

**France: Financial Sector Assessment Program—  
Technical Note on Crisis Management and Bank Resolution Framework**

This paper was prepared by a staff team of the International Monetary Fund as background documentation for the periodic consultation with the member country. It is based on the information available at the time it was completed in June 2013. The views expressed in this document are those of the staff team and do not necessarily reflect the views of the government of France or the Executive Board of the IMF.

The policy of publication of staff reports and other documents by the IMF allows for the deletion of market-sensitive information.

Copies of this report are available to the public from

International Monetary Fund • Publication Services  
700 19<sup>th</sup> Street, N.W. • Washington, D.C. 20431  
Telephone: (202) 623-7430 • Telefax: (202) 623-7201  
E-mail: [publications@imf.org](mailto:publications@imf.org) Internet: <http://www.imf.org>

**International Monetary Fund  
Washington, D.C.**

FINANCIAL SECTOR ASSESSMENT PROGRAM UPDATE

FRANCE

CRISIS MANAGEMENT AND BANK RESOLUTION FRAMEWORK

TECHNICAL NOTE

JUNE 2013

INTERNATIONAL MONETARY FUND  
MONETARY AND CAPITAL MARKETS DEPARTMENT

Contents	Page
Glossary .....	3
Executive Summary .....	4
I. Introduction .....	7
II. Crisis Preparedness and Preparation .....	8
A. Assessment.....	8
B. Comments and Recommendations.....	11
III. Bank Resolution.....	13
A. Assessment.....	13
B. Comments.....	14
IV. Role and Mandate of Banque de France.....	15
A. Assessment.....	15
B. Comments and Recommendations.....	16
V. Role and Mandate of the Ministry of Finance .....	17
A. Assessment.....	17
B. Comments and Recommendations.....	18
VI. Role and Mandate of the Deposit Insurance Fund.....	19
A. Assessment.....	19
B. Comments and Recommendations.....	21
C. Bank Resolution Fund.....	23
VII. Cooperation and Information Sharing on Crisis Issues.....	24
A. Cooperation Between the French Authorities.....	24
B. Cross-Border Cooperation Within the European Economic Area .....	25
C. Cross-Border Cooperation with Third Countries.....	26
VIII. Recovery and Resolution Plans.....	26
A. Assessment.....	26
B. Comments and Recommendations.....	27
IX. Expected Developments .....	28

## GLOSSARY

ACP	<i>Autorité de Contrôle Prudentiel</i>
AMF	<i>Autorité des Marchés Financiers</i>
BCBS	Basel Committee on Banking Supervision
BCP	Basel Core Principles for Effective Banking Supervision
BdF	Banque de France
CI	Credit institution
CMF	<i>Code Monétaire et Financier</i>
CMG	Crisis management group
COREFRIS	<i>Conseil de la Régulation Financière et du Risque Systémique</i>
EBA	European Banking Authority
ECB	European Central Bank
ELA	Emergency liquidity assistance
ESRB	European Systemic Risk Board
EU	European Union
FDIC	Federal Deposit Insurance Corporation
FGD	<i>Fonds de Garantie de Dépôts</i> (Deposit Insurance Fund)
FSAP	Financial Sector Assessment Program
FSB	Financial Stability Board
G-SIFIs	Globally systemically important financial institution
IOSCO	International Organization of Securities Commissions
MOF	Ministry of Finance
MOU	Memorandum of Understanding
Non-G-SIB	Nonglobally systemically important bank (which does not qualify as a global systemically important financial institution according to the set criteria)
OBA	Open bank assistance
ORAP	<i>Organisation et Renforcement d'Action Préventive</i>
PCA	Prompt Corrective Action
RAS	Risk assessment system
RRP	Recovery and resolution plan
SIB	Systemically important bank
SFEF	<i>Société de Financement de l'Economie Française</i>
SPPE	<i>Société de Prise de Participation de l'Etat</i>
SREP	Supervisory Review and Evaluation Process

## EXECUTIVE SUMMARY

**The French banking system weathered the crisis 2007–09 relatively well.** As in many other European Union (EU) countries, the French authorities provided capital support and guarantees to banks; and the extension of liquidity from Banque de France (BdF)—being part of the Eurosystem—was significant. Overall, however, there was limited intervention from the authorities in individual banks and the banks were, to a large degree, able to deal themselves with their balance sheet problems through private capital infusions by deleveraging and by reducing dividends.

**Already, before the crisis, France had a comprehensive framework for crisis management and bank resolution.** Based on developments as of end-January 2012, with some exceptions, the French framework contains the instruments and measures that now constitute international best practices and which (likely) will be recommended in the expected proposal for an EU Directive on a bank resolution framework. However, the legal processes for the liquidation or bankruptcy of financial institutions might not be separate enough to handle the specific issues of bank resolution as distinct from liquidation. Indeed, although the definition of the cessation of payments and the appointment of an administrative liquidator by the *Autorité de Contrôle Prudentiel* (ACP) are distinct features, the rest of the process is the same as those for nonfinancial corporations fit to handle.

**The crisis preparation, crisis identification, and crisis management processes in the supervisory authority (ACP) are comprehensive and well structured.** Without having a formal U.S.-type “PCA-regulation,” the ACP identifies weak banks and requests appropriate remedial measures to be taken (although the FSAP assessment has identified the occurrence of delays in some cases). The ACP also actively uses the Basel II Pillar 2 instrument to require add-ons on an individual-bank basis to the minimum regulatory capital requirements, reflecting the assessed riskiness of a bank.

**The ACP has a wide range of remedial and sanctionary powers at its disposal, including the right—under defined circumstances—to appoint an interim administrator in a bank.** Ultimately, the ACP may revoke a bank’s license, which automatically will start the judicial liquidation process.

**The funds of the *Fonds de Garantie de Dépôts* (FGD, the deposit guarantee agency) may be used either for compensation to depositors or for recovery actions in order to prevent the disorderly failure of a bank.** The latter function can only be triggered after an invitation from the ACP, and the FGD has the power to accept or to decline such an invitation. In practice, the decision of the FGD will, as a rule, be based on a “least-cost” consideration, e.g., whether the cost of providing financial support is likely to be lower or higher than that of a pay-out to depositors in liquidation.

**The specific roles of the Banque de France (BdF) in crisis management lie mainly in the provision of liquidity through standing or extraordinary facilities like the emergency liquidity assistance (ELA), in the analysis of overall financial stability and in its responsibility to ensure the smooth functioning of the payment system infrastructure.** All liquidity provision is subject to the rules and restrictions of the Eurosystem.

**The main roles of the Ministry of Finance (MOF or *Le Trésor*) in crisis management are in initializing and drafting laws and regulations in the financial field; in negotiating international agreements; and in following developments in the financial sector and in individual banks through its participation in various bodies such as the ACP.** During the 2007–09 crisis, the government—through various vehicles—provided significant solvency and liquidity support to banks.

