FSB- G20 - MONITORING PROGRESS – Germany September 2011

# *# in brackets are # from the 2010 template*		G20/FSB RECOMMENDATIONS		DEADLINE	PROGRESS TO DATE *Explanatory notes:* *In addition to information on progress to date, specifying steps taken, please address the following questions:* *1. Have there been any material differences from relevant international principles, guidelines or recommendations in the steps that have been taken so far in your jurisdiction?* *2. Have the measures implemented in your jurisdiction achieved, or are they likely to achieve, their intended results?* *Also, please provide links to the relevant documents that are published.*	PLANNED NEXT STEPS *Explanatory notes:* *Timeline, main steps to be taken and key mileposts (Do the planned next steps require legislation?)* *Are there any material differences from relevant international principles, guidelines or recommendations that are planned in the next steps?* *What are the key challenges that your jurisdiction faces in implementing the recommendations?*
I. Improving bank capital and liquidity standards						
1	(Pitts)	Basel II Adoption	All major G20 financial centres commit to have adopted the Basel II Capital Framework by 2011.	By 2011	Germany has adopted Basel II as of 1.1.2007.	The EU is scheduled to implement a fully harmonised framework as of 1.1.2013 ("CRD IV" contains among others Basel III).
2	(FSB 2009) (Tor)	Basel II trading book revision	Significantly higher capital requirements for risks in banks' trading books will be implemented, with average capital requirements for the largest banks' trading books at least doubling by end-2010. We welcomed the BCBS agreement on a coordinated start date not later than 31 December 2011 for all elements of the revised trading book rules.	By end-2011	The German Finance Ministry has published for consultation changes to the relevant national regulation (Solvency Ordinance, "Solvabilitätsverordnung", SolvV) concerning banks. The consultation period for the Solvency Ordinance ended in Feb 2010. The draft regulation is fully consistent with the draft EU directive 2010/76/EU (which transposes the Basel Committee's "Revisions to the Basel II market risk framework" and "Guidelines for computing incremental risk in the trading book" into EU regulations).	Finalisation of the national regulation in autumn 2011 and effective by end 2011
3 (5, 6, 8)	(Seoul)	Adoption and implementation of international rules to improve bank capital and liquidity standards (Basel III); includ-	We are committed to adopt and implement fully these standards (Basel III) within the agreed timeframe that is consistent with economic recovery financial stability. The new framework will be translated into our national laws	January 1, 2013 and fully phased in by January 1, 2019.	It is planned that the rules necessary to apply Basel III will be in place by 1 January 2013. The process of national implementation is strongly determined by the respective EU process ("CRD IV"). The EU Commission's draft proposal has been published in July 2011. The publication of the final EU legisla-	

		ing leverage ratios (Note) Please explain developments in i) capital standards, ii) liquidity standards and iii) leverage ratios respectively.	and regulations, and will be implemented starting on January 1, 2013 and fully phased in by January 1, 2019.		tion is expected in August 2012. Currently the EU is aiming at splitting the CRD in a regulation and a directive part. The regulation part which will most likely encompass all pillar 1 as well as the respective pillar 3 requirements will be directly applicable, i.e. will require no national transposition. The directive part will be subject to the usual transposition process. With a view of entering into force on 1 January 2013 and subject to the finalization of the CRD IV the first drafts of the national implementation measures are expected to be available by end 2011. Following a public consultation with the banking industry they will be finalised and agreed by the German government before being transferred into the parliamentary process. Publication of the final rules is expected in Q4/2012. **<u>Leverage Ratio:</u>** Germany participates in the Quantitative Impact Studies of the Basel Committee of Banking Supervision for monitoring the impact and the appropriateness of design and calibration of the leverage ratio until 2017. Undertaking further steps regarding the leverage ratio is pending because this will be governed by the CRD IV which is currently negotiated between the EU commission and the EU Member States and will then be negotiated with the EU Parliament. As an interim measure for already receiving information about leverage of German institutions, Germany has implemented in the German Banking Act [§ 24(1) point 16 and (1a) point 5] a requirement to report yearly the following ratio and quarterly any change of at least 5 percent of this ratio: Numerator: total accounting capital; Denominator: sum of balance sheet total,	

					off-balance sheet liabilities and replacement costs for claims resulting from off-balance sheet transactions.	
4 (4, 7, 9, 48)	(WAP) (FSF 2009) (FSF 2008) (FSB 2009)	Strengthening supervision and guidelines on banks' risk management practices	Regulators should develop enhanced guidance to strengthen banks' risk management practices, in line with international best practices, and should encourage financial firms to re-examine their internal controls and implement strengthened policies for sound risk management. 1.4 Supervisors should use the BCBS enhanced stress testing practices as a critical part of the Pillar 2 supervisory review process to validate the adequacy of banks' capital buffers above the minimum regulatory capital requirement. II.10 National supervisors should closely check banks' implementation of the updated guidance on the management and supervision of liquidity as part of their regular supervision. If banks' implementation of the guidance is inadequate, supervisors will take more prescriptive action to improve practices. Regulators and supervisors in emerging markets will enhance their supervision of banks' operation in foreign currency funding markets.	Ongoing	I.4. Germany has transposed the FSB and BCBS recommendations in the Minimum Requirements for Risk Management ("Mindestanforderungen an das Risikomanagement", MaRisk; revised version for the banking sector published on 15 December 2010, circular 11/2010 (BA)) for financial institutions, requiring financial institutions to have sound stress testing practices in place. Stress test results must be taken into account as part of the institutions' internal capital adequacy assessment process. Accordingly, banks' stress testing practices form part of Federal Financial Supervisory Authority (BaFin)'s Supervisory Review and Evaluation Process. An amendment of the German Banking Act authorizes banking supervisors, inter alia, to determine an individual add-on above the minimum capital requirements when an institution fails to comply with sound risk management practices, including stress testing obligations. II.10 The updated guidance is implemented in the Minimum Requirements for Risk Management and is subject to on-site inspections. It is also part of the guidance for the regular compilation of the risk profile of an institution and taken into account when judging an institution's liquidity management. In case of inadequate implementation banks are required to take remedial action. The implementation is then closely supervised.	Ongoing bank specific review Part of ongoing supervision.

