



August 2, 2019

Via Electronic Mail to fsb@fsb.org

Financial Stability Board
Centralbahnplatz 2
CH-4002 Basel
Switzerland

Re: **Discussion Paper for Public Consultation Regarding Solvent Wind-Down of Derivatives and Trading Portfolios**

Ladies and Gentlemen:

The Bank Policy Institute¹ and the Financial Services Forum² (together, the **Associations**) appreciate the opportunity to comment on the Financial Stability Board's (the **FSB**) discussion paper regarding the solvent wind-down of derivatives and trading portfolios (the **Discussion Paper**).³ We support the development of FSB guidance regarding solvent wind-down plans for filers' derivatives and trading book as part of authorities' recovery and resolution planning processes. The Discussion Paper is a welcome initial step towards this **Final FSB Guidance**.

The firm capabilities, methods by which resolution authorities could evaluate and verify firm capabilities and principles of home authority-host authority cooperation outlined in the Discussion Paper are sensible and appropriately draw on the significant work our member firms, including the U.S. global systemically important banks (the **U.S. GSIBs**), have completed to facilitate the solvent wind-down of their derivatives and trading portfolios. Since

¹ The [Bank Policy Institute](#) is a nonpartisan public policy, research and advocacy group, representing the nation's leading banks and their customers. Our members include universal banks, regional banks and the major foreign banks doing business in the United States. Collectively, they employ almost 2 million Americans, make nearly half of the nation's small business loans, and are an engine for financial innovation and economic growth.

² The [Financial Services Forum](#) is an economic policy and advocacy organization whose members are the chief executive officers of the eight largest and most diversified financial institutions headquartered in the United States. Forum member institutions are a leading source of lending and investment in the United States and serve millions of consumers, businesses, investors, and communities throughout the country. The Forum promotes policies that support savings and investment, deep and liquid capital markets, a competitive global marketplace, and a sound financial system.

³ FSB, Solvent Wind-Down of Derivatives and Trading Portfolios, Discussion Paper for Public Consultation (June 3, 2019) ([link](#)) (**Discussion Paper**).

U.S. resolution planning requirements have become effective, the U.S. GSIBs, in accordance with the most recent guidance from the U.S. resolution planning regulators (the **U.S. Resolution Plan Guidance**), have:⁴

- Developed comprehensive booking model frameworks and capabilities to identify, assess and report on its derivatives entities;
- Established inter-affiliate market risk exposure frameworks that allow for the measurement and monitoring of market risk exposures on inter-affiliate trades and the evaluation of re-hedge strategies in resolution;
- Performed derivatives portfolio segmentation and forecasting analyses, including ease of exit position analysis, exit cost methodologies, evaluation of required operational needs and expenses and sensitivity analysis;
- Assessed firms' operational capacity to facilitate the orderly transfer of prime brokerage accounts to peer prime brokers; and
- Developed detailed strategies to stabilize and de-risk the firm's derivatives portfolios, including forecasts of resource needs, estimates of potential residual derivatives portfolios and analyses of how any non-surviving material derivatives entity could be resolved within a reasonable period of time while substantially mitigating risk of serious adverse effects on financial stability and firms' orderly resolution.

These enhancements, among others, have substantially increased the resolvability of the U.S. GSIBs' derivatives and trading portfolios and would facilitate the solvent wind-down of these portfolios in resolution.

The FSB has correctly identified in Section 2 of the Discussion Paper an appropriate list of firm capabilities to support a solvent wind-down of a firm's derivatives and trading portfolios. We note that the capabilities described in the Discussion Paper align closely to the derivatives and trading requirements of the U.S. Resolution Plan Guidance, and we support this approach. The U.S. Resolution Plan Guidance establishes robust requirements that, as discussed above, have guided the U.S. GSIBs in improving their booking frameworks, inter-affiliate trading practices, and models and systems to perform inter-affiliate market risk, portfolio segmentation and forecasting analyses to support their solvent wind-down strategies. Other resolution plan authorities should similarly facilitate the development by GSIBs of the firm capabilities listed in the Discussion Paper and embodied in the U.S. Resolution Plan Guidance.

Of course, each resolution authority should have the flexibility under any Final FSB Guidance to tailor solvent wind-down requirements to specific circumstances of their jurisdiction. The firm capabilities listed in the Discussion Paper are described at an appropriate level of generality to provide this flexibility – i.e., in enough detail to support the development of consistent country-specific solvent wind-down guidance without becoming overly prescriptive. If any Final FSB Guidance were to prescribe firm capabilities in too much detail, resolution authorities may feel restricted in their ability to tailor their local solvent wind-down guidance to reflect the structure and activities of GSIBs that are headquartered in their jurisdiction and their resolution strategies, as well as any specific risks or impediments to a solvent wind-down that may or may not be present locally. In addition, excessively granular and prescriptive requirements may impose burdens that are disproportional to their materiality in relation to the level of business-as-usual derivatives and trading analyses performed by local GSIBs. At the same time, however, any Final FSB Guidance must provide enough of a common framework to prevent resolution authorities from developing requirements that are inconsistent across jurisdictions and therefore unworkable for GSIBs.

⁴ Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Final Guidance for the 2019 165(d) Resolution Plan Submissions by Domestic Covered Companies that Submitted Resolution Plans in July 2017, 84 Fed. Reg. 1,438, 1,455–59 (Feb. 4, 2019) ([link](#)) (**U.S. Resolution Plan Guidance**). The derivatives and trading requirements of the U.S. Resolution Plan Guidance apply only to the U.S. GSIBs that the U.S. regulators identified as having significant derivatives and trading portfolios. U.S. Resolution Plan Guidance at 1,455.

