



**International Comparison of Key Jurisdictions
Institutional Setup for the Supervision and Resolution of
Banks**

**Expert Opinion
Alvarez & Marsal**

11 December 2023

Contents

Foreword.....	1
Scope of the Report.....	1
Section 1: Rationale for Institutional Setup.....	1
Rationales influencing the location of Supervisory and Resolution Responsibilities	1
Rationales influencing the responsibilities of the Central Bank	3
Section 2: Comparison of In-Scope Jurisdictions	5
Single and Multiple Authority Approaches.....	5
Overview: Institutional setup for the supervision and resolution of banks	7
Comparison of Institutions	9
Section 3: Potential Impact on the Institutional Arrangements in Switzerland	29
Annex 1: Jurisdiction Focus – Switzerland	32
Section 1: Responsibilities	32
Macroprudential Supervision	32
Micro-Prudential Supervision.....	34
Recovery and Resolution (Restructuring and Liquidation)	35
Lender of Last Resort	37
Section 2: Independence between Authorities.....	37
Section 3: Resource Endowment.....	39
Section 4: Financing of Authorities.....	39
Section 5: Coordination of the Authorities – Nationally.....	40
Section 6: Coordination of the Authorities – Internationally.....	42
Section 7: Information Exchange between Authorities	43
Section 8: Fund Solutions.....	44
Section 9: Compensation Mechanisms for Government Support.....	46
Section 10: Advantages and Disadvantages of the Swiss Institutional Approach	46
Annex 2: Jurisdiction Focus – European Banking Union	48
Section 1: Responsibilities	48
European Banking Union (Banking Union) Architecture	48
Macroprudential Supervision	49
Micro-Prudential Supervision.....	51
Recovery	53
Resolution (Restructuring and Liquidation)	53
Lender of Last Resort	56
Section 2: Independence between Authorities.....	56
Section 3: Resource Endowment.....	59
Section 4: Financing of Authorities.....	60
Section 5: Coordination of the Authorities – Nationally (i.e., within the SSM)	61
Section 6: Coordination of the Authorities – Internationally (i.e., outside the SSM)	62
Section 7: Information Exchange between Authorities	62
Section 8: Fund Solutions.....	63
Section 9: Compensation Mechanisms for Government Support.....	65
Section 10: Advantages and Disadvantages of the Banking Union Institutional Approach	66
Annex 3: Jurisdiction Focus – United States of America.....	68
Section 1: Responsibilities	68
Macroprudential Supervision	68
Micro-Prudential Supervision.....	71
Recovery	73
Resolution (Restructuring and Liquidation)	74
Lender of Last Resort	76
Section 2: Independence between Authorities.....	77
Section 3: Resource Endowment.....	78
Section 4: Financing of Authorities.....	79
Section 5: Coordination of the Authorities – Nationally.....	80
Section 6: Coordination of the Authorities – Internationally.....	81
Section 7: Information Exchange between Authorities	82
Section 8: Fund Solutions.....	82
Section 9: Compensation Mechanisms for Government Support.....	83
Section 10: Advantages and Disadvantages of the United States Institutional Approach.....	84

Annex 4: Jurisdiction Focus – United Kingdom	86
Section 1: Responsibilities	86
Key Committees and Organisational Setup	86
Macroprudential Supervision	88
Micro-Prudential Supervision	89
Recovery	90
Resolution (Restructuring and Liquidation)	91
Lender of Last Resort	93
Section 2: Independence between In-Scope Authorities	94
Section 3: Resource Endowment	95
Section 4: Financing of Authorities	95
Section 5: Coordination of the Authorities – Nationally	96
Section 6: Coordination of the Authorities – Internationally	97
Section 7: Information Exchange between Authorities	98
Section 8: Fund Solutions	99
Section 9: Compensation Mechanisms for Government Support	100
Section 10: Advantages and Disadvantages of the UK’s Institutional Approach	100
Annex 5: Jurisdiction Focus – Germany	102
Section 1: Responsibilities	102
Macroprudential Supervision	102
Micro-Prudential Supervision	104
Recovery	105
Resolution (Restructuring and Liquidation)	106
Lender of Last Resort	108
Section 2: Independence between Authorities	108
Section 3: Resource Endowment	109
Section 4: Financing of Authorities	110
Section 5: Coordination of the Authorities – Nationally	110
Section 6: Coordination of the Authorities – Internationally	111
Section 7: Information Exchange between Authorities	113
Section 8: Fund Solutions	114
Section 9: Compensation Mechanisms for Government Support	116
Section 10: Advantages and Disadvantages of the German Institutional Approach	117
Annex 6: Jurisdiction Focus – Canada	119
Section 1: Responsibilities	119
Macroprudential Supervision	119
Micro-Prudential Supervision	121
Recovery	122
Resolution (Restructuring and Liquidation)	123
Lender of Last Resort	125
Section 2: Independence between Authorities	125
Section 3: Resource Endowment	126
Section 4: Financing of Authorities	126
Section 5: Coordination of the Authorities – Nationally	127
Section 6: Coordination of the Authorities – Internationally	129
Section 7: Information Exchange between Authorities	130
Section 8: Fund Solutions	131
Section 9: Compensation Mechanisms for Government Support	132
Section 10: Advantages and Disadvantages of the Canadian Institutional Approach	132
Annex 7: Jurisdiction Focus – Singapore	134
Section 1: Responsibilities	134
Macroprudential Supervision	134
Micro-Prudential Supervision	135
Recovery	137
Resolution (Restructuring and Liquidation)	138
Lender of Last Resort	141
Section 2: Independence between Authorities	142
Section 3: Resource Endowment	143
Section 4: Financing of Authorities	143
Section 5: Coordination of the Authorities – Nationally	144

Section 6: Coordination of the Authorities – Internationally	144
Section 7: Information Exchange between Authorities	145
Section 8: Fund Solutions	145
Section 9: Compensation Mechanisms for Government Support	146
Section 10: Advantages and Disadvantages of the Singapore Institutional Approach	147
Annex 8: Jurisdiction Focus – Hong Kong	148
Section 1: Responsibilities	148
Macroprudential Supervision	148
Micro-Prudential Supervision	149
Recovery	150
Resolution (Restructuring and Liquidation)	151
Lender of Last Resort	153
Section 2: Independence between Authorities	154
Section 3: Resource Endowment	154
Section 4: Financing of Authorities	154
Section 5: Coordination of the Authorities – Nationally	155
Section 6: Coordination of the Authorities – Internationally	155
Section 7: Information Exchange between Authorities	156
Section 8: Fund Solutions	156
Section 9: Compensation Mechanisms for Government Support	157
Section 10: Advantages and Disadvantages of the Singapore Institutional Approach	158
Appendix: Reference Materials	160



Acronyms

AFMGM	ASEAN Finance Ministers and Central Bank Governors
AFMGM+3	ASEAN+3 Finance Ministers' and Central Bank Governors' Meetings
AML	Anti-Money Laundering
CFT	Combating the Financing of Terrorism
AMV	Asset Management Vehicle
ASC	Advisory Scientific Committee
ASEAN	Association of Southeast Asian Nations
ASEAN+3	Association of Southeast Asian Nations plus Japan, China and the Republic of Korea
ATC	Advisory Technical Committee
ATC	Advisory Technical Committee
BaFin	Federal Financial Supervisory Authority
Banking Act	Federal Act on Banks and Savings Banks
Banking Ordinance	Ordinance on Banks and Savings Banks
BCBS	Basel Committee on Banking Supervision
BHC	Bank Holding Company
BIP/BSIP	Bank (or Building Society) Insolvency Procedure
BIS	Bank for International Settlements
BOC	Bank of Canada
BoE	Bank of England
BRRD	Bank Recovery and Resolution Directive
Bundesbank	Deutsche Bundesbank
CAMELS	Capital adequacy, Asset quality, Management, Earnings, Liquidity and Sensitivity rating system
CAO	Capital Adequacy Ordinance
CBO	Community Banking Organization
CCoB	Capital Conservation Buffer
CCP	Central Counterparty
CCyB	Countercyclical Capital Buffer
CDIC	Canada Deposit Insurance Corporation
CEC	Chief Executive in Council
CEO	Chief Executive Officer
CET 1	Common Equity Tier 1 Capital
CFR	Council of Financial Regulators
CGFS	Committee on the Global Financial System
CIPF	Canadian Investor Protection Fund
CMCG	Crisis Management Coordination Group
CMG	Crisis Management Group
CMT	Crisis Management Team
COO	Chief Operating Officer
Court	Court of Directors
CPMI	Committee on Payments and Market Infrastructures
CRA	Community Reinvestment Act
CRAFT	Comprehensive Risk Assessment Framework and Techniques
CRR	Composite Risk Rating
CRR/CRD	Capital Requirements Regulation and Directive
DGS	Deposit Guarantee Scheme
DGSD	Deposit Guarantee Schemes Directive
DI Fund	Deposit Insurance Fund
DI Scheme	Deposit Insurance Scheme
DIDA	Depository Institution Debt Adjustment
DIF	Deposit Insurance Fund
DINB	Deposit Insurance National Bank
DLT	Distributed Ledger Technology
Dodd-Frank Act or DFA	Dodd-Frank Wall Street Reform and Consumer Protection Act
DPS	Deposit(or) Protection Scheme
DRR	Designated Reserve Ratio
DSB	Domestic Stability Buffer
D-SIB	Domestic Systemically Important Bank



**International Comparison of Key Jurisdictions
Institutional Setup for the Supervision and Resolution of Banks
Expert Opinion
Alvarez & Marsal**

DST	Dedicated Supervisory Team
DTC	Depository Trust Company
EBA	European Banking Authority
EC	European Commission
ECB	European Central Bank
Ecofin	Economic and Financial Affairs Council
EDIS	European Deposit Insurance Scheme
EEA	European Economic Area
EFC	Economic and Financial Committee
E-FIRP	Enhanced Financial Institution Restructuring Powers
EFTA	European Free Trade Association
EIOPA	European Insurance and Occupational Pensions Authority
ELA	Emergency Liquidity Assistance
EMEAP	Executives' Meeting of East Asia-Pacific Central Banks
ESA	European Supervisory Authority
ESCB	European System of Central Banks
ESFS	European System of Financial Supervision
ESM	European Stability Mechanism
ESMA	European Securities and Markets Authority
ESRB	European Systemic Risk Board
EU	European Union
FATF	Financial Action Task Force
FBO	Foreign Banking Organization
FCA	Financial Conduct Authority
FDF	Federal Department of Finance
FDIC	Federal Deposit Insurance Corporation
FFIEC	Federal Financial Institutions Examination Council
FINMA	Swiss Financial Market Supervisory Authority
FINMASA	Federal Act on the Swiss Financial Market Supervisory Authority (Financial Market Supervision Act)
FINRA	Financial Industry Regulatory Authority
FIO	Federal Insurance Office
FIRO	Financial Institutions (Resolution) Ordinance
FIRP	Financial Institution Restructuring Provisions
FISC	Financial Institutions Supervisory Committee
FMF	Federal Ministry of Finance
FMI	Financial Market Infrastructures
FOLTF	Failing Or Likely to Fail
FOMC	Federal Open Market Committee
FPC	Financial Policy Committee
FRA	Federal Reserve Act
FRB or Federal Reserve	Board of Governors of the Federal Reserve System
FRFI	Federally Regulated Financial Institution
FRS	Federal Reserve System
FS	Financial Secretary
FSB	Financial Stability Board
FSC	Financial Stability Committee
FSC	Management Financial Stability Committee
FSCS	Financial Services Compensation Scheme
FSS	Fedwire Securities Service
GFC	Global Financial Crisis
GiC	Governor in Council
GIRO	General Interbank Recurring Order
G-SIB	Global Systemically Important Bank
G-SIFI	Global Systemically Important Financial Institution
G-SII	Global Systemically Important Institutions
HKMA	Hong Kong Monetary Authority
HKSAR	Hong Kong Special Administrative Region
HMT	His Majesty's Treasury



**International Comparison of Key Jurisdictions
Institutional Setup for the Supervision and Resolution of Banks
Expert Opinion
Alvarez & Marsal**

HoA Committee	Heads of Regulatory Agencies Committee
HQLA	High-Quality Liquid Assets
IA	Insurance Authority
IAIS	International Association of Insurance Supervisors
ICAAP	Internal Capital Adequacy Assessment Process
ICF	Investor Compensation Fund
ICSD	Investor Compensation Scheme Directive
IDI	Insured Depository Institution
IHC	Intermediate Holding Company
IIROC	Investment Industry Regulatory Organization of Canada
ILAAP	Internal Liquidity Adequacy Assessment Process
IMF	International Monetary Fund
IOSCO	International Organisation of Securities Commissions
IRRBB	Interest Rate Risk in the Banking Book
IRT	Internal Resolution Team
JST	Joint Supervisory Team
LBO	Large Banking Organization
LCR	Liquidity Coverage Ratio
LFA	Loan Facility Agreement
LFBO	Large and Foreign Banking Organization
LFI	Large Financial Institutions
LISCC	Large Institution Supervision Coordinating Committee
MaRisk	Minimum Requirements for Risk Management
MAS	Monetary Authority of Singapore
MAS Act	Monetary Authority of Singapore Act 1970
MASNET	Financial Communication Network Operated by the Monetary Authority of Singapore
MDB	Multilateral Development Bank
MFRAF	MacroFinancial Risk Assessment Framework
MFSC	Management Financial Supervision Committee
MOL	Maximum Obligation Limitation
MoU	Memorandum of Understanding
MPC	Monetary Policy Committee
MRC	Management Resolution Committee
MREL	Minimum Requirements for Own Funds and Eligible Liabilities
NBA	Federal Act on the Swiss National Bank (National Bank Act)
NCA	National Competent Authority
NCB	National Central Bank
NCUA	National Credit Union Administration
NDA	National Designated Authority
NGFS	Network for Greening the Financial System
NMLP	Non-Mortgage Loan Portfolio
NRA	National Resolution Authorities
NSA	National Supervisory Authority
NSFR	Net Stable Funding Ratio
OCC	Office of the Comptroller of the Currency
OECD	Organisation for Economic Co-operation and Development
OFR	Office of Financial Research
OLA	Orderly Liquidation Authority
OLF	Orderly Liquidation Fund
OSFI	Office of the Superintendent of Financial Institutions
O-SII	Other Systemically Important Institution
P&A	Purchase and Assumption Agreement
PCA	Prompt Corrective Action
PIF	Proactive Intervention Framework
PLB	Public Liquidity Backstop
PPF	Policy Owners' Protection
PRA	Prudential Regulation Authority
PRC	Prudential Regulation Committee



**International Comparison of Key Jurisdictions
Institutional Setup for the Supervision and Resolution of Banks
Expert Opinion
Alvarez & Marsal**

PSM	Periodic Summary Meeting
QRM	Quality of Risk Management
RBO	Regional Banking Organization
RCP	Recovery Plan
RD	Resolution Directorate
Reserve Bank(s)	Federal Reserve Bank(s)
RRP	Recovery and Resolution Planning
SAC	Senior Advisory Committee
SCR	Sectoral Capital Requirement
SCV	Single Customer View
SDIC	Singapore Deposit Insurance Corporation
SEP	Supervisory Examination Programme
SFAO	Swiss Federal Audit Office
SFC	Securities and Futures Commission
SFST	Secretary for Financial Services and the Treasury
SIFI	Systemically Important Financial Institution
SLC	State Liaison Committee
SLF	Standing Liquidity Facility
SLHC	Savings and Loan Holding Company
SMF	Sterling Monetary Framework
SNB	Swiss National Bank
SRB	Single Resolution Board
SREP	Supervisory Review and Evaluation Process
SRF	Single Resolution Fund
SRM	Single Resolution Mechanism
SRMR	Single Resolution Mechanism Regulation
SRSC	Systemic Risk Surveillance Committee
SSM	Single Supervisory Mechanism
SyRB	Systemic Risk Buffer
UK	United Kingdom



Foreword

Scope of the Report

This report sets out an expert opinion entitled “*International Comparison of Key Jurisdictions with Regard to Institutional Setups for the Supervision and Resolution of Banks*”. It was prepared pursuant to a Mandate to A&M¹ from the State Secretariat for International Finance.

The comparison of institution setups references the authorities with responsibilities for:

- Supervision (prudential and macroprudential).
- Recovery (stabilisation).
- Resolution (restructuring and bankruptcy liquidation).
- Lender of Last Resort.

The jurisdictions specifically in scope of this comparison are Switzerland, European Union Banking Union, United States, United Kingdom, German, Canada, Singapore and Hong Kong (the ‘in-scope jurisdictions’).

The comparison includes:

- A description of the approach / setup in each jurisdiction.
- An elaboration on the rationale behind different approaches.
- An assessment of the advantages and disadvantages of the different approaches.

This report is structured as follows:

- Section 1: Rationale for Institutional Setup: This section provides the rationales for the institutional setup, in regards policy rationales and pragmatic rationales.
- Section 2: Comparison of In-Scope Jurisdictions: This section provides an overview of the institutional setups in the in-scope jurisdictions and the main sources of advantages and disadvantages to the approaches taken.
- Section 3: Potential Impact on the Institutional Arrangements in Switzerland: This section provides a consideration of potential impacts on the institutional setup in Switzerland.
- Annexes 1 to 8: Jurisdiction Focus: These annexes provide a description of the approach / setup of the in-scope jurisdictions.

¹ That is Alvarez & Marsal Financial Industry Services Advisory LLP, “A&M”

Section 1: Rationale for Institutional Setup

- (1) In this section we consider the rationales – and the main sources of advantages and disadvantages as outlined in Section 2 – for institutional setup for the supervision and resolution of banks in the in-scope jurisdictions.
- (2) We consider these issues in the comparison of the in-scope jurisdictions of Switzerland, European Union Banking Union, United States, United Kingdom, German, Canada, Singapore and Hong Kong.²

Rationales influencing the location of Supervisory and Resolution Responsibilities

- (3) In our opinion, these rationales derive from two main sources: policy rationales and pragmatic rationales.
 - Policy rationales: These cover the justification for developing policy based on objectives and intent.
 - Pragmatic rationales: These cover the practical influences and factors that may be considered.
- (4) Policy rationales refer, in particular to the tension / trade-off between (1) the (arguably) sometimes conflicting objectives of the different responsibilities and (2) the strong desirability for close cooperation and information exchange.
- (5) On the former (conflicting objectives) we observe that the key focus of supervision – especially of a systemic bank – is the prevention of failure and the of reduction of systemic impact if failure occurs.³ In the normal course, supervisory measures whose aim is to prevent failure also serve to reduce impact given failure, e.g., minimum supervisory standards as to capital, liquidity, and risk managements. However, this is not necessarily always the case, e.g., supervisory forbearance to allow time for recovery measures.
- (6) On the latter (close cooperation and information exchange) we observe that the timely exchange of firm-specific information between supervision and resolution staff is essential for each to perform their duties.
- (7) This tension is inherent and enduring. The conflict does not go away simply by creating a resolution authority separate from the supervision authority. Nor is close cooperation and adequate information exchange necessarily achieved simply by putting both responsibilities within the same public authority.
- (8) However, although not alone the solution to the tension, structural arrangements such as separate but cooperative decision making are relevant and helping in managing it.
 - (i) If housed within the same authority, operational independence for resolution is supported by distinct and partially separate governance and decision-making structures for supervision and resolution and adequate separate staffing of each (“governance separation”). However, the highest decision makers (e.g., the Governor / Chief Executive and executive and supervisory boards) are typically common to both. This overlap of governance then helps drive close cooperation and information exchange.

² We were also informed – e.g., in our description of key aspects of rationale set out in this section – by our knowledge of other jurisdictions. Summaries for these include the Financial Stability Institute (FSI) papers [FSI Insights on Policy Implementation No. 32: Institutional arrangements for bank resolution](#) and [FSI Insights on policy implementation No. 8 Financial supervisory architecture: what has changed after the crisis?](#)

³ This is sometimes labelled as a distinction between going-concern supervision and gone-concern resolution. However, in our view this labelling is only at best partially accurate. It is not helpful when considering a systemic bank, i.e., a bank providing services whose continuity is critical for financial stability. Here, a key aim in resolution is to ensure the continuity of those services.

- (ii) If housed in separate authorities (“institutional separation”), explicit legal and administrative arrangements such as inter-authority Memoranda of Understanding (MoUs) as to cooperation and information exchange are needed.
- (9) Our review of jurisdictions shows that each of governance separation and institutional separation can be made to work adequately but never perfectly.
- (10) When considering governance or institutional separation between supervision and resolution, we may distinguish six activities.
- (i) Preventative supervision – typically ongoing monitoring of the adequacy of capital, liquidity, risk management, operational resilience, governance etc.
 - (ii) Preventative resolution – that is the prior removal of impediments to the resolvability of an institution. This might include requiring a bank to alter its legal, operational or financial structure and/or to cease or restrict some activities.
 - (iii) Recovery measures – that is action taken whose aim is to restore a bank’s viability, e.g., in response to a financial or operational distress from the bank’s recovery plan (where one is required).
 - (iv) The entry-into-resolution decision (sometimes called the resolution trigger decision) – that typically includes (A) a determination that a bank has failed / is likely to fail and (B) a determination that resolution is in the public interest.⁴
 - (v) The selection and use of resolution tool(s) – that is tools such as bail-in (i.e., debt write-down or conversion into equity), sale of business or assets (or combination thereof) etc are used to restructure a bank.
 - (vi) Exit from resolution – that is either the run-off / cessation of activities and/or the continuity of activities in a (perhaps newly authorised) ‘good’ bank or the (newly recapitalised) pre-existing bank. Both run-off / cessation for some activities and continuity for other activities are simultaneously possible, e.g., in a ‘good’ and ‘bad’ bank split.
- (11) There is no unique, universally applied, full answer to the allocation of these activities as between the supervision and resolution functions, except that item (i) (preventative supervision) is always supervision and item (v) (use of resolution tools) is always resolution. Items (ii) to (iv) and (vi) typically necessitate concurrent activity – and close cooperation and information exchange – between supervision and resolution.
- (12) In temporal sequence the six activities – and therefore the need for close cooperation and information exchange – may be grouped in three phases.
- (i) Ongoing activity for all (systemic) banks – item (i) (preventative supervision) and item (ii) (preventative resolution).
 - (ii) Activity during a period of distress – item (iii) (recovery measures) and, if these are not successful, item (iv) (the entry-into-resolution decision).
 - (iii) Activity after the entry into resolution – item (v) (use of resolution tools) and item (vi) (exit from resolution).
- (13) Close cooperation (and information exchange) between supervision and resolution is therefore needed at all times, i.e., in each of these three phases. Although by no means unachievable with institutional separation and by no means assured by the opposite – inclusion in the same institution – this all-times-needed close cooperation is, in our view, more readily achieved within the same institution but with governance separation.

⁴ The exact criteria depend on the jurisdiction.

- (14) Pragmatic rationales include the need to ensure that each institution has sufficient resources. Cost is relevant here, but more relevant is the difficulty in attracting and keeping high quality staff with the relevant highly specialised expertise. This is always a concern, but it is especially so for a resolution authority. This is because actual bank resolutions are low-frequency but high-intensity events. Outside a resolution event staff with a resolution role typically have fewer opportunities (as compared, say, to staff in a supervision role) to interact with banks; inside a resolution event staff with a resolution role typically need to be ready for a crisis or resolution event with deep and specialist knowledge and skills.
- (15) Our review of the jurisdictions shows that these pragmatic issues are especially difficult to overcome with a fully institutionally separate resolution authority. The exceptions to this are (1) the very largest jurisdictions and (2) jurisdictions where prior to the post GFC⁵ emergence of modern banking resolution, a historically separate institution for resolution existed. The Eurozone is an example of the former, as size allows the Single Resolution Board (SRB) to achieve a critical mass of staff to function as a strong, separate institution. The USA is an example of both the former (size) and the latter (history). The Federal Deposit Insurance Corporation (FDIC) although institutionally separate was also historically, and still is, the deposit insurer and in part the supervisor.

Rationales influencing the responsibilities of the Central Bank

- (16) The discussion up until now has focused on the institutional or governance separation of supervision and resolution. We now pivot to discuss the role of the central bank. The following functions are relevant to that role.
- (i) Macroprudential supervision.
 - (ii) Financial stability oversight.
 - (iii) Monetary policy.
 - (iv) Lender of last resort.
 - (v) Central bank operations, e.g., the provision of banking services to banks and to the government and public sector.
- (17) The latter three functions are the historical core functions of a central bank. Financial stability oversight has (arguably) always been at least an implicit function, but since the GFC it has become an explicit objective of nearly all central banks. The new – post GFC – concept is macroprudential supervision. This is explained more fully below.
- (18) The genesis of macroprudential supervision is the post-GFC insight that micro-prudential supervision – with its focus on monitoring the soundness of individual banks – alone was insufficient to advance the objective of the financial stability of the banking systems. Economists now cite the previous misconception (that it was alone sufficient) as an example of the fallacy of composition⁶.
- (19) Although, the macroprudential supervision of the banking system is *ex-hypothesi* distinct from micro-prudential supervision of individual banks, its practical execution always needs to be informed by the intelligence gained from that micro-prudential supervision. Not surprisingly therefore, post the GFC we have seen – coincident with the rise of macroprudential supervision within central banks – many jurisdictions which had (a decade or two previously) extracted micro-prudential supervision from the central bank have now relocated it back again.

⁵ Global Financial Crisis, “GFC”.

⁶ The fallacy of composition is the mistaken idea that what is true of the constituent parts of a complex system is necessarily true of the system as a whole.



- (20) There is also a nexus between macroprudential supervision and bank resolution. The public policy justification for the use of resolution tools is the harm to financial stability that might arise from the failure of a systemic bank. Macroprudential supervision is the essential tool to identify, monitor and anticipate that harm.
- (21) As a result, where macro- and micro-prudential supervision is located into the central bank resolution is very often also so located – the USA and the Eurozone are exceptions for reasons already explained.⁷

⁷ The 2018 paper from the Financial Stability Institute, [FSI Insights on policy implementation No.8: Financial supervisory architecture: what has changed after the crisis?](#) survey 69 jurisdictions. It found two-thirds located micro-prudential supervision with the central bank, and 90% of those who did also co-located the resolution at the central bank.

Section 2: Comparison of In-Scope Jurisdictions

Single and Multiple Authority Approaches

(22) Although the objectives under each area of responsibility are broadly consistent, the institutional setup of the in-scope jurisdictions varies. However, there are broadly two thematic approaches: Single Authority and Multiple Authority arrangements. These illustrate the difference of approach between governance separation (housing the institutional arrangements within the same institution) and institutional separation (housing the institutional arrangements in separate institutions).

Single Authority Approach

(23) One authority holds the remit for each of the areas of responsibility being considered in this opinion: macroprudential supervision, micro-prudential supervision, recovery, resolution (restructuring and liquidation) and Lender of Last Resort. We see this approach in the United Kingdom, Singapore and Hong Kong.

(24) The main advantages of the Single Authority Approach implementing 'governance separation':

- All aspects for financial stability are together within a single institution. This single institution is responsible for delivering systemic financial stability through macroprudential regulation, oversight of the safety and soundness of banks subject to micro-prudential policy and crisis management including resolution and provision of Emergency Liquidity Assistance (ELA). This helps to ensure that systemic and firm-specific regulation and resolution are coordinated and allows for a judgement-led approach to financial stability.
- Helping to ensure close cooperation and information exchange, information flows between the functions are eased and views and information can be shared more effectively. For instance, the perspective and institution specific knowledge of the supervisory function will provide required information and data to the macroprudential assessment and systemic risk monitoring so helping the practical execution of macroprudential supervision from the intelligence gained from that micro-prudential supervision.
- Similarly in crisis management and resolution events the deep, specialist knowledge and skills of a resolution officer would be supported by the supervisor with depth and understanding of the bank. It encourages both supervisor and resolution official to closely cooperate and exchange information through the four of the six activities that arise in governance or institutional separation (preventative resolution, recovery measures, resolution trigger decision and exit from resolution) that we consider most normally involve concurrent actions. As a single institution, unless prohibited under legislation or internal arrangements, the expectation would be for the sharing and dissemination of information.
- A single institution facilitates a 'continuity of processes' between macroprudential objectives and policy, supervision and resolution. As stated, it helps the practical execution of macroprudential supervision as well as highlights the nexus between macroprudential supervision and resolution (as the justification for the use of resolution stabilisation tools is the potential adverse impacts that may arise from a failure of a systemic bank). For instance, the micro-prudential supervisor will apply the Countercyclical Capital Buffer (CCyB) within the scope of the macroprudential policy set and it allows the resolution function to be informed of deterioration in a bank's condition in a timely way and prepare for action, thus facilitating early contingency planning and speedy intervention.

- The ‘co-location’ of functions may also support the close cooperation and information exchange, as well as effective decision-making and resolution of differences as it facilitates dialogue between the differing functions which may arise from governance separation. Internal divergences or differences of approach could be more easily resolved within the internal decision-making structures of a single institution. For example, in respect of supervisory responsibility for declaring a bank as failing or likely to fail (FOLTF) thus triggering resolution or liquidation. Co-location of functions may be considered helpful in that it allows the input and involvement of both parties during the whole process and therefore minimises risk of forbearance or silo behaviour.

(25) The main disadvantages of the Single Authority Approach:

- There may be a perception of a lack of objectivity in the instance where an institution has differing, and at times conflicting, responsibilities. A central bank, supervisor and resolution authority each have clear objectives and responsibilities, and at times these can diverge. A single institution enforcing an approach of institutional separation housing all areas of responsibility would need strong mandates and clearly set decision-making parameters to help ensure objectivity remains.
- There is a potential for a conflict of interest or objective between the responsibilities and functions of a single institution. An inherent tension within the governance separation approach, is that supervisory decisions may be counter to the resolution functions perspective in individual cases. Each function may wish to promote a different direction in terms of a specific scenario and there could be stresses on institutional decision making. For example, the supervisor may seek to delay determining a stressed bank be in FOLTF and extend the period for recovery measures, whereas the resolution authority generally has a clear interest in taking resolution actions as early as possible. This risk is material if the supervisory authority has sole responsibility for determining that a bank meets conditions for resolution based on non-viability or imminence of failure.
- The emergence of formally established resolution authorities is a relatively new trend arising from the global financial crisis including the Financial Stability Board (FSB) guidance. Where a resolution authority function is newer and possibly less resourced its reputation and influence may not be as strong as the supervisory function. However, this should be mitigated by clear mandates and decision-making authorities, effective secondment of staff, as well as effective communication routes.

Multiple-Authority Approach

(26) Two or more authorities hold the remit for the areas of responsibility being considered in this opinion: macroprudential supervisor, micro-prudential supervisor, recovery, resolution (restructuring and liquidation) and Lender of Last Resort. We see this approach in Switzerland, the United States, the EU Banking Union, Germany and Canada.

(27) The main advantages of the Multiple-Authority Approach implementing ‘institutional separation’:

- Objectivity is more easily demonstrated, with separate institutions having legislative objectives and mandates to act.
- The potential for differing levels of influence to impact decision-making in respect of each area of responsibility is minimised – each institution will act subject to its own remit.

(28) The main disadvantages of the Multiple-Authority Approach:

- There is a potential for conflicts of interest or objective between the decision-making and interests of the different bodies. Supervisory intent may not align to macroprudential directions or policy, or supervisory decisions may be counter to the resolution functions perspective in individual cases whether it is in the exercise of forbearance or the decision to pull the resolution trigger. With separate bodies having legal responsibility in these areas, conflicts may be more difficult to reconcile, though in cases where the supervisor and resolution authority are in separate legal institutions while the supervisory authority usually makes the FOLTF decision, in a number of cases the resolution authority can make this judgement. It would however, in our opinion, be an extreme situation leading to potential further conflict, if a resolution authority would make a decision in conflict with the supervisory position (or vice versa).
- Information sharing is in general more difficult to manage and facilitate. However, this can be mitigated by explicit legal and administrative arrangements, providing for the sharing of non-public information between financial regulatory and other authorities, as well as up-to-date inter-authority Memoranda of Understanding (MoUs) as to cooperation and information exchange to help ensure the close cooperation and information exchange between parties.
- Coordination of actions and required activities may be less effective and time-efficient, thus potentially decreasing the timeliness and benefit of authority action in a crisis. However, this may be mitigated through clear communication routes, cooperation agreements, regular meetings and pre-planned crisis management roles, responsibilities and scenario planning.
- From a pragmatic perspective, both (or all) authorities would need to ensure adequacy of staffing, both in terms of experience and expertise, to be able to adequately perform their functions. This may, in our opinion, often see higher numbers of combined staff rather than utilising internal expertise as additional support in specific cases.

Overview: Institutional setup for the supervision and resolution of banks

(29) The institutional setup for the supervision and resolution of banks in the in-scope jurisdictions are:

- Switzerland: The Swiss National Bank (SNB) has responsibility for macroprudential supervision and as Lender of Last Resort, while the Swiss Financial Market Supervisory Authority (FINMA) also has some macroprudential supervisory responsibilities as part of its supervisory function as well as recovery and resolution (restructuring and triggering insolvency by a liquidator representing FINMA) as part of its resolution authority function.
- EU Banking Union: The European Systemic Risk Board (ESRB) is responsible for the macroprudential oversight of the EU financial system and the prevention and mitigation of systemic risk but works closely with the national macroprudential supervisors who must, for instance notify the ESRB of certain macroprudential measures they implement.