II. Addressing systemically important financial institutions (SIFIs)						
5 (19)	(Pitts)	Consistent, consolidated supervision and regulation of SIFIs	All firms whose failure could pose a risk to financial stability must be subject to consistent, consolidated supervision and regulation with high standards.	Ongoing	Banking institutions of systemic importance, financial conglomerates and insurance groups were already under close scrutiny before the financial crisis. *Banking sector* Accordingly, pursuant to the Ongoing Monitoring Guideline ("Aufsichtsrichtlinie", Article 6) of February 2008, supervision of banking institutions of systemic importance is more rigorous, with a particular emphasis on detailed analyses of the risks and their possible repercussions on the institution's risk-bearing capacity. In addition, cooperation between BaFin and the Deutsche Bundesbank, as the institutions sharing supervisory functions, has been intensified. Prudential supervision is carried out with respect to banking and financial holding groups with regard to the group's solvency, its compliance with large exposure limits and its investments outside the financial sector (German Banking Act, Sections 10, 13b, 12). The scope of consolidation encompasses all institutions, asset management firms, financial institutions, ancillary services undertakings, e-money-institutions and payment services institutions belonging to the group as well as where applicable the superordinated financial holding company. (German Banking Act, Section 10a). In addition, all these groups have to report on risk concentrations and intra-group transactions (German Banking Act, Sections 13b, 13c and 13d). Furthermore, the provisions in the Minimum Requirements for Risk Management are also addressing consolidated risk management for all material risks and their coverage at the group level for banking and financial	*Banking sector* Basel III/CRD IV will not cause any material changes in the supervision of groups. As a reflex from the ongoing review of the financial conglomerates directive mixed financial holding companies will be added to the scope of supervision. *Insurance sector* At the EU level Solvency II will provide for improved supervision of insurance groups.

					holding groups as well as financial conglomerates (MaRisk, Section AT 4.5[1]) A supplementary supervision applies to financial conglomerates. *Insurance sector* Mirroring the banking regulations insurance groups as well have to regularly submit to BaFin the calculation of the group solvency margin and a report about important intra-group transactions. In addition, since September 2009 the groups have to quarterly report on important risk concentrations concerning counterparts outside the group (German Insurance Supervision Act, Sections 104e, 104g and 104i). Moreover, the Minimum Requirements for Risk Management (Insurance Companies), Section 2 no. 1 explicitly addresses group risks.)	
6 (44)	(Pitts) (Seoul)	Mandatory international recovery and resolution planning for G-SIFIs	Systemically important financial firms should develop internationally-consistent firm-specific contingency and resolution plans. Our authorities should establish crisis management groups for the major cross-border firms and a legal framework for crisis intervention as well as improve information sharing in times of stress. We agreed that G-SIFIs should be subject to a sustained process of mandatory international recovery and resolution planning. We agreed to conduct rigorous risk assessment on G-SIFIs through international supervisory colleges and negotiate institution-specific crisis cooperation	End-2010 (for setting up crisis management groups) Ongoing	Within the relevant scope, systemically important financial firms have been asked to provide BaFin with a draft contingency and de-risking plan in early 2010. The results were already discussed and further work has been initiated to refine the planning. On January 1, 2011 the "Bank Restructuring Act") came into effect. It introduces two <u>***voluntary***</u> proceedings that may be initiated and managed by the troubled bank's management, i.e., • A recovery proceeding ; and • A reorganisation proceeding A recovery proceeding may be initiated by the management of a troubled bank at an early stage of a crisis and notified to the supervisory authority. The notification must include a ***recovery plan***, which may include all measures appropriate for a restructuring of the bank. A	Discussions within crisis management groups have been taking place since early 2010. Additional provisions for cross-border crisis resolution are subject to ongoing work at the EU level (see section 7).

[1] http://www.bafin.de/cln_110/nn_724304/SharedDocs/Veroeffentlichungen/DE/Service/Rundschreiben/2010/rs__1011__ba__marisk.html

			agreements within crisis management groups.		general principle of the measures implemented under the recovery plan is that they may not impair any rights of any creditor without its prior consent. In case the recovery proceeding seems insufficient for a bank's restructuring the bank's management may apply for the opening of a reorganization proceeding. Such application has to include a ***reorganization plan***, which needs to stipulate, *inter alia*, the individual restructuring actions to be adopted by the creditors. The restructuring plan can directly impair the rights of creditors as well as the rights of shareholders of the bank.	
7 (45)	(Seoul) (Tor) (WAP) (FSF	Implementation of BCBS recommendations on the cross-border bank resolution	We reaffirmed our Toronto commitment to national-level implementation of the BCBS's cross-border resolution recommendations. We endorsed and have committed to implement our domestic resolution powers and tools in a manner that preserves financial stability and are committed to implement the ten key recommendations on cross-border bank resolution issued by the BCBS in March 2010. National and regional authorities should review resolution regimes and bankruptcy laws in light of recent experience to ensure that they permit an orderly wind-down of large complex cross-border financial institutions. VI.6 Domestically, authorities	Ongoing	The German Banking Act (Sections 45 pp) and the German Insurance Supervision Act (Sections 81b pp, 104h and 104t pp) already contain a number of resolution tools. These rules apply at solo as well as at group level, including financial holding companies. They focus - in line with the competences of the German legislator - on a resolution at national level. The German Bank Restructuring Act[2] which came fully into effect on 01 January 2011 encompasses • Rules and mechanisms for the reorganisation of banks • Introduction of instruments to resolve crises at systemically important banks, including the possibility for the supervisory authority to transfer the systemically relevant parts of the bank to a bridge bank and subsequent liquidation of the remaining "bad bank assets". • Establishment of a restructuring fund (funded by the private financial institution through an obligatory levy • Extension of the limitation periods for	At the EU level, following the consultation of "Technical Details of a possible EU framework for bank recovery and resolution" (06 January – 03 March 2011) the EU Commission is currently working on concrete proposals for a European directive on these issues. This will be transposed into German law.