**Close cooperation and information sharing among the relevant authorities is ensured mainly through cross-Board-memberships.** For instance, the MOF as well as the BdF are represented on the ACP Board, with the BdF governor being the President of the Board. Cooperation on crisis management matters also takes place in a wide range of other domestic and international fora. Furthermore, the ACP is an organizational, although operationally independent, part of the BdF. The president of the FGD is appointed with a specific agreement from the MOF, its by-laws, rules, and financing are also determined by—or with the agreement of—the MOF, whereas the FGD Supervisory Board mainly consists of active bankers, as the FGD is a private organization funded by the contributing institutions.

**A recurring conclusion in this assessment note<sup>1</sup> is that—while the close organizational links between the authorities and, indeed, within a limited group of persons provide powerful means for cooperation and information sharing, which is positive not least in a crisis—they could also blur the transparency and accountability for the separate responsibilities of said authorities.**

**The French authorities had so far no certainty about the adjustments needed to be made to its legislation, as precise proposals on crisis management and resolution framework issues from international bodies were not yet on the table.** In particular, an EU Commission proposal on a bank resolution framework is expected to be presented soon. The authorities are mainly positive to the proposals of the EU Commission (as indicated in the French authorities' reply to the Commission's Consultative Paper of 2011), but prefer harmonized EU-wide regulations to taking unilateral steps.

---

<sup>1</sup> As well as in the standards assessments for France, e.g., the Basel Core Principles (BCP), Insurance Core Principles (ICP), and International Organization of Securities Commissions (IOSCO).

**Due to the cross-border structure of the major French financial groups, the authorities emphasize the need for cooperation and information sharing in the so-called crisis management groups (CMGs) of the individual financial groups, in which both home and host authorities are represented.**

**At present, the large French financial groups are requested to draft so-called Recovery and Resolution Plans (RRPs) with the aim to reduce the risk of a default, but also to reduce the impact of an eventual default.** These plans are drafted on a group-wide, cross-border basis. For the three largest banks,<sup>2</sup> the drafting is advanced and their RRP are expected to be presented shortly. For the other French systemically important banks, the RRP are to be presented before end-2012 in accordance with the Financial Stability Board (FSB) regime on Key Attributes for Effective Resolution.

---

<sup>2</sup> BNP Paribas, Société Générale, Crédit Agricole.

## I. INTRODUCTION

- 1. As part of the Financial Sector Assessment Program (FSAP) for France, January 10–27, 2012, this note aims to identify challenges and measures to strengthen arrangements for crisis management and resolution of banks.** The note was prepared<sup>3</sup> after discussions with the MOF, the BdF, the ACP (integrated financial supervisor), the FGD (deposit protection scheme), independent “think-tanks,” and with banks. Information has also been gathered from other work streams of the French FSAP, in particular from the BCP assessment.
- 2. Crisis management and bank resolution frameworks handle distress in financial institutions while trying to minimize the risks to financial stability.** This note covers several fields, including identification and handling of potential problem institutions, liquidity assistance, bank resolution, and deposit insurance. It also analyzes the coordination between different authorities having different institutional mandates and responsibilities. The note further explores whether the crisis-management processes are ex-ante defined and embedded in the regulatory framework. The note also discusses the cross-border crisis arrangements.
- 3. A logical order to describe and to analyze the issue is to follow the path of a credit institution that is gradually deteriorating from a healthy state to experiencing increasing problems, to efforts of recovery, and—finally—to a resolution stage that may, or may not, involve the liquidation of the institution.** This note follows such an approach, starting with crisis preparedness and crisis preparations of the authorities, then discussing crisis management measures, and—at the end—recovery and resolution arrangements. Although the note focuses on the actions of the authorities, obviously the prime responsibility for avoiding banking problems rests with the institutions themselves. The authorities must provide the proper positive incentives (such as supporting legislation) and negative incentives (such as sanctions for misbehavior) in order to strengthen the institutions and their managements’ powers and will to avoid problems and crises. This must be underpinned by timely and adequate monitoring by the supervisory and other authorities. That said, problems may still occur, and, therefore, a comprehensive framework for crisis management and bank resolution is necessary. The traditional legal resolution frameworks that apply for all corporations, also nonfinancial, are not appropriate for financial institutions. The generally long time delay before the effective start of resolution, and, indeed, also for the conclusion of a legal process of winding down an institution, will imply large costs for banks, whose intrinsic values normally decline very rapidly in a problem situation. A delay in repayment of, or providing prompt access to, depositors’ funds might lead to depositor runs on other banks, thus creating contagion in the whole banking system.

---

<sup>3</sup> The note was prepared by Göran Lind, Adviser to the Executive Board of the Sveriges Riksbank. It reflects developments as of end-January 2012.



## II. CRISIS PREPAREDNESS AND PREPARATION

### A. Assessment

4. **The French authorities held a domestic crisis exercise in March 2008, based on the EU Memorandum of Understanding (MOU) on Crisis Management.** After that, it has been deemed that the need to deal with “the real crisis” has to be prioritized before conducting another crisis exercise.

5. **Various methods are applied to identify risks to the banking system at an early stage.** Through its internal *Comité de stabilité financière* and for the purpose of the COREFRIS (*Conseil de la régulation financière et du risque systémique*, chaired by the MOF), the BdF—in cooperation with the ACP—conducts macroprudential analysis aiming to find broad vulnerabilities, such as “bubbles” in financial or economic areas, which may ultimately affect the banking system or individual banks. The analysis follows the forms recently established by the European Systemic Risk Board (ESRB). The results are reported to the BdF and the ACP Board. For instance, such analyses have led to the strengthening of the rules and monitoring of banks’ exposures to the commercial property market.

6. **The ACP conducts stress tests of the banks, using the same format as the one used by the European Banking Authority (EBA), hence reducing the amount of work also for the banks.** The ACP’s off-site monitoring of quantitative regulatory reports from banks is, among other things, used for peer reviews with the aim to identify potentially vulnerable “outliers.”

7. **The ACP does not execute a formal “PCA-type” system, which it characterizes as too rigid, but it seeks to obtain similar results in the following way:**

- All regulated entities (including credit institutions, investment firms, finance companies) are regularly evaluated through the Supervisory Review and Evaluation Process (SREP), which includes:
  - A structured review of the main risks faced by a firm, its compliance with prudential and other regulatory requirements, and the adequacy of the internal control system. This review is conducted using an internal methodology (“ORAP2”), which relies on a wide range of quantitative and qualitative information received from both the firm and from external sources. For cross-border groups, the review includes inputs from foreign supervisors.
  - A close and continuous dialogue with the supervised entity to share and challenge the diagnosis of the risk assessment system (RAS).
  - A final assessment of the firm’s risk profile is summarized in a global rating. Institutions will be rated along a scale from 1 to 5 (5 being the grade for banks

in the worst condition). The rating, in conjunction with an analysis of the risk profile and systemic importance of the bank, may lead to a capital add-on through the application of Basel II Pillar 2. (The Pillar 2 add-ons are in practice used frequently and affect presently some 80 banks.) Ratings for banks in grades 1, 2, and 3 are generally reviewed on a yearly basis; ratings for grade-4 banks are reviewed twice yearly and ratings for grade-5 banks are reviewed quarterly. Ratings of individual banks could also be reviewed on an ad-hoc basis, although this has only occurred exceptionally.