The European Central Bank (ECB), as part of its central bank function, also has responsibility for macroprudential supervision and as Lender of Last Resort (the national central banks provide ELA which is checked and monitored by the ECB). The ECB, in its supervisory function, is responsible for micro-prudential supervision of significant institutions, including recovery actions.

The Single Resolution Board (SRB) is responsible for resolution (planning, restructuring and triggering liquidation subject to Member States national insolvency regimes) as part of its resolution authority function.

- United States: The Financial Stability Oversight Council (FSOC) shares responsibility for macroprudential supervision with the Federal Reserve System (the Federal Reserve Board of Governors, the Federal Reserve Banks and the Federal Open Market Committee). As the central bank, the Federal Reserve also acts as Lender of Last Resort. The Federal Reserve, Federal Deposit Insurance Corporation (FDIC) and Office of the Comptroller of the Currency (OCC) share responsibilities for micro-prudential supervision, including for recovery (though recovery planning is applied on a limited basis). The FDIC is responsible for resolution (restructuring and as receiver) as part of its resolution authority function.
- United Kingdom: All responsibilities are undertaken by different parts of the Bank of England (BoE). The Financial Policy Committee (FPC) has responsibility for macroprudential supervision, with the Prudential Regulation Authority (PRA) executing, and providing data, for macroprudential measures. The Prudential Regulation Committee (PRC) and the PRA are responsible for micro-prudential supervision, including recovery measures, while the Resolution Directorate is responsible for resolution (restructuring and triggering liquidation subject to the UK's bank/building society insolvency procedure). As the UK's central bank, the BoE also acts as the Lender of Last Resort.
- Germany: The Financial Stability Committee (FSC), Federal Ministry of Finance (FMF), Federal Financial Supervisory Authority (BaFin) and the Deutsche Bundesbank (Bundesbank) each have responsibility for macroprudential supervision. BaFin and the Bundesbank also share responsibility for micro-prudential supervision, in conjunction with the ECB for significant institutions. Recovery measures are the responsibility of BaFin in its supervisory function, and resolution (restructuring and triggering liquidation subject to the Germany's insolvency procedure) are the responsibility of BaFin in its resolution authority function. The Bundesbank, as the national central bank, acts as Lender of Last Resort subject to checking and monitoring of the ECB.
- Canada: The Office of the Superintendent of Financial Institutions (OSFI) and the Bank of Canada (BOC) share macroprudential responsibilities and tools. OSFI is also responsible for micro-prudential supervision, including recovery measures (though the BOC and Canada Deposit Insurance Corporation (CDIC) each formally provide views to OSFI on plans). The CDIC is responsible for resolution (restructuring) and OSFI and CDIC may request that a bank is wound up. The BOC, as the central bank, acts as Lender of Last Resort.
- Singapore: The Monetary Authority of Singapore (MAS) is responsible for macroprudential supervision, as well as acting as Lender of Last Resort. MAS is responsible for micro-prudential supervision. MAS is responsible for recovery and resolution (restructuring and liquidation via an application to a Court).
- Hong Kong: The Hong Kong Monetary Authority (HKMA) has responsibility for macroprudential supervision in its central bank function, though the Financial Secretary and the Secretary for Financial Services are responsible for policies for maintaining the stability and integrity of the financial system of the Hong Kong. As central bank the HKMA also acts as Lender of Last Resort. The HKMA has responsibility for micro-prudential supervision in its supervisory function, and for recovery and resolution (restructuring) in its resolution authority function. The Finance Minister may petition the Court for a bank to be wound up under specific circumstances.

Comparison of Institutions

- (30) The following tables provide a summary of the key authorities involved in the institutional setup of the supervision and resolution of banks in the in-scope jurisdictions. These show government, central bank, supervisory and other authorities (the latter covering oversight committees, standalone resolution authorities or other fora).
- (31) Government involvement reflects where the consent or approval of a government body (e.g., a Ministry of Finance) or representative (e.g., Minister of Finance) is required. For instance, in the application of macroprudential tools or specific resolution actions / funding rather than the general responsibility of government to decide on economic or monetary strategy at national level.
- (32) Where the resolution (liquidation) responsibility is referred to, the indication in the table following refers to the decision by the resolution authority as to whether resolution measures may be applied under each jurisdiction's relevant conditions. Where such conditions are not met, the general position is then for the bank to be wound up or put into receivership under national insolvency regimes.
- (33) Some jurisdictions have more than one authority or body involved in an area of responsibility, the total number of bodies involved may exceed eight (the number of in-scope jurisdictions). The italics in the table show where the body or individual must approve certain actions, most normally in respect of resolution actin or funding requirements.



**International Comparison of Key Jurisdictions
Institutional Setup for the Supervision and Resolution of Banks
Expert Opinion
Alvarez & Marsal**

Table 1: Bodies with Relevant Responsibilities

Responsibilities	Switzerland	European Banking Union	United States	United Kingdom	Germany	Canada	Singapore	Hong Kong
Macroprudential Supervision	SNB FINMA FDF	ESRB ECB	FSOC Federal Reserve	BoE (FPC)	FSC BaFin Bundesbank FMF	BOC OSFI	MAS	CFR & FSC HKMA FS & SFST
Micro-Prudential Supervision	FINMA	ECB	Federal Reserve FDIC OCC	BoE (PRA)	BaFin Bundesbank	OSFI	MAS	HKMA
Recovery	FINMA	ECB	Federal Reserve FDIC OCC	BoE (PRA)	BaFin	OSFI	MAS	HKMA FS
Resolution (Restructuring)	FINMA	SRB EC	FDIC TS	BoE (RD) HMT	BaFin	OSFI MoF & GiC	MAS Minister	HKMA FS
Resolution (Liquidation)	FINMA	SRB	FDIC TS	BoE (RD)	BaFin	OSFI CDIC	MAS	HKMA FS & CEC
Lender of Last Resort	SNB	ECB	Federal Reserve	BoE HMT	Bundesbank ECB	BOC	MAS	HKMA

Acronyms common to Tables 1 to 15

BaFin	Federal Financial Supervisory Authority	FISC	Financial Institutions Supervisory Committee	MoF	Minister of Finance
BOC	Bank of Canada	FMF	Federal Ministry of Finance	OCC	Office of the Comptroller of the Currency
BoE	Bank of England	FPC	Financial Policy Committee	OSFI	Office of the Superintendent of Financial Institutions
Bundesbank	Deutsche Bundesbank	FRS	Federal Reserve System / Federal Reserve	PRA	Prudential Regulation Authority
CDIC	Canada Deposit Insurance Corporation	FS	Financial Secretary	RD	Resolution Directorate
CEC	Chief Executive in Council	FSC	Financial Stability Committee	SAC	Senior Advisory Committee
CFR	Council of Financial Regulators	FSC	Financial Stability Committee	SFC	Securities and Futures Commission
EC	European Commission	FSOC	Financial Stability Oversight Council	SFST	Secretary for Financial Services and the Treasury
ECB	European Central Bank	GiC	Governor in Council	SNB	Swiss National Bank
ESRB	European Systemic Risk Board	HKMA	Hong Kong Monetary Authority	SRB	Single Resolution Board
FDF	Federal Department of Finance	HoA Committee	Heads of Regulatory Agencies Committee	SRF	Single Resolution Fund
FDIC	Federal Deposit Insurance Corporation	IA	Insurance Authority	SRSC	Systemic Risk Surveillance Committee
FINMA	Swiss Financial Market Supervisory Authority	MAS	Monetary Authority of Singapore	TS	Treasury Secretary

Table 2: Responsibilities – Macroprudential Supervision

Switzerland	<p>SNB: Has the mandate of contributing to the stability of the financial system by analysing sources of risk to the financial system, with specific focus on the banking industry and the financial market infrastructures.</p> <p>FINMA: Has the task of protecting of functioning of the financial markets through the supervision of financial institutions.</p> <p>FDF: Prepares and executes the Federal Council's financial market policies and regulations and the Council takes the decision on the CCyB based on a proposal by the SNB after consultation of FINMA.</p>
EU Banking Union	<p>ESRB: The ESRB coordinates with national macroprudential authorities. The ESRB issues warnings, recommendations, guiding principles and opinions while the national macroprudential authorities implement specific policies and instruments and inform the ESRB accordingly.</p> <p>ECB: The ECB shares responsibility with the national supervisory authorities (NSAs) in the SSM and can exercise certain macroprudential powers though responsibilities lie with national macroprudential authorities. Two specific ECB macroprudential policy roles include: (i) Based on its monitoring of cyclical and structural developments, the ECB may apply higher requirements for capital buffers than the national authorities, (ii) National authorities have to notify the ECB when they intend to implement or change a macroprudential measure, with the ECB assessing the planned measures and having the right to object to them. In its role as the SSM's prudential supervisor, the ECB also monitors individual significant banks so that the banking sector remains safe, and, ultimately, to enhance financial stability in Europe.</p>
United States	<p>FSOC: FSOC is a federal committee including the Chair of the Federal Reserve, FDIC and Controller of the Currency. The Secretary of the Treasury serves as the Chairperson of FSOC. FSOC assesses, monitors, and mitigates risks and facilitates regulatory coordination and information sharing. FSOC also has the authority to recommend heightened prudential standards for large, interconnected bank holding companies and nonbank financial companies that are supervised by the Federal Reserve.</p> <p>Federal Reserve: The Federal Reserve regularly assesses a standard set of vulnerabilities as part of the FRS macroprudential financial stability review. The Federal reserve also the riskiness of systemically important financial institutions (SIFIs) and undertakes stress tests with macroprudential elements. It may also impose additional capital liquidity regulations on SIFIs and apply impose CCyB.</p>
United Kingdom	<p>FPC: The FPC is required under legislation to exercise its functions with a view to “(a) contributing to the achievement by the Bank of the Financial Stability Objective...”. It does so primarily via “the identification of, monitoring of, and taking of action to remove or reduce, systemic risks with a view to protecting and enhancing the resilience of the UK financial system”. The FPC may issue binding directions or recommendations to the PRA and FCA, and recommendations to any other body.</p> <p>PRA: The PRA's mandate is aligned with the BoE's financial stability objective and the PRA must take into account financial stability considerations when advancing its general objective to promote the safety and soundness of the firms it regulates, including banks.</p>
Germany	<p>FSC: The FSC has responsibility for coordinating the combined activities of the FMF, Bundesbank and BaFin. It may issue warnings and recommendations to the German government, BaFin or other public bodies in Germany and it may recommend the application of macroprudential tools such as capital buffers.</p> <p>FMF: The FMF suggests matters that are relevant to financial stability and should be discussed by the FSC and is responsible for financial market policies, interactions with international bodies including the Financial Stability Board, and providing the FSC Secretariat. The State Secretary serves as chair of the FSC.</p> <p>Bundesbank: The Bundesbank is a member of the ESRB and has a legislative mandate to contribute to safeguarding the stability of the financial system (financial stability) in Germany and identifies and assesses threats to financial stability, shares its analysis with the FSC and proposes warnings and recommendations if necessary, and evaluates their implementation.</p> <p>BaFin: BaFin a member of the ESRB and helps ensure financial stability through the use of supervisory tools.</p>
Canada	<p>Responsibility for systemic risk oversight is not explicitly assigned to any specific body, though powers over macroprudential tools for the banking sector lie with OSFI and BOC.</p> <p>OSFI: OSFI's risk appetite statement takes a macro-responsive risk management approach. OSFI also has the power to issue guidelines setting prudential requirements regarding capital and liquidity to federally regulated deposit-taking institutions which may be deployed to enhance system-wide financial stability and set capital buffers such as the D-SIB capital surcharge and Domestic Stability Buffer. OSFI reports issues that may impact financial stability to FISC.</p> <p>BOC: BOC conducts analysis, research and stress-testing to identify and mitigate systemic risks that might impair the functioning of the financial system.</p>



Singapore

MAS: MAS's legislative objectives provide the remit for its macroprudential policy mandate. A sub-committee (the Chairman's Meeting) has remit over macroprudential policy decision. MAS has a range of macroprudential tools and takes an approach to macroprudential policy based on: Surveillance and Risk Identification, Impact and Vulnerability Assessment and then a Policy Response.

Hong Kong

HKMA: The HKMA is the main macroprudential regulator and is responsible for determining prudential policies related to the banking sector. It implements the macroprudential tools for banks, including the CCyB, and is responsible for designating G-SIBs and D-SIBs.

FS and SFST: The FS and SFST are responsible for determining the relevant policy objectives at a macro level and for formulating specific policies and overseeing their implementation through the regulatory authorities respectively.

CFR and FSC: The CFR and FSC are mechanisms established and chaired by the FS and the SFST respectively, to support macroprudential policy coordination and consultation among financial regulators.

Table 3: Responsibilities – Micro-Prudential Supervision

Switzerland	FINMA: Its supervisory responsibilities and activities are informed by the macroprudential activities as per Table 2.
EU Banking Union	<p>ECB: The ECB exercises direct supervision of significant institutions and indirect supervision of less significant institutions via overseeing the activities of the NSAs who directly supervise those less significant institutions. The ECB also assists in developing prudential requirements for banks and can issue its own regulations, guidelines and instructions on topics such as the Supervisory Review and Evaluation Process.</p> <p>EBA: The EBA aims to ensure effective and consistent prudential regulation and supervision across the European banking sector mainly by contributing to the creation of the European Single Rulebook.</p>
United States	<p>Federal Reserve is the primary federal supervisor of state-chartered banks (state banks) that have chosen to join the FRS. It supervises Large Institutions which pose elevated risk to US financial stability and Large and Foreign Banking Organisations. Large organisation are domestic organisations with over \$100 billion of assets.</p> <p>FDIC: State banks that are not members of the FRS are supervised by the FDIC (and their chartering state).</p> <p>OCC: The OCC charters and supervises national banks.</p>
United Kingdom	PRA: The PRA is the prudential supervisor for UK banks. It uses a risk element framework to assess the risk posed by firms to the PRA's objectives and supervisory scrutiny is based on firm categorisation.
Germany	<p>BaFin and the Deutsche Bundesbank through participation in Joint supervisory teams (JSTs) for significant banks.</p> <p>BaFin and Bundesbank for less-significant banks. BaFin is the administrative authority responsible for the supervision of institutions under the Banking Act. It has final assessment and decision-making authority for supervisory measures and questions of interpretation and, in consultation with the Bundesbank determines the supervisory strategy and supervisory planning for a bank. The Bundesbank undertakes the 'operational' elements of banking supervision, including evaluating the documentation submitted by institutions as well as performing and evaluating on-site inspections.</p>
Canada	OSFI: OSFI applies a Supervisory Framework which assesses the safety and soundness of banks, and the intensity of supervision depends on the nature, size, complexity and risk profile of the bank. It has enhanced supervisory expectations for six D-SIBs.
Singapore	MAS is the integrated financial supervisor for Singapore and has the mandate "to conduct integrated supervision of the financial services sector". It takes a risk and impact-based approach to supervision, including inherent prudential risks, with intensity of supervisory scrutiny increasing alongside the potential risk (including size, complexity, potential impact) of a bank. It has an enhanced supervisory regime for D-SIBs and MAS undertakes a regular assessment of D-SIB status.
Hong Kong	HKMA: The HKMA is the integrated supervisor for banks. It has three-tiers of banking (licenced banks, restricted licenced banks and deposit taking companies (authorised institutions). It takes a risk-based approach and has a tailored regime for D-SIBs.

Table 4: Responsibilities – Recovery

Switzerland	FINMA: FINMA's responsibilities and activities include preventive supervision, intervention in acute crises and recovery planning for systemically important banks.
EU Banking Union	ECB: The ECB is responsible for recovery planning and exercise of early intervention powers in cooperation with the NSAs for significant institutions (the NSAs for less significant). The ECB's Crisis Management Division supports the JSTs in times of crisis. The SRB reviews and makes recommendations to the ECB (or the NCA) regarding recovery plans' impact on the resolvability of the institution.
United States	<p>When a bank's capital situation deteriorates such that it fails to meet minimum regulatory standards, the bank's primary federal regulator is required to take prompt corrective action. There are also recovery planning requirements as follow.</p> <p>Federal Reserve: Recovery planning applies only to the domestic bank holding companies of the Federal Reserve's LISCC program.</p> <p>FDIC: There are no formal or enhanced recovery planning requirements elements of formal recovery planning, but elements of a formal recovery are part of regular supervisory risk management requirements.</p> <p>OCC: Recovery planning applies to national banks with assets over \$250 billion.</p>
United Kingdom	PRA: The PRA is responsible for early intervention and recovery measures for banks and requires recovery planning by all banks.
Germany	BaFin: BaFin requires banks to prepare and submit recovery plans for its review. BaFin may also apply early intervention powers, such as requiring actions in the recovery plan to be carried out, removal of one of more members of the management body or may appoint a temporary administrator.
Canada	OSFI: There is no explicit legislative requirement underpinning for recovery planning . However, OSFI requires all D-SIBs to have recovery plans and uses a range of criteria to determine which other banks must prepare recovery plans. The assessment of plans for D-SIBs is integrated into OSFI's supervisory framework. The CDIC and BOC both review recovery plans and feed back to OSFI. As a bank's position deteriorates OSFI will intervene to a greater extent to try to facilitate a recovery. Similarly, the CDIC involvement and potential actions will increase with a view to facilitating the resolution of the bank or reimbursement of depositors.
Singapore	MAS: MAS applies its Crisis Management Framework in its supervision of banks, including its activities regarding banks, and supervisory action will increase as a firm's position deteriorates. D-SIBs are required to develop and submit recovery plans, which are reviewed by the supervisory teams. MAS may also utilise powers if it is the public interest when an institution is likely to or become insolvent, become unable to meet its obligations, or it has suspended or is about to suspend payments.
Hong Kong	<p>HKMA: The HKMA has legal authority to use powers in the event that an authorised institution is likely to become unable to meet its obligations or if it is insolvent or about to suspend payment. These include "any action or to do any act or thing whatsoever in relation to its affairs, business and property as [the HKMA] may consider necessary", appointing an Advisor to advise on the institutions management of its affairs, business and property appointing a manager under objectives the HKMA sets. The HKMA must give seven days notice of its intent to use this power but can give less notice with the consent of the FS.</p> <p>Authorised institutions are also required to submit recovery plans to the HKMA. The HKMA will review these plans and may require removal of impediments thereto. The authorised institution is required to notify the HKMA if an event leading to, or implementation of, a recovery measure is likely and the HKMA may require use of one or more recovery options.</p>

Table 5: Responsibilities – Resolution (Restructuring)

Switzerland	<p>FINMA: Is responsible for resolution emergency planning for systemically important banks. It will assess whether there is a risk of a bank becoming insolvent, if so, it will assess whether restructuring has a good chance of completion and will publicly initiate the restructuring procedure if so (and may appoint a restructuring agent).</p>
EU Banking Union	<p>SRB: Resolution plans for significant institutions are prepared by the SRB in cooperation with National Resolution Authorities (NRAs) via an Internal Resolution Team led by the SRB (NRAs prepare plans for less significant institutions). The entities under the remit of the SRB are institutions directly supervised by the ECB and other cross border groups. The SRB is obligated to cooperate closely with the NRAs and the NRAs are responsible for implementing the resolution scheme.</p> <p>ECB: The ECB, after consulting the SRB, determines whether a bank is failing or likely to fail. The SRB may also determine that independently, but only after informing the ECB of its intention and only if the ECB does not determine that within three days of receipt of information from the SRB.</p> <p>EC: A resolution scheme involving the use of the SRF or the granting of State Aid may only be approved and implemented if no objection is expressed by the European Commission or the Council. Objection to certain parts of the resolution scheme requires the SRB to modify the scheme accordingly.</p>
United States	<p>FDIC and Federal Reserve: Large banking organisations and certain other firms are required to periodically submit resolution plans to the Federal Reserve and the FDIC. There are three resolution planning requirements: 'DFA Title I', 'DFA Title II' and 'Insured Depository Institution (IDI) Rule' plans. DFA Title I plans and IDI Plans are developed by the banks, and the FDIC uses FDA Title I plans to develop its own DFA Title II plans (with input from the Federal Reserve and OCC). The Federal Reserve and FDIC work jointly to develop rules for the DFA Title I plans, and also work together to assess and feed back on plans to the banks.</p> <p>FDIC: The FDIC acts as the resolution authority for all US IDIs , including large, complex non-bank financial institutions such as bank holding companies. Institutions are closed generally by their chartering authority - the state regulator or OCC. In the event of a bank failure, the FDIC acts in two capacities: (1) As the insurer of the bank's deposits, the FDIC pays insurance to the depositors up to the insurance limit; and (2) The FDIC, as the 'Receiver' of the failed bank, assumes the task of selling/collecting the assets of the failed bank and settling its debts, including claims for deposits in excess of the insured limit. The FDIC evaluates resolution alternatives (such as purchase and sale agreements, bridge banks and deposit payoffs) and selects the one that is least costly to the Deposit Insurance Fund unless the systemic risk exception applies (the Secretary to the Treasury decides whether this exception is met).</p>
United Kingdom	<p>BoE RD: The RD is responsible for developing resolution plans, assessing resolvability and implementing resolution measures and stabilisation tools.</p> <p>BoE PRA: The PRA will assess whether the firm has failed or is likely to fail.</p> <p>HMT: HMT (via the Chancellor) has responsibility for any decision on whether and how to use public funds in the use of a stabilisation power and whether to place an institution into temporary public ownership.</p>
Germany	<p>BaFin: BaFin will act in conjunction with the SRB for significant institutions. For less significant institutions it will prepare resolution plans and assess banks' resolvability and may propose removal of impediments thereof. It is a supervisory responsibility to judge whether the bank is failing or likely to fail, and BaFin as resolution authority will assess whether the resolution objectives are met, and the Public Interest Assessment has been met in order for it to apply resolution measures.</p>
Canada	<p>CDIC: The CDIC reviews resolution plans which it requires D-SIBs to prepare. The CDIC is responsible for ensuring that effective measures are in place to deal with such events and applies various resolution tools. For D-SIBs these include Enhanced Financial Institution Restructuring Powers, bail-in and a bridge bank, while for smaller deposit takers tools include FIRP, bridge bank and financial assistance. Bridge banks are created by the Minister of Finance. CDIC must request an order from the Governor in Council in order to initiate the bail-in.</p> <p>OSFI: Resolution occurs when OSFI determines that no supervisory or private sector solution alone can restore the member institution to viability.</p>
Singapore	<p>MAS: MAS supervisory teams develop resolution plans for D-SIBs with support from its Resolution Office. It will assess resolvability and identify and require remediation of any impediments. MAS supervisors will</p>



consider whether the bank is no longer viable or (b) likely to be no longer viable, and has no reasonable prospect of becoming viable in the future and the Resolution Office will determine whether there is a viable private sector solution and if there is a public interest reason for resolving (rather than liquidating) the institution. MAS has a range of tools it can apply, including transfer of business, bridge bank, asset management vehicle and bail-in. Supervisors will implement the resolution plan.

The Minister-in-charge of MAS must approve any plan that includes the use of public monies, the transfer of the business of, or shares in, a failing institution to a third party, or the restructuring of the share capital of a failing institution.

Hong Kong

HKMA: The HKMA is the resolution authority for authorised institutions. It prepares resolution plans, assesses resolvability and may require removal of impediments. The HKMA as resolution authority will assess whether the conditions for initiating a resolution are met. It has a range of measures which it may apply, including transfer of business to a purchaser or bridge bank, transfer some all or some of all assets rights and liabilities to an asset management vehicle, bail in or transfer to a temporary public ownership company which is wholly owned by the Government and must be with the consent of the FS. The FS also has the authority to designate the resolution authority.

Table 6: Responsibilities – Resolution (Liquidation)

Switzerland	FINMA: FINMA assesses whether there is a prospect of a restructuring, and if not (or if it fails), FINMA will withdraw the bank's licence and place it in insolvency and appoint a liquidator.
EU Banking Union	SRB: The SRB will determine if the 'Public Interest Assessment' is met. If so, resolution measures will be applied but if not, the SRB determines that insolvency will meet the resolution objectives and the bank will be subject to national insolvency proceedings via a liquidator.
United States	FDIC: When acting as receiver upon failure of a bank, the FDIC will liquidate the assets of the failed bank. If an orderly bankruptcy is not possible, the FDIC may act under the Orderly Liquidation Authority which provides a process to quickly and efficiently liquidate a large, complex financial company that is close to failing. The Treasury Secretary decides to make OLA available to the FDIC, in consultation with the US President, and on a recommendation of two-thirds of the members of both the Federal Reserve Board and the FDIC Board.
United Kingdom	BoE RD: The RD will assess whether the public interest test has been met. If so, the bank will enter resolution proceeding and stabilisation tools will be implemented. If not, the bank will be subject to the UK's bank (or building society) insolvency proceedings via a Court appointed Insolvency Practitioner.
Germany	BaFin: BaFin will assess whether the Public Interest Assessment has been met. If the public interest assessment is not met the bank will be subject to national insolvency proceedings and liquidated.
Canada	OSFI: OSFI may request that the Attorney General apply for a winding-up order where the assets of an institution or the institution itself is under the control of the Superintendent. CDIC: CDIC may apply for a winding-up order where, in the opinion of CDIC, the member institution is or is about to become insolvent, unless the Minister advises that it would not be in the public interest to do so. If a winding-up order is granted the CDIC must use its reimbursement tool to facilitate provision of insured deposits to depositors.
Singapore	MAS: Once the Supervisory team has considered whether the bank is no longer viable and has no reasonable prospect of becoming viable in the future the Resolution Office will determine whether there is a viable private sector solution and if there is a public interest reason for resolving the bank. If there is no public interest reason it will apply to the Court to wind-up and liquidate the non-viable bank.
Hong Kong	HKMA: The HKMA as the resolution authority will consider whether the conditions for initiating a resolution are met. If not, a resolution measure may not be applied. FS: The FS, acting in accordance with a direction of the Chief Executive in Council (who themselves is acting upon receipt of a report from the FS or HKMA), may petition the Court of First Instance to wind up an authorised institution. The Court may do so if for instance it is unable to pay its debts or if the Court is "satisfied that it is in the public interest" to wind it up. The FS may petition the Court of First Instance upon receipt of a report from a competent person on the "state and conduct of the affairs, business and property" of the authorised institution (without recourse to the Chief Executive Council). The Court may wind up a deposit-taking company or restricted licence bank if the firm is "unable to pay sums due and payable to its depositors or is able to pay such sums only by defaulting on its obligations" or "the value of the deposit-taking company's or restricted licence bank's assets is less than the amount of its liabilities".

Table 7: Responsibilities – Lender of Last Resort

Switzerland	SNB: May at its discretion provide ELA to any bank provided it is solvent and has access to adequate collateral.
EU Banking Union	ECB: The ECB and the national central banks of euro area countries share the role of lender of last resort - national central banks provide ELA which is checked and monitored by the ECB. To qualify for ELA banks can be illiquid but they must be solvent.
United States	Federal Reserve: The Federal Reserve may provide liquidity using standard tools, like open market operations and discount window lending. Emergency credit may be available in unusual and exigent circumstances. This requires the approval of the Secretary of the Treasury. Lending to insolvent firms is prohibited and it may not be used for the purpose of aiding specific companies to avoid bankruptcy or resolution.
United Kingdom	BoE: The BoE may offer ELA to solvent banks. The BoE Court must approve the proposal and the BoE will also notify and seek HMT's approval.
Germany	Bundesbank: The Bundesbank may provide ELA to solvent banks, but this is checked and monitored by the ECB and subject to the non-objection of the ECB Governing Council for larger ELA operations.
Canada	BOC: Emergency Lending Assistance is a loan or advance to eligible financial institutions at BOCs discretion.
Singapore	MAS: MAS may provide Emergency Liquidity Assistance (ELA) where MAS considers it necessary to safeguard the stability of, or public confidence in, the financial system. The bank must be viable, provide adequate collateral and loans will be provided at a premium above BAU market interest rates. ELA will not be provided to a bank under resolution or liquidation.
Hong Kong	HKMA: The HKMA operates a range of liquidity facilities to maintain integrity and stability of the monetary and financial systems in Hong Kong. These include the Hong Kong Dollar Liquidity Facilities, RMB Liquidity Facility and Primary Liquidity Providers and US Dollar Liquidity Facilities. The HKMA may provide ELA from the Exchange Fund.

Table 8: Independence between Authorities

Switzerland	<p>SNB: The SNB is functionally independent and prohibited from accepting instructions from the Federal Council, the Federal Assembly or any other body but is administered with the cooperation and under the supervision of the Confederation via various powers of appointment (e.g., of Bank Council, Governing Council), approval (i.e., the Council approves the organisation regulations of the SNB) and written annual report to the Federal Assembly.</p> <p>FINMA: Carries out its supervisory activities autonomously and independently, though FINMA is accountable to the Federal Government, e.g., it is required to review its supervisory strategy annually with the Federal Council (via the FDF) and the Federal Council appoints the Board of Directors.</p>
EU Banking Union	<p>ESRB: The ESRB is an independent EU body. The members of the ESRB are representatives of other EU institutions or national authorities but must perform their duties impartially and in the interest of the EU as a whole and must not take instructions from any public or private body. Other EU bodies and Member States should not seek to influence the members of the ESRB in performance of their ESRB tasks.</p> <p>ECB: Neither the ECB nor the national central banks (NCBs) are allowed to seek or take instructions from EU institutions or bodies, from any government of an EU Member State or from any other body. The supervisory and monetary tasks of the ECB are functionally separate to seek to prevent conflict of interest.</p> <p>SRB: The SRB is an independent EU agency. The SRMR requires that the SRB acts “independently and in the general interest” and members of the SRB “shall act independently and objectively” and “express their own views and vote independently”. The SRB must communicate with the ECB regarding resolution determinations and can make the decision to pull the resolution trigger in exceptional circumstances.</p>
United States	<p>FSOC: The FSOC assembles federal financial regulators, representatives from state regulatory bodies, including the Secretary to the Treasury (Chair), the Chair of the Board of Governors of the FRS, the Comptroller of the Currency and the Chair of the FDIC. The Council is accountable to Congress.</p> <p>Federal Reserve: The Federal Reserve is an independent agency but is accountable to Congress. The Federal Reserve System is not “owned” by anyone (but banks hold stock as a condition of membership). The Board of Governors in Washington, D.C., is an agency of the federal government and reports to and is directly accountable to the Congress. The Board is appointed by the President and confirmed by the Senate.</p> <p>FDIC: The FDIC is an independent agency created by Congress. The FDIC is managed by a five-person Board of Directors, all of whom are appointed by the President and confirmed by the Senate.</p> <p>OCC: The OCC is an independent bureau of the US Department of the Treasury and receives no appropriations from Congress.</p>
United Kingdom	<p>The BoE is a single legal institution subject to the ultimate governance of the BoE’s Court of Directors. Specific areas of responsibility and policy under specific governance within the BoE structure: the FPC; the PRC (and PRA); the RD. The separation of the BoE’s decision-making structures is facilitated by decision-making authority for the BoE’s micro-prudential, macroprudential and monetary policy functions residing with the relevant statutory committees, i.e., the PRC, FPC (and MPC) respectively. However, these committees have some common members, specifically the Governor and four Deputy Governors of the BoE. The BoE is required under legislation to ensure “the discharge of its resolution functions ... is operationally independent of the discharge of its functions as the PRA”.</p> <p>Other UK Authorities in a crisis scenario (HMT, FCA, FSCS) each have specific roles, responsibilities and are separate legal institutions.</p>
Germany	<p>FSC: The FSC comprises representatives of the FMF, Bundesbank and BaFin and its Secretariat is provided by the FMF. It is considered an independent body and reports annually to the Bundestag.</p> <p>Bundesbank: The Bundesbank is independent of instructions from the Federal Government, and it supports the general economic policy of the Federal Government. The Executive Board governs and manages the Bundesbank. It comprises the President, the Vice-President and four other members. The members of the Executive Board are appointed by the President of the Federal Republic of Germany. The President, the Vice-President and one other member are nominated by the Federal Government; the other three members are nominated by the Bundesrat in agreement with the Federal Government. As a member of the European System of Central Banks the Bundesbank “shall not seek or take instructions from Union institutions, bodies, offices or agencies, from any government of a Member State or from any other body”.</p> <p>BaFin: BaFin is an autonomous public-law institution and is subject to the legal and technical oversight of the FMF. It is operationally independent when performing its supervisory responsibilities and the FMF and BaFin have therefore agreed to the principles of cooperation. Members of the Administrative Council include a Chair and their Deputy seconded from the Federal Ministry.</p>



Canada

OSFI: OSFI is an independent agency of the Government of Canada. It reports to the Canadian Parliament through the Minister of Finance, but the Superintendent is responsible for exercising the powers provided by the financial institution and pension legislation, and reports to the Minister on the administration of said legislation.

BOC: The BOC is a Crown corporation, owned by the federal government, but with considerable independence to carry out its responsibilities. The Governor and Deputy Governor are appointed by the Board not federal government, and although the Deputy Minister of Finance sits on the Board as a non-voting member.

CDIC: The CDIC was established as an independent Crown corporation and does not receive tax dollars or public funds to operate. The CDIC is governed by a Board of Directors who have an obligation to act in the best interests of the CDIC. The Board has five private sector directors and five public sector directors including leaders of the Department of Finance, the BOC, OSFI and the Financial Consumer Agency of Canada.

Singapore

MAS: MAS has operational autonomy, but the Board has a duty to report to the Government. The President appoints the Chairperson and other members of the Board.