[2] http://www.bgbl.de/Xaver/start.xav?startbk=Bundesanzeiger_BGBl&bk=Bundesanzeiger_BGBl&start=//*%5B@attr_id=%27bgbl110s1900.pdf%27%5D

	2008)		need to review and, where needed, strengthen legal powers and clarify the division of responsibilities of different national authorities for dealing with weak and failing banks.		management and supervisory board members' liability towards listed stock corporations and banks.	
8 (43)	(Lon)	Implementation of FSF principles for cross-border crisis management	To implement the FSF principles for cross-border crisis management immediately. Home authorities of each major financial institution should ensure that the group of authorities with a common interest in that financial institution meets at least annually.	2009	Supervisory core colleges are considered to serve as the basis for Crisis Management Groups, to discuss specific cross-border crisis management issues and develop principles and processes for cross-border crisis management cooperation. On the establishment of supervisory colleges see also section 9.	The colleges meet on a regular basis, at least annually, while core colleges are expected to meet even more often.
9 (41)	(Lon)	Supervisory colleges	To establish the remaining supervisory colleges for significant cross-border firms by June 2009.	June 2009	Supervisory colleges for those German large and complex cross-border banks and insurance undertakings identified by the FSB have been established and college meetings have taken place. EU law (CRD II) requires the establishment of supervisory colleges by the end of 2010 for cross-border banking groups with at least one subsidiary or two significant branches within the European Economic Area (EEA). The respective banking groups have been identified and the process for setting-up these colleges has been completed.	EU-law (Solvency II) will require the establishment of supervisory colleges for all cross-border insurance groups. In addition, the revised Financial Conglomerates Directive (FCD/FiCOD) will require cross-sectoral cooperation via the Supervisory Colleges for all conglomerates.
10 (42)	(FSF 2008)	Supervisory exchange of information and coordination	V.7 To quicken supervisory responsiveness to developments that have a common effect across a number of institutions, supervisory exchange of information and coordination in the development of best practice benchmarks should be improved at both national and international levels.	Ongoing	Within BaFin each Directorate has set up a risk-committee (see section 27). Information between these three risk-committees is transferred by representatives joining all risk-committees. Cross-sectoral risks are dealt within BaFin's executive board. In the Banking Supervision Directorate the risk-committee and a task force deal with the effects of the financial crisis. Both bodies are specifically charged with collecting and analysing information and undertaking best practice studies. Several other bodies exist to facilitate	Insurance Sector: Currently various reporting templates for risk monitoring/identification among insurers on group and solo level are under development by EIOPA. The templates are also supposed to be aligned with work on cross-sectoral templates and Solvency II reporting. After the development phase templates need to be approved by the EIOPA Board of Supervisors (probably in Q1 of 2012). Key challenges are alignment of reporting

					co-ordination with Deutsche Bundesbank (a working group on risk-oriented supervision) and the Ministry of Finance ("Domestic Standing Committee"). In the Insurance Supervision Directorate the duties of the task force are carried out by a special section dealing with the risk orientation of insurance supervision. Furthermore, the information and coordination between supervision of different sectors benefits from the fact of BaFin being an integrated supervisor. At the international level, exchange of information and coordination regarding specific institutions take place mainly through colleges, while overarching issues are addressed through many multilateral fora, including the new European Supervisory Authorities (e.g. EBA), the BCBS, FSB-working groups and more." The European Insurance and Occupational Pensions Authority (EIOPA) Crisis Management update in August 2011. a. Completion and Update of the High Level Crisis Contact List; b. Maintenance of Crisis Contact Lists by Colleges; and c. Testing of Colleges Emergency Plans BaFin participated in the EIOPA "Colleges Emergency Infrastructure Test" which tested the reachability, responsiveness of EEA Colleges and information exchange between them in an emergency situation.	templates with Solvency II reporting, balancing complexity, amount and timing of reports with regard to national reporting procedures.
11 (46)	(FSF 2008)	Review of national deposit insurance arrangements	VI.9 National deposit insurance arrangements should be reviewed against the agreed international principles, and authorities should strengthen arrangements where needed.	Ongoing	Germany enacted an amendment to the Act on Deposit Guarantee and Investor Compensation ("Einlagensicherungs- und Anlegerentschädigungsgesetz"[3]) which entered into force in December 2010. Current national deposit insurance arrangements shall be compli-	

[3] http://www.bafin.de/cln_171/nn_721176/SharedDocs/Aufsichtsrecht/EN/Gesetze/eaeg__en.html?__nnn=true

					ant with the agreed set of international 18 Core Principles by IADI/BCBS (June 2009). According to the Act on Deposit Guarantee and Investor Compensation supervision of DGS by BaFin is mandatory. BaFin is empowered to counteract irregularities which may impair the proper handling of the compensation or jeopardise the assets accumulated for paying compensation. BaFin also monitors whether national regulation complies with international principles. To this end, BaFin and Deutsche Bundesbank regularly receive broad information on the national DGSs (such as: on risk oriented contribution systems, monitoring procedures within the guarantee schemes, financial statements, stresses and strains of the funds).	
12 (New)	(Seoul)	More effective oversight and supervision	We agreed that supervisors should have strong and unambiguous mandates, sufficient independence to act, appropriate resources, and a full suite of tools and powers to proactively identify and address risks, including regular stress testing and early intervention.	Ongoing		EU-law (Solvency II) will further strengthen oversight and supervision.
III. Extending the regulatory perimeter to entities/activities that pose risks to the financial system						
13 (27)	(Lon)	Review of the boundaries of the regulatory framework	We will each review and adapt the boundaries of the regulatory framework to keep pace with developments in the financial system and promote good practices and consistent approaches at an international level.	Ongoing	Monitoring of structural developments in the financial system is an integral part of macro-prudential analyses and is conducted by relevant authorities in Germany. It also encompasses reviewing the adequacy of the respective scope of regulation.	Ongoing.
14 (30)	(FSF 2008)	Supervisory resources and expertise to oversee the risks of financial innovation	V.1 Supervisors should see that they have the requisite resources and expertise to oversee the risks associated with financial innovation and to ensure that firms they supervise have the capacity to understand and	Ongoing	BaFin and Deutsche Bundesbank have in place personnel policies allowing the recruitment of highly qualified supervisors. They provide and permanently develop training programs. BaFin and Bundesbank have, for example,	Ongoing.