8. **In the case of a bank being assessed by the ACP as increasing its risks, e.g., by a higher risk profile, by inadequate risk management, or by a decline in its capital adequacy ratio, it will, as a rule, result in a lower rating.** The lower rating may, in turn, imply the onset of additional supervisory measures, including a higher Pillar 2 requirement for the bank's capital. Each rating category is linked to a range ("bucket") of capital adequacy requirements, so a lower rating automatically leads to a higher capital requirement.

9. **The structure applied by the ACP does not prescribe any fixed set of remedial measures.** Rather, the ACP may use its judgment to select from the full range of available measures with the aim to use the measures best suited to mitigate the actual weaknesses of the bank. That said, in the event of nonfulfillment of the minimum capital requirement—including any Pillar 2 add-on—the ACP must require the bank to restore capital adequacy within the near future, at the threat of withdrawing the bank's license.

10. **The ACP Board is regularly informed of rating changes and, more generally, about pending problems.** Hence, through the broad composition of the Board, also the BdF, the MOF, and the *Autorité des Marchés Financiers* (AMF, the authority for the surveillance of the financial markets and the securities firms) will receive information about potential problem institutions. However, the FGD is not represented on the ACP Board, and there is no formal duty to inform the FGD as long as a bank is in going-concern situation. Nevertheless, the ACP shall inform and consult the Chairman of the Managing Board of the deposit guarantee fund on any matter concerning an institution in respect of which it intends to implement the guarantee fund, or for which it intends to propose a precautionary measure by said fund (see Article L. 613-34 of the *Code Monétaire et Financier* (CMF), the monetary and financial code). The Chairman of the Executive Board shall also be heard, at his request, by the ACP.

11. **The ACP may appoint an interim administrator on its own initiative, or on the bank management's initiative, when the supervised institution can no longer be run under normal conditions or when the managers have been temporarily suspended or have been dismissed.** The full powers of the entity's administration, management, and representation are transferred to the interim administrator. The administrator will thus subsume the powers of the CEO as well as the administrative powers of the Supervisory Board; however, the Board will remain in place. The administrator may sell a

bank's assets and liabilities (but not the whole bank, as this could amount to a liquidation of the bank, which is the prerogative of the bank's shareholders). The ACP has used its mandate to appoint an interim administrator on several occasions; in particular, when the existing management is not able, or willing, to take urgent actions recommended by the ACP. The process to appoint an administrator is geared for quick implementation—within 24 hours, when necessary. If urgent, the President of the ACP Board may appoint the administrator on a temporary basis, without a prior hearing of the entity. Such a decision should be endorsed afterward by the ACP Board. The institution may appeal the appointment of an interim administrator. While the court is deliberating the issue, the interim administrator will remain in the institution and continue its work normally. (There has been a case of a mutual insurance institution, in which the court has repealed the ACP decision and has reinstated the original manager).<sup>4</sup>

12. **The ACP may also be active in assisting, on an informal basis, by seeking suitable merger partners for problem institutions, and has done so on several occasions.**

13. **The ACP has available a broad range of supervisory actions, which are selected in view of the nature and severity of the situation.**

- **A letter** is intended to prompt the supervised institution to adopt appropriate measures to strengthen the institution or its management. Such a letter is—as a rule—sent to the bank's management after the completion of an on-site inspection.<sup>5</sup> Moreover, for the five largest banking groups, the ACP General Secretary sends a yearly letter to the group's Executive Board, after a bilateral meeting, to summarize the ACP's assessment of the group's risk profile and the main areas in which improvements are expected.
- **An injunction** requires that the entity takes specific measures to comply with the prevailing regulations. Such measures may consist of restoring or strengthening the financial situation, improving the management techniques, or ensuring the adequacy of the organization in relation to its activities or plans for development. The injunction is normally a very precise requirement for the institution to adopt a targeted action (as opposed to a broad set of measures).
- **Administrative policy measures**,<sup>6</sup> which include: (i) warning to prevent breaches related to best practices in the banking sector; (ii) formal notice to remedy breaches of

---

<sup>4</sup> Attention is drawn on the fact that this case still to be considered as a legal question is pending. Indeed, in the meantime, all activities of the institution have been transferred.

<sup>5</sup> Article L 612-27 CMF.

<sup>6</sup> Articles L 612-30 to L 612-34 CMF.

obligations placed under the control of the ACP; (iii) requirement of a remedial action program to restore or bolster the financial situation, improve management methods, or ensure that the organization is suitable for its activities; (iv) protective measures (such as placing under special supervision, the restriction or temporary ban of certain operations, restrictions on the disposal of assets, restrictions on paying dividends to shareholders, or suspension of managers); or (v) the appointment of an interim administrator. Administrative policy measures are normally taken only after a preliminary hearing of the concerned entity; however, in the case of emergency, the ACP Board chairman (i.e., the BdF governor) may take such measures—on a temporary basis—without prior hearing of the entity.

## **B. Comments and Recommendations**

14. **The structure adopted by the ACP for crisis prevention builds on a comprehensive risk analysis, which includes quantitative as well as qualitative information, global ratings of banks, potential capital add-ons based on Pillar 2, and the use of supervisory judgment.** An assessment of increased risks in a bank, including declining capital funds, implies an assumption of the implementation of some form of supervisory action to remedy the specific weakness. Notably, a lower rating will lead automatically to a higher capital requirement, thus compensating for the higher risk.

15. **The mandate for appointing an interim administrator is a powerful and appropriate instrument for dealing with certain crisis situations.** That said, whenever possible, the preferred solution should be to let the institution itself try to handle its problems, if necessary, by first changing its management. This approach is also followed in practice by the ACP. The instrument for appointing an interim administrator is mostly used in the banking sector for institutions that often enter into liquidation a few weeks or months after the appointment. The interim administrator's work thus facilitate the winding-up measures; notably, the FGD work. It can also be used in a situation where institutions have governance problem when awaiting new shareholders and management. Many such cases are still occurring in the insurance sector. More generally, the ACP has available a comprehensive set of supervisory actions that may be adapted to the specific problem situation of a bank.