MAS has two internal decision-making committees focused on regulatory framework and the supervisory policies (including macroprudential) and monetary policy (the Chairman's Meeting and Monetary and Investment Policy Meeting respectively) though there are common members between the two. There are established decision-making routes for macroprudential, monetary and resolution related matters.

Hong Kong

HKMA: The HKMA is accountable to the public of Hong Kong through the Financial Secretary, who appoints the Chief Executive, and through the laws passed by the Legislative Council that set out the Monetary Authority's powers and responsibilities.

Table 9: Resource Endowment

Switzerland	<p>SNB: At the end of 2022, the SNB employed 979 people, comprising mostly economists, banking, IT, legal, political science and logistics specialists, as well as technical staff.</p> <p>FINMA: Employs its staff under public law and at the end of the 2022 financial year employed 594 people (547 FTE), comprising mostly lawyers, economists, mathematicians, auditors, actuaries, accounting experts and other specialists.</p>
EU Banking Union	<p>ESRB: The members of the ESRB, and its committees, are representatives of other national and pan-European authorities. The ECB provides the Secretariat for the ESRB, including analytical, statistical, administrative and logistical support.</p> <p>ECB: As of 31 December 2022, the ECB had 5,089 employees and trainees, 7.4% of which worked part-time. The ECB staff perform a range of tasks in close cooperation with the national central banks within the Euro system, and with the national supervisors within the SSM.</p> <p>SRB: As of the end of 2022, the SRB had 515 members of staff; 427 were Temporary Agents, 20 were seconded national experts, 10 were trainees, 53 were consultants and 15 were interimairees.</p>
United States	<p>FSOC: Members are representatives of their own authorities and agencies. The Office of FSOC (the Secretariat) and the OFR are within the Treasury Department. The OFR provides the FSOC with a permanent staff to monitor the financial system.</p> <p>Federal Reserve: In 2022, there were circa 24,121 staff employed in the Federal Reserve System. Of these, 3,121 worked for the Federal Reserve Board, while the remainder were employed at the Reserve Banks and centralised IT and Benefits.</p> <p>FDIC: Full-time equivalent staffing was 6,090 in 2022 with an operating budget for 6,310 in 2023.</p> <p>OCC: As of September 2022, the number of employees (full time equivalent) was 3,508</p>
United Kingdom	<p>BoE personnel are direct employees of the BoE. The number of persons employed by the BoE at the end of February 2023 was 5,239 of which 4,529 were full time and 710 part time. The number of persons employed by the Bank and working for the PRA was 1,529 as of 28 February 2023. The BoE RD has its own staff and is separate to other parts of the BoE and the PRA.</p>
Germany	<p>Bundesbank: At the end of 2022 financial year, the Bundesbank employed 10,294 FTE, 5,405 in the Central Office, 2,667 in Regional Offices and 2,223 in Branches</p> <p>BaFin: 2,870 employees worked for BaFin as of 31 December 2022.</p>
Canada	<p>OSFI: OSFI's full-time equivalent employees in 2022-23 were 1024.</p> <p>BOC: As of the end of 2022 the BOC employed 2,250 people.</p> <p>CDIC: As of 31 March 2023, there were 176 full time permanent employees.</p>
Singapore	<p>MAS: The directors and the officers and employees of the MAS of every description are deemed to be public servants. Remuneration at the MAS may not be related to its profits.</p>
Hong Kong	<p>HKMA: As of 1 January 2023, the establishment level of staffing was 1,040, with a strength of 937. Within that overall figure, in Banking Supervision there was an establishment level of 188 and strength of 164, in Banking Policy the numbers were 47 and 43 respectively, in the Resolution Office the numbers were 13 and 9 respectively and in Monetary Management the numbers were 94 and 84 respectively.</p>

Table 10: Financing of Authorities

Switzerland	<p>The SNB has budgetary autonomy. The SNB is prohibited from granting loans to the Confederation.</p> <p>FINMA's costs are covered by the institutions it supervises through supervisory fees and levies.</p>
EU Banking Union	<p>ECB: The ECB has its own budget. The ECB's own funds portfolio is invested in euro-denominated assets and is meant to fund the ECB's operating expenses, not related to its supervisory tasks. The ECB also earns seigniorage income from banknotes in circulation in the euro area. The ECB covers the costs of its supervisory tasks and responsibilities by levying an annual fee on all supervised banks.</p> <p>SRB: The SRB is not publicly funded, and all credit institutions established in the Banking Union must contribute to the administrative expenditures of the SRB. The annual levy is based proportionally on the institutions' significance and categorisation.</p>
United States	<p>FSOC: The FSOC (and the OFR) are funded by assessment fees, not by annual Congressional appropriations.</p> <p>Federal Reserve: The Federal Reserve does not receive funding through the Congressional budgetary process, i.e., congressional appropriations. Its operations are financed primarily from the interest earned on the securities it owns and services provided. It also collects assessment fees from bank holding companies and savings and loan holding companies with \$100 billion or more in total consolidated assets, and from non-bank financial companies designated by the FSOC for supervision by the Board.</p> <p>FDIC: The FDIC receives no Congressional appropriations - it is funded by premiums that banks and savings associations pay for deposit insurance coverage.</p> <p>OCC: National banks, federal savings associations, federal branches and agencies of foreign banks are assessed and charged fees.</p>
United Kingdom	<p>The BoE does not get a budget from the UK Treasury. The BoE generates its funding by investing the money banks have to hold with the BoE (i.e., the 'Cash Ratio Deposit scheme') and providing banking services to its customers.</p> <p>The PRA consults and raises an annual levy to cover its expenditure and operating expenses via periodic Fees levied annually and regulatory transaction Fees and special project fees for restructuring</p>
Germany	<p>Bundesbank: The Bundesbank receives income from a variety of its operations, for instance interest income and income from its financial operations, fees and commissions and gold.</p> <p>BaFin: BaFin raises the funds required to cover its costs from the undertakings it supervises, including fees for special authorisation or exemption, certain other administrative services, separate reimbursements by specific institutions for expensive activity and annual cost allocations apportioned pro rata to all supervised entities. It receives no funding from the federal budget.</p>
Canada	<p>OSFI: OSFI recovers its costs through payment for selected services and assessments of the financial services industry and the private pension plans OSFI regulates and supervises and for the actuarial services OSFI provides.</p> <p>BOC: BOC covers its operating expenses via Seigniorage incomes, and also receives income from securities and assets held.</p> <p>CDIC: CDIC does not receive tax dollars or public funds to operate. CDIC is fully funded by premiums paid by member institutions based on one of four premium categories.</p>
Singapore	<p>MAS: At the end of each financial year, MAS net profit for that year is to be determined after allowing for the expenses of operation. MAS' income sources include foreign operations, domestic and other operations and non-operating income.</p> <p>In addition, each bank has to pay an annual licence fee. Fees are set at a standard rate depending on the bank status.</p>
Hong Kong	<p>HKMA: The Chief Executive and staff appointed by them are considered as being employed by the Exchange Fund, and therefore costs are financed by the Exchange Fund.</p> <p>The Exchange Fund may be held in Hong Kong currency, in foreign exchange or in gold or silver or may be invested by the FS in such securities or other assets as the FS, after having consulted the Exchange Fund Advisory Committee considers appropriate. The FS may buy or sell such currency, foreign exchange, gold, silver, securities or assets accordingly and after having consulted the Exchange Fund Advisory Committee, enter into any financial arrangement that the FS considers appropriate for the prudent management of the Fund. The Exchange Fund has a diversified long-term asset allocation portfolio and Long Term Growth Portfolio.</p>

Table 11: Coordination of the Authorities – Nationally

Switzerland	<p>The National Bank Act requires the SNB to cooperate with national supervisory authorities. In the regards to financial stability the SNB cooperates with FINMA under a Memorandum of Understanding between the SNB and FINMA. In the common areas of interest, FINMA and the SNB will work together. The SNB and FINMA work together closely in crisis situations.</p> <p>Cooperation with the FDF in crisis management matters is governed by the provisions of a trilateral MoU. The Committee on Financial Crises is responsible for coordinating preparatory efforts and for crisis management.</p>
EU Banking Union	<p>ESRB: The ESRB's members are representatives of other national and pan-European authorities, including the ECB and the SRB.</p> <p>ECB: The ECB collaborates closely with the authorities that form part of the European System of Financial Supervision. The ECB provides the secretariat for the ESRB and offers analytical, administrative and logistical support. In the field of banking resolution, the ECB maintains close working relations with the SRB.</p> <p>SRB: The SRB works closely with the Banking Union, European and international authorities.</p>
United States	<p>FSOC: The FSOC is a collaborative body that brings together the expertise of federal financial regulators, an independent insurance expert, and representatives of state financial regulators. A core function of the FSOC is to foster communication among financial regulators, which is supported by its voting and non-voting membership.</p> <p>FFIEC: The FFIEC is a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the federal examination of financial institutions. Its members include the Federal Reserve, FDIC and OCC.</p> <p>Federal Reserve: The Chair of the Federal Reserve is a member of the FSOC, and the Federal Reserve works to support the activities of the FSOC and other US government agencies in the pursuit of financial stability.</p>
United Kingdom	<p>The roles of each of the bodies within the Bank of England responsible for the 'in-scope institutional arrangements' are clearly defined. As a single institution, there is a presumption between cooperation and coordination between the parties although each area has specific and clearly defined parameters and objectives which will be the focus for their activities.</p>
Germany	<p>FSC: The FSC provides a forum for the cooperation and coordination of the key institutional authorities within the institutional setup for the supervision and resolution of banks in Germany. The participating authorities exchange relevant information on an ongoing basis and collaborate in a coordinated manner.</p> <p>BaFin and Bundesbank: BaFin and the Bundesbank actively and routinely cooperate in regard to banking supervision. The Bundesbank is responsible for the majority of operational banking supervision subject to BaFin's guidelines on ongoing supervision (which are issued in agreement with the Bundesbank) while decision-making on supervisory measures lies with BaFin.</p> <p>BaFIN: BaFin is legally and technically subject to the oversight of the FMF. While functionally independent it has agreed to principles of cooperation with the FMF.</p>
Canada	<p>FISC: OSFI, the Department of Finance, the BOC, CDIC and the Financial Consumer Agency of Canada meet on a quarterly basis to exchange information relating to the supervision of federally regulated financial institutions.</p> <p>SAC: The same partners also form the Senior Advisory Committee, which is a discussion forum for financial sector policy issues, including financial stability and systemic vulnerabilities.</p> <p>HoA Committee: The HoA Committee is a federal-provincial forum for the discussion of financial sector issues of which BOC and OSFI are members.</p> <p>SRSC: The SRSC includes all agencies that participate in HoA plus others including the CDIC. It collaborates and shares information on the assessment of vulnerabilities and risks to the Canadian financial system among Canadian financial authorities for the purpose of monitoring and assessing systemic risk.</p> <p>OSFI and the CDIC have a MoU in regards of the oversight, early intervention and ultimately resolution of a bank and BOC and CDIC have a number of MoUs with other Canadian agencies.</p>
Singapore	<p>MAS is a single entity and so there is a presumption of cooperation. MAS has a number of internal committees affecting the in-scope institutional arrangements which have cross-MAS membership.</p>
Hong Kong	<p>HKMA: The HKMA has a legislative basis for the cooperation with other financial supervisors in Hong Kong. The CFR and FSC provide fora for cooperation and collaboration between members (the FS, SFST, SFC and IA). The HKMA has MoUs with the SFC and IA.</p>

Table 12: Coordination of the Authorities – Internationally

Switzerland	<p>SNB: May cooperate with foreign supervisory or oversight authorities and request information from them, with foreign central banks and the BIS, and participates with various multilateral institutions, e.g., the IMF, BIS, FSB, OECD and G20 in cooperation with the Confederation and, in the case of the FSB, also with the FINMA. The SNB's bilaterally cooperates with other central banks.</p> <p>FINMA: Participates in the work of various international organisations and associations. FINMA has international bilateral agreements with various foreign authorities, including the ECB, SRB, Federal Reserve, OCC, PRA, BaFin, Deutsche Bundesbank, MAS, HKMA. If a bank is the subject of bankruptcy proceeding outside of Switzerland, FINMA coordinates the bank bankruptcy with the competent foreign bodies.</p>
EU Banking Union	<p>ECB: The ECB cooperates internationally as a central bank and as an EU institution. The ECB responds to ad hoc requests for international cooperation from central banks globally. The Working Group on Central Bank Cooperation coordinates international cooperation activities within the European System of Central Banks.</p> <p>SRB: The SRB cooperates with the authorities of Non-Banking Union EU countries and third-country authorities. The SRB has a series of MoUs, including with the Canada's and the United States' deposit insurance corporations, with the United Kingdom and participates in Resolution Colleges and Crisis Management Groups.</p> <p>The ECB and SRB MoU to share confidential data.</p>
United States	<p>Federal Reserve: The Federal Reserve (as well as FDIC and the Office of the Comptroller of the Currency) participates in international bodies such as the Basel Committee on Banking Supervision. The Federal Reserve works closely with central banks and other public authorities, the FSB, BIS, IMF, OECD, World Bank. The Federal Reserve is part of crisis management groups with other state and US regulatory agencies and non-US banking supervisors.</p> <p>FDIC: The FDIC is a member of the FSB Resolution Steering Group. The FDIC co-chairs or participates in cross-border Crisis Management Groups. The FDIC has a series of international MoUs.</p>
United Kingdom	<p>The BoE has a series of MoU for cooperation between it and other Central Banks and / or supervisory organisations. The MoU to which the BoE (including in its capacity as the PRA) is signatory to include the majority of the jurisdictions subject to this expert opinion.</p>
Germany	<p>The German authorities are subject to the duties of cooperation with the ECB, SRB and other members of the European Banking Union under the SSM and SRM.</p> <p>FSC: The FSC functions as an interface with macroprudential supervisors across Europe including the ESRB and the macroprudential authorities of other EU member states. The FSC shall inform the ESRB prior to issuing its warning or recommendations where they may have a material cross-border impact.</p> <p>Bundesbank: The Bundesbank President is a member of the ESRB, and the Bundesbank is a member of the ESCB. The Bundesbank participates and engages in other European and international committees and cooperates with EU committees, the FSB, BIS, CGFS, IMF, G20 and G7.</p> <p>BaFin: BaFin is represented in international bodies and has a duty to cooperate with the ECB, SRB, EC, ESAs, authorities in other Member States and non-Members jurisdictions. BaFin also entered into a series of MoU with supervisors globally, including with the ECB and cooperates with international supervisory and resolution authorities.</p>
Canada	<p>OSFI: OSFI participates in such international organisations as the FSB, the Basel Committee on Banking Supervision. OSFI also has MoUs in place with over 30 foreign supervisory authorities, covering both supervisory and resolution related issues.</p> <p>BOC: BOC contributes to international discussions on important financial system issues, collaborates with other central banks on research into the international financial system and provides technical assistance.</p> <p>CDIC: The CDIC maintains MoUs with the resolution authorities of several other jurisdictions, including the US and the EU, to facilitate cross-border resolution. The CDIC works closely with its foreign counterparts via the International Association of Deposit Insurers. The CDIC is actively involved in the FSB.</p>
Singapore	<p>MAS works with regional and international organisations and global fora.</p> <p>MAS has MoU with number of international authorities and participates in the Crisis Management Groups and Supervisory Colleges.</p>
Hong Kong	<p>HKMA: The HKMA has a legislative basis for the cooperation with international financial supervisors It has a series of MoU and cooperation agreements with a number of international regulatory authorities. It also participates in Asia and globally.</p>

Table 13: Information Exchange between Authorities

Switzerland	<p>The SNB is authorised to provide “the competent Swiss financial market supervisory authorities with non-public information which they need to fulfil their tasks” and may share non-public information on certain financial market participants with the FDF if this helps maintain the stability of the financial system. FINMA informs the SNB of important supervisory findings related to the banking sector and the SNB will inform FINMA about economic developments that might impact the banking sector.</p> <p>The MoU between the SNB and FINMA and tri-lateral MoU between the SNB, FINMA and FDF contain provisions over exchange of information, including regular meetings between at least twice a year.</p>
EU Banking Union	<p>There is a legislative basis for the exchange of information between the ESRB, ECB and SRB.</p> <p>There are also general duties of cooperation and information exchange under legislation for both the ECB and SRB.</p> <p>The SRB has a further MoU with the ECB on the exchange of certain types of confidential information, in order to improve analysis related to bank resolution.</p> <p>The ESAs, the ESCB, the European Commission and NSAs must provide the ESRB with all the information necessary for the fulfilment of the ESRB’s tasks. The ESRB serves as a central hub for collecting and disseminating information about macroprudential policy measures in the EU.</p> <p>The MoUs of the ECB with the SRB and international supervisory bodies include provisions on the sharing of non-public information and cooperation.</p>
United States	<p>FSOC: FSOC shall collect any data or information from member agencies as necessary to carry out the duties of the FSOC.</p> <p>FSOC can also direct the OFR to collect information from bank holding companies for the purpose of assessing risks to the US financial system.</p> <p>The Chairperson of FSOC shall coordinate collection and distribution of information across agencies.</p> <p>There is a MoU between FSOC members covering the treatment of non-public information.</p>
United Kingdom	<p>The general presumption is that information provided to one area of the BoE can be shared unless it is restricted information.</p> <p>The BoE RD is required to cooperate closely and, where appropriate, share information with other authorities and other areas of the BoE.</p> <p>The MoU that exists between the BoE and other UK authorities (HMT, the FCA and FSCS), contain the basis of the information that may be provided in a crisis / resolution event.</p> <p>The BoE has circa 47 MoU with other international jurisdictions which also provide for the sharing of non-public information.</p>
Germany	<p>The FSC seeks to ensure the exchange of information and collaboration between representatives.</p> <p>The German authorities are subject, as members of the ESRB, to the duty on members of the ESRB to “ensure that appropriate and reliable information flows between them”.</p> <p>The Bundesbank and BaFin are permitted to exchange all information required for them to perform their functions.</p> <p>As part of the SSM, the Bundesbank and BaFin are subject to the general duties of cooperation and information exchange under the legislation of both the ECB and SRB. The MoU between BaFin and the SRB includes provisions relating to the sharing of non-public information and cooperation.</p>
Canada	<p>FISC, SAC, HoA, SRSC facilitate and support the exchange of information subject to the terms of reference of the committee, MoU and/or legislation.</p> <p>FISC meets quarterly and facilitates consultation and the exchange of information on matters relating to the supervision of federal financial institutions. Under legislation every member of the committee is entitled to any information on matters relating directly to the supervision of financial institutions in the possession or under the control of any other member.</p> <p>The CDIC Act allows for the disclosure of information to the Governor of the BOC. The CDIC Act also enables the CDIC to disclose information from OSFI after consultation with the Superintendent to any government or other agency or body that regulates or supervises financial institutions, for purposes related to that regulation.</p>
Singapore	<p>As a single institution the presumption is that information is shared appropriately, unless restricted.</p>
Hong Kong	<p>HKMA: As a single institution there is a presumption that information is capable of being shared internally, unless restricted. The CFR is tasked with facilitating the exchange of information between its members, and the MoU with the SFC and IA include provisions for information sharing. It is common practice for MoU’s and cooperation agreements to include details on information exchange, and we would expect the MoUs entered into with international jurisdictions to cover such arrangements.</p>

Table 14: Fund Solutions

Switzerland	<p>Emergency Liquidity Assistance (ELA): The SNB can provide ELA in crisis situations to banks which are no longer able to refinance their operations on the market, but the bank must be solvent.</p> <p>Public Liquidity Backstop (PLB) for SIBs: The Federal Council has adopted the dispatch on PLB for systemically important banks. Building on measures introduced in March 2023, the PLB facility would – upon finalisation and approval of Parliament – implement an unsecured liquidity facility which would supplement existing ELA where ELA does not sufficiently ensure the liquidity of a solvent bank and the bank can no longer benefit from the existing ELA due to insufficient collateral.</p> <p>Depositor Protection Scheme: Deposits at Swiss and foreign branches of Swiss banks and securities firms up a maximum of CHF 100,000 per depositor are classed as privileged deposits. The Depositor Protection Scheme does not provide funding to FINMA for resolution measures.</p>
EU Banking Union	<p>SRF: The SRF is established at supranational level. It may be used only to ensure the effective application of the resolution tools (under certain conditions). The SRF is required to reach at least 1% of the amount of covered deposits of credit institutions in the Banking Union countries. The intergovernmental Loan Facility Agreements will provide financing between national compartments (i.e., the contributions of each Member State of the Banking Union) of the SRF during the SRF transitional period. The SRF may not be used to recapitalise an institution.</p> <p>ESM: The ESM will become the backstop to the SRF wherein it may lend funds to the SRF to fund a resolution (via a revolving credit line). It will only be used if the SRB is not able to raise sufficient contributions or borrow funds from other sources at acceptable rates to finance a bank resolution. It will come into force when ratified by all ESM Members.</p> <p>Deposit Guarantee Scheme (DGS) funds: national deposit guarantee schemes may be utilised to support resolution measures, provided that this action ensures that depositors continue to have access to their deposits. The liability of the DGS will not be greater than the amount of losses that it would have had to bear had the institution been wound up under normal insolvency proceedings.</p>
United States	<p>Deposit Insurance Fund (DIF): The primary purposes of the DIF are to insure deposits up to defined limits and resolve failed banks.</p> <p>Orderly Liquidation Fund: A separate fund at the US Treasury, from which the FDIC may borrow to provide liquidity to the financial company in receivership or a bridge financial company established in connection with the resolution. The agreement of the Secretary of the Treasury is required for use of the OLF.</p> <p>Emergency Liquidity Assistance: ELA may be available in unusual and exigent circumstances and only to solvent firms subject to approval of the Treasury Secretary.</p>
United Kingdom	<p>Emergency Liquidity Assistance: The Bank may provide ELA to solvent banks, upon approval of HMT.</p> <p>Resolution Liquidity Framework: RLF lending, including the cost of drawing, would be set in a way designed to support the effectiveness of the resolution regime, incentivise the transition of the firm back to market-based funding, and protect public money. RLF funding must be approved by HMT.</p> <p>Public Funds: Temporary access to public funds may be needed, e.g., as a loan to the FSCS, should the FSCS incur costs above its capacity to support a payout or transfer of protected deposits.</p> <p>The UK satisfied its previously held BRRD ex-ante funding obligations by contributions through the bank levy. This is currently available for resolution funding.</p> <p>Deposit Guarantee Scheme Funds may be required by HMT to contribute to the cost of using a stabilisation option subject to a cap set at the amount the FSCS would have had to pay out if the bank was unable to satisfy claims against it minus the amount the FSCS would have recovered.</p>
Germany	<p>Restructuring Fund: Ex-ante fund built up and now fulfilling Germany's contribution to the Single Resolution Fund. The intergovernmental Loan Facility Agreements will provide financing between national compartments (i.e., the contributions of each Member State of the Banking Union) of the SRF during the SRF transitional period. The SRF may not be used to recapitalise an institution. As the Restructuring Fund was established prior to the SRF, the Restructuring Fund may make the funds accumulated in years prior to SRM and SRF requirements available to the German chamber of the SRF as a loan to finance resolution measures.</p> <p>Deposit Guarantee Schemes (DGS)/Institutional Protection Schemes (IPS): May be utilised to support resolution measures provided deposits retain access to their deposits up to a cap where the liability of the DGS shall not be greater than the amount of losses that it would have had to bear had the institution been wound up under normal insolvency proceedings. This applies to members of a recognised IPS.</p> <p>Emergency Liquidity Assistance (ELA): The Bundesbank may decide to grant ELA, subject to non-objection of the ECB Governing Council provided the bank was solvent.</p> <p>Deposit Protection: Guarantees under the Deposit Guarantee Act cover customer deposits of up to €100,000 per person per licensed institution, including statutory and Institutional Protection Schemes.</p>



Canada

CDIC: The CDIC has two primary funding mechanisms - the CDIC's investment portfolio (its ex-ante fund) and its borrowing authority.

CDIC investment portfolio (ex-ante fund) can be utilised to fund a range of resolution measures, provide compensation for eligible deposits up to \$100,000 per insured category at each CDIC member financial institution and fund the CDIC's operations.

CDIC can access additional funds through borrowing. Additional borrowing could be provided by Parliament through an Appropriation Act.

BOC: BOC may provide Emergency Lending Assistance to provide liquidity in support of recovery actions undertaken by a financial institution, e.g., restructuring or raising capital. Emergency Lending Assistance could serve as a source of temporary public sector liquidity to support an orderly resolution of the firm. Banks must satisfy the eligibility criteria including being a member of Payments Canada and having a credible recovery and resolution framework.

Singapore

Resolution Fund: The fund may only be used to the extent necessary to support effective implementation of resolution measures. The fund will be comprised of liquidity provided by the MAS which will then be repaid by the banking sector on an ex-post basis.

Deposit Insurance Fund (Singapore Deposit Insurance Corporation): May be utilised to support a resolution action up to the value of losses it would have faced under a liquidation.

SDIC: The SDIC also provides compensation up to \$75,000 per depositor in case of a failure.

Hong Kong

Resolution Funding Account: A Resolution Funding Account for entity under resolution will be established. The entity subject to resolution will provide funds for its resolution subject to the risk that this may undermine the resolution objectives. If required, further public funding may be obtained. It may be used for a range of purposes, including provision of guarantees and indemnities, loans, and provision of capital.

Resolution Facility: The resolution liquidity facility may only be used for an entity under resolution. It would be used for the entity to have sufficient liquidity to meet its obligations until the bank is able to transition back to market-based funding.

Contingent Term Facility: At the discretion of the HKMA the Contingent Term Facility may be made available to a bank facing extraordinary liquidity stress that cannot be overcome through other means.

Emergency Liquidity Assistance: ELA may be provided from the Exchange Fund.

Deposit Protection Scheme: The DPS provides protection for deposits up to HK\$500,000 per depositor per member bank. The DPS Fund may not be used to support the funding of a resolution.

Table 15: Compensation Mechanisms for Government Support

Switzerland	<p>Emergency Liquidity Assistance: The SNB requires sufficient collateral in the case of liquidity assistance. The SNB applies discounts (haircuts) which are risk-based and in line with market conditions.</p> <p>Public Liquidity Backstop: Pending approval by Parliament, the arrangement would be supplemented by lump-sum compensation, which SIBs would have to pay in advance to the Confederation. A SIB would incur additional interest and premia if PLB is granted.</p> <p>Depositor Protection Scheme: Banks are obliged to make contributions totalling 1.6 percent of the total amount of insured deposits, but at least 6 billion francs.</p>
EU Banking Union	<p>SRF: The SRF is raised by levying (partially risk-based) contributions from the banks and investment firms covered by the SRM. The NRAs are responsible for the collection of SRF contributions and transferring them annually to the SRF.</p> <p>ESM: The ESM raises funds for its financial assistance via the sale of bonds and bills to investors. The publicly funded backstop will be paid back by all banks in the Banking Union via bank contributions in the years (3 – 5) after its use.</p> <p>DGS: The DGSD requires build-up of an ex-ante fund and DGSs raises the financial means in the form of ex-ante contributions from banks at least annually. Additionally, extraordinary contributions may be required not exceeding 0.5 % of their covered deposits per calendar year, if the DGS financial means are insufficient.</p>
United States	<p>Deposit Insurance Fund: The DIF is funded mainly through quarterly assessments on insured banks. Revenue from assessments and interest on investments add to the DIF balance, while losses (primarily from bank failures) and operating expenses reduce the balance.</p> <p>Orderly Liquidation Fund: Borrowings that cannot be repaid from a return to private sector funding, customary liquidity sources, or liquidation proceeds of assets of the failed financial company must be repaid from assessments on the industry.</p> <p>Liquidity Assistance from the Federal Reserve: Provisions made under the Discount Window or ELA facility must be fully collateralised. Any losses made under the ELA facility will not be recouped.</p>
United Kingdom	<p>Emergency Liquidity Assistance: ELA would be provided on a collateralised basis.</p> <p>Resolution Liquidity Framework: Any losses incurred by the BoE or HMT will be recovered from industry.</p> <p>Public Funds: In the case a loan was provided to the FSCS it would be repaid through levies on the industry and recoveries made by the FSCS in the insolvency.</p> <p>Deposit Guarantee Scheme Funds: Any payment made by the FSCS would be treated as an expense under the compensation scheme. The FSCS may impose levies for the purpose of meeting its expense on authorised firms, including banks.</p>
Germany	<p>Restructuring Fund (i.e., the SRF): Ex-ante funding via annual levies is collected by BaFin. If the available financial means are not sufficient, special contributions may be levied.</p> <p>Statutory Deposit Guarantee Scheme: The statutory compensation schemes are funded through annual contributions by their member institutions. If available financial means are not sufficient, special contributions may be levied.</p> <p>Institutional Protection Schemes: The institutional protection schemes are funded through contributions which are set out in their respective articles of association.</p> <p>Emergency Liquidity Assistance: ELA is provided to institutions upon receipt of suitable collateral.</p>
Canada	<p>CDIC: The CDICs investment portfolio (i.e., its ex-ante fund) is funded by premiums paid by the member institutions.</p> <p>BOC: Lending must be secured. BOC must be able to obtain a valid first-priority security interest in any collateral pledged or assigned to support ELA. If the counterparty fails to repay the ELA loan, the BOC can then sell or retain the collateral to address any losses it may face.</p>
Singapore	<p>The Resolution Fund: Where liquidity is provided by the MAS, the funds will be reimbursed to the MAS by the contributions from banking sector on an ex-post basis.</p> <p>Deposit Insurance Fund: Ex-ante fund with annual premiums levies from members.</p>
Hong Kong	<p>FIRO Resolution Funding Account: Any public funding would be repaid by any remaining monies in the resolution fund account. If these were insufficient a bank levy may be raised under a regulation from the FS. The Legislative Council may then prescribe the rate of the levy on the recommendation of the FS.</p> <p>Resolution Facility: Though provision of liquidity would be subject to terms and conditions set by the HKMA, any losses may be recovered pursuant to the levy arrangements which may be imposed under the FIRO.</p> <p>Contingent Term Facility: The provision of liquidity should be adequately collateralised. Losses are not recoverable pursuant to the levy arrangements which may be imposed under the FIRO.</p>

Section 3: Potential Impact on the Institutional Arrangements in Switzerland

- (34) The advent of a significant period or incidence of market-wide financial instability or systemic firm event is often followed by consideration of the legislative, regulatory and institutional arrangements in place during the incident. This opinion considers the latter element.
- (35) We saw major and fundamental reforms of the banking sector following the global financial crisis worldwide. The Financial Stability Board drove forward international principles and standards and significant regime change was forthcoming in the European Banking Union, United States and the United Kingdom. New rules and standards resulted from the crisis alongside major structural and institutional changes, including new and vastly altered authorities. Public dissatisfaction and distress undoubtedly played a part in the wholesale reform changes brought forth.
- (36) It is therefore natural given the events in Switzerland during the first half of 2023 to ask whether anything should change or are the institutional arrangements fit for purpose.
- (37) As the preceding sections outline, there are a variety of approaches, advantages and disadvantages, for the institutional setup for banking supervision and resolution. However, the themes and tensions between options are consistent, and each option contains different types of disadvantages. Indeed, the disadvantages may remain irrespective of the institutional setup, and instead be less impactful or more easily mitigated under one option than another – the tension and conflict does not go away simply by creating separate authorities and close cooperation and adequate information exchange is not necessarily achieved simply by putting both responsibilities within the same public authority.
- (38) However, at their core each option is in theory capable of being effective and provide a suitable basis for individual locations dependent on the nation's characteristics, legal framework and experience.
- (39) There are factors that contribute to the position that some changes to the institutional setup in Switzerland are reasonable.
- (40) Until the first half of 2023, the banking sector in Switzerland had five systemic institutions: two (now one) global systemically important bank (G-SIB), and three domestic systemically important banks (D-SIBs). The size, impact and complexity of the single G-SIB has now grown significantly.
- (41) The immediate question then becomes how do the authorities best oversee this singularly significant organisation? There is an unavoidable limit to the knowledge of and the resources that can be deployed in this effort.
- (42) Based upon our comparison of other jurisdictions, one might expect that a central bank would find it easier to sustain greater experience and expertise in dealing with events, institutions and decisions that have potential market-wide and systemic impacts given its monetary and financial stability roles.⁸
- (43) Also, in our experience central banks tend to attract and employ persons with greater depth or focus of knowledge and experience, such as economists or statisticians.
- (44) Such a transfer of supervision would also promulgate the inherent link between, and practical execution, of macroprudential policy for the G-SIB.
- (45) If one were to follow this logic one might wish to consider moving the supervision of a G-SIB to a central bank.