			manage the risks.		initiated in 2009 a European-wide training network called the “European Supervisor Education Initiative”. With regard to institutions, German supervisors require firms to have adequately trained and experienced staff with regard to their competencies and responsibilities within the firm. This requirement is part of the Supervisory Review and Evaluation Process assessment. The existent supervisory standards provide for measures to ensure that firms only invest in products if they have the capacity to understand and manage the associated risks.	
Hedge funds						
15 (33)	(Seoul) (Lon)	Regulation (including registration) of hedge funds	We also firmly recommitted to work in an internationally consistent and non-discriminatory manner to strengthen regulation and supervision on hedge funds, … Hedge funds or their managers will be registered and will be required to disclose appropriate information on an ongoing basis to supervisors or regulators, including on their leverage, necessary for assessment of the systemic risks they pose individually or collectively. Where appropriate registration should be subject to a minimum size. They will be subject to oversight to ensure that they have adequate risk management.	End-2009	Germany has in force a regulatory framework for hedge funds. This framework sets out regulation for managers of hedge funds as well as for hedge funds themselves. According to this regulation, for example, both managers and funds are subject to an approval process. BaFin started using the IOSCO (Task Force on Unregulated Entities) template for gathering systemically relevant information about hedge funds on an ongoing basis in September 2010. BaFin gathers information from all supervised hedge funds irrespective of size. In July 2011, the Directive on Alternative Investment Fund Managers (AIFMD) entered into force. According to the AIFMD the managers of alternative investment funds, including managers of hedge funds, will require an authorisation before taking up their activities as AIFM and be supervised on an ongoing basis. The manager must, inter alia, ensure that capital requirements are fulfilled and provide for adequate risk management and liquidity management. Furthermore, managers will be required to disclose information to investors and supervisors whereas managers of hedge	The AIFM Directive has to and will be transposed into national law by July 2013 at the latest.

					funds have additional disclosure obligations as regards leverage. The national supervisor shall use the information for the purposes of identifying the extent to which the use of leverage contributes to the build-up of systemic risk.	
16 (34)	(Lon)	Effective oversight of cross-border funds	We ask the FSB to develop mechanisms for cooperation and information sharing between relevant authorities in order to ensure effective oversight is maintained when a fund is located in a different jurisdiction from the manager. We will, cooperating through the FSB, develop measures that implement these principles by the end of 2009.	End-2009	BaFin cooperates and shares information with authorities on the basis of relevant IOSCO and CESR MMoUs.	BaFin is preparing to share information with other IOSCO Members on the basis of the information sharing exercise conducted by the IOSCO Task Force on Unregulated Entities.
17 (35)	(Lon)	Effective management of counter-party risk associated with hedge funds	Supervisors should require that institutions which have hedge funds as their counterparties have effective risk management, including mechanisms to monitor the funds' leverage and set limits for single counterparty exposures.	Ongoing	German regulations require financial institutions to have an effective risk management in place, which covers all counterparties. This includes counterparty limits and monitoring mechanisms for hedge funds. In addition to these general requirements, the revised Minimum Requirements for Risk Management (Banks) requires explicitly that institutions have to implement an internal policy regarding credit deals with hedge funds or private equity firms, where applicable. Amongst other things, this comprises a policy regarding gathering financial and non-financial information about their counterparties and an analysis of the structure and the purpose of the transaction financed. The investment of insurance undertakings in hedge funds is regulated in BaFin circular 7/2004[4] For example direct insurers are allowed to invest a maximum of 5 % of their tied assets in hedge funds.	*Insurance Sector* For the insurance sector the Solvency II Directive requires improved risk management systems for insurance undertakings. Currently the EU-Commission is drafting more specific implementing measures in this respect. The Solvency II Directive has to be transposed into German law by end-October 2012 [this date might be postponed by the OMNIBUS II Directive].

[4] http://www.bafin.de/cln_179/nn_721228/SharedDocs/Veroeffentlichungen/EN/Service/Circulars/rs__0407__en__va.html?__nnn=true

18 (36)	(FSF 2008)	Guidance on the management of exposures to leveraged counterparties	II.17 Supervisors will strengthen their existing guidance on the management of exposures to leveraged counterparties	Ongoing	German regulations require financial institutions to consider every relevant risk which they are exposed to. This includes also the specific risks of exposures to leveraged counterparties. See also section 17.	
Securitisation						
19 (50)	(FSB 2009)	Implementation of BCBS/IOSCO measures for securitisation	During 2010, supervisors and regulators will: • implement the measures decided by the Basel Committee to strengthen the capital requirement of securitisation and establish clear rules for banks' management and disclosure; • implement IOSCO's proposals to strengthen practices in securitisation markets.	During 2010	BCBS recommendations to strengthen the capital requirements for securitisation positions have been transposed into EU Directives (CRD II and CRD III). They have been implemented into German law by amendments to existing laws (German Banking Act, Solvency Ordinance) without any material differences. See also sections 21 and 42.	The IOSCO recommendation to require originators and/or sponsors to retain a long-term economic exposure to the securitisation has been implemented in Europe via the inclusion of a new Article 122a in the CRD in May 2009. The relevant amendments to the EU-CRD have been transposed into German law. See also section 42. Forthcoming further IOSCO recommendations are envisaged to be implemented.
20 (51)	(Lon)	Improvement in the risk management of securitisation	The BCBS and authorities should take forward work on improving incentives for risk management of securitisation, including considering due diligence and quantitative retention requirements by 2010.	By 2010	*Banking Sector* The revised Minimum Requirements for Risk Management include requirements for stress testing for all relevant risk areas which also covers securitizations. Furthermore, banks must not rely solely on external ratings. They are rather obliged to assess the quality of securitization positions on their own. Enhanced risk management practices for securitization portfolios and retention requirement for originators/sponsors of securitizations is required by EU-law (CRD II) since end 2010. EU-legislation has been transposed into German law by amendments to existing laws (German Banking Act) and the applicable regulations. See also section 21 and 42.	*Insurance Sector* The new EU-Solvency II framework will establish an enhanced risk management. With respect to quantitative retention it is planned to adopt the same quality criteria for investments in securitisation in the insurance sector as applied in the CRD in the banking sector. Transposition in national law by Solvency II Directive.
21 (52)	(Pitts)	Retainment of a part of the risk of the underlying	Securitization sponsors or originators should retain a part of the risk of the underlying assets,	Ongoing	Relevant regulation is contained in the CRD II (Directive 2009/111/EC, Art.122a, stipulates, in particular, that investors may assume expo-	

