

Darren Hannah
Vice-President
Finance, Risk & Prudential Policy
Tel: (416) 362-6093 Ext. 236
dhannah@cba.ca

December 18, 2015

Financial Stability Board
fsb@bis.org

Dear Sir/Madam:

Re: CBA¹ comments on FSB consultative document: Guidance on Arrangements to Support Operational Continuity in Resolution

The Canadian Bankers Association (CBA) is pleased to provide its comments on the FSB consultative document entitled: Guidance on Arrangements to Support Operational Continuity in Resolution.

While we support the FSB's efforts to ensure the continuity of critical services in a resolution event, we believe it is neither practical nor desirable for banks to structure critical shared services according to a prescribed model. Rather, we believe that banks should be able to determine their operating structures and mitigating strategies to accommodate resolution requirements given their specific business models and objectives.

Accordingly, we suggest that domestic authorities be given the flexibility to adapt the FSB guidance according to the particular circumstances of each jurisdiction and bank.

Our responses to the specific questions contained in the consultative document are contained in the attached Annex.

We would be pleased to discuss these comments with you further at your convenience.

Sincerely,



cc: Mike Mercer, CDIC

¹ The Canadian Bankers Association works on behalf of 60 domestic banks, foreign bank subsidiaries and foreign bank branches operating in Canada and their 280,000 employees. The CBA advocates for effective public policies that contribute to a sound, successful banking system that benefits Canadians and Canada's economy. The Association also promotes financial literacy to help Canadians make informed financial decisions and works with banks and law enforcement to help protect customers against financial crime and promote fraud awareness. www.cba.ca.

CBA Responses to Specific FSB Questions

Q1. Do you agree that the three service delivery models set out in Section 3 of the draft guidance represent, singly or in combination, current industry practice? Do you have any comments on the analysis of each model from a perspective of resolvability under different resolution strategies?

The CBA agrees that the three service delivery models set out in Section 3 generally represent current industry practice. However, there are also variations in application of these three models, particularly for services delivered across jurisdictions. In some cases, management of corporate functions is based on a matrix of globally run businesses, functions, operations and IT, combined with locally run governance. It is also possible for a parent entity to provide multiple services to legal entities globally and vice versa.

We would like to express our support for this guidance not presuming that firms, or certain types of firms, adopt any particular model (section 1.4).

Q2. Are the arrangements to support operational continuity set out in Section 4 comprehensive and likely to be effective? What additional arrangements, if any, should be considered for inclusion? Should any elements be modified for specific service delivery models?

We believe the arrangements to support operational continuity set out in Section 4 are comprehensive and would generally be effective. We believe that a more comprehensive assessment could be made once resolution strategies are further developed. It should be noted that, though this guidance does not address cross-border provisions of shared services, we believe one of the most significant risks to continuity is likely the absence of cooperative agreements between regulators.

Q3. Are any of the arrangements particularly important in the context of either a Single Point of Entry ('SPE') or a Multiple Point of Entry ('MPE') resolution strategy, or are they strategy-neutral?

We believe that the arrangements identified in Section 4 are generally strategy-neutral in regard to a SPE or MPE resolution strategy.

Q4. Do you consider that any of the arrangements identified in Section 4 would be challenging to implement in the context of all or specific types of the service delivery models identified in Section 3?

As noted in our cover letter, the implementation of arrangements for resolution could be challenging. Specific challenges would depend on the bank's specific business model and the nature of the resolution, as well as the structure for delivering shared services. Regardless of the service delivery model, areas of particular challenge include:

- Governance: Where critical services are provided by a division within a regulated entity based on matrixed structures, transition and implementation of separate governance structures under an intra-group service company model may create inefficiencies and other challenges.
- Contractual provisions: The updating of contracts to include the noted provisions would likely occur upon renewal and thus take time to implement. However, vendors may not want to include such provisions or may require additional compensation;
- Management information systems: The capture of all the noted information would likely require enhancements to current systems and/or new system builds and a manual review of all contracts to initially collect such information. We refer more specifically to our response to Q8;
- Financial resources: Pre-positioning sufficient funding within entities that support provision of critical services may be costly and introduce creditor preferences that may be subject to challenge in resolution, particularly if cross-guarantees from operating entities were required by applicable supervisors; and,
- Operational reliance and resourcing: The retention of personnel in a given resolution event may prove challenging.

Greater clarity on the 'playbook' mentioned in Section 4.5 would be required from the FSB before a determination can be made as to any associated challenges with the implementation of a playbook arrangement.

In all cases, the proposed provisions should not necessarily be required and should be considered in the context of the group resolution plan.

Q5. Does the legal entity ownership structure for the provision of critical shared services (for example, wholly owned or partly owned through joint ventures) give rise to specific challenges in relation to operational continuity? If so, what are these challenges and how might they be mitigated?

Generally, we would agree that legal entity ownership structures could have an impact on provision of services necessary for operational continuity in resolution. However, we believe that the three service delivery models outlined generally accommodate a variety of legal entity structures and that implementation of the arrangements contained in the FSB's guidance could serve to mitigate many of these challenges.

Q6. Are there measures, in addition to those suggested in Section 4 of the draft guidance, that might reinforce contractual arrangements for the provision of shared services to support operational continuity in resolution? Do you foresee any challenges in adopting such measures in the context of all or specific types of service delivery model?

Subject to our comments in Q2 above, the measures suggested in Section 4 are generally appropriate to reinforce contractual arrangements to support operational continuity in resolution.

Q7. Are there any arrangements that might mitigate challenges in connection with (i) service providers from outside the jurisdiction of the resolution authority and (ii) non-regulated third party or intra-group service providers that should be covered in this guidance?

We believe that the cooperation and recognition of home and host resolution authority actions could help mitigate many of the challenges in connection with service providers from outside the jurisdiction of the resolution authority. For example, where banks are operating in multiple jurisdictional considerations, a consistent interpretation of bankruptcy laws across jurisdictions would assist in the development of resolution plans. We believe the FSB's Principles for Cross-border Effectiveness of Resolution Actions (November 2015) could serve to mitigate many of these challenges. We note that it will be important for resolution authorities to have ex ante agreement on principles across jurisdictions and that recognition of the group resolution plan is essential to mitigate complexity.

Q8. Do you agree with the classes of information set out in the Annex as necessary to support firms and authorities in their assessment of operational continuity in resolution? Do you foresee any challenges for firms in producing and maintaining that information?

We believe the information requirements set out in the Annex are comprehensive, however, we believe that finalized information requirements should be adapted to each individual jurisdiction after discussion between regulatory authorities and banks and based on each bank's group resolution plan.

We would like to note, however, that depending on each bank's relative state of MIS preparedness, the MIS requirements included in the proposed arrangements would likely require a major work effort.

Q9. Are there any other actions that could be taken by firms or authorities to help ensure operational continuity in resolution?

The CBA would like to note that access to financial market infrastructure (FMI) services could help to ensure operational continuity in resolution. We recognize that the FSB has acknowledged that this issue will be considered separately.