⁸ This opinion is not based on an examination of the SNB or FINMA

- (46) This then would raise a number of supplemental questions, most immediately what of the D-SIBs and the remaining banks?
- (47) The arguments put forward in respect of the ability to deploy a more focused and experienced level of supervision also apply to the D-SIB community. These are banks that would have a destabilising effect within Switzerland, though arguably not to the extent that the remaining G-SIB now presents. But at its most basic, if the G-SIB supervision moves to the central bank, so should that for the country's other D-SIBs.
- (48) What then for the remaining banks? The previous statements do not influence this question as directly or to the same extent. However, from a practical perspective, we would assume that if G-SIB and D-SIB supervision is transferred then this would be accompanied by at least some FINMA personnel. This would see resourcing, experience and depth of knowledge depleted within FINMA. It would also split regulatory attention and minimise regulatory focus on a sector of the financial landscape, and although a single institution may not impact on a systemic basis a number of the smaller banks may do so on a collective basis. It would in our view, both from a practical, policy and monitoring viewpoint be sensible to keep the supervision of all banks within one institution. This would therefore mean that by default the micro-supervision of smaller banks would also transfer to the SNB.
- (49) A related question of moving supervision to SNB (whether for the G-SIB, the D-SIBs and smaller banks) is where should the resolution authority of banks be located? As noted, we believe that the number of staff within FINMA's resolution division is relatively low compared to its banking supervision teams and other independent international resolution authorities. Reliance on the experience and knowledge of the supervisor in the event of a crisis scenario is likely to be required. Consequently, moving banking supervision and presumably the banking supervisors would cause a resourcing, skill and experience gap in FINMA's resolution function.
- (50) Central banks also tend to have a strong interest in resolution matters, as they may have a particular macroprudential and system-wide cause or effect – the nexus between macroprudential supervision and bank resolution and use of tools which may help prevent the harm to financial stability that might arise from the failure of a systemic bank. Macroprudential supervision is the essential tool to identify, monitor and anticipate that harm. For these reasons it would therefore follow that if banking supervision transferred to the SNB so would resolution.
- (51) Although potentially solving one issue, this would however lead to other tensions and conflicts central to the 'single authority governance separation approach' which would need to be mitigated:
- Each function should be operationally independent of the other – operational independence would need to be enforced.
 - Clear mandates, roles and responsibilities for each function should be carefully developed and enforced.
 - Distinct and partially separate governance and decision-making structures for supervision and resolution and adequate separate staffing of each are required.
 - Divergence of position, objective or opposing decisions should have a forum, and independent, forum for resolution.
 - Staff temporarily seconded to a different operational function (e.g., from supervision to resolution) should be uninvolved with the subject of any crisis event and all activities suitable ring-fenced between functions.

- (52) Such a change would therefore not be simple and lead to substantial upheaval. Given the position that any approach can be made to work, considerable attention should be given to the potential advantages and disadvantages to any changes as whatever option is selected the tensions and conflicts do not go.
- (53) If no changes were made on the basis that any approach can be made to work, there are potential arrangements that may increase the institutional setup in Switzerland.
- (54) The first is that the general principle of cooperation between the Swiss authorities could benefit from strengthening and documenting. The bilateral and trilateral MoUs in place demonstrate a commitment to cooperate, but lack detail on the practical actions, role and decisions that may be required. For instance, the trilateral MoU between the SNB, FINMA and the Federal Department of Finance may benefit on including the specific role of each party in a crisis event, the decisions each party needs to make and how this would be undertaken, practical arrangements for sharing information and establishing event management teams.

Annex 1: Jurisdiction Focus – Switzerland

Section 1: Responsibilities

Area of Responsibility	
Macroprudential Supervision	Swiss National Bank in cooperation with Swiss Financial Market Supervisory Authority and Federal Department of Finance
Prudential Supervision	Swiss Financial Market Supervisory Authority
Recovery	Swiss Financial Market Supervisory Authority
Resolution – Restructuring	Swiss Financial Market Supervisory Authority
Resolution – Liquidation	Swiss Financial Market Supervisory Authority NB: Upon identification that resolution will not be successful FINMA withdraws the bank's authorisation and places the bank into insolvency. This will be undertaken by a liquidator representing FINMA
Lender of Last Resort	Swiss National Bank

Macroprudential Supervision

Swiss National Bank in cooperation with Swiss Financial Market Supervisory Authority and Federal Department of Finance

(55) Financial stability responsibilities and powers are split across agencies. Both the Swiss National Bank (SNB) and Swiss Financial Market Supervisory Authority (FINMA) have macroprudential tasks, reflecting the overlap of macro and micro-prudential oversight.⁹ In a Memorandum of Understanding (MoU) between the SNB and FINMA both have a stated interest in¹⁰:

- Assessment of the soundness of systemically important banks and/or the banking system.
- Regulations that have a major impact on the soundness of banks, including liquidity, capital adequacy and risk distribution provisions, where they are of relevance for financial stability.
- Contingency planning and crisis management.

(56) The MoU outlines that FINMA and the SNB work together in these fields. They consider how their activities will affect the others area of responsibility and coordinate their activities in common areas of interest, in particular obtaining information from the banks. Where there are common areas of interest, one institution may request from the other institution information or for it to apply measures within the other institutions area of responsibility.

Swiss National Bank

(57) Under the National Bank Act (NBA) the SNB “shall contribute to the stability of the financial system”.¹¹ The SNB states that it analyses sources of risk to the financial system and identifying areas where action is needed and helps to create and implement a regulatory framework for the financial sector and oversees systemically important financial market infrastructures.¹²

⁹ [Financial Sector Assessment Program Technical Note Switzerland: Macrofinancial Analysis and Macroprudential Policy](#)

¹⁰ [Memorandum of Understanding in the field of financial stability between the Swiss Financial Market Supervisory Authority \(FINMA\) and the Swiss National Bank \(SNB\)](#)

¹¹ Article 5(2)(e) of the [National Bank Act](#)

¹² Swiss National Bank – [115th Annual Report Swiss National Bank 2022](#)

- (58) The SNB analyses the developments in the Swiss banking industry and financial market infrastructures.¹³ It states that it, in conjunction with the Swiss Confederation and FINMA participates in reform projects and internationally it is permanently represented on the Basel Committee on Banking Supervision and the Committee on Payments and Market Infrastructures (CPMI) of the Bank for International Settlements (BIS) and participates in various international task forces that deal with financial stability issues, e.g., the Financial Stability Board (FSB).
- (59) For its assessment of the stability of the Swiss banking sector, the SNB mainly focuses on the big banks and the domestically focused commercial banks. The latter comprise banks whose share of domestic loans to total assets exceeds 50%.¹⁴
- (60) Banks operating in Switzerland are subject to the Federal Act on Banks and Savings Banks (Banking Act)¹⁵. Detailed regulations, for example on capital, liquidity and risk diversification, are contained in the Ordinance on Banks and Savings Banks (Banking Ordinance)¹⁶.
- (61) The SNB is assigned explicit responsibilities in two areas¹⁷. The Banking Act states that banks that are systemically important for Switzerland are subject to special requirements¹⁸ and the SNB is responsible for the determination of systemically important banks and their systemically important functions, after consulting FINMA¹⁹.
- (62) The SNB further confirms that capital requirements may be raised temporarily should imbalances on the Swiss lending market - and corresponding risks to financial stability - develop. Under the Countercyclical Capital Buffer (CCyB) banks can be required to hold additional capital at a maximum level of 2.5% of a bank's risk-weighted exposures in Switzerland. The capital buffer can be targeted at the entire credit market or just parts thereof.²⁰
- (63) The decisions on the activation, deactivation and level of the CCyB will be made by the Federal Council, upon the proposal of the SNB. The SNB consults FINMA before submitting its proposal to the Federal Council.²¹

Swiss Financial Market Supervisory Authority

- (64) One of FINMA's objectives is to protect the functioning of the financial markets.²² FINMA monitors institutions to ensure that they have firm control of the risks which could threaten them, and ultimately the functioning of the financial system. Its stated aim is to enhance and safeguard the stability of the financial system and to promote trust in the financial markets.²³
- (65) FINMA monitors developments at supervised institutions and financial markets from the perspective of the individual banks and financial groups subject to its supervisory activities. It receives information provided by the supervised institutions and their auditing companies, and assesses the risks incurred by the individual banks and groups. One of the tasks taken by FINMA, as stated in the FINMA / SRB MoU, is that it will, if necessary, take measures to help ensure that the institutions it supervises fulfil supervisory requirements.²⁴

¹³ Swiss National Bank – [Financial stability](#)

¹⁴ Swiss National Bank – [Banking Sector](#)

¹⁵ [Federal Act on Banks and Savings Banks \(Banking Act\)](#) German language version

¹⁶ [Ordinance on Banks and Savings Banks \(Banking Ordinance\)](#) German language version

¹⁷ Swiss National Bank – [Banking Sector](#)

¹⁸ Article 9 of the [Federal Act on Banks and Savings Banks \(Banking Act\)](#) German language version

¹⁹ Article 8(3) of the [Federal Act on Banks and Savings Banks \(Banking Act\)](#) German language version, Section 2 of the [Memorandum of Understanding in the field of financial stability between the Swiss Financial Market Supervisory Authority \(FINMA\) and the Swiss National Bank \(SNB\)](#) and Swiss Financial Market Supervisory Authority – [Determination of systemically important banks](#)

²⁰ Swiss National Bank – [Questions and answers on financial stability](#)

²¹ Swiss National Bank – [Banking sector](#)

²² Article 4 of the [Financial Market Supervision Act \(FINMASA\)](#)

²³ Swiss Financial Market Supervisory Authority – [Professional supervision for a strong financial marketplace](#)

²⁴ [Memorandum of Understanding in the field of financial stability between the Swiss Financial Market Supervisory Authority \(FINMA\) and the Swiss National Bank \(SNB\)](#)

Federal Department of Finance

- (66) The Federal Department of Finance (FDF) prepares and executes the Federal Council's financial market policies and regulations. The Federal Council takes the decision on the CCyB stance based on a proposal by the SNB after consultation of FINMA.

Micro-Prudential Supervision

Swiss Financial Market Supervisory Authority

- (67) Under the federal Financial Market Supervision Act (FINMASA)²⁵ FINMA is Switzerland's independent financial-markets regulator. FINMASA constitutes the 'umbrella law' for other federal acts with provisions related to financial market supervision. The Ordinance to the Financial Market Supervision Act²⁶ provides further detail on FINMA's tasks at the international level and in terms of regulation and regulatory principles.
- (68) FINMA's mandate²⁷ is to supervise banks, insurance companies, financial institutions, collective investment schemes, and their asset managers and fund management companies.²⁸ FINMA has the authority and responsibility for the authorisation, supervision, enforcement and regulation of financial institutions.
- (69) Authorised institutions must always have adequate capital buffers and liquidity, and adequately control their risk exposure. FINMA's ongoing supervisory activity focuses primarily on making certain that supervised institutions: hold sufficient capital²⁹, have sufficient liquidity³⁰, have good risk management, structure their internal organisation appropriately and maintain effective controls.
- (70) As outlined by FINMA it assigns supervisory categories to their prudentially supervised banks and securities firms³¹ consisting of five risk-oriented categories. Institutions are categorised on the basis of measurable criteria, namely total assets, assets under management, privileged deposits and required capital.³² Category 1 includes large institutions that could potentially destabilise the financial system and the risk impact reduces through the categories:
- Category 1: Extremely large, important and complex market participants – Very high risk.
 - Category 2: Very important, complex market participants – High risk.
 - Category 3: Large and complex market participants – Significant risk.
 - Category 4: medium-sized market participants – Medium risk.
 - Category 5: small market participants – Low risk.
- (71) FINMA confirms that institutions in different categories are supervised with different levels of intensity. Those in Categories 1 and 2 require greater attention in view of their importance and risk profile and are subject to continual and intensive or close supervision. Those in Category 5 are supervised via quantitative indicators and are looked at more closely when they break the rules or when other extraordinary events occur.
- (72) FINMA uses a range of supervisory tools so that supervised institutions, including banks, comply with licence conditions set out in the applicable acts, ordinances and circulars. It utilises:

²⁵ Article 5 of the [Financial Market Supervision Act \(FINMASA\)](#)

²⁶ [The Ordinance to the Financial Market Supervision Act](#) German language version

²⁷ Article 1 of the [Financial Market Supervision Act \(FINMASA\)](#)

²⁸ Articles 4 and 6 of the [Financial Market Supervision Act \(FINMASA\)](#) German language version

²⁹ [Capital Adequacy Ordinance](#) and the [Circular 2011/2 Capital buffer and capital planning – banks](#)

³⁰ [Liquidity Ordinance](#) German language version

³¹ Article 2(2) of the [Ordinance on Banks and Savings Banks](#) and Swiss Financial Market Supervisory Authority – [Circular 2011/2 Capital buffer and capital planning – banks](#)

³² Annex 3 of the [Ordinance on Banks and Savings Banks](#) German language version and Swiss Financial Market Supervisory Authority – [Categorisation of banks and securities firms](#)

- On-site supervisory reviews³³: On-site supervisory reviews are topic-related controls. The number of on-site supervisory reviews performed each year depends on the intensity of supervision required which is determined by the FINMA supervisory category and risk profile for each supervised institution.
- Assessment letters: Banks in supervisory Categories 1 to 3 undergo a formal assessment at regular intervals. The assessment letter sent to firms details the risk rating, any weaknesses that have been identified and the action that needs to be taken. An assessment letter can lead to supervisory measures such as in-depth investigations as part of an on-site supervisory review.
- Stress tests: FINMA conducts stress tests of supervised institutions to determine whether they can absorb the losses that might arise in severe macroeconomic stress scenarios. If an institution fails a stress test, FINMA can, for example, order it to reduce risk positions or strengthen its capital base.

Recovery and Resolution (Restructuring and Liquidation)
Swiss Financial Market Supervisory Authority

- (73) The competencies of FINMA in the area of recovery and resolution include preventive supervision, intervention in acute crises and the resolution of solvent or insolvent companies. FINMA can initiate recovery and resolution measures at licensed and non-licensed institutions, at group holding and significant group companies of banking and insurance groups.
- (74) One of FINMA's core tasks is supervising the efforts made by licence holders to recover from difficulties they encounter (recovery). This applies to precautionary measures required at systemically important institutions. These responsibilities are performed by FINMA's Recovery and Resolution division. Systemically important banks also have to meet certain requirements to strengthen the banks' resilience: Higher capital³⁴ and liquidity requirements are designed to mitigate the risk of a bank becoming destabilised in a crisis.
- (75) FINMA states that it intervenes as soon as there is a real risk of a bank becoming insolvent, for example if there are well-founded concerns that it is over-indebted or has serious liquidity problems or the bank has breached capital requirements. Initially, FINMA's intervention typically consists of protective measures.³⁵ For example, the bank can be prohibited from making payments for a certain period to avoid large deposit withdrawals in the event of a bank run. FINMA also states that protective measures can also be put in place to prepare a subsequent restructuring or liquidation.³⁶
- (76) The Banking Act gives FINMA the power to resolve banks. Advance resolution planning is required for systemically important banks.³⁷ FINMA is responsible for the emergency and resolution planning of supervised institutions as well as the execution of restructuring, liquidation and insolvency proceedings.³⁸
- (77) FINMA reviews and evaluates the following main components of Switzerland's systemically important banks every year:
- Recovery Plan: This sets out the steps the systemically important bank would take to stabilise itself in a crisis. The plan requires FINMA's approval but the recovery plan itself is the responsibility of the bank. FINMA checks whether the plan meets the requirements of the act and ordinance as a whole without confirming whether it is ready to implement.

³³ Article 24(1) of the [Financial Market Supervision Act](#) German language version and Swiss Financial Market Supervisory Authority FINMA – [On-site supervisory reviews: one of FINMA's key supervisory tools](#)

³⁴ Swiss Financial Market Supervisory Authority – [Capital requirements for systemically important banks](#)

³⁵ Article 26 of the [Banking Act](#) German language version

³⁶ Swiss Financial Market Supervisory Authority – [Resolution of banks](#)

³⁷ Swiss Financial Market Supervisory Authority – [Resolution of banks](#)

³⁸ Swiss Financial Market Supervisory Authority – [Recovery and resolution](#)

- Swiss Emergency Plan: This plan describes how the bank would seek to ensure uninterrupted continuity of its systemically important functions in Switzerland, consisting primarily of access to deposits and payments. FINMA reviews these plans on a risk-oriented basis with regard to their likely effectiveness if the bank were to be at risk of insolvency and assesses whether they are ready to be implemented or not.
- Resolution Plan: FINMA produces a global resolution plan for systemically important banks. This lays out how the entire global banking group would be recapitalised, restructured and/or liquidated, or partially liquidated, in a crisis. FINMA also examines whether the preparatory measures taken by the large banks are sufficient to successfully implement the resolution plan.
- FINMA Resolvability Assessment: From 1 January 2023, FINMA will conduct an annual resolvability assessment, taking into account the requirements of the Banking Ordinance.³⁹ FINMA can impose surcharges on the gone concern or liquidity requirements if shortcomings are identified.

- (78) FINMA states⁴⁰ that a formal restructuring⁴¹ can be launched if there is a good chance of its successful completion, or of ensuring continuity of individual banking services. FINMA may only restructure an institution if this is expected to be more beneficial to creditors than immediate insolvency. The objective of a restructuring procedure under Swiss banking legislation is to return the bank to viability, i.e., to continue its business operations after the restructuring or at least continue some of its services.
- (79) FINMA will publicly initiate a restructuring procedure.⁴² The Restructuring plan will contain different measures including writing down the bank's capital and issuing new equity. It can also involve converting debt into equity and writing down assets (i.e., bail-in). FINMA approves the restructuring plan if it meets the requirements of the Banking Act.⁴³ The consent of the owners is not necessary. FINMA can approve the restructuring plan of systemically important banks if it puts the creditors in an economically worse position, provided that they are adequately compensated.⁴⁴
- (80) In addition to a bail-in, other measures include the possibility of a complete or partial transfer of assets and liabilities to an acquiring bank⁴⁵. The acquirer can be either an established institution or a bank specially created for this purpose (i.e., a bridge bank) to help ensure continuity of the services that are at risk. FINMA can also impose a stay of a maximum of two working days on the termination of contracts.
- (81) FINMA states⁴⁶ that if there is no prospect of successful restructuring or the restructuring has failed, FINMA will withdraw the bank's licence, place the bank into insolvency⁴⁷ and announce this publicly. After the launch of the insolvency, the privileged deposits of the bank's clients in its Swiss subsidiaries and branches up to a maximum of CHF 100,000 per depositor are paid out from the bankrupt institution's available liquid assets.
- (82) FINMA does not usually carry out the insolvency proceedings and appoints a liquidator as its representative.⁴⁸ The liquidator carries out the insolvency under the supervision and direction of FINMA. FINMA may convene a creditors' meeting or creditors' committee.

³⁹ Article 65 of the [Bank Ordinance](#) German language version

⁴⁰ Swiss Financial Market Supervisory Authority – [Resolution of banks](#)

⁴¹ Article 28 to 32 of the [Banking Act](#) German language version

⁴² Swiss Financial Market Supervisory Authority – [Resolution of banks](#)

⁴³ Article 30c of the [Banking Act](#) German language version

⁴⁴ Article 31 of the [Banking Act](#) German language version

⁴⁵ Article 30 of the [Banking Act](#) German language version

⁴⁶ Swiss Financial Market Supervisory Authority – [Resolution of banks](#)

⁴⁷ Article 33 to 37g of the [Banking Act](#) German language version

⁴⁸ Article 33 of the [Banking Act](#) German language version

Lender of Last Resort **Swiss National Bank**

- (83) The SNB conducts monetary policy, in accordance with the NBA⁴⁹ and is responsible for the supply of liquidity⁵⁰. When acting as Lender of Last Resort⁵¹ the SNB can provide liquidity assistance against collateral if domestic banks are no longer able to refinance their operations in the market. The SNB confirms that Emergency Liquidity Assistance (ELA) is available to all banks.⁵²
- (84) A bank can only obtain liquidity from the SNB if it is solvent and has access to sufficient collateral.⁵³ In its role as Lender of Last Resort, the SNB has stated⁵⁴ it accepts illiquid assets as collateral, including loans. For instance, mortgage claims on both residential and commercial properties are eligible as collateral provided the underlying real estate assets are located in Switzerland. Besides high-quality liquid assets, accepted securities include less liquid bonds issued by borrowers with lower credit ratings and securitisations and shares in various currencies.
- (85) In order to be able to provide collateral the SNB's position is that banks should take preparatory measures, for instance creating the contractual requirements, ensuring the legal and operational transferability of the collateral, as well as regularly testing the processes with the SNB and other service providers involved. However, the SNB does not have the power to instruct banks to take preparatory action.
- (86) The NBA provides the SNB with the authority to develop guidelines for ELA (and other) transactions.⁵⁵ Details are in the Guidelines on Monetary Policy Instruments⁵⁶ And it specifies the terms and procedures for transactions and the types of collateral that are eligible for monetary policy transactions involving the SNB. The guidelines are supplemented by SNB Instruction Sheets on individual monetary-policy transactions.⁵⁷
- (87) In 2023 a provisional measure was introduced where the SNB provided additional emergency liquidity assistance ('ELA+').

Section 2: Independence between Authorities

Swiss National Bank

- (88) The SNB is a special statute joint-stock company governed by special provisions of Swiss federal law. It is administered with the cooperation and under the supervision of the Confederation under provisions of the National Bank Act (NBA). Its shares are registered shares and are listed on the stock exchange. Its share capital is CHF 25 million. The Confederation does not hold any shares. Approximately 55% of which is held by public shareholders the rest are largely held privately.⁵⁸
- (89) The SNB's managing and executive body is the Governing Board. It is responsible for monetary policy, asset investment strategy and international monetary cooperation. The Enlarged Governing Board consists of the three members of the Governing Board and their deputies. It is responsible for the strategic and operational management of the SNB. The members of the Governing Board and their deputies are appointed for a six-year term by the Federal Council upon recommendation of the Bank Council.

⁴⁹ Article 5(1) of the [National Bank Act](#)

⁵⁰ Article 5(2)(a) of the [National Bank Act](#)

⁵¹ Article 9(1)(e) of the [National Bank Act](#)

⁵² Swiss National Bank – [The SNB's role as lender of last resort](#)

⁵³ Article 9(1)(e) of the [National Bank Act](#)

⁵⁴ Swiss National Bank – [The SNB's role as lender of last resort](#)

⁵⁵ Article 9(2) of the [National Bank Act](#)

⁵⁶ [Guidelines of the Swiss National Bank on monetary policy instruments](#)

⁵⁷ Swiss National Bank – [Terms of Business](#)

⁵⁸ Swiss National Bank – [The National Bank as a joint-stock company](#)

- (90) The Bank Council oversees and controls the conduct of business by the SNB. Of the eleven members, five are elected by the Shareholders' Meeting (General Meeting), while the Federal Council is responsible for electing the remaining six.⁵⁹
- (91) The independence of the SNB is embodied as a principle in the Constitution: "The Swiss National Bank, as an independent central bank, shall pursue a monetary policy that serves the overall interests of the country; it shall be administered with the cooperation and under the supervision of the Confederation."⁶⁰
- (92) Detail in the NBA reiterates the independence of the SNB: "In fulfilling its monetary tasks according to Article 5 paragraphs 1 and 2⁶¹, the National Bank and the members of the Bank's bodies shall not be permitted to seek or accept instructions either from the Federal Council or from the Federal Assembly or any other body."⁶²
- (93) The SNB states⁶³ that its functional independence is in the formal prohibition of the National Bank and its statutory bodies to accept instructions from the Federal Council, the Federal Assembly or any other body in fulfilling its monetary tasks (authority to act independent of instructions). The financial independence includes both the budgetary autonomy of the SNB and the prohibition to grant loans to the Confederation, which bars the state from accessing the banknote press. The members of the Governing Board and their deputies during their fixed term of office can be removed from office only if they no longer fulfil the requirements for exercising the office or if they have committed a grave offence.
- (94) The NBA places accountability on the SNB: via the Federal Council, the Federal Assembly and the public.⁶⁴ The SNB regularly discusses the economic situation, monetary policy and topical issues of federal economic policy with the Federal Council. Formally, the Federal Council's Delegation for General Economic Policy and the National Bank's Governing Board provide information to each other at periodic meetings. SNB submits a written report on the fulfilment of its statutory tasks on an annual basis to the Federal Assembly, and it elaborates on its monetary policy to the competent committees. The public, finally, is informed by the National Bank through quarterly reports on the development of the real economy and of the monetary situation, and the Bank publicly announces its monetary policy intentions.⁶⁵ The Federal Council approves the organisation regulations of the SNB, and the SNB must submit the annual report and the annual accounts to the Federal Council for approval before they are approved by the General Meeting of Shareholders.

Swiss Financial Market Supervisory Authority

- (95) FINMA is a "public law institution with its own legal personality"⁶⁶ and has a Board of Directors, an Executive Board and an external auditor in the form of the Swiss Federal Audit Office (SFAO). Article 98 of the Federal Constitution provides the constitutional basis for FINMA's supervisory

⁵⁹ [National Bank Act](#) and [Memorandum of Understanding between the Federal Department of Finance \(FDF\) and the Swiss National Bank \(SNB\) on the Set of principles governing membership of the SNB Bank Council](#)

⁶⁰ Article 99 of the [Federal Constitution of the Swiss Confederation](#)

⁶¹ Article 5 of the [National Bank Act](#):

- (1) The National Bank shall pursue a monetary policy serving the interests of the country as a whole. It shall ensure price stability. In so doing, it shall take due account of economic developments.
- (2) /Within this framework, it shall have the following tasks:
 - a. It shall provide the Swiss franc money market with liquidity.
 - b. It shall ensure the supply and distribution of cash.
 - c. It shall facilitate and secure the operation of cashless payment systems.
 - d. It shall manage the currency reserves.
 - e. It shall contribute to the stability of the financial system.

⁶² Article 6 of the [National Bank Act](#)

⁶³ Swiss National Bank – [The SNB as an organisation](#)

⁶⁴ Article 7 of the [National Bank Act](#)

⁶⁵ Swiss National Bank – [The SNB's legal basis](#)

⁶⁶ Article 5 of Article 4 of the [Financial Market Supervision Act \(FINMASA\)](#)

activities.⁶⁷ FINMA's responsibility is focused towards protecting the functioning of the financial markets⁶⁸ through the supervision of banks, insurers, securities firms, and FMI's.

- (96) As FINMA's strategic management body and in accordance with the Financial Market Supervision Act, the Board of Directors comprises seven to nine independent expert members. It decides on matters of substantial importance, issues ordinances and circulars, and is responsible for FINMA's budget. It also helps ensure internal controls by means of an internal audit unit and oversees the Executive Board. The Board of Directors is appointed by the Federal Council.⁶⁹
- (97) The SNB operations are managed by the Executive Board, which is made up of nine members: a Chief Executive Officer and the eight heads of the respective divisions. The Executive Board prepares the necessary files and materials for decisions to be taken by the Board of Directors and is responsible for implementing the resolutions of this management body. For all matters that do not fall to the Board of Directors, the Executive Board reaches its own decisions.
- (98) Under FINMASA FINMA carries out its supervisory activities autonomously and independently. FINMA is required to review its "strategy for its supervisory activity and current issues of financial centre policy with the Federal Council" at least once a year, via the FDF.⁷⁰
- (99) FINMA confirms⁷¹ it is functionally independent of Switzerland's political authorities – neither Swiss Parliament nor the government can issue directives on how it carries out its regulatory duties. It is subject to parliamentary scrutiny and must account to the parliamentary commissions overseeing its work.

Section 3: Resource Endowment

Swiss National Bank

- (100) At the end of 2022, the SNB employed 979 people (891.3 FTE) and 24 apprentices. They mostly comprise economists and banking, IT, legal, political science and logistics specialists, as well as technical staff and commercial training graduates.⁷²

Swiss Financial Market Supervisory Authority

- (101) FINMA employs its staff under public law.⁷³ FINMA employs lawyers, economists, mathematicians, auditors, actuaries, accounting experts and other specialists.⁷⁴

Section 4: Financing of Authorities

Swiss National Bank

- (102) The SNB has budgetary autonomy, which arises.⁷⁵ The SNB is prohibited from granting loans to the Confederation⁷⁶. The SNB's annual report indicates that the SNB receives income from a variety of sources. These sources include gold, foreign currency positions and Swiss currency positions.⁷⁷

⁶⁷ [Article 98: Banks and insurance companies, the Federal Constitution](#)

⁶⁸ Article 4 of the [Financial Market Supervision Act \(FINMASA\)](#)

⁶⁹ Article 9(3) of the [Financial Market Supervision Act \(FINMASA\)](#)

⁷⁰ Article 21 of the [Financial Market Supervision Act \(FINMASA\)](#)

⁷¹ Swiss Financial Market Supervisory Authority – [FINMA – an independent supervisory authority](#)

⁷² Swiss National Bank – [Sustainability Report 2022](#)

⁷³ Article 13 of the [Financial Market Supervision Act \(FINMASA\)](#)

⁷⁴ Swiss Financial Market Supervisory Authority – [Annual Report 2022](#)

⁷⁵ Swiss National Bank – [Questions and answers on the SNB's independence and its relationship with the Confederation](#)

⁷⁶ Article 11 of the [National Bank Act](#)

⁷⁷ Swiss National Bank – [115th Annual Report Swiss National Bank 2022](#)

Swiss Financial Market Supervisory Authority

- (103) FINMA's costs are covered by the institutions it supervises.⁷⁸ Supervised institutions are required to pay supervisory fees and levies. These fees are mainly charged for rulings and supervisory proceedings and cover the costs of the work carried out by FINMA. Supervisory levies are charged at group level, not individually. The cost of supervision is spread across the individual areas supervised. FINMA covers between 80 and 90% of its total expenditure, including allocations to its statutory reserves, through supervisory levies.⁷⁹
- (104) FINMA charges the supervised institutions an annual supervisory fee for each supervisory area for FINMA's costs, which are not covered by the fees.⁸⁰ In addition, the institutions FINMA regulates are required to pay an annual levy to cover the costs incurred by FINMA which are not met by the fees. The levies relate to supervision and other FINMA services. FINMA's accounts are audited by the SFAO.⁸¹
- (105) FINMA allocates its costs to the relevant supervisory areas as far as possible including for large banks and other banks.⁸² The basis on which levies are calculated is included in Financial Market Supervision Act⁸³. For banks levies are based on the balance sheet total and securities turnover.

FINMA fees and supervisory levies (incl. share of fees) in TCHF					
2018 - 2022					
	2018	2019	2020	2021	2022
Supervisory levies	104'323	112'170	120'019	120'782	122'649
Fees	25'236	19'439	17'974	17'273	21'968
Other income	995	816	405	796	1'309
Gross income	130'554	132'425	138'398	138'851	145'926
Income reduction	-24	24	8	-53	-129
Net income	130'530	132'449	138'406	138'798	145'797
Share of fees in relation to gross income	19.3%	14.7%	13.0%	12.4%	15.1%

Source: FINMA - How FINMA is financed⁸⁴

Section 5: Coordination of the Authorities – Nationally

- (106) The NBA requires the SNB to cooperate with national supervisory authorities.⁸⁵ It shall also work jointly with the Federal Council in accordance with the relevant federal legislation in respect of international monetary cooperation.⁸⁶
- (107) In regard to financial stability the SNB cooperates with FINMA. The MoU between the SNB and FINMA⁸⁷ outlines the division of the individual tasks and responsibilities of the two institutions as well as specifies the common areas of interest between the parties, namely the:
- Assessment of the soundness of systemically important banks and/or the banking system.
 - Regulations that have a major impact on the soundness of banks, including liquidity, capital adequacy and risk distribution provisions, where they are of relevance for financial stability.
 - Contingency planning and crisis management.

⁷⁸ Article 15 of the [Financial Market Supervision Act \(FINMASA\)](#) and the [FINMA Ordinance on the Levying of Supervisory Fees and Levies \(FINMA-GebV\)](#) German language version

⁷⁹ Swiss Financial Market Supervisory Authority – [How FINMA is financed](#)

⁸⁰ Article 15(1) of the [Financial Market Supervision Act \(FINMASA\)](#)

⁸¹ Swiss Financial Market Supervisory Authority – [FINMA - an independent supervisory authority](#)

⁸² Article 3 of the [FINMA Ordinance on the Levying of Supervisory Fees and Levies \(FINMA-GebV\)](#)

⁸³ Article 15(2) of the [Financial Market Supervision Act \(FINMASA\)](#)

⁸⁴ Swiss Financial Market Supervisory Authority – [How FINMA is financed](#)

⁸⁵ Article 50 of the [National Bank Act](#)

⁸⁶ Article 5(3) of the [National Bank Act](#)

⁸⁷ [Memorandum of Understanding in the field of financial stability between the Swiss Financial Market Supervisory Authority FINMA and the Swiss National Bank SNB](#)

- (108) The MoU establishes a strategic Steering Committee, which meets at least twice a year and is co-chaired by the Chairman of the SNB Governing Board and the Chairman of the FINMA Board of Directors. It also outlines a Standing Committee co-chaired by the Head of Financial Stability at the SNB and the Head of the Banks Division at FINMA that meets at least four times a year.
- (109) The MoU states, in particular, that “Where there are common areas of interest, collaboration is managed at the strategic level in the Steering Committee and at the operational level in the Standing Committee for Financial Stability”.
- (110) In the common areas of interest, FINMA and the SNB will work together in respect of joint projects. For such projects, the Standing Committee decides whether it will be co-managed by both institutions. The final decision in a joint project falls within the statutory competence of either FINMA or the SNB, depending on the subject matter in question and either institution must consult the other before reaching a final decision. Depending on the situation, this consultation will take place either at Standing Committee level or at the level of the Steering Committee.
- (111) The SNB and FINMA work together closely in crisis situations and take the requisite contingency measures. Cooperation with the FDF in crisis management matters is governed by the provisions of a trilateral MoU.
- (112) The MoU between the SNB, FINMA and FDF covers financial stability and financial market regulation⁸⁸ regarding the exchange of information and “cooperation aimed at crisis prevention and management in the event of crises with the potential to threaten financial market stability”.
- (113) To cooperate “closely on crisis prevention and management in the event of crises with the potential to threaten financial market stability” the parties shall set up a “joint crisis management organisation and shall work together to prepare crisis management tools”.
- (114) Strategic coordination of the crisis management organisation and of any intervention shall be performed by the Steering Committee. The Steering Committee shall be made up of the Head of the FDF, who shall chair the Committee, the Chairperson of the SNB Governing Board and the Chairperson of the FINMA Board of Directors. Meetings of the Steering Committee shall be held whenever necessary, and as a rule shall be attended by the members of the Committee on Financial Crises.
- (115) The Committee on Financial Crises is responsible for coordinating preparatory efforts and for crisis management. It commissions preparatory work for decision-making in crisis situations. The Committee on Financial Crises shall be made up of the Director of FINMA, who shall chair the Committee, the State Secretary of the FDF, the Vice Chairperson of the SNB Governing Board and the Director of the Federal Finance Administration.
- (116) In business as usual, members shall meet once or twice a year; during a crisis, they shall meet whenever necessary. In principle, FINMA shall chair the Committee on Financial Crises unless, instead of FINMA's supervisory and insolvency measures, the Confederation's or the SNB's measures take precedence for combating the crisis. In this case, the Steering Committee can transfer the leadership of the Committee on Financial Crises to the FDF or the SNB.
- (117) To help ensure an effective and coherent representation of Switzerland's interests within the Basel Committee, the three parties shall agree on the basis for adopting a common position with regard to activities on the formulation of standards whose translation into national law would require an amendment at Federal Council ordinance level or at federal law level. Cooperation in the context of the Basel Committee shall be organised as follows:
- The parties shall communicate with each other in good time about activities and decisions on standard-setting matters and shall provide each other with the requisite information.