		assets by securitisation sponsors or originators	thus encouraging them to act prudently.		sures to securitisation risk only if the originator or sponsor (or original lender) has confirmed that it will retain at least 5% of the risk.) EU-legislation has been transposed into German law.	
22 (10)	(FSF 2008)	Strengthening of regulatory and capital framework for monolines	II.8 Insurance supervisors should strengthen the regulatory and capital framework for monoline insurers in relation to structured credit.	Ongoing	No monoline insurers operate in Germany.	
23 (54)	(FSF 2008)	Strengthening of supervisory requirements or best practices fir investment in structured products	II.18 Regulators of institutional investors should strengthen the requirements or best practices for firms' processes for investment in structured products.	Ongoing	For financial institutions (esp. banks) the requirements in Germany for risk management, including the new product process, have been enhanced. Financial institutions must have a clear understanding of the products and the risk profile of all investments. The respective enhancements of EU legislation (CRD) are transposed into German law, e.g. the strengthened management requirements for structured investment products and further due diligence requirements especially for re-securitisations.	Detailed aspects on valuation and the relevant internal processes are covered in a circular on which consultation has just ended.
24 (14)	(FSF 2008)	Enhanced disclosure of securitised products	III.10-III.13 Securities market regulators should work with market participants to expand information on securitised products and their underlying assets.	Ongoing	BaFin currently requests specific data from and interviews with senior management of banks, insurance companies, and asset management companies, to better assess the risk exposure of their securitised products.	BaFin requests quarterly specific data on securitized products of systemically relevant banks. Other banks, insurance companies, and asset management companies are queried on a case-by-case basis where necessary. Interviews with senior management at banks and insurance companies with significant risks.
IV. Improving OTC derivatives markets						
25 (17)	(Lon)	Development of action plan on the standardisation of CDS markets	We will promote the standardization and resilience of credit derivatives markets, in particular through the establishment of	Autumn 2009	In July 2009, first European CCPs for CDS went operational at EU level. One of them is Eurex Credit Clear, a business unit of Eurex Clearing, which is located in Frankfurt and su-	Negotiations are taking place on the EU Commission's legislative proposal. The EU regulation is supposed to be adopted in late 2011, but it is uncer-

		(e.g. CCP)	central clearing counterparties subject to effective regulation and supervision. We call on the industry to develop an action plan on standardisation by autumn 2009.		pervised by BaFin. The European Commission together with the industry and regulators monitors adherence to the self commitment. EU-Regulation on OTC derivatives, Central Counterparties and Trade Repositories is under negotiation. The EU Commission has adopted a proposal for a Regulation on OTC derivatives, Central Counterparties and Trade Repositories on 15 September 2010[5]. (or via EUR-Lex[6]) It will contain provisions that the newly established European Securities and Market Authority (ESMA), in certain cases in consultation with the European Systemic Risk Board (ESRB), is entitled to foster standardization of OTC products, in order to facilitate CCP Clearing. For eligible products CCP Clearing will become mandatory. Additionally BaFin and Deutsche Bundesbank are members of relevant international groups such as OTC Derivatives Regulators Forum and OTC Derivatives Supervisors Groups that work with market participants to further improve the OTC derivatives markets e.g. by securing commitments regarding CCP clearing etc., cooperation frameworks etc.	tain implementation can take place before the end of 2012, the G20's deadline. The topic of trading of OTC derivatives will be covered by the review of the EU MiFID (Markets in Financial Instruments Directive). The EU Commission started a first public consultation[7] of issues of the MiFID-Review from 8th of December 2010 to 2nd of February 2011. This consultation shall provide guidance for a formal Commission's proposal with detailed amendments to MiFID is foreseen for October 2011; final rules - subject to agreement by the European Parliament and the Council - are expected in 2012.
26 (18)	(Seoul) (Pitts)	Reforming OTC derivative markets, including trading of all standardized OTC derivatives on exchanges, clearing and	We endorsed the FSB's recommendations for implementing our previous commitments in an internationally consistent manner, recognizing the importance of a level playing field. All standardized OTC derivative	By end-2012 at the latest	See section 25.	See section 25.

[5] http://ec.europa.eu/internal_market/financial-markets/derivatives/index_en.htm
[6] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52010PC0484:EN:NOT
[7] http://ec.europa.eu/internal_market/consultations/docs/2010/mifid/consultation_paper_en.pdf

		trade repository reporting.	contracts should be traded on exchanges or electronic trading platforms, where appropriate, and cleared through central counterparties by end-2012 at the latest. OTC derivative contracts should be reported to trade repositories. Non-centrally cleared contracts should be subject to higher capital requirements.			
V. Developing macro-prudential frameworks and tools						
27 (25)	(Lon)	Amendment of regulatory systems to take account of macro-prudential risks	Amend our regulatory systems to ensure authorities are able to identify and take account of macro-prudential risks across the financial system including in the case of regulated banks, shadow banks and private pools of capital to limit the build up of systemic risk.	Ongoing	Macro-prudential analysis units have been established in the Bundesbank. Ongoing financial stability analysis and banking supervision carried out by the Deutsche Bundesbank greatly benefits from synergies to other central bank functions by combining macro-prudential aspects to micro-prudential supervision. Bundesbank and BaFin are members of the European Systemic Risk Board. National measures to flank the European structures have also been implemented by BaFin and Bundesbank with the formation of a joint Risk Committee in December 2009 to link macro-prudential and micro-prudential supervision.	Ongoing: Macro-prudential analysis will be further enhanced – also taking account of discussions in international fora. The joint risk committee continues its structured dialogue in its quarterly meetings. The German coalition government in December announced its plan to expand macroprudential supervision at the Bundesbank. Respective legislation is underway.
28 (26)	(Lon)	Powers for gathering relevant information by national regulators	Ensure that national regulators possess the powers for gathering relevant information on all material financial institutions, markets and instruments in order to assess the potential for failure or severe stress to contribute to systemic risk. This will be done in close coordination at international level in order to achieve as much consistency as possible across jurisdictions.	Ongoing	BaFin and Deutsche Bundesbank obtain the necessary information from institutions regularly through regulatory reporting. If needed, BaFin and Bundesbank have the right to request further information according to the German Banking Act (Sections 44, 44a and 44b).	
29 (28)	(FSF 2009)	Use of macro-prudential tools	3.1 Authorities should use quantitative indicators and/or con-	End-2009 and ongoing	A leverage ratio reporting requirement was introduced into German supervisory law as an	Expected EU legislation on the leverage ratio will be transposed into Ger-