16. **In the view of the FSAP assessor, the ACP system is appropriate both in identifying emerging problems in banks and in dealing with them in an orderly fashion, hence reducing the risk of ultimate bank failure.** However, there have been cases in which the time delay from an ACP request to the bank to take a remedial measure, to the time of ACP verification by an on-site visit, was far too protracted. One of the main reasons for the first part of the delay was the infrequent on-site schedule for non-systemically important institutions. Timely and adequate remedial measures, but also timely and effective follow-up from the ACP that the measures have been implemented as intended, are key to a credible crisis prevention system.

17. **While the supervisory analysis is comprehensive as well as detailed, there are indications that there is excessive focus on “form” and quantification.**<sup>7</sup> As one example of many, Dexia was (appropriately) criticized by the ACP for not complying with the regulatory quantitative liquidity ratio minimum targets; however, there was less supervisory emphasis on the overall liquidity strategy of the bank, which proved to be highly vulnerable.

***Recommendation 1***

*The follow-up process on ACP requests for remedial measures must ensure validation of the taken measures without too much delay (depending on the nature and gravity of the situation). As an example, in cases in which an on-the-spot validation is necessary, a strictly targeted visit—outside the regular schedule for on-site visit—to the institution should take place when the institution reports that it has implemented the required measure.*

***Recommendation 2***

*Introduce and implement a formal rule for automatic and early information to the FGD about banks, whose deteriorating situation may call for subsequent FGD action, either in the form of pay-out to depositors or in providing financial support in a recovery situation. In view of the sensitive nature of such information, it will be understood that the FGD may only use it for internal preparations until its explicit involvement is warranted. Also the communication itself from the ACP to the FGD should be formalized as to content and form (written). Considering the composition of the FGD Supervisory Board containing active bankers, the information should only be provided to the FGD Management Board of Directors.*

***Recommendation 3***

*The authorities should conduct a domestic-crisis exercise with the aim to test the cooperation and information-sharing arrangements and also the current laws, regulations, and processes. Although it is understood that “real problems” must have priority in the work of the authorities, such an exercise—which could take a simple and not very time-consuming form—would be highly useful in identifying any weaknesses in the present arrangements.*

---

<sup>7</sup> Similar indications were also identified in the BCP assessment.

### III. BANK RESOLUTION

#### A. Assessment

18. **There is not yet a “special resolution regime” for credit institutions in the French legislation, awaiting a harmonized EU regime.** Thus, the traditional judicial liquidation or insolvency processes apply. These processes generally follow the Commercial Code, i.e., they are the same for financial companies as they are for nonfinancial companies. However, there are some particular rules in the CMF (Articles L 312-4 and L 613-24), which lay down specific triggers and powers for the ACP and the FGD in conjunction with the liquidation or bankruptcy of supervised financial institutions.

19. **A regulated financial institution may enter into liquidation or bankruptcy procedures only after the decision by a court.** The court may act on an application from the ACP or from the bank, including by the ACP-appointed interim administrator or from other parties, such as the bank’s creditors.

20. **A decision by the ACP to withdraw the bank’s license implies an automatic start of liquidation of the bank.** The ACP would consider withdrawing a license when an institution has breached an important legislative or regulatory provision and failed to respond adequately, and timely, to the supervisor’s requests. A typical situation would be a violation of the capital adequacy requirements. The withdrawal of a license is a legally defined trigger for starting the liquidation process, so the court will confirm the decision, provided that all necessary formalities have been fulfilled.

21. **With that said, bank resolution measures could take place prior to the start of the license withdrawal/liquidation process.** For instance, liquidity or capital support, or guarantees, could be provided to the bank, assets might be sold, the institution may be reorganized, or a merger could take place.

22. **In this sense, the ACP has a central role in “triggering” a bank resolution.** It will often do so first by appointing an interim administrator of the bank, who will then conduct the resolution. When an interim administrator has been appointed, the ACP, after seeking the opinion of the FGD, may refer the matter to “*le Tribunal de Grande Instance*” (a jurisdiction that is competent in private sector matters) to enable it to order the transfer of the shares held by one or more of the de-facto or de-jure executives (Article L 613-25 CMF).

23. **The ACP may also recommend preventive action of the FGD in order to avoid a disorderly default situation in which deposits may become unavailable (Article L 312-6 CMF).<sup>8</sup>**

---

<sup>8</sup> This issue is further described and discussed in the FGD section of this note (Section VI).

24. **Besides the ACP's own administrative powers, the ACP is playing a role in judicial procedures defined by the common company law regime when they apply to credit institutions.** The following procedures cannot be initiated to a credit institution until the opinion of the ACP has been obtained (Article L 613-27 CMF). Furthermore, beside the administrative liquidator appointed by the ACP, the court can empower the receiver (in a liquidation process) only with the supervision of the bank management's operations.

25. **Company law defines three types of judicial procedures in order to prevent bankruptcy.** The composition procedure, the safeguard procedure, and the reorganization procedure.

- **The composition procedure** (Article L 611-4 ff) applies to financial institutions that have not been in a state of payment cessation for more than 45 days. A conciliator is appointed by the judge with the mission to promote an amicable agreement between the debtor and the main creditors. This procedure is confidential.
- **The safeguard procedure** (Article L 620-1 ff) applies to financial institutions that have problems they cannot overcome and which would lead to a cessation of payments.<sup>9</sup> The company will be reorganized in order to promote the continuity of its activities in respect to the safeguard plan adopted by the judge.
- **The reorganization procedure** (Article L 631-1 ff) applies to financial institutions that are already in a state of cessation of payments. The reorganization procedure (like the safeguard procedure) implies a temporary suspension of judicial proceedings, an observation period, and finally a reorganization plan

## B. Comments

26. **Although there is no specific resolution framework for banks or other categories of financial institutions, the ACP has available a broad set of powers to initiate or execute resolution with the aim either (i) to recover the institution thus avoiding entry into a liquidation/bankruptcy process; or (ii) to ensure the orderly liquidation, when necessary.** The formalized framework of interaction between the ACP (sometimes also the FGD) and the judicial system will ensure the fair treatment of owners and other rights' holders as well as the broader interests, such as "financial system stability" of the society at large.

---

<sup>9</sup> Payments here should be understood as any current liability, including deposits.

#### IV. ROLE AND MANDATE OF BANQUE DE FRANCE

##### A. Assessment

27. **Since the ACP and the BdF are closely linked as organizations, e.g., by having the same president/governor, a strict division of roles would seem less meaningful than in a situation where the supervisory authority and the central bank are two separate institutions.** That said, each of the two authorities is independent and has a different role defined in different legislative provisions. Hence, the BdF maintains several distinct central bank functions that are important for crisis management and bank resolution.

28. **As other central banks, and as a member of the Eurosystem, the BdF may provide general liquidity facilities within the restrictions of the system.** It did so during the 2008–09 crisis, for instance, in non-euro currencies. The BdF may, in addition and still within the constraints of the Eurosystem rules, provide ELA to individual banks that are considered solvent but face liquidity problems. A national central bank that provides ELA must provide the European Central Bank (ECB) with a predefined set of information. While granting the ELA remains a decision to be taken by the national central bank (carried at its own risk); liquidity support through ELA requires the exchange of information and—depending on circumstances—may require prior approval from the governing council, because these operations may interfere with the single monetary policy.