⁸⁸ [Memorandum of Understanding on trilateral cooperation in the area of financial stability and financial market regulation between the Federal Department of Finance \(FDF\) and the Swiss Financial Market Supervisory Authority \(FINMA\) and the Swiss National Bank \(SNB\)](#)

- Each party shall designate a contact person, who shall be responsible for the coordination and exchange of information; the information exchanged between them, provided it is not in the public domain, be treated as confidential and distributed internally on a restricted basis.
- Meetings between the parties shall take place several times a year for the purpose of exchanging information on current and future activities in the area of standard-setting, and for agreeing on common positions. The frequency of meetings shall be dictated by the intensity of standard-setting activities, and existing communication channels shall be used wherever possible.

Section 6: Coordination of the Authorities – Internationally

- (118) The SNB may “cooperate with foreign supervisory or oversight authorities and request information from them” and “transmit non-public information regarding systemically important financial market infrastructures to foreign supervisory or oversight authorities, provided that these authorities: 1. use such information exclusively for directly supervising or overseeing such financial market infrastructures or their participants, and 2. are bound by official or professional secrecy.”⁸⁹
- (119) The SNB may also “cooperate with foreign central banks and BIS in order to perform its tasks in accordance with Article 5” and “transmit non-public information on certain financial market participants to foreign central banks and the BIS only if: a. this information is used exclusively to fulfil tasks that correspond to those of the National Bank; b. confidentiality is ensured.”⁹⁰
- (120) The SNB may also cooperate with international organisations and bodies.⁹¹ The SNB participates in various multilateral institutions: the International Monetary Fund (IMF), BIS, the FSB, the Organisation for Economic Co-operation and Development (OECD) and the Network for Greening the Financial System (NGFS). It also takes part, upon invitation, in certain G20 meetings. Participation in the IMF, FSB, OECD and G20 is in cooperation with the Confederation and, in the case of the FSB, also with FINMA.⁹²
- (121) The SNB’s bilateral cooperation comprises: (1) Bilaterally with other central banks⁹³; (2) With the Confederation in providing international monetary assistance to individual countries⁹⁴; and (3) It provides technical assistance to central banks, giving priority to those countries with which it forms a constituency in the IMF⁹⁵.
- (122) FINMA may “participate in multilateral initiatives of international organisations and committees in which information is exchanged” and can “only transmit non-public information to international organisations and committees if: a. this information is used solely to carry out tasks related to the development and compliance with regulatory standards or to analyse systemic risks; b. secrecy is guaranteed”. FINMA will agree the exact intended use and possible forwarding of the information transmitted with the international organisations and committees.⁹⁶
- (123) FINMA states it participates in the work of various international organisations and associations.⁹⁷ It also works with foreign supervisory authorities as part of international supervisory cooperation efforts, particularly in supervisory or enforcement proceedings, as well as the resolution of financial institutions.⁹⁸

⁸⁹ Article 21 of the [National Bank Act](#)

⁹⁰ Article 50a of the [National Bank Act](#)

⁹¹ Article 50b of the [National Bank Act](#)

⁹² Swiss National Bank – [Multilateral cooperation](#)

⁹³ Swiss National Bank – [Bilateral relations with other central banks](#)

⁹⁴ Swiss National Bank – [Monetary assistance to individual countries](#)

⁹⁵ Swiss National Bank – [Technical assistance](#)

⁹⁶ Article 42b of the [Financial Market Supervision Act \(FINMASA\)](#)

⁹⁷ Swiss Financial Market Supervisory Authority – [FINMA’s international activities](#)

⁹⁸ Article 40 and 40b of the [Financial Market Supervision Act \(FINMASA\)](#) and [Articles 2 to 4 of the Ordinance on the Financial Market Supervision Act](#). German language version

- (124) FINMA stated international activities includes⁹⁹ involvement in international bodies, participation in discussions and negotiations led by the FDF, participation in supervisory or enforcement proceedings, as well as in the resolution of financial institutions, together with foreign supervisory authorities and bilateral exchanges of information, multilateral cooperation is seen via the supervisory colleges.¹⁰⁰
- (125) FINMA supports this cooperation partly via international bilateral agreements with various foreign authorities, including with¹⁰¹:
- EU Banking Union: European Central Bank (ECB) and Single Resolution Board (SRB).
 - United States: Board of Governors of the Federal Reserve System (Federal Reserve), Office of the Comptroller of the Currency (OCC) and, several state bodies.
 - United Kingdom: PRA (Prudential Regulation Authority) and FCA (Financial Conduct Authority).
 - Germany: Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin) and Deutsche Bundesbank.
 - Singapore: Monetary Authority of Singapore (MAS).
 - Hong Kong: Hong Kong Monetary Authority (HKMA).
- (126) If the bank is the subject of bankruptcy proceeding abroad, FINMA coordinates the bank bankruptcy with the competent foreign bodies to the extent possible. FINMA decides on the recognition of bankruptcy decrees and insolvency measures imposed on banks abroad.¹⁰²
- (127) In common areas of interest, FINMA and the SNB coordinate important activities and statements to foreign authorities and international bodies and keep each other informed of developments.¹⁰³

Section 7: Information Exchange between Authorities

- (128) The SNB is authorised to provide “the competent Swiss financial market supervisory authorities with non-public information which they need to fulfil their tasks” and it may also exchange non-public information on certain financial market participants with the Department if this helps maintain the stability of the financial system”.¹⁰⁴
- (129) The Ordinance to the Financial Market Supervision Act¹⁰⁵ provides further detail on FINMA’s tasks at the international level and in terms of regulation, regulatory principles and the cooperation and exchange of information between FINMA and the FDF.
- (130) The MoU between the SNB and FINMA¹⁰⁶ states that “FINMA and the SNB exchange information and share opinions on the soundness of the banking sector and systemically important banks” and that they “are authorised to exchange information and documents that are not publicly accessible, if they require these in order to fulfil their tasks”. This is based on the FINMASA FINMA¹⁰⁷ and the NBA for the SNB¹⁰⁸. The information covered includes:

⁹⁹ Swiss Financial Market Supervisory Authority – [FINMA's international activities](#)

¹⁰⁰ Swiss Financial Market Supervisory Authority – [Supervisory cooperation](#) and Swiss Financial Market Supervisory Authority – [Colleges](#)

¹⁰¹ Swiss Financial Market Supervisory Authority FINMA – [FINMA's international agreements](#)

¹⁰² Article 37f and g of the [Banking Act](#) German language version

¹⁰³ [Memorandum of Understanding in the field of financial stability between the Swiss Financial Market Supervisory Authority FINMA and the Swiss National Bank SNB](#)

¹⁰⁴ Article 50 of the [Federal Act on the Swiss National Bank \(National Bank Act, NBA\)](#)

¹⁰⁵ [The Ordinance to the Financial Market Supervision Act](#) German language version

¹⁰⁶ [Memorandum of Understanding in the field of financial stability between the Swiss Financial Market Supervisory Authority \(FINMA\) and the Swiss National Bank \(SNB\)](#)

¹⁰⁷ Article 39(1) of the [Financial Market Supervision Act \(FINMASA\)](#)

¹⁰⁸ Article 50 of the [Federal Act on the Swiss National Bank \(National Bank Act, NBA\)](#)

- Assessment of risks in the macroeconomic and financial environment.
 - Preparation of macroeconomic scenarios for assessing financial stability and/or as a basis for conducting stress tests in the areas of liquidity and capital adequacy requirements, as well as for conducting crisis simulation exercises.
 - Assessment of the various risk exposures for the banking sector, in particular for the systemically important banks
 - Assessment of capital adequacy and liquidity of the banking sector, in particular with regard to the systemically important banks.
 - Conclusions from the risk assessment for small and medium-sized banks.
 - Questions arising out of specific incidents or issues.
 - Assessment of a possible need for action
 - Planned, ongoing and completed analysis and research.
- (131) Information is to be treated as confidential and will be exchanged either when it is topical or at the regular meetings of the Steering Committee and the Standing Committee. FINMA will inform the SNB of important findings obtained in the course of its supervision of the systemically important banks and the banking sector in general and the SNB will inform FINMA about general economic developments and findings that might have an impact on systemically important banks and the banking sector in general.
- (132) The tri-lateral MoU between the SNB, FINMA and FDF¹⁰⁹, states that the parties shall meet regularly for an exchange of information and views on financial stability and issues of current interest in financial market regulation. The exchange of information and views shall cover:
- The macroeconomic environment.
 - The situation in the financial markets and the banking sector.
 - National regulatory initiatives concerning the financial markets and the banking sector.
 - International regulatory initiatives and standards concerning the financial markets and the banking sector (in particular from the Basel Committee on Banking Supervision).
 - Challenges and risks facing the Swiss financial centre.
- (133) Such exchange shall take place at least twice a year between the State Secretary of the FDF, the Director of FINMA and the Vice Chairperson of the SNB Governing Board. The FDF shall be responsible for organising the discussions and shall draw up the agenda in consultation with the other parties. The Head of the FDF, the Chairman or Chairwoman of the SNB Governing Board and the Chair of the FINMA Board of Directors shall meet for exchanges as necessary.

Section 8: Fund Solutions

Emergency Liquidity Assistance

- (134) As stated, as Lender of Last Resort, the SNB can provide ELA in crisis situations to banks which are no longer able to refinance their operations on the market. A bank can only obtain liquidity from the SNB if it is solvent and has access to sufficient collateral. The SNB accepts illiquid assets in particular as collateral, specifically loans, when providing ELA.¹¹⁰

¹⁰⁹ [Memorandum of Understanding on trilateral cooperation in the area of financial stability and financial market regulation between the Federal Department of Finance \(FDF\) and the Swiss Financial Market Supervisory Authority \(FINMA\) and the Swiss National Bank \(SNB\)](#)

¹¹⁰ Swiss National Bank – [The SNB's role as lender of last resort](#)

(135) The SNB is expanding its possibilities for providing liquidity to the whole banking sector. This initiative started in 2019. Following a pilot phase, the whole banking sector was informed in July 2023. This expansion is aimed at making it possible for the SNB to provide liquidity against illiquid mortgage collateral to the whole banking sector in the event of liquidity shortages.

Public Liquidity Backstop

(136) In 2022, the Federal Council decided on key parameters for the introduction of state-backed liquidity assistance to increase market participants' confidence in the ability of a recapitalised and solvent systemically important bank to survive. The Federal Council used emergency law in March 2023 to introduce the framework for a PLB. In September 2023 the Federal Council adopted the dispatch on the introduction of PLB for systemically important banks in Switzerland¹¹¹ which once adopted by Parliament will transfer the PLB and certain provisions of the March ordinance into ordinary law¹¹².

(137) PLB would supplement existing ELA where ELA does not sufficiently ensure the liquidity of a solvent bank. PLB would become possible when the bank's own liquid assets are no longer sufficient to meet its financial obligations and the option for the central bank to provide ELA against collateral has been exhausted. It would then be possible for the SNB to provide additional liquidity which would be guaranteed by the state as part of a restructuring of the affected bank. The level of the guarantee would be defined on a case-by-case basis depending on the circumstances.

Depositor Protection Scheme¹¹³

(138) Deposit insurance is subject to the Banking Act and the Capital Adequacy Ordinance.¹¹⁴ If a bank is declared bankrupt or a protective measure is imposed, depositors lose access to the money they have deposited.¹¹⁵

(139) The Swiss depositor protection scheme is based on a three-tier system:

- Deposits at Swiss and foreign branches of Swiss banks and securities firms up to CHF 100,000 per depositor are classed as privileged deposits.¹¹⁶ All banks must hold collateral consisting of assets in Switzerland equivalent to 125% of the protected and preferential client deposits. Privileged deposits are first paid out from the available liquid assets of the bankrupt institution and outside of the schedule of claims under bankruptcy law.
- If the liquid assets are insufficient to cover these deposits, 'esisuisse', the agency of the deposit protection scheme, funds the disbursement of protected deposits in Swiss branches up to a maximum of CHF 100,000 per depositor. esisuisse's payment liability is limited by law to 1.6% of total protected deposits in Switzerland (with a minimum of CHF 6 billion).¹¹⁷
- If the privileged deposits have not already been paid out to the depositors, they are placed among the second class of bankruptcy claims up to a maximum amount of CHF 100,000. The privileged deposits are at best paid out only partially when the proceeds of the bankruptcy are distributed.

¹¹¹ Federal Council – [Federal Council adopts dispatch on introduction of a public liquidity backstop for systemically important banks](#)

¹¹² [Draft amendment to the Banking Act](#) German language version

¹¹³ Swiss Financial Market Supervisory Authority – [Depositor protection at banks and securities firms](#)

¹¹⁴ Article 37h to 37k of the [Banking Act](#) German language version and Chapter 5, Article 42e to 44a of the [Capital Adequacy Ordinance](#) German language version

¹¹⁵ Article 26(1)(e) to (h) of the [Banking Act](#) German language version

¹¹⁶ Article 37a of the [Banking Act](#) German language version

¹¹⁷ Article 37h of the [Banking Act](#) German language version

Section 9: Compensation Mechanisms for Government Support

Emergency Liquidity Assistance

(140) Under the NBA, the SNB must demand sufficient collateral in the case of liquidity assistance.¹¹⁸

Public Liquidity Backstop

(141) According to the Draft Amendment to the Banking Act¹¹⁹ the PLB would be supplemented by lump-sum compensation, which systemically important banks would have to pay in advance to the Confederation. This lump sum is intended to compensate the Confederation for the risk and mitigate competitive distortions. The lump sum would apply regardless of whether a PLB is granted or not. Additional interest and premia would be incurred if a PLB is actually drawn down.

Depositor Protection Scheme

(142) According to the Banking Act¹²⁰ banks secure privileged deposits at Swiss branches. For this purpose, banks must comply with bank self-regulation before accepting such deposits. Self-regulation is subject to approval by FINMA. Banks are obliged to make contributions totalling 1.6 percent of the total amount of insured deposits, but at least 6 billion francs and each bank contributes half of its contribution obligations in the long term in easily usable securities of high quality or Swiss francs deposited in cash at a secure third-party depository or grants cash loans to the deposit insurance provider.

Section 10: Advantages and Disadvantages of the Swiss Institutional Approach

(143) There are three authorities involved in the institutional arrangements for the supervision and resolution of banks in Switzerland, the SNB and FINMA and the FDF, although the FDF's role focuses on approval of specific actions (such as the Council's approval of the CCyB) and coordination (such as Chairing the Standing Committee under MoU on the trilateral cooperation in the area of financial stability and financial market regulation). The bulk of the strategic and day-to-day activities covering the institutional arrangements and drafting of financial market regulations is undertaken by the SNB and FINMA.

(144) There is a clear advantage to the approach taken with institutional separation. Objectivity is inherent between the separate institutions; each have distinct legislative objectives and mandates on which to act. For instance, the decisions made by the central bank based on its specific focus and objectives may conflict from that of a micro-prudential supervisor. Subsequently, having two bodies, though with a duty to consult each other, with separate and distinct decision-making parameters means each institution will act subject to its own remit. However, it does exacerbate the potential of a decision made which pose a conflicting position.

(145) However, FINMA has a dual role as supervisor and resolution authority, relying on the principle of governance separation to retain objectivity between the functions and responsibilities. There remains a possibility that the tension is increased when considering this dual role.

(146) Supervisory decisions may be counter to the resolution functions perspective in individual cases whether it is in the exercise of forbearance or decision to trigger the resolution decision under fail or likely to fail (FOLTF). Each function and area of responsibility may wish to promote a different objective in terms of a specific scenario and there could be stresses and tensions on internal institutional decision making. For example, the supervisor may seek to delay determining a stressed bank to be non-viable (FOLTF) and extend the period for recovery measures, whereas

¹¹⁸ Article 9(1)(e) of the [National Bank Act](#)

¹¹⁹ Draft amendment to Article 32c of the [Banking Act](#) German language version

¹²⁰ Article 37h of the [Banking Act](#) German language version

the resolution function may have an interest in taking resolution actions as early as possible to minimise the threat of instability in the event of a systemically important bank.

- (147) The emergence of formally established resolution authorities is a relatively new trend arising from the global financial crisis. Where a resolution authority function is newer and possibly less resourced (whether as a part of or separate from supervision or central bank) its reputation and influence may not be as strong as the supervisory or central bank area of responsibility. However, this is a theoretical consideration and is not based on an examination of FINMA,
- (148) Although there is a legislative basis for information sharing between the parties, supported by two MoUs between the parties, the close cooperation and information sharing required for an effective relationship between supervisor and resolution function may be more difficult to manage and facilitate from a practical perspective. The SNB and FINMA would each have detailed and specialist information and knowledge on banks, especially those of systemic importance, and it is not feasible to share everything and what is shared may be subject to a judgement of what is important or significant enough to share. Some jurisdictions permit the setting up of joint databases which may ease the practical and logistical issues, but what is put into such databases will still be subject to individual or institutional judgement.
- (149) There is a clear mandate for coordination between the Swiss authorities. However, by virtue of multiple authorities with multiple decision-making arrangements being employed, actions and required activities may be less effective and time-efficient, thus potentially decreasing the timeliness and benefit of authority action in a crisis. In a crisis event, speed and effectiveness of actions is essential.
- (150) The bilateral and trilateral MoUs in place demonstrate a commitment to cooperation and intent to share information but lack detail on the practical actions, roles and responsibilities and decisions that may be required in a crisis scenario. For instance, the trilateral MoU between the SNB, FINMA and FDF may benefit on including the specific role of each party in a crisis event, the decisions each party needs to make and how this would be undertaken, practical arrangements for sharing information and establishing event management teams.
- (151) A final disadvantage is of a more pragmatic nature. Ensuring a sustained level of experienced staff with sufficient expertise is more difficult when there are two authorities competing for similarly qualified personnel. We would also note from our experience that central banks tend to have personnel with more focused and specialist knowledge, which would more easily be shared via a single institution approach.

Annex 2: Jurisdiction Focus – European Banking Union

Section 1: Responsibilities

Area of Responsibility	
Macroprudential Supervision	<p>European Systemic Risk Board (ESRB)– NB: The ESRB coordinates with national macroprudential authorities, the latter of whom implement specific policies and instruments and inform the ESRB accordingly.</p> <p>European Central Bank (ECB) (in its central bank function) – NB: ECB shares responsibility national authorities in the SSM and can exercise certain macroprudential powers though responsibilities also lie with national macroprudential authorities.</p> <p>ECB (supervisory function) watches over significant individual banks so that the banking sector remains safe, and, ultimately, to enhance financial stability in Europe in cooperation with National Supervisory Authorities.</p>
Prudential Supervision	<p>European Central Bank (ECB) via the Single Supervisory Mechanism in conjunction with the National Supervisory Authorities (NSAs) for the direct supervision of significant institutions and oversees the activities of the NSAs for non-significant institutions (indirect supervision).</p>
Recovery	<p>European Central Bank (ECB) in conjunction with the National Resolution Authorities (NRAs) for significant institutions and oversees the activities of the NRAs for non-significant institutions</p>
Resolution - Restructuring	<p>Single Resolution Board (SRB) for significant banks, national resolution authorities for less significant</p>
Resolution - Liquidation	<p>Single Resolution Board (SRB) will assess whether the public interest assessment is met for significant banks, if not the bank will be subject to national insolvency proceedings via a liquidation.</p>
Lender of Last Resort	<p>European Central Bank (ECB) and the national central banks of euro area countries share the role of lender of last resort - national central banks provide ELA which is checked and monitored by the ECB</p>

European Banking Union (Banking Union) Architecture

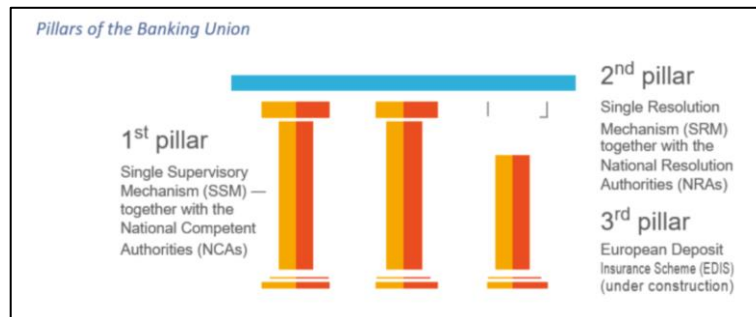
(152) The Banking Union is currently based on two fully operational pillars, which apply to euro-area countries and to non-euro area countries on a voluntary basis:

- Single Supervisory Mechanism (SSM)¹²¹: The SSM is the European Unions (EU's) supranational bank supervisory body. The responsibility for supervising credit institutions is exercised by the European Central Bank (ECB) in close cooperation with national supervisory authorities (NSAs).
- Single Resolution Mechanism (SRM)¹²²: The SRM is the system for effective and efficient resolution of non-viable credit institutions. It is made up of:

¹²¹ Single Supervisory Mechanism Regulation – [Council Regulation \(EU\) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions](#)

¹²² Single Resolution Mechanism Regulation – [Regulation \(EU\) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain](#)

- The Single Resolution Board (SRB).
- The Single Resolution Fund (SRF) (N.B. in November 2020, Euro area Member States agreed on the reform of the European Stability Mechanism (ESM) Treaty – after ratification, it will allow the ESM to become the backstop to the SRF)



Source: SRB – The SRB in the Banking Union.¹²³

(153) Reforms of the SSM are proposed under the Crisis Management and Deposit Insurance (CMDI) Framework package¹²⁴ and establishing a European Deposit Insurance Scheme (EDIS).

Macroprudential Supervision

European Systemic Risk Board and European Central Bank

European Systemic Risk Board

(154) The European Systemic Risk Board (ESRB) is “responsible for the macroprudential oversight of the financial system within the Union in order to contribute to the prevention or mitigation of systemic risks to financial stability in the Union that arise from developments within the financial system and taking into account macroeconomic developments, so as to avoid periods of widespread financial distress. It shall contribute to the smooth functioning of the internal market and thereby ensure a sustainable contribution of the financial sector to economic growth.”¹²⁵

(155) The ESRB may issue warnings or recommendations to address significant systemic risks to financial stability in the EU, deciding on a case-by-case basis whether they will be made public:

- **Warnings:** The ESRB issues warnings when significant systemic risks to financial stability are identified. Warnings can be addressed to the EU, to Member States, the European Supervisory Authorities (ESAs) or national authorities. The ESRB will monitor if, and to what extent, the systemic risk is addressed.¹²⁶
- **Recommendations:** The ESRB issues recommendations for remedial action when action is necessary to address significant systemic risks. Recommendations can be addressed to the EU, to Member States, the European Commission, the ESAs or national authorities. The ESRB will then monitor if, and to what extent, the systemic risk is addressed. It also monitors compliance with its recommendations via an “act or explain” mechanism.¹²⁷

[investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation \(EU\) No 1093/2010](#)

¹²³ Single Resolution Board – [The SRB in the Banking Union](#)

¹²⁴ [European Commission - Questions and Answers: Reform of bank crisis management and deposit insurance framework](#) and [European Commission – Completing the Banking Union: Reform of the crisis management and deposit insurance framework \(CMDI\)](#)

¹²⁵ European Systemic Risk Board Regulation - [Regulation \(EU\) No 1092/2010 of the European Parliament and of the Council as amended by Regulation \(EU\) 2019/2176 of the European Parliament and of the Council of 18 December 2019 amending Regulation \(EU\) No 1092/2010 on European Union macroprudential oversight of the financial system and establishing a European Systemic Risk Board](#)

¹²⁶ European Systemic Risk Board – [Warnings](#)

¹²⁷ European Systemic Risk Board – [Recommendations](#)

- (156) The EBA, EIOPA and ESMA cooperate with the ESRB in stress tests in order to assess resilience of financial institutions or market participants to adverse market developments. EU legislation also requires that the ESRB be consulted on, and mandates the ESRB to issue opinions on, certain matters of financial stability or macroprudential policy including the appropriateness of certain macroprudential policy measures before adoption by Member States or ECB.¹²⁸
- (157) EU prudential rules for the banking sector, for instance in the Capital Requirements Directive and Regulation, provide a number of instruments for national authorities to address financial stability risks, including the Countercyclical Capital Buffer (CCyB), global (G-SII) and other (O-SII) systemically important institutions buffers and Systemic Risk Buffer.¹²⁹ The ESRB's Handbook¹³⁰ provides for the macroprudential authorities in each Member State to develop their own policy strategies and national authorities are must notify the ESRB of their macroprudential measures.
- (158) The ESRB has further responsibilities in respect of selected macroprudential instruments. For instance, the ESRB seeks to ensure that the CCyB is applied consistently via guiding principles to national authorities on setting CCyB rates and to give opinions to Member States imposing Systemic Risk Buffer rates exceeding 5% or recommendations for buffer rates between 3% and 5% when there is at least one EU-owned foreign subsidiary in the imposing Member State.

European Central Bank

- (159) The ESRB Secretariat sits within the ECB¹³¹: "The Secretariat of the ESRB (the Secretariat) should be ensured by the ECB and, to this effect, the ECB should provide sufficient human and financial resources."¹³² The Secretariat prepares the meetings of the ESRB and supports the work of the ESRB's General Board, Steering Committee, ATC and ASC. On behalf of the ESRB, the Secretariat should collect all information necessary for the achievement of the tasks of the ESRB. Th ECB is required to "ensure [the] Secretariat, and thereby provide analytical, statistical, logistical and administrative support to the ESRB."¹³³
- (160) The ECB also has a responsibility for macroprudential supervision and financial stability. The ECB, together with the other central banks of the Eurosystem and the European System of Central Banks (ESCB), monitors cyclical and structural developments in the banking sectors of the euro area and the EU as a whole, as well as other financial sectors.¹³⁴
- (161) Systemic risks are assessed by quantitative tools, such as the ECB's macro stress-testing framework. Under the SSM¹³⁵ the ECB has macroprudential tools:
- The ECB may apply higher requirements for capital buffers than those applied by the national authorities or apply measures aimed at addressing systemic or macroprudential risks.¹³⁶ For example, the ECB may (after notifying national authorities) apply higher requirements for : CCyB, Systemic Risk Buffers (if implemented in national law), capital surcharges of systemically important institutions, limits on large exposures, additional disclosures¹³⁷.

¹²⁸ European Systemic Risk Board – [Opinions](#)

¹²⁹ European Systemic Risk Board – [Flagship Report on Macroprudential Policy in the Banking Sector](#)

¹³⁰ European Systemic Risk Board – [The ESRB handbook on operationalising macroprudential policy in the banking sector](#)

¹³¹ European Central Bank – [Organisation Chart of the ECB](#)

¹³² Recital 8 of the [Council Regulation \(EU\) No 1096/2010 of 17 November 2010 conferring specific tasks upon the European Central Bank concerning the functioning of the European Systemic Risk Board](#)

¹³³ Article 2 of the [Council Regulation \(EU\) No 1096/2010 of 17 November 2010 conferring specific tasks upon the European Central Bank concerning the functioning of the European Systemic Risk Board](#)

¹³⁴ European Central Bank – [Our Tasks](#)

¹³⁵ SSM Regulation - [Council Regulation \(EU\) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions](#)

¹³⁶ Article 5 of the SSM Regulation - [Council Regulation \(EU\) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions](#)

¹³⁷ European Central Bank – [Macroprudential measures](#)

- National authorities must notify the ECB when they intend to implement or change a macroprudential measure. The ECB assesses the planned measures and can object to them. National authorities consider the ECB's comments before proceeding with the decision.¹³⁸

Micro-Prudential Supervision **European Central Bank**

- (162) The ECB oversees European Banking Union banking supervision by establishing a common approach to day-to-day supervision, taking harmonised supervisory actions and corrective measures and seeks to ensure the consistent application of regulations and supervisory policies. The ECB assists in developing prudential requirements for significant and less significant banks, covering issues such as: Risk management practices, capital and liquidity levels and remuneration policies and practices.
- (163) Regulations and supervisory policies for all banks are developed through close cooperation and coordination between the ECB and other bodies such as the ESAs, especially the EBA, ESRB, Basel Committee on Banking Supervision and Financial Stability Board.
- (164) The ECB, in cooperation with the NSAs, is responsible for ensuring European banking supervision is effective and consistent. The ECB can issue its own regulations, guidelines and instructions on topics such as the Supervisory Review and Evaluation Process (SREP).¹³⁹ It also performs its supervisory function subject to EU legislation, such as the Capital Requirements Directive and Regulation within the Single Rulebook¹⁴⁰ and Guidelines and Technical Standards issued by the EBA¹⁴¹, including on the SREP¹⁴².
- (165) Credit institutions are categorised as “significant”, directly supervised by the ECB. The ECB directly supervises the 109 significant banks of the participating countries. These banks hold almost 82% of banking assets in these countries.¹⁴³ “Less significant” institutions are directly supervised by National Competent Authorities (NCAs)¹⁴⁴ and are indirectly supervised by the ECB. The following criteria determines the significance of the institution¹⁴⁵:
- Size: The total value of its assets exceeds €30 billion.
 - Economic Importance: For the specific country of the EU economy as a whole.
 - Cross Border Activities: The total value of its assets exceeds €5 billion and the ratio of its cross-border assets/liabilities in more than one other participating Member State to its total assets/liabilities is above 20%.
 - Direct Public Financial Assistance: It has requested or received funding from the European Stability Mechanism or the European Financial Stability Facility.
 - A supervised bank can also be considered significant if it is one of the three most significant banks established in a particular country.

¹³⁸ Article 5 of the SSM Regulation - [Council Regulation \(EU\) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions](#)

¹³⁹ European Central Bank – [How does banking supervision work?](#)

¹⁴⁰ European Banking Authority - [Single Rulebook](#)

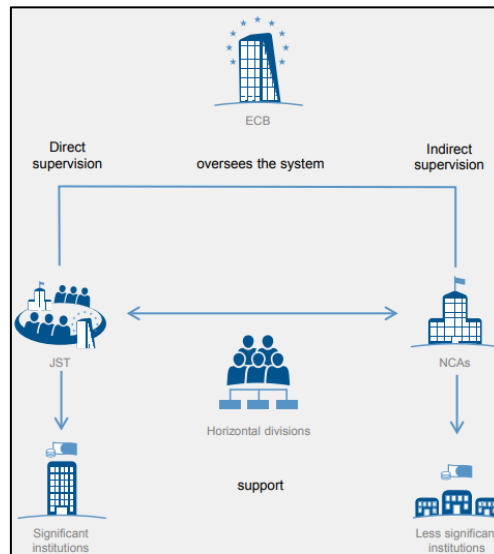
¹⁴¹ European Banking Authority – [Regulation and Policy](#)

¹⁴² European Banking Authority – [Guidelines for common procedures and methodologies for the supervisory review and evaluation process \(SREP\) and supervisory stress testing](#)

¹⁴³ European Central Bank – [Single Supervisory Mechanism](#)

¹⁴⁴ Article 4 of the SSM Regulation - [Council Regulation \(EU\) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions](#) and the SSM Framework Regulation – [Regulation \(EU\) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities \(SSM Framework Regulation\) \(ECB/2014/17\)](#) and European Central Bank – [Guide to banking supervision](#)

¹⁴⁵ European Central Bank – [What makes a bank significant?](#)



Source: European Central Bank – Guide to banking supervision page13¹⁴⁶

- (166) The ECB has Directorates for the direct day-to-day supervision of significant institutions, the oversight of the supervision of less significant institutions performed by NCAs and horizontal and specialised tasks in respect of all credit institutions under the SSM's supervision.¹⁴⁷
- (167) The day-to-day supervision of significant institutions is conducted by Joint Supervisory Teams (JSTs). The JSTs comprise staff from both the ECB and the NCAs of the countries in which the credit institutions, banking subsidiaries or the significant cross-border branches of a given banking group are established. Each JST is led by an ECB coordinator .
- (168) The ECB conducts supervisory reviews, on-site inspections and investigations. It applies the SREP to assess the risks faced by banks and check that banks are equipped to properly manage those risks. The adoption of a SREP decision follows the ECB decision-making process as laid down in legislation¹⁴⁸, i.e., a draft decision by the Supervisory Board is adopted by the Governing Council via a non-objection procedure.
- (169) Other decisions that can be made by the ECB, subject to the decision-making process, cover other supervisory practices including setting micro- and macroprudential capital requirements (and buffers), deciding on supervised banks' significance status, deciding on establishing prudential requirements, approving reductions in own funds and deciding on the suitability of all members of a management body, for both management and supervisory functions.