In response to the FSB's specific questions, any Final FSB Guidance should not specify that solvent wind-down analysis be a component of recovery planning in addition to resolution planning. Solvent wind-down planning is a tool that firms develop to allow management to effectively respond to stress, which may result in the execution of recovery or resolution actions as appropriate in the specific scenario. Similarly, Final FSB Guidance should not require resolution authorities to distinguish between different solvent wind-down scenarios (e.g., initiation of wind-down by a counterparty). Again, solvent wind-down capabilities are tools for management to deploy to wind-down its operations in an orderly fashion as necessary in the case of an actual stress scenario and would not need to be adapted, for example, to the specific scenario that caused the firm to enter resolution proceedings. Any requirement to incorporate such scenarios into a firm's solvent wind-down analysis or to incorporate this analysis into recovery planning would be unduly prescriptive given the nature of how an actual stress event would unfold.

Section 3 of the Discussion Paper helpfully lists methods by which resolution authorities could evaluate the extent to which firms have developed the appropriate capabilities. We support this approach and understand that the assessment methods provided are merely illustrative examples—any individual resolution authority could choose any one or more of these or other methods and tailor their selected methods as appropriate for their jurisdiction. We ask that any Final FSB Guidance clarify that resolution authorities would not be expected to adhere to the description provided for any particular assessment method.⁵ On that basis, we believe Section 3 would be a useful resource for resolution authorities developing their own local solvent wind-down guidance, including how best to evaluate local firms' compliance.

Finally, we support any efforts to facilitate global cooperation between home and host authorities in the development and application of resolution planning requirements, including solvent wind-down strategies. GSIB firms, the clients they serve and the markets they operate in and facilitate are international. Accordingly, a GSIB typically engages in derivatives and trading activities across jurisdictions both by entering into transactions with counterparties in multiple jurisdictions, in order to provide access to the international markets, and by executing inter-affiliate cross-jurisdictional transactions – e.g., as a matter of prudent internal risk management.

In order to facilitate the execution of a solvent wind-down of such international derivatives and trading operations, resolution authorities' solvent wind-down guidance requirements should be consistent across jurisdictions. A GSIB should not, for example, be required to make an assumption with respect to the solvent wind-down of a foreign subsidiary's derivatives and trading portfolios that would be inconsistent with or unduly burdensome compared to the assumptions that the GSIB must make in its home jurisdiction. Any requirement to make such inconsistent assumptions could prevent a GSIB from developing a solvent wind-down plan that reflects how the GSIB would react to a realistic wind-down scenario.

To that end, any Final FSB Guidance should confirm that compliance with solvent wind-down requirements established by a GSIB's home authority should be sufficient to establish compliance with any host authority requirements as well. Particularly in the context of a single point of entry (**SPOE**) resolution strategy, a well-developed solvent wind-down strategy developed by a GSIB in compliance with home jurisdiction requirements would necessarily entail the orderly wind-down of the firm's global derivatives and trading operations in each host jurisdiction. We understand a primary benefit of any Final FSB Guidance to be a harmonization of solvent wind-down requirements across jurisdictions. If host authorities were to apply conflicting or additional requirements, including scenario analyses, at odds with host authority requirements, this benefit would be lost. We would welcome a greater focus in any Final FSB Guidance on providing comfort to host authorities that a home authority's solvent wind-down

⁵ For example, even though the Discussion Paper notes that “[f]irms could be asked to develop solvent wind-down plans on the basis of specific scenarios,” Discussion Paper at 9, we understand that the U.S. Resolution Plan Guidance has taken an acceptable approach by prescribing a single set of assumptions for U.S. GSIBs to use when developing their solvent wind-down strategies, see U.S. Resolution Plan Guidance at 1,458 (establishing assumptions relating to firms' access to the OTC derivatives market, counterparties exercise of break clauses and the duration of the resolution period).

requirements will ensure the orderly wind-down of a GSIB's derivatives and trading operations in each applicable host jurisdiction.

The solvent wind-down of a GSIB's international derivatives and trading activities would also, as the Discussion Paper notes,⁶ require cooperation between home and host authorities. Accordingly, we agree that Crisis Management Groups, among other forms of formal cooperation arrangements, are a valuable forum for home and host authorities to develop consistent solvent wind-down guidance requirements across jurisdictions and to pre-emptively avoid ring fencing and other obstacles that could hinder the execution of a GSIB's solvent wind-down strategy and have the effect of turning an SPOE resolution strategy in theory into a multiple point of entry (MPOE) scenario in practice. Crisis Management Groups should discuss efforts to facilitate the execution of firms' solvent wind-down strategies in greater detail in the future. Specifically, participating home and host authorities should commit to supporting, and refraining from intervening in, the execution of a GSIB's SPOE resolution strategy in the unlikely event that a GSIB were to experience severe financial distress and possibly enter resolution. SPOE strategies allow a GSIB's subsidiaries with material derivatives and trading portfolios to continue to operate in the post-resolution period while being wound down in an orderly and responsible manner, which would benefit local counterparties and markets in all applicable home and host jurisdictions.

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⁶ Discussion Paper at 9 (noting, e.g., that splitting inter-affiliate cross-jurisdictional transactions could cause unbalanced risk profiles in individual legal entities and increase the total number of transactions to be wound down).

The Associations appreciate the opportunity to comment on the Discussion Paper. If you have any questions, please contact John Court by phone at +1 (202) 589-2409 or by email at john.court@bpi.com or Kevin Fromer by phone at +1 (202) 457-8765 or by email at kfromer@fsforum.com.

Respectfully submitted,



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