29. **The BdF collects market intelligence information and frequent information on liquidity positions, and also for individual banks.** This information is being shared and discussed with the ACP, which uses it in its assessments of the financial system and of individual banking institutions.

30. **The BdF is continuously informed about problem banks, relevant to the performance of its duties and through its representation in the ACP Board, where it is expected to express its opinion and thereby influence any decision.** However, outside its role in the ACP, the BdF does not have any specific powers or roles on triggering or conducting bank resolution. Nonetheless, under exceptional circumstance—in particular to prevent the Eurosystem from imminent losses—the BdF may decide to suspend or limit a counterparty’s access to Eurosystem monetary operations on the grounds of prudence or event of default. The national central bank must seek ex-post approval from the ECB Governing Council for such decision without delay.

31. **Since the ACP/BdF regard themselves more or less as a single, integrated organization cooperating closely on an informal basis, they do not find it meaningful to consult one another formally.** Thus, the BdF does not formally ask the ACP for a separately written assessment of the systemic importance and solvency position of a bank that applies for ELA. Nor does the ACP ask the BdF for a written assessment—e.g., on the potential market repercussions—when it intends to withdraw the license of a bank.



## B. Comments and Recommendations

32. **In the prevailing structure, with the central bank and supervisory authority closely intertwined, it makes sense to leave the leading role in crisis prevention and crisis management to the ACP, whose Board comprises the BdF, the MOF, and the AMF.** The ACP is also continuously supported by information from the BdF relevant to the performance of its duties, e.g., on market intelligence and liquidity developments. That said, the BdF and the ACP have different roles and mandates, and best practices for governance and accountability require that their separate views—based on their different objectives—are expressed transparently. Hence, the ACP should be required to explicitly express its assessment on the solvency and the systemic importance of a bank applying for ELA. Also, the BdF should be asked to explicitly express its assessment on a proposal from the ACP to withdraw the license, or generally to request the court system to effect the liquidation of a bank.

33. **The BdF does not currently publish a so-called Financial Stability Report (FSR), although it produces an internal informal version, as well as a Financial Stability Review.** The FSAP assessor finds the publication of an FSR to be a useful tool, not least by shaping the knowledge and expectations of the general public and the market actors. It can also be used as a macroprudential instrument in that the authorities could communicate their views and concerns—for instance on emerging financial imbalances or “bubbles”—with the aim to change the various actors’ behavior.

### ***Recommendation 1***

*Establish a rule so that the BdF must always consult (a priori) the ACP on its assessment on solvency and systemic importance of a bank seeking ELA.*

### ***Recommendation 2***

*Establish a rule so that the ACP—if considering that a situation may have systemic implications—must consult (a priori) the BdF on its assessment on the suitability, e.g., considering market repercussions, of an ACP proposal to withdraw the bank license or generally to request the start of the liquidation process.*

### ***Recommendation 3***

*The BdF should publicize a Financial Stability Report on a regular basis.*

## V. ROLE AND MANDATE OF THE MINISTRY OF FINANCE

### A. Assessment

34. **The MOF, as part of the government, prepares and proposes primary legislation to the French parliament.** In addition, the MOF is empowered to draft secondary legislation (regulations) on delegated financial sector issues. The French legal and organizational framework for crisis management and bank resolution is expected to be significantly modified in 2012, after the adoption of the Resolution Directive, which is being drafted by the European Commission. The MOF is also active in other international fora that prepare decisions and guidelines on crisis-management issues, such as the FSB and the Basel Committee on Banking Supervision (BCBS).

35. **At present, most of the measures for crisis management and bank resolution are decided by the ACP and the judicial system.** As an observer of the ACP Board, the MOF is able to take part indirectly in its decisions through its power to ask the Board for reconsideration of an issue. The MOF also discusses crisis-management issues, such as the implementation of RRP, in the CMGs of the major French banks.

36. **Furthermore, the MOF may be directly involved in operations involving public financial support to banks.** The instruments, created to deal with the crisis in 2008, have not been used since 2009, but may be reactivated; namely:

- The *Société de Financement de l'Economie Française* (SFEF) is a mutualized funding vehicle with minority participation by the state, but with a public guarantee for its obligations. The SFEF may provide guarantees to creditors to banks. During the 2008–09 crisis, it issued guarantees for senior debt in banks amounting to €77 billion. The scheme was terminated for issuing new guarantees at end-2009. The amount of outstanding guarantees at end-2011 was approximately €55 billion.
- The *Société de Prise de Participation de l'Etat* (SPPE) is a fully state-owned vehicle with a public guarantee. The SPPE may purchase shares in financial institutions or buy Tier 1 debt instruments. During the 2008–09 crisis, the SPPE bought shares for €1 billion (only in Dexia). These were preferential shares with priority to dividend payments over ordinary shares and with a gradually increasing reimbursement price, providing an incentive for early redemption by the bank's owners. The SPPE also invested €19 billion in banks in the form of hybrids or other forms of Tier 1 capital. These have now been redeemed in full by the banks.
- As conditions for the financial support from the SFEF and the SPPE, the MOF requested that banks receiving support would (i) adhere to the MOF guidelines on restricting bank directors' remunerations; and (ii) undertake to maintain a certain level of lending to small and medium enterprises, and local government bodies.

37. **Overall, the MOF envisages a more active future role for itself in crisis management and in bank-resolution issues.** Notably, in the (mostly international) negotiations on new rules and guidelines, but also by being updated closely on domestic potential problem bank situations that might call for some form of public financial support.

38. **As noted, a proposal for an EU Directive on a resolution framework is expected to be presented shortly.** Awaiting this, the MOF has not made any proposals for legislative changes in this field recently. The MOF was, with a few exceptions, positive to the draft proposal by the EU Commission, which was sent to the EU member states for consultation last summer. On the issue of establishing a resolution authority, the MOF has not yet made a final decision, but is considering different options. One of those would be to distinguish between a “trigger authority” and an “implementation authority/authorities.” Alternatively, there might be a “Resolution Board” on which all relevant authorities are represented. Such a Resolution Board could be constructed, according to the MOF, either to have the power to make decisions that are directly binding legally on the participating authorities, or make nonbinding decisions that then would be confirmed by decisions within each of the authorities, thus respecting their independent mandates. In any case, the MOF finds it necessary to play a major role in the resolution of any institution for which public monies were being requested.

## **B. Comments and Recommendations**

39. **During the crisis, the MOF acted on an ad hoc basis, largely harmonized within the European Union, as did other countries, in order to reduce the impact of the problems resulting from the malfunctions of various financial markets.** Capital, as well as guarantees, were provided on prudent terms.