European Banking Authority

- (170) The EBA is an independent EU Authority which works to ensure effective and consistent prudential regulation and supervision across the European banking sector. Its overall objectives are to maintain financial stability in the EU and to safeguard the integrity, efficiency and orderly functioning of the banking sector. The EBA contributes to the creation of the European Single Rulebook¹⁴⁹. The EBA develops guidelines and Technical Standards on a range of prudential and recovery and resolution areas of regulation¹⁵⁰, for instance, under the BRRD.¹⁵¹ It also participates in the preparation of, and coordinates, bank stress tests to be carried out by the ECB.

¹⁴⁶ European Central Bank – [Guide to banking supervision](#)

¹⁴⁷ European Central Bank – [Guide to banking supervision](#)

¹⁴⁸ Article 26(8) of the SSM Regulation - [Council Regulation \(EU\) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions](#)

¹⁴⁹ European Banking Authority – [Single Rulebook](#)

¹⁵⁰ European Banking Authority – [Regulation and Policy](#)

¹⁵¹ European Banking Authority – [Recovery, resolution and DGS](#)

Recovery **European Central Bank**

- (171) All banks within the EU are required to develop, maintain and submit to the relevant competent authority a recovery plan providing for measures to be taken by the institution to restore its financial position following a significant deterioration of its financial situation.¹⁵² For groups, EU parent undertakings are required to submit a group recovery plan to be reviewed by the relevant consolidating supervisor.¹⁵³
- (172) The EBA has developed Guidance and Technical Standards on the content of recovery plans¹⁵⁴, including the development of recovery plans (for banks¹⁵⁵ and groups¹⁵⁶), recovery plan indicators¹⁵⁷, on the overall recovery capacity¹⁵⁸ and the scenarios to be used¹⁵⁹. The EBA has also developed guidelines in respect of the assessment of recovery plans.¹⁶⁰
- (173) The ECB carries out “supervisory tasks in relation to recovery plans, and early intervention where a credit institution or group in relation to which the ECB is the consolidating supervisor, does not meet or is likely to breach the applicable prudential requirements, and, only in the cases explicitly stipulated by relevant Union law for competent authorities, structural changes required from credit institutions to prevent financial stress or failure, excluding any resolution powers.”¹⁶¹ The ECB has established a Crisis Management Division supports the JSTs a crisis scenario and reviews the significant supervised credit institutions’ recovery plans.¹⁶²
- (174) The ECB (or NCA) will provide the SRB with a recovery plan or group recovery plan so the SRB can examine the recovery plan with a view to identifying any actions in the recovery plan which may adversely impact the resolvability of the institution or group and make recommendations to the ECB (or NCA) on those matters.¹⁶³

Resolution (Restructuring and Liquidation) **Single Resolution Board**

- (175) The Single Resolution Mechanism is made up of the SRB and the National Resolution Authorities (NRAs) in Eurozone countries and Bulgaria. The BRRD¹⁶⁴, the DGSD¹⁶⁵, the European Commission (EC) Delegated Acts, prepared on the basis of Technical Standards drafted by the EBA, and the EBA’s Guidelines¹⁶⁶, form a single rulebook for the EU for resolution planning and execution and the application of Deposit Guarantee Schemes (DGSs).

¹⁵² Article 5 of the [Bank Recovery and Resolution Directive](#)

¹⁵³ Articles 6, 7 and 8 of the [Bank Recovery and Resolution Directive](#)

¹⁵⁴ [Regulatory Technical Standards on the content of recovery plans](#)

¹⁵⁵ [Recommendation on the development of recovery plans](#)

¹⁵⁶ [Recommendations on the coverage of entities in a group recovery plan](#)

¹⁵⁷ [Guidelines on recovery plans indicators](#)

¹⁵⁸ [Guidelines on the overall recovery capacity in recovery planning](#)

¹⁵⁹ [Guidelines on the range of scenarios to be used in recovery plans](#)

¹⁶⁰ [Regulatory Technical Standards on the assessment of recovery plans](#)

¹⁶¹ Article 4(1)(i) of the Single Supervisory Mechanism Regulation - [Council Regulation \(EU\) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions](#)

¹⁶² European Central Bank – [Guide to banking supervision](#)

¹⁶³ Article 10(2) of the Single Resolution Mechanism Regulation - [Regulation \(EU\) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation \(EU\) No 1093/2010](#)

¹⁶⁴ [Bank Recovery and Resolution Directive](#)

¹⁶⁵ [Deposit Guarantee Scheme Directive](#)

¹⁶⁶ European Banking Authority – [Recovery, resolution and DGS](#)

- (176) Entities and groups directly supervised by the ECB¹⁶⁷ and other cross-border groups¹⁶⁸ fall under the SRB's direct responsibility¹⁶⁹. NRAs are responsible for all other banks. However, where necessary, the SRB can decide, or an NRA can request, that the SRB to directly exercise its powers. If a resolution action requires the use of the SRF, the SRB is responsible for the adoption of the resolution scheme for that bank.¹⁷⁰
- (177) The SRB may issue also general instructions for the attention of NRAs and may issue warnings to an NRA where the SRB considers that a decision that NRA intends to adopt does not comply with the SRMR or with the SRB's general instructions.
- (178) The SRB's main tasks include:
- To draft resolution plans for the banks under its direct responsibility.
 - To carry out an assessment of the banks' resolvability and to address obstacles to resolution.
 - To set the minimum requirements for own funds and eligible liabilities (MREL).
 - To adopt resolution plans and decisions, to choose and decide on the use of resolution tools.
 - To closely cooperate with and give instructions to NRAs.
 - The SRB is in charge of the SRF.
- (179) Resolution plans are prepared by the SRB and NRAs within an Internal Resolution Team (IRT) led by the SRB and are adopted in an extended Executive Session. NRAs of non-participating Member States may participate as observers.
- (180) The resolution of a bank occurs when¹⁷¹:
- The bank is failing or likely to fail (det).
 - There are no supervisory or private sector measures that can restore the bank to viability within a short timeframe (for example, by taking actions set out in the bank's recovery plan).
 - Resolution is necessary in the public interest, i.e., the resolution objectives would not be met to the same extent if the bank were wound up under normal (national) insolvency proceedings (the 'Public Interest Assessment').
- (181) The ECB, after consulting the SRB, determines whether a bank is failing or likely to fail. However, the SRB can make such an assessment after informing the ECB of its intention and only if the ECB does not make such an assessment within three calendar days of receipt of that information. The SRB remains ultimately responsible to determine whether no alternative solution is available and whether a resolution action is necessary in the public interest.
- (182) Upon the determination by the extended Executive Session of the SRB that a bank meets the conditions for resolution, the SRB will adopt a resolution scheme, determining the application of the relevant resolution tools and, if necessary, the use of the SRF.

¹⁶⁷ European Central Bank – [List of supervised banks](#)

¹⁶⁸ Single Resolution Board – [Other cross border groups under the SRB remit](#)

¹⁶⁹ Subject to the provisions in Article 2 of the Single Resolution Mechanism Regulation - [Regulation \(EU\) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation \(EU\) No 1093/2010](#)

¹⁷⁰ Single Resolution Board – [Banks under the SRB's remit](#)

¹⁷¹ Article 32 of the [Bank Recovery and Resolution Directive](#) and Article 18 of the Single Resolution Mechanism Regulation - [Regulation \(EU\) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation \(EU\) No 1093/2010](#)

- (183) Once the SRB has adopted a resolution scheme, it sends the scheme to the European Commission. The European Commission must adopt a positive or conditional decision where the resolution action involves the use of the SRF or the granting of State Aid. The scheme may only enter into force if no objection is expressed by the European Commission or the Council of the EU (EU Council) within 24 hours. It enters into force upon endorsement. Objection to certain aspects by the European Commission means the SRB will modify it accordingly, after which it is approved and enters into force.
- (184) The European Commission can propose to the EU Council that it objects to the scheme because there is no public interest or to require a material modification to the use of the SRF. If the EU Council objects because it is not in the public interest, the bank will be wound up in an orderly manner in accordance with the applicable national law. If the EU Council approves the modification to the use of the SRF the SRB will modify the scheme and it is then approved and enters into force. If remains in its original form if the EU Council rejects the Commission's proposal.
- (185) When applying resolution tools and exercising resolution powers, the SRB and, as relevant, NRAs, must take into account the resolution objectives (in the BRRD¹⁷² and the SRMR¹⁷³):
- To ensure the continuity of critical functions.
 - To avoid significant adverse effects on financial stability, in particular by preventing contagion, including to market infrastructures, and by maintaining market discipline.
 - To protect public funds by minimising reliance on extraordinary public financial support.
 - To protect depositors covered by the DGSD and investors covered by the Investor Compensation Scheme Directive (ICSD).
 - To protect client funds and client assets.
- (186) The SRB and, as relevant, NRAs will seek to minimise the cost of resolution and avoid destruction of value unless necessary to achieve the resolution objectives.
- (187) The Public Interest Assessment is only met if resolution “is necessary for the achievement of, and is proportionate to one or more of the resolution objectives ... and winding up of the entity under normal insolvency proceedings would not meet those resolution objectives to the same extent”¹⁷⁴. If the Public Interest Assessment is not passed national insolvency procedures apply.
- (188) Before any resolution action is taken, the capital instruments of the bank must be written down or converted. The potential resolution tools are¹⁷⁵:
- **The bail-in tool:** Occurs when the borrower's creditors have a portion of their debt written off. The bail-in tool can be used to recapitalise the institution under resolution or convert to equity, or reduce the principal amount of, claims or debt instruments that are transferred to a bridge institution or under the sale of business or asset separation tool.
 - **The sale of business tool:** Transfers shares or other instruments of ownership, and all or any assets, rights or liabilities of an institution to one or more purchasers that are not a bridge institution. The resolution authority has the power to do so with or without the consent of shareholders. When the sale of business tool is used to transfer parts of assets, rights and liabilities, the residual entity shall be wound up under normal insolvency proceedings.

¹⁷² Article 31 of the [Bank Recovery and Resolution Directive](#)

¹⁷³ Article 14 of the Single Resolution Mechanism Regulation - [Regulation \(EU\) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation \(EU\) No 1093/2010](#)

¹⁷⁴ Article 18(5) of the Single Res

¹⁷⁵ Single Resolution Board – [Resolution tools](#)

- **The bridge institution tool:** The tool facilitates the transfer of part or all of the shares or assets, rights and liabilities to a temporary entity until a sale to a private buyer can be concluded. A bridge institution is wholly or partially owned by one or more public authorities and is controlled by the resolution authority.
- **The asset separation tool:** Allows for the transferring of assets, rights, or liabilities from a failing bank or a Bridge Bank to an Asset Management Vehicle (AMV). The asset separation tool must be applied together with another resolution tool. The AMV is wholly or partially owned by one or more public authorities which may include the resolution authority or the resolution financing arrangements.

(189) Additionally, resolution authorities can use the moratorium tool to suspend any payment or delivery obligations under any contract to which an institution under resolution is a party (except for certain excluded obligations) for up to two business days.

(190) Relevant NRAs will take the necessary actions to implement the resolution scheme. The SRB will monitor the execution of the resolution scheme and, should an NRA not comply with the resolution scheme, the SRB can directly address executive orders to the bank under resolution.

Lender of Last Resort

European Central Bank and national central banks

(191) The ECB and the national central banks of euro area countries share the role of Lender of Last Resort. The national central banks in the euro area offer the last safety net for banks that cannot get the funding they need elsewhere. Emergency Liquidity Assistance (ELA) loans are provided by the national central bank of the country in which the bank is based. That national central bank also bears any costs and risks that may arise.

(192) While national central banks are responsible for providing ELA, their Lender of Last Resort activities are checked and monitored by the ECB. The ECB's Governing Council may restrict or object to emergency assistance if two-thirds of its members agree to do so. They may only object, however, if they believe ELA would interfere with the ECB's monetary policy or with the Eurosystem's objectives and tasks.

(193) To qualify for ELA banks can be illiquid but they need to be solvent. National central banks accept collateral of a lower quality for ELA loans than for non-emergency funding but apply a haircut to the collateral and charge banks a higher interest rate due to increased risk.

Section 2: Independence between Authorities

European Systemic Risk Board

(194) When participating in the activities of the General Board and of the Steering Committee or when conducting any other activity relating to the ESRB, the members of the ESRB shall perform their duties impartially and solely in the interest of the EU as a whole. They shall not seek nor take instructions from the Member States, EU institutions or any other public or private body. No member of the General Board (whether voting or non-voting) shall have a function in the financial industry. Neither the Member States, EU institutions nor any other public or private body shall seek to influence the members of the ESRB in the performance of ESRB tasks.¹⁷⁶

(195) The General Board¹⁷⁷, chaired by the President of the ECB, is the ESRB's decision-making body. It discusses current macroprudential developments and, where necessary, issues recommendations and warnings. Its voting members are:

¹⁷⁶ Article 7 of the European Systemic Risk Board Regulation – [Regulation \(EU\) No 1092/2010 of the European Parliament and of the Council](#) as amended by [Regulation \(EU\) 2019/2176](#)

¹⁷⁷ [European Systemic Risk Board – General Board](#)

- President and the Vice-President of the ECB.
- Governors of the national central banks of the Member States or, where applicable, high-level representatives of the designated authorities pursuant to the Capital Requirements Directive or Capital Requirements Regulation.
- One Representative of the European Commission
- Chairperson of the European Banking Authority (EBA).
- Chairperson of the European Insurance and Occupational Pensions Authority (EIOPA).
- Chairperson of the European Securities and Markets Authority (ESMA).
- Chair and the two Vice-Chairs of the Advisory Scientific Committee (ASC) of the ESRB.
- Chair of the Advisory Technical Committee (ATC) of the ESRB.

(196) Non-voting members of the General Board are: one representative per Member State of the National Supervisory Authorities, the national authority entrusted with the conduct of macroprudential policy, or national central bank¹⁷⁸, the President of the Economic and Financial Committee (EFC), the Chair of the Supervisory Board of the ECB, the Chair of the SRB, the Governor of the national central bank of Iceland, the Governor of the national central bank of Norway, a high-level representative of the Ministry of Finance of Liechtenstein, a high-level representative of the competent national supervisory authority of the above mentioned European Free Trade Association (EFTA) States, a college member of the EFTA Surveillance Authority may participate in meetings of the General Board, whenever relevant to its tasks.

European Central Bank

(197) The ECB's independence is laid down in the institutional framework for the single monetary policy.¹⁷⁹ The ECB, national central banks (NCBs) or members of their decision-making bodies are not allowed to seek or take instructions from EU institutions or bodies, any government of an EU Member State or any other body. The Eurosystem is prohibited from granting loans to EU bodies or national public sector entities.

(198) The Eurosystem is functionally independent. The ECB has instruments and competencies for the conduct of monetary policy and decides autonomously how and when to use them. The ECB has the right to adopt binding regulations as necessary to carry out the tasks of the ESCB and in certain other cases as laid down in specific acts of the EU Council.

(199) Potential conflict of interest between monetary and supervisory policy is based on organisational separation of monetary policy and micro-prudential supervision: "The ECB shall carry out the tasks conferred on it by [the SSMR] without prejudice to and separately from its tasks relating to monetary policy and any other tasks" and the "tasks conferred on the ECB by this Regulation shall moreover not interfere with its tasks in relation to the ESRB or any other tasks."¹⁸⁰

(200) The SSM Regulation requires that the tasks performed by the ECB as part of its supervisory activities are organisationally separated from, and subject to, separate reporting lines from the staff involved in carrying out other tasks conferred on the ECB. A Mediation Panel is established

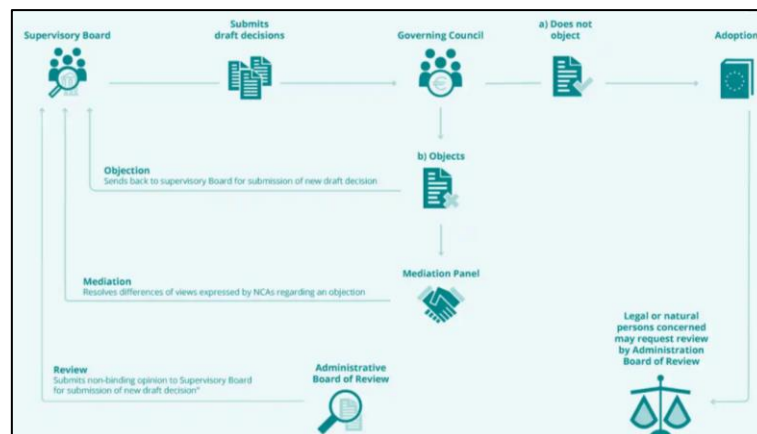
¹⁷⁸ Unless the Governor of the national central bank is not the member of the General Board with voting rights, in which case a high-level representative of the national central bank is the member of the General Board without voting rights. The high-level representatives shall rotate depending on the item discussed, unless the national authorities of a particular Member State have agreed on a common representative.

¹⁷⁹ Protocol Number 4 Article 7 of the [Treaty on European Union](#) and Article 130 and Protocol Number 4 Article 7 of the [Treaty on the Functioning of the European Union](#)

¹⁸⁰ Article 25(2) of the Single Supervisory Mechanism Regulation - [Council Regulation \(EU\) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions](#)

to resolve differences of views expressed by the competent authorities of Member States regarding an objection of the Governing Council to a draft decision by the Supervisory Board.¹⁸¹

- (201) To minimise conflicts of interest between monetary and supervisory policy decision-making by the Governing Council as it has ultimate decision-making authority for both, and to promote operational efficiency, the SSMR established the ECB the Supervisory Board. The Board plans and executes the supervisory tasks conferred on the ECB and it is also responsible for proposing draft decisions to, for adoption by, the Governing Council via a non-objection procedure. It does not have decision-making authority capable of producing external effects.¹⁸²
- (202) Although acts adopted by the Supervisory Board in the exercise of its competence are do not lead to legal effects on supervised entities, they are part of the ECB’s internal supervisory decision-making process regarding tasks under the SSMR. The Supervisory Board sets and implements the ECB’s supervisory agenda and activities (i.e., planning, execution and preparation), and to initiate the ECB’s supervisory decision-making process.¹⁸³
- (203) The Governing Council adopts the draft decisions submitted to it by the Supervisory Board in a special non-objection procedure. Despite being the ECB’s ultimate decision-making body on supervisory matters, the Governing Council’s discretion to object to draft proposals of the Supervisory Board is accompanied by a requirement to provide the reasons for doing so in writing, in particular stating monetary policy concerns.¹⁸⁴



Source: European Central Bank Banking Supervision – Decision Making¹⁸⁵

Single Resolution Board

- (204) The SRMR requires that the SRB acts “independently and in the general interest” and members of the Board “shall act independently and objectively” and “express their own views and vote independently”.¹⁸⁶

¹⁸¹ Article 25 of the Single Supervisory Mechanism Regulation - [Council Regulation \(EU\) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions](#)

¹⁸² Article 26 of the Single Supervisory Mechanism Regulation - [Council Regulation \(EU\) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions](#)

¹⁸³ [European Central Bank – Legal Working Paper Series: The Eurosystem and the Single Supervisory Mechanism: institutional continuity under constitutional constraints \(July 2018\)](#)

¹⁸⁴ Article 26(8) of the Single Supervisory Mechanism Regulation - [Council Regulation \(EU\) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions](#)

¹⁸⁵ European Central Bank Banking Supervision – [Decision Making](#)

¹⁸⁶ Article 47 of the Single Resolution Mechanism Regulation - [Regulation \(EU\) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation \(EU\) No 1093/2010](#)

- (205) There are currently six members of the SRB Board, including a Chair and Vice-Chair.¹⁸⁷ The ‘restricted’ Executive Session comprises the Chair and the four full-time Board Members. The Vice-Chair participates in the ‘restricted’ Executive Session as a non-voting member.
- (206) When the Executive Session deliberates on a specific bank, the Executive Session is extended (‘extended’ Executive Session) to include the Board Members that represent relevant NRAs. If the ‘extended’ Executive Session is not able to reach a joint agreement by consensus, the Chair and the four further full-time Board Members take a decision by simple majority.
- (207) The Plenary Session is composed of the Chair, the four further full-time Board Members and the Board Members representing all NRAs. The Vice-Chair participates in the Plenary Session as a non-voting member.
- (208) The European Commission and the ECB have permanent observer status in all meetings of the Executive and Plenary Sessions of the SRB. Where the ‘extended’ Executive Session deliberates on a bank that has subsidiaries or significant branches in non-participating Member States, the resolution authorities of those Member States are invited to participate in the meeting.
- (209) The Chair is responsible for, inter alia, the management of the SRB, its budget, preparing the work of the SRB in its Executive and Plenary Sessions, all staff matters, and matters of day-to-day administration. The Vice-Chair and the four full-time Board Members are responsible for individual directorates.¹⁸⁸ The directorates cover:
- Resolution Strategy and Cooperation which provides resolution expertise and aims to ensure a common understanding within the SRM of horizontal and policy topics.
 - Three directorates are directly responsible for preparing resolution plans and, resolution schemes for the banks within the SRB’s remit, in IRTs.
 - Corporate Services and the Single Resolution Fund (SRF).

Section 3: Resource Endowment

European Systemic Risk Board

- (210) The members of the General Board, Steering Committee and ATC are representatives of other national and pan-European authorities. The representatives of ASC are experts representing a wide range of skills, experience and knowledge related to all relevant financial markets sectors.
- (211) The ECB provides the Secretariat for the ESRB, including analytical, statistical, administrative and logistical support to the ESRB drawing on technical advice from national central banks and supervisors.¹⁸⁹

European Central Bank

- (212) In its annual report of 31 December 2022, the ECB stated it had 5,089 employees, comprising 2,844 permanent staff, 649 employees on fixed terms convertible contracts, 264 on fixed term non-convertible contracts, 394 seconded from a national central bank of the ESCB, European public institutions/agencies or international organisations, 413 on short term contracts and 525 trainees.¹⁹⁰ However, the ECB website currently states that it has more than 3,500 staff.¹⁹¹

¹⁸⁷ Single Resolution Board – [The Board](#)

¹⁸⁸ Single Resolution Board – [Our organisation](#)

¹⁸⁹ Article 4(4) and Recital 6 of the [European Systemic Risk Board Regulation - Regulation \(EU\) No 1092/2010 of the European Parliament and of the Council](#) as amended by [Regulation \(EU\) 2019/2176](#)

¹⁹⁰ European Central Bank – [Annual Report 2022](#)

¹⁹¹ European Central Bank – [Organisation](#)

(213) ECB staff perform a range of tasks in close cooperation with the national central banks within the Eurosystem and, for banking supervision, with the national supervisors within the Single Supervisory Mechanism.

Single Resolution Board

(214) At the end of 2022, the SRB had 515 members of staff; 427 were Temporary Agents, 20 were seconded national experts, 10 were trainees, 53 were consultants and 15 were interimaire.¹⁹²

Section 4: Financing of Authorities

European Central Bank

(215) The ECB's financial arrangements are kept separate from those of the EU. The ECB has its own budget. Its capital is subscribed and paid up by the euro area NCBs.¹⁹³

(216) The ECB's own funds portfolio predominantly consists of investments of the ECB's financial resources, namely its paid-up capital and amounts set aside in the general reserve fund and in the provision for financial risks. The purpose of this portfolio is to provide income to help fund the ECB's operating expenses which are **not related to the delivery of its supervisory tasks**. It is invested in euro-¹⁹⁴denominated assets, subject to limits imposed by its risk control framework.¹⁹⁵ 'Seigniorage' is also an income source for the ECB.

(217) The ECB also receives income from interest that commercial banks pay when they borrow money from it, financial assets such as Government bonds and reserves in foreign currencies and have other investments.

(218) The ECB covers the costs of its supervisory tasks and responsibilities by levying an annual fee on all supervised banks including¹⁹⁶:

- All banks established in the countries participating in European banking supervision.
- Branches established in countries participating in European banking supervision.

(219) The supervisory fee is the amount each supervised bank pays annually to the ECB to finance the ECB's costs related to its supervisory tasks and responsibilities.

(220) The ECB supervisory fee is linked to a bank's significance and risk profile, i.e., its supervisory status. Significant banks directly supervised by the ECB are required to pay a larger supervisory fee to the ECB while pay a smaller supervisory fee to the ECB.

(221) All fee-paying institutions that are part of a supervised group nominate a single entity to act as the fee debtor on behalf of the whole group. This is done by sending the ECB a signed notification by post or email. The closing date for submitting a new fee debtor nomination is 30 September.

Single Resolution Board

(222) The SRB is an independent EU agency. It is not publicly funded. All credit institutions established in the Banking Union must contribute to the administrative expenditures of the SRB. Banks operating across the Banking Union must pay an annual levy towards the running costs of the

¹⁹² Single Resolution Board – [Annual Repo/rf 2022](#)

¹⁹³ European Central Bank - [Independence](#)

¹⁹⁴ Euro banknotes are developed by the ECB, manufactured at a printing works and then stored in the vault at a country's central bank. They are put into circulation by banks which pays the face value of the notes to the central bank. To do this a bank usually needs to borrow money from the central bank or it pays by handing over some of its assets. The central bank earns interest on the money it lends, or receives a return on the assets it acquires – and this is called seigniorage income – European Central Bank – [What is seigniorage?](#)

¹⁹⁵ European Central Bank – [Annual Report 2022: Annual Accounts](#)

¹⁹⁶ European Central Bank Regulation on supervisory fees - [Regulation \(EU\) No 1163/2014 of the European Central Bank of 22 October 2014 on supervisory fees \(ECB/2014/41\)](#) and European Central Bank Banking Supervision – [Supervisory fees](#)

SRB – the ‘Administrative Contribution’.¹⁹⁷ This also applies to all parent undertakings (including financial and mixed financial holding companies), investment firms and financial institutions that are covered by the consolidated supervision of the ECB. The annual contribution from each entity follows the approach for calculating supervisory fees and is based proportionally on the institutions significant or less significant categorisation.¹⁹⁸

Section 5: Coordination of the Authorities – Nationally (i.e., within the SSM)

- (223) The ESRB is responsible for the macroprudential oversight of the EU financial system. Its voting and non-voting members are representatives of other national and pan-European authorities, including the ECB and SRB. It is a forum for cooperation and dialogue between stakeholders and has the objective of “cooperating closely with all the other parties to the ESFS”.¹⁹⁹
- (224) The ECB maintains close relations with various EU authorities. The ECB collaborates closely with the authorities that form part of the European System of Financial Supervision (ESFS), which includes the ESAs and ESRB. There is “a duty of cooperation in good faith” between the ECB and NCAs within the SSM.²⁰⁰ This duty is repeated in establishing the framework for cooperation within the SSM between the ECB and national competent and designated authorities.²⁰¹
- (225) The ECB provides the secretariat for the ESRB and offers analytical, administrative and logistical support. The ECB works closely with the SRB, with which it also has a Memorandum of Understanding (MoU)²⁰². As part of its role in monitoring the implementation of macroeconomic adjustment programmes for Member States in need of financial support, the ECB collaborates with the ESM.²⁰³ The ECB participates in Supervisory Colleges and Crisis Management Groups.
- (226) The SRB works closely with Banking Union, European and international authorities.²⁰⁴ The SRB “... the Council, the Commission, the ECB and the national resolution authorities and national competent authorities shall cooperate closely, in particular in the resolution planning, early intervention and resolution phases...”²⁰⁵

¹⁹⁷ Single Resolution Board – [Administrative Contributions](#) and [Commission Delegated Regulation \(EU\) 2017/2361 of 14 September 2017 on the final system of contributions to the administrative expenditures of the Single Resolution Board](#)

¹⁹⁸ Article 5(2) of [Commission Delegated Regulation \(EU\) 2017/2361 of 14 September 2017 on the final system of contributions to the administrative expenditures of the Single Resolution Board \(Consolidated text\)](#)

¹⁹⁹ Article 3(g) of the European Systemic Risk Board Regulation – [Regulation \(EU\) No 1092/2010 of the European Parliament and of the Council](#) as amended by [Regulation \(EU\) 2019/2176](#)

²⁰⁰ Article 6 of the Single Supervisory Mechanism Regulation - [Council Regulation \(EU\) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions](#)

²⁰¹ [Regulation \(EU\) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities \(SSM Framework Regulation\)](#) (ECB/2014/17)

²⁰² [Memorandum of Understanding between the Single Resolution Board and the in respect of Cooperation and Information Exchange](#)

²⁰³ Article 3 of the Single Supervisory Mechanism Regulation - [Council Regulation \(EU\) No 1024/2013](#) and Protocol Number 4 Article 5 of the [Treaty on the Functioning of the European Union](#) and European Central Bank – [European Cooperation](#)

²⁰⁴ Articles 30 to 32 of the Single Resolution Mechanism Regulation - [Regulation \(EU\) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation \(EU\) No 1093/2010](#)

²⁰⁵ Article 30 of the Single Resolution Mechanism Regulation - [Regulation \(EU\) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation \(EU\) No 1093/2010](#)

Section 6: Coordination of the Authorities – Internationally (i.e., outside the SSM)

- (227) The ECB's stated international cooperation includes²⁰⁶ central banks of G20 emerging market economies, global and regional institutions and central banks of EU candidate and potential candidate countries.
- (228) The ECB responds to ad hoc requests for international cooperation from central banks globally.²⁰⁷ International central bank cooperation comprises the exchange of expertise, the sharing of best practices and capacity-building. It includes a wide range of activities, such as workshops and seminars, staff secondments, expert visits and training programmes.
- (229) The Working Group on Central Bank Cooperation coordinates international cooperation activities within the ESCB. It comprises experts from the ECB and national central banks and operates under the auspices of the International Relations Committee of the ESCB.
- (230) Resolution Colleges bring the SRB and the relevant resolution authorities together to discuss and agree on resolution planning and other resolution matters. Depending on where the bank is headquartered, the SRB or the resolution authority of a country outside the Banking Union is the Group-Level Resolution Authority.²⁰⁸
- (231) The ECB has a series of MoU including with: Switzerland²⁰⁹, United Kingdom²¹⁰, Canada²¹¹ and Germany²¹². The SRB has a series of MoUs, including with the Bank of England²¹³, Canada Deposit Insurance Corporation (CDIC)²¹⁴ and the Federal Deposit Insurance Corporation²¹⁵.

Section 7: Information Exchange between Authorities

- (232) There is a duty on members of the ESRB to “ensure that appropriate and reliable information flows between them”.²¹⁶ The ESRB will provide the ESAs with the information on risks necessary for the achievement of their tasks and the ESAs, the ESCB, the European Commission and national supervisory authorities shall cooperate closely with the ESRB and shall provide it with all the information necessary for the fulfilment of its tasks in accordance with EU legislation.²¹⁷

²⁰⁶ European Central Bank - [International central bank cooperation](#)

²⁰⁷ Article 8 of the Single Supervisory Mechanism Regulation - [Council Regulation \(EU\) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions](#) and Protocol Number 4 Article 6 of the [Treaty on the Functioning of the European Union](#) and European Central Bank - [International central bank cooperation](#)

²⁰⁸ [Chapter IV of Commission Delegated Regulation \(EU\) 2016/1075](#)

²⁰⁹ [FINMA's international agreements](#)

²¹⁰ [Memorandum of Understanding for supervisory cooperation between the European Central Bank and the Bank of England and the Financial Conduct Authority](#)

²¹¹ [Memorandum of Understanding between the European Central Bank and the Office of the Superintendent of Financial Institutions Canada](#)

²¹² [Memorandum of Understanding between the European Central Bank and the Bundesanstalt für Finanzdienstleistungsaufsicht \(BaFIN\)](#)

²¹³ [Cooperation Arrangement between the Bank of England and the Single Resolution Board](#)

²¹⁴ [Cooperation Arrangement concerning the Resolution of Financial Institutions with Cross-border operations in Canada and the European Banking Union](#)

²¹⁵ [Cooperation Arrangement concerning the Resolution of Insured Depository Institutions and certain other Financial Companies with Cross-border operations in the United States and the European Banking Union](#)

²¹⁶ Article 1(4) of the European Systemic Risk Board Regulation - [Regulation \(EU\) No 1092/2010 of the European Parliament and of the Council](#) as amended by [Regulation \(EU\) 2019/2176 of the European Parliament and of the Council of 18 December 2019 amending Regulation \(EU\) No 1092/2010 on European Union macroprudential oversight of the financial system and establishing a European Systemic Risk Board](#)

²¹⁷ Article 15 of the European Systemic Risk Board Regulation - [Regulation \(EU\) No 1092/2010 of the European Parliament and of the Council](#) as amended by [Regulation \(EU\) 2019/2176 of the European Parliament and of the Council of 18 December 2019 amending Regulation \(EU\) No 1092/2010 on European Union macroprudential oversight of the financial system and establishing a European Systemic Risk Board](#)

- (233) The ESRB will serve as a central hub for collecting and disseminating information about macroprudential policy measures in the EU. The use of the standardised notification templates will help ensure the homogeneity of collected information.²¹⁸
- (234) There are general duties of cooperation and information exchange under legislation for both the ECB and SRB. Under the SSM Regulation, the ECB and NCAs within the SSM have a “obligation to exchange information” and “national competent authorities shall in particular provide the ECB with all information necessary for the purposes of carrying out the tasks conferred on the ECB” under the SSM Regulation.²¹⁹ The SSM Regulation also allows for the ECB to enter into “administrative arrangements with supervisory authorities, international organisations and the administrations of third countries”. The exchange of information between the ECB and NCAs is reiterated in the Regulation establishing the framework for cooperation within the SSM between the ECB and national competent and designated authorities. Information must be provided in a timely and accurate manner.²²⁰
- (235) The ECB has entered into a series of MoUs with the SRB and international supervisory bodies. These include provisions relating to the sharing of non-public information and cooperation. The SRB MoU is underpinned by a second MoU on the exchange of certain types of confidential statistical information, in order to improve analysis related to bank resolution.²²¹
- (236) There is a similar legislative provision for the exchange of information for the SRB. Within the SRM, “... the Board, the Council, the Commission, the ECB and the national resolution authorities and national competent authorities shall cooperate closely... They shall provide each other with all information necessary for the performance of their tasks”.²²² The MoUs entered into by the with the ECB and international resolution authorities each cover agreement and arrangements for the exchange of non-public information. The SRB also has a MoU²²³ and Interinstitutional Agreement²²⁴ with the European Commission and European Parliament respectively.

