it would be convenient to mention in the consultative document, the need for authorities to develop guiding principles for early corrective actions. The latter complements the KA, which in its Annex 1, numeral 1.9, section (v), indicates that one of the purposes for which information may be disclosed is “early detection and monitoring... and oversight of firms”. (Since the corresponding authorities rule the obligation of establishing corrective mechanisms, this principle could be included in the Public Sector Backstop Funding section).

(Cf. section Public Sector Backstop Funding Mechanism starting on Page 12).

Although Section 5 briefly mentions, in its first and second paragraphs, that the causes of failure should be addressed, no further description of those causes is developed nor provided. Therefore, and even considering that such a description may not be the purpose of the document, perhaps a brief description of the common causes leading to a resolution of a G-SIB could be added to the paragraphs mentioned above.

(Cf. section 5 Establishing the Soundness and Feasibility of the Resolution Plan starting on Page 16).

2. *What are your views on the most effective means for maximizing the availability and use of private funding sources in resolution in a manner consistent with orderly resolution? Are there particular formats of private funding that should be considered?*

The means for maximizing the availability and use of private funding sources included in the consultative document are appropriate. However, other alternatives may also be considered, such as:

- Stimulus or discounts for debt prepayment;



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- ✚ Securitization mechanisms and others.

Also, it should be further stressed in the consultative document that reliance on private funding sources should be done without infringing rights of other agents involved, for instance, freezing assets of third parties.

The Association also recommends adding in section 2 that a proper due-diligence process shall be carried out to investigate the source of all private resources used in resolution to avoid AML/CFT difficulties.

(Cf. section 1 *Private Sources of Funding* starting on Page 10).

3. *In cases where public sector backstop funding is needed in resolution, how should such funding ideally be structured so as to minimize the risk of moral hazard, reduce the need for temporary liquidity support from the public sector, and allow the firm to return to private sector funding (i.e. timing of disbursements, term of funding, pricing, collateral requirements, potential use of public sector guarantee authority where available, exit incentives, etc.)?*

When public sector backstop funding is needed in a resolution process, in addition to the elements already proposed, it may be highlighted that the corresponding authority should undertake an analysis of the following elements for funding:

- ✚ To accurately identify sources of repayment;
- ✚ To renegotiate, as far as possible, maturing liabilities to optimize the use of funds and liquidity available;
- ✚ To provide specific ex-ante and transparent mechanisms to determine the exclusion regime of certain assets and liabilities that are not eligible to enter into the resolution process.

Also, the inclusion of explicit mechanisms to sanction the firm when it does not adhere to the terms and conditions of financing, be it public or private, is suggested.

The balance of financing between the public sector and the private sector -when full reliance on private agents is not possible - shall be based on accurate estimates of the amount uncovered, including explicit safeguards to avoid indirect financing to related companies. Also, such public funds' availability shall be offered for a limited time only.



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(Cf. sections 1 on Private Sources of Funding; 2 Public Sector Backstop Funding Mechanism; 3 Strict Conditions to Minimize Moral Hazard Risk, starting respectively on Pages 10, 12 and 13 and/or the section of Provisions to Recover any Loss Incurred, starting on Page 15)

4. Do you agree with the suggested elements of resolution planning for temporary funding in Section 5? What additional elements, if any, should be considered for inclusion?

The Association agrees with the suggested elements of resolution planning for temporary funding envisaged in Section 5. However, it suggests adding the need for the corresponding authority to have access to a detailed description of the outsourced services that the resolving entity might have, as well as its availability during the whole resolution process.

(Cf. section 5 Establishing the Soundness and Feasibility of the Resolution Plan starting on Page 16).

5. Do you agree with the approach outlined for cross-border cooperation between home and host jurisdictions? What additional principles or procedures, if any, should be considered?

The Association agrees with the elements outlined for cross-border cooperation between home and host jurisdictions. However, the possibility of promoting Memoranda of Understanding between the different/interested jurisdictions, especially, with agencies in countries where branches and/or holding companies are located, shall be included in the consultative document.

(Cf. section 6 Cross-Border Cooperation starting on Page 16).

6. Are there any other actions that could be taken by firms or authorities with regard to the temporary funding needed to support the orderly resolution of a G-SIB?

The actions described in the consultative document include, in general terms and to a good extent, most international best practices regarding temporary funding needs. Notwithstanding it may be stressed (perhaps in the introductory section), that as long as other principles and mechanisms become available in the future, the document will be updated accordingly.

Additionally, an aspect not clearly addressed is whether hosts can provide public financing when the subsidiary in their jurisdiction cannot be considered a G-SIB, i.e. hosts' available public sources of funding shall not be used provided the relevant institution is not considered systemically important. This issue deserves further attention in the document, especially considering that usually home countries have more resources available when dealing with resolutions compared to host countries.

(Cf. numeral v), section 6 Cross-Border Cooperation)



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Also, the Association suggests revising the resolution prearrangements envisaged under numeral iv), section 6; since allowing arrangements for subsidiaries in host countries to provide liquidity to the holding in the home country implies a risk for host authorities if the subsidiary confronts liquidity problems when not properly resolved.

(Cf. numeral iv), section 6)