40. **Like other finance ministries, *Le Trésor* is responsible for initiatives on legislation and secondary regulations in the financial field.** It has also a strong role in international negotiations, e.g., in the European Union. In addition, it has close involvement in the ongoing supervision of French banks, both when they are healthy and when there are problems. This involvement has advantages and disadvantages. On the one hand, the MOF will receive early and comprehensive information of trends in individual institutions and in the banking system generally. On the other hand, having to take part in controversial decisions on sometimes sensitive ACP Board issues might present the ministry with political dilemmas and conflicts of interest.<sup>10</sup>

---

<sup>10</sup> Although the MOF is a nonvoting ACP Board member, it may request the Board’s “reconsideration” of any issue; hence, in practice, the MOF will be regarded as being actively involved in any ACP decision.

41. **The FSAP assessor expresses no view on the organization of a resolution authority, except the obvious one, namely that there must be explicit and clear division of mandates and powers between the authorities involved in the resolution framework.**

***Recommendation 1***

*The MOF should review its involvement in ongoing banking supervision, in line with the implementation of the EU directive on resolution, focusing on systemically important institutions while ensuring that it will remain timely and adequately informed on all issues relevant to the ministry. In line with the expected EU directive on resolution, the ministry should, in particular, be involved at an early stage when there is risk of a request for using public funds.*

***Recommendation 2***

*The MOF should adopt an explicit and transparent strategy, including setting stringent conditions for providing financial support to banks, like (i) shareholders should take the first loss; (ii) bank management should be replaced; (iii) restrictions on compensation and dividends; and (iv) there should be a clear exit strategy. Such an explicit framework for public financial support will increase transparency and reduce moral hazard, and should thus achieve the intended objective of minimizing the use of public support.*

**VI. ROLE AND MANDATE OF THE DEPOSIT INSURANCE FUND**

**A. Assessment**

42. **The deposit insurance scheme has not been used in recent years, so there is no record of recent application of the rules and procedures described below.**

43. **The FGD operates three mechanisms for the protection of depositors and investors:**

- i. **A “pay-box” scheme for pay-outs to depositors** in failing insured banks up to a maximum of €100,000 per depositor: The necessary criterion for a pay-out is the immediate or near-future non-accessibility to the depositors’ funds. This criterion is assessed by the ACP, which will inform the FGD before the pay-out can take place. According to EU legislation, pay-outs should be implemented within 20 days of the date of triggering the scheme.
- ii. **A mechanism for financial intervention in problem banks** with the aim to ensure an orderly liquidation, thus reducing the risk of loss to depositors: The intervention may take different forms, including the extension of credit lines or guarantees, or by buying assets or shares.

iii. **An investment guarantee scheme providing compensation to clients affected by frauds or other losses**, with the exception of losses due to market developments, on their financial investments placed with the insured firms: The maximum coverage is €70,000 for losses on securities and an additional €70,000 for cash losses. If the investment has been done with a bank the maximum limit for cash losses is €100,000, i.e., equal to the limit under the depositor scheme.

44. **Noted schemes could also be operated preventatively—in a discretionary manner—with the aim to ensure an orderly liquidation, thus reducing the risk of loss to depositors/investors.** The intervention may take different forms, including the extension of credit lines or guarantees, or by buying assets or shares.

45. **The FGD was created in 1999 and its rules are aligned with EU regulations—including the Directive on Deposit Insurance of March 2009 as amended in September 2010, when the ceiling for maximum pay-outs was raised to its present level.** The FGD is a privately owned institution funded by the participating 745 credit institutions, of which 651 of them are deposit-holders (the numbers reflect the situation as of end-2010). The Board of the FGD is composed of active bankers, representing several of the insured institutions. The contributions to the FGD take three forms:

- A one-time contribution for a credit institution (CI) that joins the FGD.
- A yearly fee based on the amount of deposits covered in each institution by the FGD.
- Exceptional contributions to prevent the funds from being depleted due to pay-outs and other costs.<sup>11</sup>

46. **Should the funds be exhausted, the FGD may—at any moment—require extraordinary contributions from its participants.** It may also raise funds in the financial markets. There are no contingency credit lines from the government.

47. **Under its discretionary scheme, the FGD may—but is not obliged to—intervene if the situation of a credit institution is such that there is a risk of non-accessibility to deposits or other repayable funds.** As an alternative to providing financial support, the FGD may provide guarantees, e.g., for a certain part of a bank's obligation. FGD financial support is not subject to an explicit “least-cost” criterion (i.e., that the cost of a support action

---

<sup>11</sup> Such a contribution, amounting to €270 million, was decided in September 2010 to cope with the increase up to €100 000 of the coverage level. The amount will be paid in three yearly installments. At end-2010, the funded amount in the FGD was slightly above €2 billion; this equals 0.21 percent of total covered deposits, which is the present target amount for the fund. (The planned amended EU Directive on Deposit Insurance is expected to raise the recommended target level significantly, maybe to €8–€10 billion.)

must not be higher than a pay-out to the insured depositors); but, in practice, such considerations weigh heavily in its decisions.

48. **An intervention by the FGD to provide support may only take place upon a recommendation from the ACP Board.** The *Conseil de Surveillance* (Supervisory Board) of the FGD may accept or decline the recommendation. If it accepts, the FGD will set the conditions for the intervention. For instance, it may request the ACP to require the bank to sell its affiliates or other assets immediately. A stated aim of the FGD support is to “avoid that a credit institution continues to operate in a fashion that is detrimental to other institutions and to overall stability.”

49. **The FGD will recover its outlays mainly through:**

- subrogation in a credit institution’s liquidation, i.e., the FGD will assume the rights and priorities of the insured depositors after reimbursement. There is no “depositor preference” in the French legal system;
- legally confirmed claims against credit institutions and their managers, or their significant owners, for any wrongdoings causing the bank problems that led to the use of FGD funds; and
- interventions in a bank will be repaid by the recovered bank or in the subsequent liquidation, in which the FGD claims will be on par with those of other senior creditors.

## B. Comments and Recommendations

50. **The FGD may operate both as a pay-box and as a scheme to intervene in CIs with the aim to ensure orderly resolution (according to FSB terminology, the FGD is defined as a “loss-minimizing organization”).** This provides a degree of flexibility and would likely facilitate the handling of problem bank situations. The procedure, in which the ACP recommends but does not compel the FGD to intervene, is appropriate because the ACP—through its supervisory work—has good knowledge about the concerned bank, as well as of the state of the financial sector in general, and is therefore well placed to assess the chances of a successful intervention. It is also appropriate that the FGD has the discretion to accept or to decline the recommendation from the ACP, thus taking responsibility for the use of its own funds. That said, it would be inappropriate that the FGD may potentially provide open bank assistance (OBA), for instance, as this could increase the losses to the deposit fund if the choice were made to pay first for the OBA and later—if unsuccessful—for pay-outs in the liquidation of the bank.