Section 8: Fund Solutions

Single Resolution Fund

- (237) The SRF²²⁵ is an emergency fund that can be called upon in times of crisis. It can be used for the efficient application of resolution tools for resolving failing banks, after other options, such as the bail-in tool, have been exhausted. The SRF is being built up over a period of 8 years (2016-2023). Its target is at least 1% of covered deposits of credit institutions in the Banking Union.²²⁶

²¹⁸ European Systemic Risk Board – [Flagship Report on Macroprudential Policy in the Banking Sector](#) and European Systemic Risk Board – [National Policy](#)

²¹⁹ Article 6 of the SSM Regulation - [Council Regulation \(EU\) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions](#)

²²⁰ Articles 20 and 21 of the [Regulation \(EU\) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities \(SSM Framework Regulation\) \(ECB/2014/17\)](#)

²²¹ [Memorandum of Understanding on the Exchange of Certain Confidential Statistical Information between the European Central Bank and the Single Resolution Board](#)

²²² Article 30 of the Single Resolution Mechanism Regulation - [Regulation \(EU\) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation \(EU\) No 1093/2010](#)

²²³ [Memorandum of Understanding between the Commission and the Single Resolution Board in respect of certain elements of cooperation and information exchange pursuant to the Single Resolution Mechanism Regulation](#)

²²⁴ [Interinstitutional Agreement between the European Parliament and the Single Resolution Board on the practical modalities of the exercise of democratic accountability and oversight over the exercise of the tasks conferred on the Single Resolution Board within the framework of the Single Resolution Mechanism](#)

²²⁵ Chapter 2 of the Single Resolution Mechanism Regulation - [Regulation \(EU\) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation \(EU\) No 1093/2010](#)

²²⁶ Single Resolution Board - [Single Resolution Fund](#)

(238) The SRF may be used to:

- Guarantee the assets or the liabilities of the institution under resolution.
- Make loans to or to purchase assets of the institution under resolution.
- Make contributions to a bridge institution and an AMV.
- Make a contribution to the institution under resolution instead of the write-down or conversion of liabilities of certain creditors under specific conditions.
- Pay compensation to shareholders or creditors who incurred greater losses than under normal insolvency proceedings.

(239) The SRF shall not be used to absorb the losses of an institution or to recapitalise an institution. In exceptional circumstances, where an eligible liability or class of liabilities is excluded or partially excluded from the write-down or conversion powers, a contribution from the SRF may be made to the institution under resolution under two conditions:

- Bail-in of at least 8%: Losses totalling not less than 8% of the total liabilities including own funds of the institution under resolution have already been absorbed by shareholders after counting for incurred losses, the holders of relevant capital instruments and other eligible liabilities through write-down, conversion or otherwise.
- Contribution from the SRF of maximum 5%: The SRF contribution does not exceed 5% of the total liabilities including own funds of the institution under resolution.

(240) During transitional period, contributions raised by NRAs at national level and transferred to the SRF are allocated to national compartments. If the SRF is required, the SRB may use the available means pursuant to a system of gradual mutualisation as set out in detail in the Agreement on the Transfer and Mutualisation of Contributions to the Single Resolution Fund. All national compartments will be merged and cease to exist at the end of the transitional period.²²⁷

Common Backstop

(241) Going forward, a new backstop to the SRF will be introduced. If the SRF is depleted, the ESM will be able to lend the necessary funds to the SRF to finance a resolution (the ESM will provide a revolving credit line to do this).²²⁸ In the first instance, the backstop is provided through public money to provide immediate support and confidence to the market.²²⁹

Deposit Guarantee Schemes

(242) Under the DGSD²³⁰ each Member State is required to have a DGS, providing covered funds of €100,000 per depositor per authorised bank. In the event a depositor's funds become unavailable, i.e., in a bank insolvency, then the depositor would receive an amount up to the coverage level.

(243) DGS funds from the DGS to which the bank is a member may be made available²³¹ provided that that action ensures that depositors continue to have access to their deposits²³².

²²⁷ Single Resolution Board - [Banking Union – Single Resolution Board completes signature of Loan Facility Agreements with all 19 participating Member States](#) and [Single Resolution Board - Annual SRF levies \(ex-ante contributions\)](#)

²²⁸ European Stability Mechanism – [What is the common backstop?](#)

²²⁹ Single Resolution Board - [Single Resolution Fund](#)

²³⁰ Deposit Guarantee Schemes Directive – [Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes \(recast\)](#)

²³¹ Article 79 of the Single Resolution Mechanism Regulation - [Regulation \(EU\) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation \(EU\) No 1093/2010](#)

²³² Article 109 of the [Bank Recovery and Resolution Directive](#)

- Bail-in: The amount by which covered deposits would have been written down in order to absorb the losses in the institution had covered deposits been included within the scope of bail-in and been written down to the same extent as creditors with the same level of priority under the national law governing normal insolvency proceedings. However, the DGS shall not be required to make any contribution to recapitalising the institution or bridge institution.
- When one or more resolution tools other than the bail-in tool is applied, the amount of losses that covered depositors would have suffered, had covered depositors suffered losses in proportion to the losses suffered by creditors with the same level of priority under the national law governing normal insolvency proceedings.

(244) The liability of the DGS shall not be greater than the amount of losses that it would have had to bear had the institution been wound up under normal insolvency proceedings. If a post resolution valuation shows that the DGS' contribution to resolution was greater than the net losses it would have incurred had the institution been wound up under normal insolvency proceedings, the DGS is entitled to the payment of the difference from the resolution financing arrangement.

Section 9: Compensation Mechanisms for Government Support

Single Resolution Fund

(245) Banking Union banks must pay a fee annually ('contributions') to the SRF.²³³ The individual amount of each bank is calculated pro-rata to the amount of its liabilities (excluding own funds and covered deposits) in respect of the aggregate liabilities (excluding own funds and covered deposits) of the Banking Union's credit institutions and certain investment firms. Amounts owed are adjusted in proportion to the risks taken by each institution. The SRB is responsible for the calculation of these contributions subject to regulations.²³⁴ The NRAs are responsible for the collection of SRF contributions and then they transfer them to the SRF.

(246) Where the available financial means are not sufficient extraordinary *ex-post* contributions from the institutions shall be raised, in order to cover the additional amounts.²³⁵ Any LFA bridge-financing will be covered by the raising and transfer of extraordinary *ex-post* contributions collected from the institutions in the territories of the affected Member States.

Common Backstop

(247) The publicly funded backstop will be paid back via bank contributions in the years (3 – 5) after its use by all of the banks in the Banking Union, meaning the taxpayer is fully reimbursed.²³⁶

Deposit Guarantee Schemes

(248) The DGSD requires build-up of an *ex-ante* fund for DGS' (0.8% of the amount of the covered deposits of its members by July 2024). DGSs raise the available financial means by contributions to be made by member banks at least annually.

²³³ Single Resolution Board - [Single Resolution Fund](#)

²³⁴ [Commission Delegated Regulation \(EU\) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to ex-ante contributions to resolution financing arrangements](#) and [Council Implementing Regulation \(EU\) 2015/81 of 19 December 2014 specifying uniform conditions of application of Regulation \(EU\) No 806/2014 of the European Parliament and of the Council with regard to ex-ante contributions to the Single Resolution Fund](#)

²³⁵ Article 71 of the Single Resolution Mechanism Regulation - [Regulation \(EU\) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation \(EU\) No 1093/2010](#)

²³⁶ Single Resolution Board - [Single Resolution Fund](#)

- (249) Where the financing capacity below the target level, the payment of contributions will resume until the target level is reached again. If, after the target level has been reached for the first time, the available financial means have been reduced to less than two-thirds of the target level, the regular contribution shall be set at a level allowing the target level to be reached within six years.
- (250) The available financial means can be raised through the mandatory contributions paid by banks to existing schemes of mandatory contributions established by a Member State in its territory for the purpose of covering the costs related to systemic risk, failure, and resolution of institutions. Contributions to the SRF shall not count towards the target level.
- (251) If the available financial means of a DGS are insufficient to repay depositors members shall pay extraordinary contributions not exceeding 0.5 % of their covered deposits per calendar year. DGSs may in exceptional circumstances and with the consent of the competent authority require higher contributions. The competent authority may defer (but remain payable), in whole or in part, a credit institution's payment of extraordinary ex-post contributions if the contributions would jeopardise the liquidity or solvency of the bank.

Section 10: Advantages and Disadvantages of the Banking Union Institutional Approach

- (252) There are three European authorities involved in the institutional arrangements for the supervision and resolution of banks in the European Banking Union, the ESRB, ECB and SRB.
- (253) As within the EU more generally, the SSM and SRB have a highly complex and structured approach, weaving together national and supranational priorities and objectives.
- (254) Despite requirements for cooperation and to consider the position of the EU and Banking Union when developing policies and actions, there is a potential for a conflict of interest and objective from the fundamental fact that each Member State will have its own national interests, and this could impact policy or individual actions either between the Member State and ECB/SRB or between differing Member States.
- (255) This is a natural effect of bringing together different sovereign nations but can be sought to be mitigated through open dialogue and negotiation, as well as adherence to the principles and requirements of EU law. In addition, we see that as part of the SSM a Mediation Panel exists to resolve differences of views expressed by the competent authorities of participating Member States concerned regarding an objection of the Governing Council to a draft decision by the Supervisory Board.
- (256) There is a clear advantage to the approach taken. The size of the Eurozone means that having a separate resolution authority is credible, feasible and on a pragmatic basis, achievable. The size of the banking sector combined with the number of jurisdictions being dealt with requires significant investment in resourcing for the SRB to achieve critical mass of staff to function as a strong, separate institution.
- (257) The same argument may be applied to the ECB. The ECB also combined the macro and micro-prudential supervision of the Eurozone, facilitating the practical execution of macroprudential oversight being informed by the intelligence gained from that micro-prudential supervision. This benefit is strengthened by the links and close corporation and information sharing between the ECB and ESRB.
- (258) Objectivity is inherent between the ECB and SRB in the institutional separation approach. Each have distinct legislative objectives and mandates on which to act. For instance, the decisions made by the supervisor based on its specific focus and objectives may conflict from that of the resolution authority, for instance in the exercise of forbearance or decision to trigger the resolution decision and declare a bank in FOLTF. Subsequently, having two bodies, though with a duty to consult each other, with separate and distinct decision-making parameters means each institution

will act subject to its own remit. However, it does exacerbate the potential of a decision made which pose a conflicting position.

- (259) We note that although the supervisor – i.e., ECB – would usually trigger the resolution decision, the SRB has the legal foundation to make this judgement. It would however, in our opinion, be an extreme situation leading to potential further conflict, if a resolution authority would make a decision in conflict with the supervisory position.
- (260) In addition, the ECB has a dual role as central bank and supervisor. Consequently, there remains a possibility that there remains a conflict of objectives between the respective responsibilities and functions. There is a legislative basis on which to establish governance separation – “The ECB shall carry out the tasks conferred on it by [the SRMR] without prejudice to and separately from its tasks relating to monetary policy and any other tasks” and the “tasks conferred on the ECB by [the SRMR] shall moreover not interfere with its tasks in relation to the ESRB or any other tasks.”²³⁷
- (261) To minimise conflicts of interest the SSM established the Supervisory Board. Decisions adopted by the Supervisory Board do not preclude legally binding decisions and the Governing Board of the ECB must adopt proposals formally, they do play a role in the ECB’s internal supervisory decision-making process in respect of tasks under the and it sets and implements the ECB’s supervisory agenda and activities (i.e., planning, execution and preparation), and it has the exclusive right to initiate the ECB’s supervisory decision-making process. Tasks performed as part of its supervisory activities are organisationally separated from, and subject to, separate reporting lines from the staff involved in carrying out other tasks conferred on the ECB.
- (262) Although there is a legislative basis for information sharing between the parties, information sharing may be more difficult to manage and facilitate from a practical perspective. The ECB and SRB, and each of the national competent and resolution authorities, would have detailed information and knowledge on banks, and it is not feasible to share everything and what is shared may be subject to a judgement of what is important or significant enough to share. Some jurisdictions permit the setting up of joint databases which may ease the practical and logistical issues, but what is put into such databases will still be subject to individual or institutional judgement.
- (263) There is also a clear mandate for coordination between the authorities to establish effective and close cooperation and information sharing. However, by virtue of multiple authorities with multiple decision-making arrangements being employed, actions and required activities may be less effective and time-efficient, thus potentially decreasing the timeliness and benefit of authority action in a crisis. In a crisis event, speed and effectiveness of actions is essential.

²³⁷ Article 25(2) of the Single Supervisory Mechanism Regulation - [Council Regulation \(EU\) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions](#)

Annex 3: Jurisdiction Focus – United States of America

Section 1: Responsibilities

Area of Responsibility	
Macroprudential Supervision	Financial Stability Oversight Council Federal Reserve System
Prudential Supervision	Federal Reserve System Federal Deposit Insurance Corporation Office of the Comptroller of the Currency
Recovery	Federal Reserve System – Recovery planning for LISCC programme domestic holding companies Office of the Comptroller of the Currency – Recovery planning national banks with assets over \$250 billion Federal Deposit Insurance Corporation (FDIC) – Elements of formal recovery planning are part of regular supervisory risk management requirements
Resolution - Restructuring	Federal Deposit Insurance Corporation
Resolution - Liquidation	Federal Deposit Insurance Corporation – When acting as receiver upon failure of a bank, the FDIC will liquidate the assets of the failed bank; if an orderly bankruptcy is not possible, the FDIC may act under the Orderly Liquidation Authority which provides a process to quickly and efficiently liquidate a large, complex financial company that is close to failing
Lender of Last Resort	Federal Reserve System

Macroprudential Supervision

Financial Stability Oversight Council and the Federal Reserve

Financial Stability Oversight Council

(264) The Financial Stability Oversight Council (FSOC or the Council)²³⁸ is charged:

- To identify risks to the financial stability of the US that could arise from the material financial distress or failure, or ongoing activities, of large, interconnected bank holding companies or nonbank financial companies, or that could arise outside the financial services marketplace.
- To promote market discipline by eliminating expectations on the part of shareholders, creditors, and counterparties of such companies that the US government will shield them from losses in the event of failure.
- To respond to emerging threats to the stability of the US financial system.²³⁹

(265) FSOC assesses, monitors, and mitigates risks to US financial stability; improves communication with the public regarding these risks through reports and other publications; and facilitates cooperation and communication among member agencies on financial stability-related matters. Its responsibilities include²⁴⁰:

²³⁸ [US Department of the Treasury - Financial Stability Oversight Council](#)

²³⁹ [2022 Annual Report Financial Stability Oversight Council](#)

²⁴⁰ [US Department of the Treasury – Council Work](#)

- Monitor Threats to Financial Stability: FSOC has a statutory duty to monitor the financial services marketplace to identify potential threats and regulatory gaps that could pose risks to US financial stability. It is also tasked with monitoring domestic and international financial regulatory proposals and developments and making recommendations to enhance the integrity, efficiency, competitiveness, and stability of US financial markets.
- Facilitate Regulatory Coordination: FSOC is responsible for facilitating information sharing and coordination among its member agencies and other federal and state agencies regarding domestic financial services policy development, rulemaking, examinations, reporting requirements, and enforcement actions. FSOC also has a duty to recommend to its member agencies general supervisory priorities and principles that result from its discussions and to provide a forum for members to discuss emerging market developments and regulatory issues and to resolve jurisdictional disputes among members.
- Facilitate Information Sharing: FSOC has a duty to collect information from member agencies, other federal and state financial regulatory agencies, and the Federal Insurance Office and, if necessary to assess risks to the US financial system, direct the Office of Financial Research (OFR) to collect information from bank holding companies and nonbank financial companies. FSOC is also tasked with providing direction to and requesting data and analyses from OFR to support the Council's work.
- Designate Nonbank Financial Companies, Financial Market Utilities, and Payment, Clearing, or Settlement Activities: The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act or DFA) authorises FSOC to designate certain non-bank financial companies to be subject to Federal Reserve supervision and prudential standards, and to designate systemically important financial market utilities and payment, clearing, and settlement activities for additional risk-management requirements.
- Recommend Heightened Standards: FSOC has the authority to recommend heightened prudential standards for large, interconnected bank holding companies and nonbank financial companies that are supervised by the Federal Reserve.

(266) FSOC must prepare an annual reports outlining potential emerging threats and vulnerabilities, such as financial risks related to real estate, credit, and other markets; institutional risks associated with large bank holding companies and investment funds; risks related to the structure of Treasury markets and other financial markets; cybersecurity risks; and climate-related financial risks. The Dodd-Frank Act²⁴¹ prescribes the content of this report.

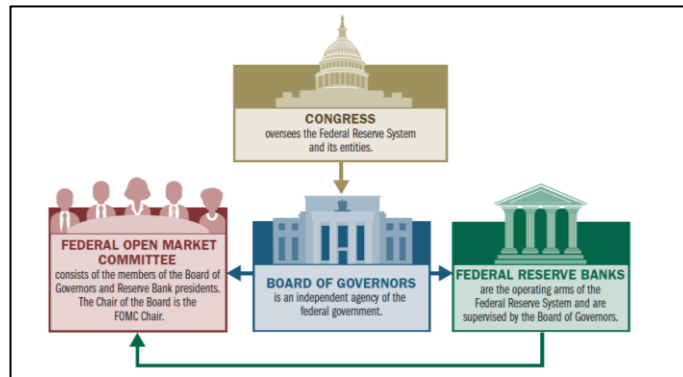
Federal Reserve System

(267) The Federal Reserve Act (FRA)²⁴² established the Federal Reserve System (FRS) as the central bank of the United States. The Federal Reserve monitors risks to the financial system. The FRA sets out the purposes, structure, and functions of the FRS as well as outlines aspects of its operations and accountability and other laws pertain to a wide range of banking and financial activities.

²⁴¹ [Dodd-Frank Act § 112\(a\)\(2\)\(N\)](#)

²⁴² [The Federal Reserve Act](#)

(268) There are three key entities in the FRS:



Source: The Fed Explained – What the Central Bank Does, page 2²⁴³

- **Federal Reserve Board of Governors (the Federal Reserve Board):** The Federal Reserve Board is an agency of the federal government that reports to and is directly accountable to Congress, provides general guidance for the System and oversees the twelve Reserve Banks. The Board oversees the operations of the Reserve Banks and shares with them the responsibility for supervising and regulating certain financial institutions and activities.

NB: References to the “Federal Reserve” throughout this annex refers to the functions of the Board and the Federal Reserve System generally; references to the Reserve Banks or Federal Open Market Committee will be made as required.

- **Federal Reserve Banks:** The operating arms of the FRS are supervised by the Board of Governors. They carry out Federal Reserve core functions, including supervising and examining state member banks (state-chartered banks that have chosen to become members of the FRS), bank and thrift holding companies, and non-bank financial institutions that have been designated as systemically important, lending to depository institutions, providing key financial services and examining certain financial institutions to help ensure and enforce compliance with federal consumer protection and fair lending laws.
- **Federal Open Market Committee:** FOMC sets national monetary policy.

(269) The Federal Reserve takes a two-pronged approach to its oversight of financial institutions: macro and micro-prudential approaches. The macroprudential approach focuses on the soundness and resilience of the financial system as a whole and addresses how the actions of one institution, or set of institutions, can impact other institutions and the US economic and financial system overall. The Dodd-Frank Act requires that the Federal Reserve and other financial regulatory agencies consider the entire financial system for risks, adopting a macroprudential approach to supervision and regulation.

(270) Federal Reserve regularly assesses a standard set of vulnerabilities as part of the FRS macroprudential financial stability review: asset valuations and risk appetite; leverage in the financial system; funding risk; and borrowing by businesses and households. These vulnerability assessments inform internal Federal Reserve discussions concerning both macroprudential supervision and regulatory policies, as well as monetary policy.

(271) The Federal Reserve monitors indicators of the riskiness of systemically important financial institutions (SIFIs) to help identify vulnerabilities. It imposes certain regulatory requirements on SIFIs in order to limit potentially risky activities by these institutions and to mitigate spillover of distress into the broader economy.

²⁴³ [The Fed Explained – What the Central Bank Does](#)

- (272) SIFIs are also subject to additional capital and liquidity regulations imposed by the Federal Reserve in order to help mitigate some of the additional risks they pose to the financial system as a whole, given their size and interconnectedness. The Federal Reserve may apply a Countercyclical Capital Buffer (CCyB).
- (273) SIFIs are also subject to stress testing process. The stress test program includes macroprudential elements: examination of the loss-absorbing capacity of institutions; conducting horizontal testing across large institutions to understand the potential correlated exposures; and, consideration of the effects of counterparty distress on the largest, most interconnected firms.

Micro-Prudential Supervision

Federal Reserve and the Federal Deposit Insurance Corporation

Multi-Agency Regulation

- (274) The Federal Reserve shares responsibility for ensuring financial institutions operate safely and soundly. Based on a bank's activities and how it is formed, it may be supervised and regulated by a regulator other than the Federal Reserve. Banks can be chartered by the states or by the OCC. Banks chartered by a state government entity are referred to as state banks; banks that are chartered by the **Office of the Comptroller of the Currency (OCC)**, an independent bureau of the US Department of the Treasury, are referred to as national banks.
- (275) The primary federal supervisor of a domestic bank is generally determined by two key factors:
- (i) Whether the bank chooses to operate under a federal or state charter.
 - (ii) Whether the bank is a member of the FRS.
- (276) The Federal Reserve is the primary federal supervisor of state-chartered banks that have chosen to join the FRS. Such domestically operating banks are called state member banks.
- (277) State banks that are not members of the FRS (collectively referred to as "state non-member banks") are supervised by the **Federal Deposit Insurance Corporation (FDIC)**. In addition to being supervised by the Federal Reserve or the FDIC, state banks are also supervised by their chartering state. In contrast, the OCC supervises national banks that choose to charter at the federal level.
- (278) The FDIC objective is to maintain stability and public confidence in the nation's financial system. The FDIC examines banks using a risk-focused approach to assess safety and soundness and consumer protection, Community Reinvestment Act (CRA) performance, and adherence to laws and regulations. This process balances evaluating a bank's condition at a certain point in time with assessing risk management and consumer protection processes for all phases of the economic cycle, including the ability to respond to changing market conditions.
- (279) Examinations are a key component of the supervisory process and help maintain stability and public confidence in the nation's financial system. By identifying and understanding the cause and severity of problems at individual banks and identifying emerging risks in the financial-services industry, the FDIC is able to develop effective corrective measures for individual banks, and broader supervisory strategies for the industry.

Large Institutions and Large and Foreign Organisations

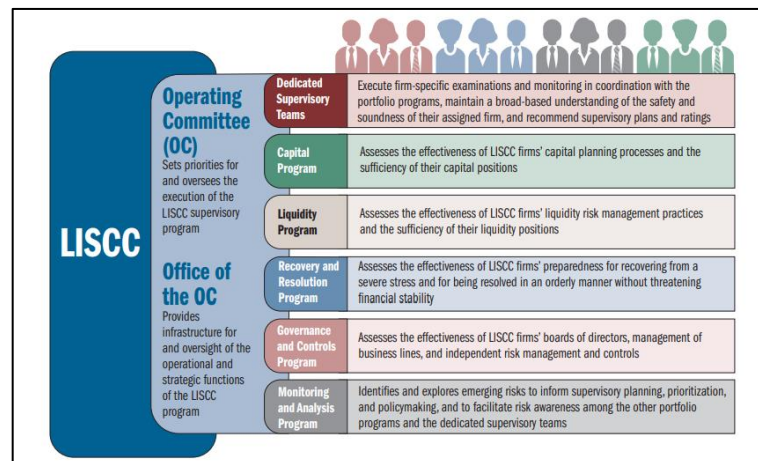
- (280) The Federal Reserve's micro-prudential approach seeks to ensure the safety and soundness of individual institutions and involves in-depth examinations and inspections of the structure, operations, and compliance of individual entities regulated by the Federal Reserve.
- (281) The Federal Reserve supervises bank holding companies, savings and loan holding companies, and state member banks of varying size and complexity. The Federal Reserve follows a risk-

focused approach by scaling supervisory work to the size and complexity of an institution. The Federal Reserve approaches supervision by categorising banks into four different groups:

- The **Large Institution Supervision Coordinating Committee (LISCC)** program supervises firms that pose elevated risk to US financial stability (see further below).
- The **Large and Foreign Banking Organization (LFBO)** program supervises US firms with total assets of \$100 billion or more and all foreign banking organisations operating in the US regardless of size (see further below).
- The **Regional Banking Organization (RBO)** program supervises US firms with total assets between \$10 billion and \$100 billion.
- The **Community Banking Organization (CBO)** program supervises US firms with less than \$10 billion in total assets.

Large Institution Supervision Coordinating Committee Program²⁴⁴

(282) Firms identified as posing elevated risk to US financial stability are supervised by the LISCC Program. The LISCC Program is organised around five programs: Capital; Governance and Controls; Liquidity; Recovery and Resolution; and, Monitoring and Analysis:



Source: The Fed Explained – What the Central Bank Does, page 71²⁴⁵

Large and Foreign Banking Organization

(283) The LFBO program supervises all other – non-LISCC – large financial institutions.

(284) Large Banking Organization Supervision (non-LISCC)²⁴⁶: Large banking organizations (LBOs) are domestic financial institutions with total consolidated assets of at least \$100 billion that are not included in the LISCC supervision program. The Federal Reserve tailors its expectations for LBOs to account for their size, complexity, foreign exposure, risk profile and financial activities.

(285) LBOs are subject to prudential requirements in the Federal Reserve Board's regulations, including Regulation YY – Enhanced Prudential Standards. ²⁴⁷ Regulation YY includes enhanced capital, liquidity, risk-management, and stress-testing requirements.

²⁴⁴ [Large Institution Supervision Coordinating Committee \(LISCC\) Supervisory Program](#)

²⁴⁵ [The Fed Explained – What the Central Bank Does](#)

²⁴⁶ Federal Reserve – [Supervisory Policy and Guidance Topics - Large Banking Organization Supervision \(non-LISCC\)](#)

²⁴⁷ Federal Reserve – Supervisory Policy and Guidance Topics Large Banking Organization Supervision (non-LISCC), [Key Regulations](#)

- (286) Foreign Banking Organization Supervision and Regulation²⁴⁸: The Federal Reserve tailors its regulatory requirements for and supervision of Foreign Banking Organisations (FBOs) to account for the size, complexity, risk profile and financial activities of their US operations.
- (287) Large foreign banking organisations (Large FBOs) are FBOs with combined US assets of \$100 billion or more. Large FBOs are subject to prudential requirements in the Federal Reserve Board's regulations, including Regulation YY Enhanced Prudential Standards (for FBOs with global consolidated assets of \$50 billion or more).²⁴⁹ The enhanced prudential standards in Regulation YY include liquidity standards and requirements for overall risk management of the combined US operations of a Large FBO. In addition, Regulation YY requires FBOs with US non-branch assets of \$50 billion or more to form a US intermediate holding company (IHC) and tailors capital, liquidity, and risk-management requirements to that IHC based on its risk profile.²⁵⁰
- (288) Branches of foreign banking organisations are also licensed by the state banking authorities or the OCC. Agencies are licensed by the state banking authorities.²⁵¹ The Examination Manual for US Branches and Agencies of Foreign Banking Organisations²⁵² describes policies and procedures used in conducting examinations thereof.

Recovery

Federal Reserve and Office of the Comptroller of the Currency

- (289) Three US authorities – the Federal Reserve, the FDIC and the OCC – are responsible for dealing with potentially failing banks. Each US bank is subject to prompt corrective action (PCA).
- (290) When a bank's capital situation deteriorates such that it fails to meet minimum regulatory standards, the bank's primary federal regulator is required to take PCA measures. Regulators typically issue a PCA letter advising the bank on specific actions it must take to restore itself to financial health. When a critically undercapitalised bank fails to meet PCA requirements, its chartering agency will typically close the bank.²⁵³
- (291) Each authority has its own recovery planning framework:
- Federal Reserve: Recovery planning²⁵⁴ applies to the domestic bank holding companies of the Federal Reserve's LISCC program²⁵⁵. It does not apply to other large banking organisations (assets over US\$100 billion) or large FBOs (US assets over US\$50 billion), all of which are subject to DFA Title I resolution planning (see further below) and enhanced prudential standards.

Under the Consolidated Recovery Planning for Certain Large Domestic Bank Holding Companies²⁵⁶, the in-scope firm's recovery planning process should identify a range of options outlining actions that the firm could take to remedy financial weakness and maintain market confidence without extraordinary governmental support. The options should focus on the recovery of the consolidated organisation and should be consistent with any obligation to serve as a source of strength to subsidiary insured depository institutions (IDIs).

²⁴⁸ Federal Reserve - [Supervisory Policy and Guidance Topics - Foreign Banking Organization \(FBO\) Supervision and Regulation](#)

²⁴⁹ Federal Reserve - [Supervisory Policy and Guidance Topics - Foreign Banking Organization \(FBO\) Supervision and Regulation](#), Key Regulations

²⁵⁰ Federal Reserve - [Foreign Banking Organizations](#) and [Regulation YY Enhanced Prudential Standards \(for FBOs with global consolidated assets of \\$50 billion or more\) § 252.147](#)

²⁵¹ [Federal Reserve - Foreign Banking Organizations](#)

²⁵² [Examination Manual for US Branches and Agencies of Foreign Banking Organizations](#)

²⁵³ [Congressional Research Service – Bank Failures and the FDIC \(March 2023\)](#)

²⁵⁴ [SR 14-8: Consolidated Recovery Planning for Certain Large Domestic Bank Holding Companies](#)

²⁵⁵ [SR 12-17 / CA 12-14: Consolidated Supervision Framework for Large Financial Institutions](#)

²⁵⁶ [SR 14-8: Consolidated Recovery Planning for Certain Large Domestic Bank Holding Companies](#)

The range of options should include the possible sale, transfer, or disposal of significant assets, portfolios, legal entities, or business lines and the options should be actionable, and impediments to their execution and projected mitigation strategies should be identified.

- **OCC:** Recovery planning applies to national banks with assets over US\$250 billion. The OCC assesses the covered bank's recovery plan and recovery planning process as part of its supervisory oversight.

A recovery plan as defined in the OCC guidelines²⁵⁷ is a plan that identifies triggers and options for responding to a wide range of severe internal and external stress scenarios to restore a covered bank to financial strength and viability in a timely manner. A recovery plan should contain recovery options including restructuring the balance sheet, conserving capital and liquidity, terminating activities or business lines, or taking other operational or capital actions. The recovery plan may not assume or rely on any extraordinary government support.

- **FDIC:** Elements of a formal recovery are part of regular supervisory risk management requirements, for example, through contingency planning and capital management requirements, but there are no formal or enhanced recovery planning requirements.

Resolution (Restructuring and Liquidation)
Federal Deposit Insurance Corporation and Federal Reserve

Resolution Planning

(292) The Dodd-Frank Act requires large banking organisations and certain other firms to periodically submit resolution plans to the Federal Reserve and the FDIC.²⁵⁸ Each plan must describe the company's strategy for rapid and orderly resolution in the event of material financial distress or failure of the company, as well as include both public and confidential sections. Companies are categorised according to size and complexity and the frequency of and content requirements for resolution plan submissions are tailored according to firm category.