			straints on leverage and margins as macro-prudential tools for supervisory purposes. Authorities should use quantitative indicators of leverage as guides for policy, both at the institution-specific and at the macro-prudential (system-wide) level. On leverage ratios for banks, work by the BCBS to supplement the risk based capital requirement with a simple, non-risk based leverage measure is welcome. Authorities should review enforcing minimum initial margins and haircuts for OTC derivatives and securities financing transactions.		indicator under Pillar 2 (see section 5)	man law. European Directive CRD IV will introduce a Countercyclical Capital Buffer (which is part of the Basel III package) as a first formal macroprudential instrument. BaFin is not empowered to impose any particular minimum initial margins or haircuts for OTC derivatives and securities financing transactions. However, based on the information provided in particular by Deutsche Bundesbank BaFin seeks to ensure that firms have the financial means to support the risks that they take.
30 (29)	(WAP)	Monitoring of asset price changes	Authorities should monitor substantial changes in asset prices and their implications for the macro economy and the financial system.	Ongoing	Monitoring capital market and asset prices and assessing their implications for the financial system and the macroeconomy at large is part of financial macro-prudential analyses in relevant German authorities, in particular BaFin and Deutsche Bundesbank. The joint BaFin-Bundesbank Risk Committee (see section 27) monitors their implications for the institutions.	Ongoing; see also section 27.
31 (32)	(FSF 2008)	Improved cooperation between supervisors and central banks	V.8 Supervisors and central banks should improve cooperation and the exchange of information including in the assessment of financial stability risks. The exchange of information should be rapid during periods of market strain.	Ongoing	Deutsche Bundesbank and BaFin have fora at different levels to exchange information including on financial stability (including the joint BaFin-Bundesbank Risk Committee). Meetings at executive level take place quarterly.	Ongoing.
VI. Strengthening accounting standards						
27 (11)	(WAP)	Consistent application of high-quality accounting standards	Regulators, supervisors, and accounting standard setters, as appropriate, should work with each other and the private sector on an ongoing basis to ensure	Ongoing		Ongoing monitoring

			consistent application and enforcement of high-quality accounting standards.			
28 (New)	(Seoul)	Convergence of accounting standards	We re-emphasized the importance we place on achieving a single set of improved high quality global accounting standards and called on the International Accounting Standards Board and the Financial Accounting Standards Board to complete their convergence project.	End-2011		Ongoing monitoring
29 (12)	(FSF 2009)	The use of valuation reserves or adjustments by accounting standard setters and supervisors	3.4 Accounting standard setters and prudential supervisors should examine the use of valuation reserves or adjustments for fair valued financial instruments when data or modelling needed to support their valuation is weak.	End-2009		Ongoing monitoring
30 (13)	(FSF 2009)	Dampening of dynamics associated with FVA.	3.5 Accounting standard setters and prudential supervisors should examine possible changes to relevant standards to dampen adverse dynamics potentially associated with fair value accounting. Possible ways to reduce this potential impact include the following: (1) Enhancing the accounting model so that the use of fair value accounting is carefully examined for financial instruments of credit intermediaries; (ii) Transfers between financial asset categories; (iii) Simplifying hedge accounting requirements.	End-2009		Ongoing monitoring
VII. Strengthening adherence to international supervisory and regulatory standards.						
31 (21)	(Lon)	Adherence to international pru-	We call on all jurisdictions to adhere to the international stan-	Ongoing	*Prudential area:* Germany adheres to the international standards in the prudential area.	*Prudential area*: An FSAP-Update was finalised in summer 2011 (see

		dential regulatory and supervisory standards	dards in prudential, tax and AML/CFT areas. We are committed to strengthened adherence to international prudential regulatory and supervisory standards.		Compliance was assessed in an initial FSAP in 2003. Germany is committed to regularly undergoing FSAPs/FSAP-Updates and FSB Peer reviews to assess its adherence to international financial standards and policies agreed within the FSB and to publish results. Germany participated in all past FSB thematic peer reviews and is currently participating in ongoing thematic peer reviews. See also sections 32 and 33. *Tax area:* Germany acknowledges and has implemented the OECD Standard on Tax Information exchange. On 10 July 2009, Germany has adopted a law providing powers for defensive measures against uncooperative jurisdictions (Law on Combating Tax Evasion, "*Steuerhinterziehungsbekämpfungsgesetz"*); the decree implementing these defensive measures was approved by the Federal Council of Germany (*Bundesrat*) on 18 September 2009. *AML/CFT area:* Essentially, Germany adheres to the international standards in the AML/CFT area. It has implemented the 40 + 9 Recommendations of the Financial Action Task Force (FATF) and the 3rd EC-Anti-Money Laundering Directive (2005/60/EC) mainly by the Act Supplementing the Act to Fight Money Laundering and Terrorist Financing ("Geldwäschebekämpfungsergänzungsgesetz") which entered into force on 21 August 2008. Germany was subject to a detailed AML/CFT-assessment by the IMF in the context of the 3rd round of FATF's mutual evaluations (adoption and publication of the report by the FATF in February 2010[8], and has to report back to the FATF in February 2012. The report revealed some deficiencies which	also section 33); a FSB country peer review will follow within the timeframe agreed in the FSB (see also section 32). Germany is committed to implementing recommendations resulting from the FSAP/FSAP-Updates and the peer reviews. Implementation of recommendations may require legislative steps. *AML/CFT area:* The Government is currently examining appropriate measures to further strengthen the AML/CFT regime.