51. **Although prepaid, the collected fund is limited in relation to the total amount of covered deposits.** The FGD management takes the view that resolution of a systemically important French bank would not lead to the pay-out to indemnify depositor claims, but

rather to resolution measures, for instance, facilitating a sale of some assets and liabilities—such as deposits to another institution (“purchase and assumption”). The cost of such measures would likely be far lower than for a payout; however, the FSAP assessor observes that this cost, for systemically important banks, could be significantly higher than the size of the present fund. He consequently recommends that the fund be gradually increased without waiting for an EU Directive. Such a Directive will, anyway, not restrict a country from accumulating such a fund. Considering the current plethora of other market and regulatory financial demands on banks, and the need to ensure fair competition with other international banks, the contribution rate might initially be set at a low level.

**52. There are some deficiencies in the present FGD framework.**

- The rules on communication from the ACP on problem banks are not formalized and hence information may arrive at a late stage.
- The composition of the FGD Board, containing active bankers from a variety of banks, could lead to potential conflict of interest issues but also to the risk that the ACP and other parties will hesitate to inform the FGD about any pending problem institutions until it is too late for the FGD to make adequate preparations.
- There are still some powers lacking for the FGD in the resolution process, e.g., the power to subscribe to the capital of a newly established bank (“a bridge bank”) in order to assume assets and liabilities from a failing bank (however, the FGD could buy the shares of the bridge bank).

***Recommendation 1***

*Measures must be taken to reduce the (at least, perceived) risk of conflict of interest when making decisions on measures involving other, competing, banks or other financial institutions. (The FSAP assessor notes that the governance and by-laws of the FGD allow that confidential information from the ACP is only available and discussed by Managing Board members in sessions in which there are no bankers, thus no risk of transmitting individual information to the Supervisory Board.)*

***Recommendation 2***

*The rules of the FGD should be amended to include an explicit “least-cost” assessment, although it is acknowledged that this cannot be precise given the unclear circumstances in each case and given the need for prompt action. Because the funds of the FGD are solely based on contributions from the financial institutions, the FGD should—as a rule—not consider other criteria than the expected long-term costs to the FGD itself; but it needs nevertheless also to assess the context of any possible case precisely. It should also not be legally or judicially bound by a rough and potentially wrong estimate made in an emergency situation. In particular, there should be a possibility for the authorities to declare a situation*

*of danger to the overall financial stability.<sup>12</sup> In such a situation, the FGD should always be prepared to use its funds to intervene, if deemed necessary.*

### **Recommendation 3**

*There should be a pre-agreed financing back-up option available to the FGD in the case of non-access to other means of replenishing the funds quickly after a major pay-out. Such an arrangement is important to bolster the credibility that the FGD—in all circumstances—possesses the necessary means to take required actions.*

### **Recommendation 4**

*The FGD should explore a variety of options in “peace-time” to ensure speedy pay-out in a crisis situation. This would include technical options, such as aligning certain FGD information technology systems with those of banks, and requiring banks to introduce a single customer concept in their systems. The assessor notes that an FGD working group on such issues has already been started.*

### **Recommendation 5**

*The FGD and the ACP should conclude an MOU, setting out formalized modalities of cooperation and information-sharing.*

### **Recommendation 6**

*The FGD prepaid deposit insurance fund should be gradually increased above the present level without waiting for a new EU Directive, taking into account the current plethora of other market and regulatory financial demands on banks and the need to ensure fair competition with other international banks.*

## **C. Bank Resolution Fund**

53. **At present, there exists no French “bank resolution fund.”** In some countries, “resolution funds” have been created. These funds are financed by levies on banks and sometimes also on other institutions. The aim of such funds is to internalize the costs of defraying problems in the banking (financial) sector, i.e., to avoid that such costs fall on the public purse. The French authorities are positive about the creation of such a fund but await a common EU decision on the issue in general and on the ownership and modalities for such a vehicle. In their answer to the EU Commission’s Consultation Paper, the authorities proposed

---

<sup>12</sup> There is such a clause for the actions of the Federal Deposit Insurance Corporation (FDIC) in the United States.



that such a fund be collected ex ante and be closely aligned—or actually merged—with the existing fund for depositor protection, as the two complement one another. A merged fund seems to be a logical extension of the present arrangements in France, in which the FGD may act both as a pay-out scheme and as a provider of financial support to an insured institution in order to prevent a disorderly failure of such institution.

## VII. COOPERATION AND INFORMATION SHARING ON CRISIS ISSUES

### A. Cooperation Between the French Authorities

54. **The most frequently used gateway for the exchange of information about (potential) problem banks are the meetings of the ACP Board—in which the ACP, the BdF,<sup>13</sup> the MOF,<sup>14</sup> and the AMF are represented<sup>15</sup>—and through the cooperation and exchange of information relevant to the performance of their respective duties, as well as frequent informal contacts between the concerned authorities.** According to L 612-11 CMF, the ACP Board must be informed as soon as a severe risk to the financial system is identified.

55. **There are no domestic MOUs for information sharing and cooperation on crisis management issues.** There exist CMGs for BNP Paribas, Société Générale, and Crédit Agricole, which have regular meetings. (Two meetings per CMG are planned for 2012.) The CMGs may also meet in “limited composition,” i.e., only the representatives of the French authorities.

56. **The *Conseil de la Régulation Financière et du Risque Systémique* (COREFRIS, or council on financial regulation and systemic risks) provides a national framework for cooperation between the relevant authorities.** COREFRIS is a domestic standing group composed of the ACP, the AMF, the BdF, and the MOF. The COREFRIS is not aimed for discussing individual institutions but for general issues—for instance, the current negotiations on a French position in the European Union on the Resolution Directive and how to structure a future French resolution authority.

57. **According to the legal framework (Article L 631-1 of the CMF) the BdF, the ACP, the AMF, and the FGD are authorized to exchange any information required for the execution of their tasks.**

---

<sup>13</sup> The BdF Governor is, by virtue of his position, also the President of the ACP Board.

<sup>14</sup> The MOF is on the ACP Board as a nonvoting observer. However, the MOF has the power to ask the Board for a “reconsideration” after a decision on any Board issue. This does not prejudice the outcome of the reconsideration, but it requires the Board to revisit the issue. In practice, this prerogative of the MOF has never been used.

<sup>15</sup> There are also retired financial sector representatives on the ACP Board who are appointed by the MOF.

58. **In addition, the ACP, the AMF, and the BdF organize monthly cooperation meetings called *Réunion des Autorités Financières (RAF)*.** The RAF meetings often deal with general matters, such as policies and understanding of specific financial products. Some institution-specific issues, notably on troubled financial institutions, are also discussed in this forum.

59. **The BdF has a seat on the AMF Board and participates in AMF committees.**

#### **B. Cross-Border Cooperation Within the European Economic Area**

60. **The ACP has signed two European MOUs specifically dedicated to crisis management.** The first one was signed in March 2003, between banking supervisors and central banks of all EU member states. The second one was signed in April 2005 (and revised in 2010). The signatories included the banking supervisory authorities, the central banks, and the ministries of finance. The MOUs contain common principles for dealing with cross border crises.

61. **In addition, the ACP may share information with foreign authorities without a preceding formal agreement:**

- The ACP can, under Article L 632-1 CMF, share information with an authority that performs a role similar to the one entrusted to the ACP.
- The ACP can, under Article L 632-12 CMF, carry out on-site inspections of a subsidiary or a branch of a supervised entity that is located in another Member State, and share information with foreign authorities responsible for the supervision of credit institutions, investment firms, other financial entities, and insurance companies.
- The ACP can, under Article L 632-4 of the CMF, share information with the European System of Central Banks, the ECB, and other public authorities in charge of the oversight of payment and settlement systems for financial instruments.

62. **In case the ACP is informed by the Registry of the Commercial Court of the opening of a safeguard, reorganization, or winding-up procedure, or any equivalent procedure by the foreign competent authority, it must immediately convey this information to the operator of the systems in which the involved institution is a participant, including the BdF and the AMF.<sup>16</sup>**

63. **Similarly, the ACP must inform the authorities designed by the member states of the European Union, when entities that are subject to the opening of a safeguard,**

---

<sup>16</sup> Article R 613-18-I CMF.

reorganization, or winding-up procedure in France have a branch or provide services in another member state.<sup>17</sup>

### C. Cross-Border Cooperation with Third Countries

64. **MOUs with third countries regularly contain crisis-management provisions.** The main condition for concluding MOUs is that the foreign authorities are subject to a professional secrecy regime similar to the French regime. In practice, the ACP has signed bilateral MOUs with all significant third-country authorities that would be relevant for managing a crisis situation in one of the large French banking groups.

## VIII. RECOVERY AND RESOLUTION PLANS

### A. Assessment

65. **The ACP, in cooperation with the BdF, has requested each French-domiciled globally systemically important financial institution (G-SIFI) to draft RRP, including:** identification of operational interdependencies within the group; exploration of extreme circumstances that could lead the bank into a recovery situation; and an in-depth analysis of the specificities and dependencies of the critical main functions of the group. In accordance with the request to all FSB member countries, the entire RRP scheme will be completed by end-2012. Thus, in addition to the three French G-SIFIs presently completing their RRP (BNP Paribas, Société Générale, and Crédit Agricole), the French domestic systemically important banks (SIBs) will enter the exercise during 2012.

66. **RRP preparation and implementation is currently the main issue being discussed in the crisis management groups (CMGs).**<sup>18</sup> The work on the RRP is well advanced, albeit with differences across firms. The involved firms have adopted policies for RRP governance, which includes the roles and responsibilities for senior management, key business lines, and support functions. Methodologies and timetables have been established.

67. **When starting their RRP projects, firms could benefit from pre-existing contingency plans—such as for funding—and detailed mapping of the structures of legal entities and business lines.** Banks have already conducted analyses of intra-group linkages and recovery options. Firms have been requested by the authorities to focus on completing group-wide RRP in order to capture the cross-border dimensions.

---

<sup>17</sup> Article R 613-18-II CMF.

<sup>18</sup> Home-host cooperation for crisis management/bank resolution issues in G-SIFIs is conducted through the CMGs. As a rule, the CMGs include the relevant supervisory authority, the central bank, and often also the MOF from the home jurisdiction and from the main host jurisdictions.

68. **RRPs are, to a large extent, built on information that is already being reviewed regularly by the authorities; this includes, inter alia: the risk-management framework; liquidity management; contingency funding plans; and stress testing policies, etc.** Hence, the RRP are closely linked to supervisory processes.

## B. Comments and Recommendations

69. **The drafting and implementation of RRP is a useful tool, not least for the relevant authorities and for the institution’s management to understand better the potential vulnerabilities and interdependencies in large and complex financial groups.** Hence, the current work by the French G-SIFIs and later by the nonglobally SIBs in collaboration with the authorities is appropriate. Due to their wide cross-border activities, it is important that group-wide RRP are completed as planned.

70. **For ensuring that the RRP do not only become “exercises on paper,” it is important to ascertain proper ownership and division of roles and responsibilities among the involved parties.** These include home and host country authorities and the institution’s management both at the group level and the individual entities. For instance, on the one hand, the responsibility for the *recovery* plans should be in the hands of the management of the institution. On the other hand, the execution of the *resolution* plan should be the responsibility of the relevant authorities. There needs also to be an ongoing updating of the RRP as well as a continuous dialogue on the recovery and resolution issues between the institution and the authorities, for instance in the CMGs.

71. **The French authorities’ emphasis on group-wide RRP is appropriate, because this will strengthen the involvement and mutual responsibilities of home and host authorities and group entities.** In a crisis situation, fundamental home and host interests may well be contradictory; it is important to avoid disruptive behavior from either side, which is not in the best interest of an overall solution of the problem. Hence, agreeing on arrangements for recovery and resolution already in “normal times” increases the chances of constructive solutions in a crisis situation.

72. **Notwithstanding the benefits of RRP, there must be supplemental plans for bank resolution.** For instance, it may prove impossible to divest group entities at a time when the whole financial market is in turmoil. Hence, while RRP are useful, they should be regarded as one tool among others.

### ***Recommendation 1***

*Clear roles and responsibilities should be established for the authorities and the group management/Board in relation to the implementation of the various components of the RRP. As a general principle, the “recovery part” should be foremost the responsibility of the bank and the resolution part should be foremost the responsibility of the authorities; that said, close and continuous cooperation on both parts are necessary. The FSAP assessor*

*understands that the French authorities are already using these principles in their RRP work and will formalize them when the EU framework is completed.*

### ***Recommendation 2***

*The whole RRP concept should be integrated into the ongoing processes of the relevant authorities and also of the group at large; it should not become a “one-off” exercise. (It is noted that parts of the RRP are already integrated into the ACP supervisory process.)*

## **IX. EXPECTED DEVELOPMENTS**

73. **Intensive international work is currently going on in the fields of CM/BR.** The FSB and the BCBS have working groups discussing ways to better align the different resolution regimes in different jurisdictions. As noted, the European Commission is expected in the near future to issue a proposal for a resolution regime for credit institutions. There is also work in the supervisory colleges of major cross-border banking groups in order to strengthen arrangements for crisis management and resolution.

74. **The French authorities have generally taken a positive view toward these developments and have been active in the international negotiations.** They have not yet introduced major changes in their own legislation, e.g., introducing a dedicated bank resolution framework, but expect to do so in a harmonized fashion when internationally agreed proposals have been concluded.