[8] http://www.fatf-gafi.org/dataoecd/44/19/44886008.pdf

					mainly concern areas outside the financial sector (such as the supervision in the field of the “designated non financial businesses and professions – DNFBPs”). In order to remedy minor deficiencies in the financial sector, Germany adopted in March 2011 a bill (“Gesetz zur Umsetzung der zweiten E-Geld-Richtlinie”) which contains further preventive measures regarding the financial sector by amending the German Banking Act, the German Insurance Supervision	
32 (22)	(Lon)	Periodic peer reviews	FSB members commit to pursue the maintenance of financial stability, enhance the openness and transparency of the financial sector, implement international financial standards, and agree to undergo periodic peer reviews, using among other evidence IMF / World Bank FSAP reports.	Ongoing	Germany honours its commitments under the FSB charter, including to regularly undergoing FSB thematic and country peer reviews. Germany participated in the past FSB thematic peer reviews and is currently participating in ongoing thematic peer reviews. (See also section 31)	Germany is committed to participating in future thematic peer reviews; a country peer review will follow within the timeframe agreed in the FSB. (See also section 31)
33 (23)	(WAP)	Undertaking of FSAP	All G20 members commit to undertake a Financial Sector Assessment Program (FSAP) report and support the transparent assessment of countries’ national regulatory systems.	Ongoing	Germany undertook an FSAP update (including AML/CFT-ROSC) in 2011. Relevant detailed assessment grades of the initial FSAP were shared with the FSB for publication. A stand-alone AML/CFT-ROSC-Update was finalised in March 2010; results have been published[9]. (see also section 31) Detailed Assessment Reports from the 2011 FSAP update were published[10].	
Reforming compensation practices to support financial stability						
34 (15)	(Lon)	Implementation of FSB/FSF compensation principles	National supervisors should ensure significant progress in the implementation of FSF sound practice principles for compensation by financial institutions by the 2009 remuneration round.	End-2010	Germany has implemented the FSB Principles and Standards as well as the CRD III requirements on EU-level. Legislative amendments that entered into force in July 2010 incorporate the new requirements for remuneration systems of banks	Monitoring of financial institutions is ongoing. The new CRD IV may require some amendments in the respective national regulations of the EU member states. Nevertheless, CRD IV will not

[9] http://www.imf.org/external/pubs/cat/longres.cfm?sk=23740.0
[10] http://www.imf.org/external/pubs/cat/longres.aspx?sk=25219.0

	(Pitts) (Tor)		We fully endorse the implementation standards of the FSB aimed at aligning compensation with long-term value creation, not excessive risk-taking. Supervisors should have the responsibility to review firms' compensation policies and structures with institutional and systemic risk in mind and, if necessary to offset additional risks, apply corrective measures, such as higher capital requirements, to those firms that fail to implement sound compensation policies and practices. Supervisors should have the ability to modify compensation structures in the case of firms that fail or require extraordinary public intervention. We call on firms to implement these sound compensation practices immediately. We encouraged all countries and financial institutions to fully implement the FSB principles and standards by year-end. We call on the FSB to undertake ongoing monitoring in this area and conduct a second thorough peer review in the second quarter of 2011.		and insurers into substantive law. Details within the law are regulated by two ordinances, one for the banking, and the other for the insurance sector. Both came into force in October 2010. The new law – amongst others – implements FSB-Standard 3 which allows the supervisory authority to limit variable compensation when it is inconsistent with the maintenance of a sound capital base. Germany participated in the second thematic FSB peer review in 2011. In addition, Germany conducted a national implementation study in the first half of 2011 in order to monitor banks' progress with regard to improvements in their remuneration schemes.	have any negative effect on the transposition of the FSB compensation requirements.
35 (16)	(Pitts)	Supervisory review of firms' compensation policies etc.	Supervisors should have the responsibility to review firms' compensation policies and structures with institutional and systemic risk in mind and, if necessary to offset additional risks, apply corrective measures, such as higher capital requirements, to those firms that fail to implement sound compensation policies and practices. Supervisors should have	Ongoing	*Banking sector:* The German Banking Act enables the banking supervisor to review compensation policies and structures in the banking sector as to whether they are in line with the new governmental regulations (see section 34). The German Banking Act (KWG) enables BaFin to ban or limit the pay out of variable remuneration by institutions and to impose capital add-ons. If a firm requires extraordinary public intervention the German Financial Markets Stabilization	Monitoring of institutions is ongoing Ongoing review of compensation policies, focussing on groups with a balance sheet total larger than 45 billion Euros.

			the ability to modify compensation structures in the case of firms that fail or require extraordinary public intervention.		Fund ("Finanzmarktstabilisierungsfonds", SoFFin) may limit compensations. *Insurance sector:* The German Insurance Supervision Act enables the insurance supervisor to review compensation policies in the insurance sector as to whether they are in line with the new governmental regulations (see section 15) German Insurance Supervision Act, §81b subs 1a allows BaFin to limit or prohibit the payment of variable compensation elements under certain circumstances.	
VIII. Other issues						
Credit rating agencies						
36 (37)	(Lon)	Registration of CRAs etc.	All CRAs whose ratings are used for regulatory purposes should be subject to a regulatory oversight regime that includes registration. The regulatory oversight regime should be established by end 2009 and should be consistent with the IOSCO Code of Conduct Fundamentals.	End-2009	EU legislation entered into force in December 2009. A German statute necessary to execute the provisions of the EU Regulation in practice has also entered into force on 19 June 2010. The new Regulation (CRA II) entered into force on 31 May 2011. The European Securities and Markets Authority (ESMA) has the power of direct oversight and regulation of Credit Rating Agencies as of 01 July 2011.	A draft for further regulation (CRA III) is announced by the European Commission (EU-COM) for end of November 2011.
37 (38)	(Lon)	CRA practices and procedures etc.	National authorities will enforce compliance and require changes to a rating agency's practices and procedures for managing conflicts of interest and assuring the transparency and quality of the rating process. CRAs should differentiate ratings for structured products and provide full disclosure of their ratings track record and the information and assumptions that underpin the ratings process. The oversight framework should be consistent across jurisdictions with appropriate sharing of information between national authorities, including	End-2009	See section 36.	

			through IOSCO.			
38 (39)	(FSB 2009)	Globally compatible solutions to conflicting compliance obligations for CRAs	Regulators should work together towards appropriate, globally compatible solutions (to conflicting compliance obligations for CRAs) as early as possible in 2010.	As early as possible in 2010	IOSCO is coordinating international supervisors' work on CRAs (BaFin is a member).	Ongoing.
39 (40)	(Seoul) (FSF 2008)	Reducing the reliance on ratings	We also endorsed the FSB's principles on reducing reliance on external credit ratings. Standard setters, market participants, supervisors and central banks should not rely mechanistically on external credit ratings. IV. 8 Authorities should check that the roles that they have assigned to ratings in regulations and supervisory rules are consistent with the objectives of having investors make independent judgment of risks and perform their own due diligence, and that they do not induce uncritical reliance on credit ratings as a substitute for that independent evaluation.	Ongoing	According to the minimum requirements on risk management external ratings do not release institutions from their obligation to form their own judgment on credit risk and thereby incorporate own expertise, findings and information when taking credit decisions. This applies also for counterparty risk in the trading business.	In the EU, the FSB principles will be reflected in the Capital Requirements Directive (CRD IV), with details of implementation still under discussion. In the EU, discussions are on-going in the context of Solvency II.
Risk management						
40 (48)	(Pitts)	Robust, transparent stress test	We commit to conduct robust, transparent stress tests as needed.	Ongoing	*Banking sector* Robust stress testing by institutions is required by the Minimum requirements for risk management. In addition, supervisory stress tests are conducted on a regular basis. Germany participates in the EU stress tests conducted by EBA. *Insurance sector* Based on the German Insurance Supervision Act (circulars R 4/2011 (VA) and 1/2004 (VA)) the insurance undertakings have to conduct a stress test at least quarterly and to submit the stress test annually. BaFin predefines the	Ongoing, incl. ongoing further refinements of supervisory stress test methodology (especially with respect to cover financial conglomerates).

					stress test model and the scenarios in the annual stress tests. Quarterly stress tests have to meet appropriate criteria. Germany participates in the EU stress test of EIOPA.	
41 (49)	(Pitts)	Efforts to deal with impaired assets and raise additional capital	Our efforts to deal with impaired assets and to encourage the raising of additional capital must continue, where needed.	Ongoing	The programmes for asset relief and recapitalisation administered by the German Financial Markets Stabilization Fund have been taken up by banks and have stabilised these banks. The Deutsche Bundesbank in its Financial Stability Report (Nov 2009) underlined the need to build capital buffers; Bundesbank Board members continue to apply moral suasion in publicly encouraging the strengthening of capital.	The programmes for asset relief, recapitalization and liquidity support expired on 31 December. 2010. Only already existing asset relief agencies can still be used and rescue investments can still be supported to a limited extent. Since 1 January a new law has been enacted and provides measures to restructure banks if these are systemically important (cf. section 6).
42 (53)	(WAP)	Enhanced risk disclosures by financial institutions	Financial institutions should provide enhanced risk disclosures in their reporting and disclose all losses on an ongoing basis, consistent with international best practice, as appropriate.	Ongoing	German supervisory authorities have strongly advised the relevant international banks and insurance companies to adhere to this recommendation and informed industry about upcoming requirements at an early stage. Information from the main financial institutions shows that important banks have significantly improved their respective disclosure practices.	Ongoing. (Germany participated in the FSB thematic peer review on risk disclosure.)
Others						
43 (55)	(Pitts)	Development of cooperative and coordinated exit strategies	We need to develop a transparent and credible process for withdrawing our extraordinary fiscal, monetary and financial sector support, to be implemented when recovery becomes fully secured. We task our Finance Ministers, working with input from the IMF and FSB, to continue developing cooperative and coordinated exit strategies recognizing that the scale, timing and sequencing of this process will vary across countries or regions and across the type of policy measures.	Ongoing	*Financial sector support* Germany continues to develop exit strategies from financial support measures in the framework of EU state aid procedures as well as on the level of the ECOFIN Council in order to assure the level playing field within the EU. *Fiscal policy:* Consolidating the public budgets in accordance with a credible exit strategy is a central political task in Germany from 2011 onwards. In line with the obligations of the new constitutional budget rule, the federal government has implemented the required consolidation measures in its budget and medium term fiscal plan. The draft federal budget 2012 has entered parliamentary procedure and is envisaged to be passed at the end of 2011. The growth	*Financial sector support* Within the existing frameworks, Germany established a committee of experts on exit strategies that has reviewed the existing recapitalisation measures. The programmes for asset relief, recapitalization and liquidity support expired on 31 December.2010. Only already existing asset relief agencies can still be used and rescue investments can still be supported to a limited extent. Since 1 January 2011 a new law has been enacted and provides measures to restructure banks if these are systemically important. (cf. section 6)

					friendliness of the fiscal consolidation plan is an objective of high priority. Click here for further information: Federal Ministry of Finance: Bundestag approves 2011 budget: (http://www.bundesfinanzministerium.de/nn_103442/EN/Topics/Fiscal-policy/Articles/26112010-Budget.html?__nnn=true) Federal Ministry of Finance: Cabinet adopts consolidation package: (http://www.bundesfinanzministerium.de/nn_103442/EN/Topics/Fiscal-policy/Articles/20100901-Cabinet-adopts-consolidation-package.html?__nnn=true)	*Fiscal exit:* Germany will continue with the credible implementation of its fiscal exit strategy: The consolidation measures included in the federal government's fiscal plan until 2015 will contribute to meet the recommendations at the European and G20 level.

Origin of recommendations:

Seoul: The Seoul Summit Document (11-12 November 2010)
Pitts: Leaders' Statement at the Pittsburgh Summit (25 September 2009)
Lon: The London Summit Declaration on Strengthening the Financial System (2 April 2009)
Tor: The G-20 Toronto Summit Declaration (26-27 June 2010)
WAP: The Washington Summit Action Plan to Implement Principles for Reform (15 November 2008)
FSF 2008: The FSF Report on Enhancing Market and Institutional Resilience (7 April 2008)
FSF 2009: The FSF Report on Addressing Procyclicality in the Financial System (2 April 2009)
FSB 2009: The FSB Report on Improving Financial Regulation (25 September 2009)