(293) Large complex banking organisations are required to file a resolution plan every other year, other large domestic and foreign banking organisations²⁵⁹ every three years and a third group are required to submit abbreviated resolution plans every three years. There are three requirements:

- **DFA Title I (165(d) Rule):** Certain bank holding companies must submit plans, commonly known as "living wills," to the Board of Governors of the Federal Reserve System (FRB) and the FDIC, describing in detail the firms' strategy for rapid and orderly resolution under the US Bankruptcy Code, which is a court-governed process. These plans aim to reduce the likelihood that a BHC's financial distress or failure has systemic effects.
- **DFA Title II (OLA):** This is an administrative procedure under FDIC receivership. The FDIC uses firms' DFA Title I plans to develop its own DFA Title II plans in case financial stability considerations do not allow for a resolution under the US Bankruptcy Code. The FDIC has sole authority on DFA Title II resolution planning, albeit with input from the Federal Reserve and the OCC.²⁶⁰
- **Insured Depository Institution Rule²⁶¹:** This requires IDIs with US\$50 billion or more in total assets to periodically submit resolution plans that should enable the FDIC, as receiver, to

²⁵⁷ [Comptroller's Handbook Recovery Planning](#)

²⁵⁸ [Federal Reserve - Living Wills \(or Resolution Plans\)](#) and [Code of Federal Regulations Part 243 – Resolution Plans \(Regulation QQ\)](#)

²⁵⁹ [Guidance for 2018 §165\(d\) Annual Resolution Plan Submissions by Foreign-based Covered Companies that Submitted Resolution Plans in July 2015](#)

²⁶⁰ [Financial Sector Assessment Program Technical Note United States – Financial Crisis Preparedness and Deposit Insurance \(August 2020\)](#)

²⁶¹ [FDIC Law, Regulations, Related Acts - 2000 - Rules and Regulations: § 360.10 Resolution plans required for insured depository institutions with \\$50 billion or more in total assets](#)

resolve an IDI in the event of its failure in a manner that ensures that depositors receive access to their insured deposits within one business day (or two business days of the failure occurs on a day other than a Friday), maximises the net present value return from the sale or disposition of its assets, and minimises the amount of any loss realised by the creditors.

(294) The Federal Reserve and the FDIC work closely on joint rule making for DFA Title I resolution plans. Federal Reserve and the FDIC also jointly review²⁶² and coordinate recommendations to their respective Boards on the feedback letters in response to firms' DFA Title I resolution plans.

Resolution Authority and Measures

(295) The FDIC acts as the resolution authority for all US IDIs²⁶³, including large, complex non-bank financial institutions such as bank holding companies.²⁶⁴

(296) A bank failure is the closing of a bank by a federal or state banking regulatory agency. Institutions are closed generally by their chartering authority - the state regulator or OCC. Generally, a bank is closed when it is unable to meet its obligations to depositors and others.

(297) In the event of a bank failure, the FDIC acts in two capacities. First, as the insurer of the bank's deposits, the FDIC pays insurance to the depositors up to the insurance limit. Second, the FDIC, as the 'receiver' of the failed bank, assumes the task of selling/collecting the assets of the failed bank and settling its debts, including claims for deposits in excess of the insured limit.²⁶⁵ When acting as receiver, the FDIC will also liquidate the assets of the failed bank.²⁶⁶

(298) As receiver of a failed bank, the FDIC evaluates all possible resolution alternatives and selects the one that is least costly to the Deposit Insurance Fund (DIF) unless the systemic risk exception²⁶⁷ applies (the exception is decided upon by the Secretary to the Treasury²⁶⁸).

(299) Measures that the FDIC may use include²⁶⁹:

- **Purchase and Assumption Agreement:** The FDIC seeks bids from qualified bidders for the failed bank's assets and the assumption of deposits and accepts the bid that is judged least costly to the DIF.
- **Bridge Banks:** In a bridge bank P&A, the FDIC initially acts as the acquirer and receiver until the bank is marketed to external parties. The FDIC may establish a bridge bank (for up to two years with optional one-year extensions for three years) to resolve a large or complex failing bank in which more time is needed to find a buyer.
- **Deposit Payoffs:** If no viable P&A acquiring institution can be found, then the FDIC typically deploys a deposit payoff. In a deposit payoff, the FDIC ensures that the customers of the failed institution receive the full amount of their insured deposits. The FDIC retains the assets

²⁶² [SR 12-17 / CA 12-14: Consolidated Supervision Framework for Large Financial Institutions](#)

²⁶³ The FDIC's authorities and responsibilities for IDIs are conferred by the [Federal Deposit Insurance Act \(FDIA\)](#). Its resolution related responsibilities and authorities in relation to non-bank financial companies are governed by the Dodd-Frank Act.

²⁶⁴ Financial Stability Institute – [FSI Insights on policy implementation No 32: Institutional arrangements for bank resolution](#)

²⁶⁵ FDIC – [When a Bank Fails - Facts for Depositors, Creditors, and Borrowers](#)

²⁶⁶ FDIC – [Transparency & Accountability - Resolutions & Failed Banks](#)

²⁶⁷ In the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), Congress required (among other things) that the FDIC resolve failed banks by using the method that would be least costly to the DIF, even if that meant imposing losses on uninsured depositors as well as creditors and shareholders. Congress allowed one exception to the least-cost resolution requirement. "If complying with those [least-cost] requirements would have serious adverse effects on economic conditions or financial stability and if FDIC assistance or other actions would avoid or mitigate those effects," an [Systemic Risk Exception] could be granted. FDICIA required that the decision to grant an SRE be made by the Secretary of the Treasury in consultation with the President, but only after a written recommendation by a two-thirds majority of both the Board of Directors of the FDIC and the Board of Governors of the Federal Reserve System (FRB). Once an SRE determination was made, the FDIC was authorised to act or assist as necessary to avoid the potential adverse effects of a major bank failure. 12 USC. § 1823(c)(4)(G)(i) (2008) - [Crisis and Response: An FDIC History, 2008–2013. Chapter 3 - Use of Systemic Risk Exceptions for Individual Institutions during the Financial Crisis](#)

²⁶⁸ Financial Stability Institute – [FSI Insights on policy implementation No 32: Institutional arrangements for bank resolution](#)

²⁶⁹ Congressional Research Service – [Bank Failures and the FDIC](#)

of the failed institution in its capacity as receiver. The assets are eventually sold to maximise the recoveries to the DIF, uninsured depositors, creditors, and owners.

- (300) If there are no viable acquiring institutions and the FDIC determines that a deposit payoff would be disruptive to the community and financial markets, then the FDIC may use a Deposit Insurance National Bank (DINB). The FDIC establishes DINB as a new national bank (with no capitalisation requirements) which allows failed-bank customers a brief period to move their deposits to other banks. The FDIC retains all of the assets in its capacity as the receiver to eventually sell them. The FDIC can enter into loss sharing agreements whenever it sells the assets of a failed bank to minimise the cost to the DIF.
- (301) When an orderly bankruptcy might not be possible, the Dodd-Frank Act provides the Orderly Liquidation Authority. This allows the FDIC to manage the orderly failure of a large, complex, systemically important financial institution. Large companies will need to consider this alternate resolution process and produce plans for a quick and orderly wind-up in the case of financial distress or failure.
- (302) In determining when a financial company should be placed in receivership under Title II, the Secretary of the Treasury looks at whether the company is in default, or in danger of default²⁷⁰ and evaluates the systemic risk involved in the potential default of the financial company.²⁷¹
- (303) The Treasury Secretary decides to make OLA available to the FDIC, in consultation with the US President, and on a recommendation of two-thirds of the members of both the Federal Reserve Board and the FDIC Board. The FDIC is appointed as a receiver to carry out the liquidation and wind-up of the company within three-to-five-years.²⁷²

Lender of Last Resort
Federal Reserve System

- (304) The Federal Reserve may act as Lender of Last Resort. It uses different tools to fulfil this role. Lending to depository institutions is contained in Section 10B of the FRA²⁷³ and the general policies that govern discount window lending are in the Federal Reserve's Regulation A²⁷⁴.
- (305) The Federal Reserve has the power to provide liquidity using standard tools, like open market operations and discount window lending (primary credit, secondary credit and seasonal credit).²⁷⁵ All loans must be secured by collateral acceptable to the Reserve Bank – any assets that meet regulatory standards for sound asset quality and meet specified eligibility criteria.²⁷⁶
- (306) **Emergency credit** may be available in unusual and exigent circumstances. The Board of Governors may authorise a Reserve Bank to provide emergency credit to a participant in a program or facility with broad-based eligibility.²⁷⁷ Lending to insolvent firms is prohibited. Activation requires the approval from the Treasury Secretary. The Federal Reserve clarified²⁷⁸ that emergency lending under the FRA may not be used for the purpose of aiding specific companies to avoid bankruptcy or resolution.

²⁷⁰ Section 203(c)(4) of the [Dodd-Frank Act](#)

²⁷¹ Section 203 of the [Dodd-Frank Act](#)

²⁷² Section 206 of the [Dodd-Frank Act](#)

²⁷³ [Federal Reserve Act](#)

²⁷⁴ [Code of Federal Regulations Regulation A Loans to Depository Institutions](#)

²⁷⁵ [About FDIC – What we do](#)

²⁷⁶ Federal Reserve – [Discount Window / Payment System Risk – Frequently Asked Questions – Collateral](#) and the Federal Reserve – [Discount Window / Payment System Risk – Collateral Information](#)

²⁷⁷ Federal Reserve – [Discount Window / Payment System Risk – Getting Started](#) and Section 13(3) of the [Federal Reserve Act](#)

²⁷⁸ Section 13(3) of the [Federal Reserve Act](#)

Section 2: Independence between Authorities

Financial Stability Oversight Council

- (307) FSOC is chaired by the Secretary of the Treasury and consists of ten voting members²⁷⁹ and five non-voting members²⁸⁰, bringing together the expertise of federal financial regulators, state regulators, and an independent insurance expert appointed by the President. The OFR supports the FSOC with data collection, research, and analysis.²⁸¹ FSOC is supported by the Office of the Financial Stability Oversight Council (Secretariat) at the Treasury Department.
- (308) The Council is held accountable to Congress and the public through the publication of an annual report (which has required elements²⁸²), annual Congressional testimony by the Council Chairperson, open meetings at least twice each year, public meeting minutes disclosing all of the Council's votes, oversight by the Council of Inspectors General on Financial Oversight and the Government Accountability Office, and regular engagement with stakeholders.²⁸³
- (309) FSOC and OFR, are funded outside of the congressional appropriations process.²⁸⁴

Federal Reserve

- (310) Though Congress specifies the goals for monetary policy, it established the Federal Reserve as an independent agency.²⁸⁵ The Federal Reserve is an independent government agency but also one that is ultimately accountable to the public and the Congress.²⁸⁶ The Board of Governors in Washington, D.C., is an agency of the federal government and reports to and is directly accountable to the Congress²⁸⁷. The Chair and other staff testify before Congress, and the Federal Reserve Board submits a report, the Monetary Policy Report, on recent economic developments and its plans for monetary policy twice a year.
- (311) The FRS it is not funded by congressional appropriations and is not 'owned' by anyone. Commercial banks that are members of the FRS hold stock in their District's Reserve Bank. However, the Reserve Banks are not operated for profit, and ownership of a certain amount of stock is, by law, a condition of membership in the System.
- (312) To help ensure accountability, the financial statements of the Reserve Banks and the Board of Governors are audited annually by an independent, outside auditor and published. The Government Accountability Office, as well as the Board's Office of Inspector General, audit Federal Reserve activities.²⁸⁸

²⁷⁹ The Secretary of the Treasury, who serves as the Chairperson of the Council; the Chair of the Board of Governors of the Federal Reserve System; the Comptroller of the Currency; the Director of the Consumer Financial Protection Bureau; the Chair of the Securities and Exchange Commission; the Chairman of the Federal Deposit Insurance Corporation; the Chairman of the Commodity Futures Trading Commission; the Director of the Federal Housing Finance Agency; the Chairman of the National Credit Union Administration; and an independent member having insurance expertise who is appointed by the President and confirmed by the Senate – [2022 Annual Report Financial Stability Oversight Council](#)

²⁸⁰ The Director of the Office of Financial Research; the Director of the Federal Insurance Office; a state insurance commissioner designated by the state insurance commissioners; a state banking supervisor designated by the state banking supervisors; and a state securities commissioner (or officer performing like functions) designated by the state securities commissioners.

²⁸¹ [Office of Financial Research](#) and Congressional Research Service – [Financial Stability Oversight Council \(FSOC\): Structure and Activities \(Updated February 12, 2018\)](#)

²⁸² Section 112(a) of the [Dodd-Frank Act](#)

²⁸³ US Department of the Treasury – [About FSOC](#)

²⁸⁴ Congressional Research Service – [Financial Stability Oversight Council \(FSOC\): Structure and Activities \(Updated February 12, 2018\)](#)

²⁸⁵ Federal Reserve – [The Fed Explained – What the Central Bank Does](#)

²⁸⁶ Federal Reserve – [What does it mean that the Federal Reserve is "independent within the government"?](#)

²⁸⁷ Federal Reserve – [Who owns the Federal Reserve?](#)

²⁸⁸ Federal Reserve – [Is the Federal Reserve accountable to anyone?](#)

Federal Deposit Insurance Corporation

(313) The FDIC is an independent agency created by the Congress to maintain stability and public confidence in the nation’s financial system.²⁸⁹ The FDIC is managed by a five-person Board of Directors that includes the Comptroller of the Currency and the Director of the Consumer Financial Protection Bureau, all of whom are appointed by the President and confirmed by the Senate.

Office of the Comptroller of the Currency

(314) The OCC is an independent bureau of the US Department of the Treasury. The OCC receives no appropriations from Congress.²⁹⁰

Section 3: Resource Endowment

Financial Stability Oversight Council

(315) Members of the FSOC are representatives of their own authorities and agencies. The Office of the Financial Stability Oversight Council (Secretariat) and the OFR sit within the Treasury Department. The OFR provides the FSOC with a permanent staff to monitor the financial system as a whole, including available data sources from all regulators and from market participants. The OFR’s permanent researchers and analysts are distinct from those at member agencies.²⁹¹

Federal Reserve

(316) In 2022, there were circa 24,121 staff employed in the FRS.²⁹² Of these, 3,121 worked for the Federal Reserve Board. The remainder were employed within centralised IT and Benefits.

Federal Deposit Insurance Corporation

(317) The FDIC’s authorised full-time equivalent staffing was 6,090 in 2022. The FDIC Board adopted a 2023 Operating Budget which included an increase in the authorised workforce to 6,310.²⁹³

Number of Employees by Division/Office (Year-End) ¹						
Division or Office:	Total		Washington		Regional/Field	
	2022	2021	2022	2021	2022	2021
Division of Risk Management Supervision	2,376	2,484	151	159	2,225	2,325
Division of Depositor and Consumer Protection	785	787	117	115	668	672
Legal Division	429	440	288	295	141	145
Division of Administration	395	375	289	269	106	106
Division of Resolutions and Receiverships	332	317	54	90	278	228
Division of Information Technology ²	292	284	165	225	127	59
Division of Complex Institution Supervision and Resolution	286	280	117	130	169	150
Division of Insurance and Research	190	199	153	163	37	36
Division of Finance	134	134	131	131	3	3
Executive Support Offices ³	88	103	76	92	12	11
Corporate University	65	65	53	57	12	8
Office of the Chief Information Security Officer	54	49	53	49	1	0
Office of Risk Management and Internal Controls ²	23	0	23	0	0	0
Executive Offices ³	20	21	20	21	0	0
Office of Inspector General	143	132	92	84	51	48
Total	5,612	5,670	1,781	1,879	3,830	3,792

Source: FDIC 2022 Annual Report, pages 187²⁹⁴

²⁸⁹ [FDIC – About the FDIC](#)

²⁹⁰ [Office of the Comptroller of the Currency – Who we are](#)

²⁹¹ [Congressional Research Service - Financial Stability Oversight Council \(FSOC\): Structure and Activities \(Updated February 12, 2018\)](#)

²⁹² [Statistics on Federal Reserve System Employment, 1915 to 2022](#) and [supporting data](#)

²⁹³ [FDIC 2022 Annual Report](#)

²⁹⁴ [FDIC 2022 Annual Report](#)



Office of the Comptroller of the Currency

(318) As of September 2022, the number of employees (full time equivalent) was 3,508.²⁹⁵

Section 4: Financing of Authorities

Financial Stability Oversight Council²⁹⁶

(319) Under the Dodd-Frank Act “Any expenses of the Council shall be treated as expenses of, and paid by, the Office of Financial Research.”²⁹⁷ Expenses of the OFR, and therefore of FSOC, are funded through assessments applicable to certain bank holding companies and non-bank financial companies supervised by the Board of Governors of the Federal Reserve System.²⁹⁸

(320) As member salaries and offices are covered by their own agencies, the FSOC's direct funding needs to cover salary and administrative requirements for professional researchers similar to those of other economic data collection and monitoring bureaus.²⁹⁹

(321) The Chairperson shall propose an annual budget for FSOC, which upon an affirmative vote of a majority of the voting members then serving shall be adopted as the annual budget.³⁰⁰ FCOC shall periodically review the expenses of FSOC, and the Chairperson shall provide a report of expenses to FSOC.

Federal Reserve

(322) The Federal Reserve does not receive funding through the congressional budgetary process, i.e., congressional appropriations. Its operations are financed primarily from the interest earned on the securities it owns – securities acquired in the course of the Federal Reserve's open market operations. The fees received for priced services provided to depository institutions—such as check clearing, funds transfers, and automated clearinghouse operations—are another source of income; this income is used to cover the cost of those services. After payment of expenses and transfers to surplus, all the net earnings of the Reserve Banks are transferred to the US Treasury.³⁰¹ The Federal Reserve Board of Governors and the Reserve Banks prepare annual budgets as part of their efforts to help ensure appropriate stewardship and accountability.³⁰²

(323) In addition, the Dodd-Frank Act³⁰³ directs the Federal Reserve Board to collect assessments, fees, or other charges from bank holding companies (BHCs) and savings and loan holding companies (SLHCs) with \$100 billion or more in total consolidated assets, and from non-bank financial companies designated by the FSOC for supervision by the Board (collectively, "assessed companies") equal to the expenses the Board estimates are necessary or appropriate to carry out its supervision and regulation of those companies.³⁰⁴

²⁹⁵ [Office of the Comptroller of the Currency – Key Data & Statistics](#)

²⁹⁶ [Financial Stability Oversight Council Fiscal Year 2024 Budget Information](#)

²⁹⁷ [Dodd-Frank Act § 118](#)

²⁹⁸ [Dodd-Frank Act § 155](#)

²⁹⁹ [Congressional Research Service - Financial Stability Oversight Council \(FSOC\): Structure and Activities \(Updated February 12, 2018\)](#)

³⁰⁰ [Rules of Organization of the Financial Stability Oversight Council](#)

³⁰¹ [The Fed Explained – What the Central Bank Does](#)

³⁰² [Federal Reserve – Annual Report 2022](#)

³⁰³ [Dodd-Frank Act § 318](#)

³⁰⁴ [Federal Reserve - Supervisory Assessment Fees](#)



Federal Deposit Insurance Corporation

(324) The FDIC receives no Congressional appropriations – it is funded by premiums that banks and savings associations pay for deposit insurance coverage.³⁰⁵ FDIC Assessment Rates³⁰⁶ are annual and risk based³⁰⁷.

Office of the Comptroller of the Currency

(325) National banks, federal savings associations, federal branches and agencies of foreign banks are assessed and charged fees, which are used to support the agency in its work of examining and supervising banks. A bank's assessment may be adjusted if the institution is considered a problem bank or if it is a non-lead bank or federal savings association controlled by a company owning two or more national banks or federal savings associations.³⁰⁸

Section 5: Coordination of the Authorities – Nationally

(326) Two councils, comprised of federal and state regulators and including Federal Reserve representatives, play important coordinating roles in the supervision and regulation of financial institutions: the FSOC, and the Federal Financial Institutions Examination Council (FFIEC)³⁰⁹.

(327) The FSOC is a collaborative body that brings together the expertise of federal financial regulators, a presidentially appointed independent insurance expert, and representatives of state financial regulators.³¹⁰ A core function of the FSOC is to foster communication among financial regulators, which is supported by its voting and non-voting membership.

(328) The membership of the FSOC, including the Secretary of the Treasury, Chairpersons of the Federal Reserve, FDIC and Comptroller of the Currency, means that the committee brings together the parties responsible for both financial stability, macro and micro-prudential supervision, and the recovery and resolution of US banks. FSOC meets at least quarterly, or at the request of the Chairperson or majority of the voting members.

(329) FSOC is supported by the Office of the Financial Stability Oversight Council (its Secretariat) at the Treasury Department. The Secretariat coordinates between the staff of each member and member agency, facilitating interagency collaboration, convening and supporting FSOC's staff-level committees, and working with members and member agency staff to collectively identify emerging financial stability risks and develop policy responses. Secretariat staff include policy experts, researchers, economists, and operational staff.³¹¹

(330) The FFIEC³¹² is a formal interagency body that includes representatives of the Federal Reserve Board, the FDIC, the OCC, the Consumer Financial Protection Bureau, the National Credit Union Administration, and the State Liaison Committee. The FFIEC is empowered to prescribe uniform principles, standards, and report forms for the federal examination of financial institutions by supervisory agencies including the Federal Reserve, FDIC and to make recommendations to promote uniformity in the supervision of financial institutions.

(331) The authorities also act bi-laterally. For instance, the Federal Reserve acts in concert with the FDIC on supervisory and recovery resolution efforts, for instance the preparation, review and feedback of resolution plans.

³⁰⁵ [FDIC – What we do](#)

³⁰⁶ [FDIC – FDIC Assessment Rates](#)

³⁰⁷ [FDIC Risk-Based Assessments](#)

³⁰⁸ Office of the Comptroller of the Currency – [Frequently Asked Questions About the Assessment Process](#)

³⁰⁹ [Federal Financial Institutions Examination Council](#)

³¹⁰ [Congressional Research Service - Financial Stability Oversight Council \(FSOC\): Structure and Activities \(Updated February 12, 2018\)](#)

³¹¹ US Department of the Treasury – [Council Work](#)

³¹² [Federal Financial Institutions Examination Council](#)

Section 6: Coordination of the Authorities – Internationally

Federal Reserve

- (332) The Federal Reserve (as well as FDIC and the OCC) participates in international bodies such as the Basel Committee on Banking Supervision, the Financial Stability Board, Bank for International Settlements, G7 and G20³¹³, the International Monetary Fund, Organisation for Economic Co-operation and Development and World Bank. The Federal Reserve works closely with central banks and other public authorities around the world to address international financial issues and promote financial stability.³¹⁴
- (333) With the growth of the international operations of large global financial institutions, the Federal Reserve and other US and foreign banking supervisors have formalised cooperative arrangements through supervisory colleges. Cooperation within the working groups involves bilateral and multilateral contacts and formal and informal information-sharing arrangements.
- (334) The Federal Reserve participates in Crisis Management Groups (CMGs) with other state and US regulatory agencies and non-US banking supervisors responsible for the oversight of large cross-border banking groups.

Federal Deposit Insurance Corporation

- (335) Cross-border cooperation and advance planning are critical components of resolution planning due to the international nature of services and overseas operations of many Large Complex Financial Institutions. The FDIC has bilateral and multilateral engagement with foreign authorities to deepen mutual understanding of the complex legal and operational issues related to cross-border resolution.³¹⁵ The FDIC also participates in the FSB Resolution Steering Group and its subgroups on banks, insurance, and financial market infrastructures.
- (336) The FDIC co-chairs cross-border CMGs of supervisors and resolution authorities for US globally systemically important banks (G-SIBs) and central counterparties CCPs and participates as a host authority in the work of CMGs for several foreign G-SIBs and CCPs.
- (337) The FDIC has a series of international Memorandum of Understanding (MoU) / cooperation agreements, including with: FINMA (Switzerland) (along with the Federal Reserve and OCC)³¹⁶; the Single Resolution Board (SRB in the European Banking Union)³¹⁷; the Bank of England (along with the Federal Reserve and OCC) (UK)³¹⁸; with BaFin (Germany) (along with the Federal Reserve and OCC)³¹⁹; the CDIC (Canada)³²⁰; and the Hong Kong Monetary Authority³²¹ (along with the OCC and Federal Reserve).

³¹³ The Group of Seven (G7) is an informal bloc of industrialised democracies (including Canada, France, Germany, Italy, Japan, the United Kingdom and United States) that meets to discuss global economic issues. The Group of 20 (G20) is an international forum, which includes the G7 plus other major economies around the world.

³¹⁴ [The Fed Explained – What the Central Bank Does](#)

³¹⁵ [FDIC 2022 Annual Report](#)

³¹⁶ [FINMA's international agreements](#)

³¹⁷ [Cooperation Arrangement concerning the Resolution of Insured Depository Institutions and certain other Financial Companies with Cross-border Operations in the United States and the European Banking Union](#)

³¹⁸ [Memorandum of Understanding Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation and Bank of England](#)

³¹⁹ [BaFIN - Memoranda of Understanding](#)

³²⁰ [Memorandum of Understanding concerning the resolution of insured depository institutions and certain other financial companies with cross-border operations in the United States and Canada](#)

³²¹ Hong Kong Monetary Authority – [Supervisory Co-Operation](#)

Section 7: Information Exchange between Authorities

- (338) FSOC shall collect any data or information from member agencies and the Federal Insurance Office (FIO) as necessary to carry out the duties of the FSOC, including monitoring the financial services marketplace to identify and assess risks to the United States financial system. The OFR and member agencies can provide data and information to FSOC. FSOC shall also collect information from other Federal and State financial regulatory agencies to assess risks to the US financial system.³²²
- (339) FSOC can direct the OFR to collect information from nonbank financial companies and bank holding companies for the purpose of assessing risks to the US financial system.
- (340) The Chairperson of FSOC shall coordinate collection and distribution of information across agencies, including in the request for reports from nonbank financial companies and bank holding companies and with non-US regulators in the case if a request from a foreign nonbank financial company or a foreign-based BHC.
- (341) As allowed for in the FSOC Rules of Organization, there is a MoU³²³ between FSOC members covering the treatment of non-public information.

Section 8: Fund Solutions

Deposit Insurance Fund

- (342) The primary purposes of the DIF are to:
- Insure the deposits and protect the depositors of insured banks.
 - Resolve failed banks.
- (343) While the DIF is backed by the full faith and credit of the United States government, it has two sources of funds: assessments (insurance premiums) on FDIC-insured institutions and interest earned on funds invested in US government obligations. Revenue from assessments and interest on investments add to the DIF balance (or fund net worth), while losses (primarily from bank failures) and operating expenses reduce the balance.

Orderly Liquidation Fund

- (344) The Dodd-Frank Act provides for the establishment of the Orderly Liquidation Fund (OLF) which is a separate fund at the US Treasury, from which the FDIC may borrow to provide liquidity to the financial company in receivership or a bridge financial company established in connection with the resolution. The FDIC has the power to issue guarantees backed by its ability to borrow from the OLF, which may be used to attract private sector support for or ensure funding of the failed financial company or bridge financial company.³²⁴ The agreement of the Secretary of the Treasury is required for use of the OLF.³²⁵
- (345) OLF resolution funding is subject to several conditions and constraints:
- The FDIC generally expects that OLF advances are secured with collateral that is acceptable to the US Treasury.

³²² [Rules of Organization of the Financial Stability Oversight Council](#) and the [Dodd-Frank Act §112\(a\)\(2\) and \(d\)](#)

³²³ [Memorandum of Understanding \(among members of the Financial Stability Oversight Council, \(FSOC\)\) Regarding the Treatment of Non-Public Information Shared Among Parties Pursuant to The Dodd-Frank Wall Street Reform and Consumer Protection Act, 2018](#)

³²⁴ [Dodd-Frank Act § 210\(n\)](#) and [European Central Bank Occasional Paper Series Liquidity in resolution: comparing frameworks for liquidity provision across jurisdictions](#)

³²⁵ Financial Stability Institute – [FSI Insights on policy implementation No 32: Institutional arrangements for bank resolution](#)

- According to the statutory creditor hierarchy in Title II of the Dodd-Frank Act, OLF borrowings have a higher priority than claims of private creditors (akin to debtor-in-possession financing in bankruptcy).
- To avoid exposure of taxpayer funds to loss, OLF borrowings that cannot be repaid from a return to private sector funding, customary liquidity sources, or liquidation proceeds of assets of the failed financial company must be repaid from assessments on the industry.
- The FDIC can only use OLF funding on the basis of an orderly liquidation plan that is approved by the US Treasury and intended to address provision and uses of temporary public funds.
- The initial maximum obligation limitation (MOL) is 10% of the total consolidated assets of the financial institution. If more funds are necessary during the first 30 days or if funds are to be advanced more than 30 days after the appointment of the FDIC as receiver, the FDIC can borrow amounts up to an MOL of 90% of the fair value of total consolidated assets available for repayment.
- The FDIC may use OLF advances to fund operations of a bridge bank and has the authority to make any other advances to the covered financial company's receivership.

Liquidity Assistance from the Federal Reserve

(346) As described previously, depository institutions have access to three types of discount window credit from their regional Federal Reserve Bank: primary credit, secondary credit, and seasonal credit, each with its own interest rate ("discount rate"). **Emergency Liquidity Assistance** may be available in unusual and exigent circumstances by the Federal Reserve. This is subject to the approval from the Treasury Secretary and is only available to solvent firms.

Section 9: Compensation Mechanisms for Government Support

Deposit Insurance Fund

(347) The DIF is funded mainly through quarterly assessments on insured banks. A bank's assessment is calculated by multiplying its assessment rate by its assessment base. A bank's assessment base and assessment rate are determined and paid each quarter. Assessment rates are risk based. In addition to assessments, the DIF receives interest income on its securities. The DIF is reduced by loss provisions associated with failed banks and by FDIC operating expenses.

Orderly Liquidation Fund

(348) Taxpayer funds cannot be used to preserve a company that has been put into receivership under the Orderly Liquidation Authority.³²⁶ OLF borrowings that cannot be repaid from a return to private sector funding, customary liquidity sources, or liquidation proceeds of assets of the failed financial company must be repaid from assessments on the industry. Title II of the Dodd-Frank Act requires the FDIC to impose assessments on the largest financial companies within a five-year period to recoup such losses.³²⁷

³²⁶ [Dodd-Frank Act § 214](#)

³²⁷ [Dodd-Frank Act § 210\(o\)](#) and [Orderly Liquidation Authority and Bankruptcy Reform – Report to the President of the United States](#)

Liquidity Assistance from the Federal Reserve

- (349) Provisions made under the Discount Window or ELA facility of Section 13(3) of the FRA must be fully collateralised. When an advance is issued under the Discount Window it is done so with a stated maturity date. Discount Window loans must be repaid by the maturity date. Repayment of principal and accrued interest is charged to the account to which the loan was posted. Any losses made under the ELA facility will not be recouped.³²⁸

Section 10: Advantages and Disadvantages of the United States Institutional Approach

- (350) Given the federal and state nature of the US there are numerous authorities with responsibilities for the institutional arrangements for bank supervision and resolution. By its nature, coordinating the highly complex and structured approach of federal versus state priorities and objectives requires careful and deliberate navigation.
- (351) However, at a federal level, which is the focus of this annex, there are four key authorities to consider: the FSOC, the Federal Reserve System (including the Federal Reserve Board, Reserve Banks and FOMC), the OCC and the FDIC. The US is a prime example of the institutional separation approach, but the long history of the authorities and their roles, especially the FDIC as resolution authority, suggests that the disadvantages normally associated with the approach are minimised.
- (352) There is a clear advantage to the approach taken. The size of the US means that having a separate resolution authority is credible, feasible and on a pragmatic basis, achievable. The size of the banking sector combined with the number of states and federal authorities being dealt with requires significant investment in resourcing for each authority. There is also a significant body of history and experience supporting the on-going activities of the Federal Reserve and FDIC in this area.
- (353) FSOC provides a clear forum for macroprudential issues. With the Federal Reserve being a member of FSOC as well as its own macroprudential activities means that there is a 'continuity of processes' between macroprudential objectives and micro-prudential supervision, which is further supported by the FDIC's and OCC's membership of FSOC. The practical execution of macroprudential oversight is facilitated and informed by the intelligence gained from that micro-prudential supervision from the supervisory authorities as well as crisis events managed under the receivership of the FDIC.
- (354) Close cooperation and information exchange is more difficult to manage and facilitate from a practical perspective. However, the authorities are well practiced in coordinating and collaborating with one another, for instance, the coordinated process between the FDIC and Federal Reserve in the review and assessment of bank's DFA Title I resolution plans.
- (355) Although a more recent forum, the FSOC serves to bring together the heads of the key authorities, the Treasury, Federal Reserve, FDIC and OCC, and other federal agencies. As well as providing a forum for communication and discussion one of its core activities is ensuring the appropriate dissemination of information from and between members. The FFIEC similarly coordinates consistent supervisory practices and standards actions involving key federal and state authorities.
- (356) However, there remains a natural limitation as information it is not feasible to share everything and what is shared may be subject to a judgement of what is important or significant enough to share.

³²⁸ [European Central Bank Occasional Paper Series Liquidity in resolution: comparing frameworks for liquidity provision across jurisdictions](#)

- (357) Although there is a clear mandate for coordination between the authorities, by virtue of multiple authorities with multiple decision-making arrangements, actions and required activities may be less effective and time-efficient, thus potentially decreasing the timeliness and benefit of authority action in a crisis. In a crisis event, speed and effectiveness of actions is essential.
- (358) Objectivity is clearly demonstrated, with separate institutions having legislative objectives and mandates on which to act. However, there is a potential for conflicts of interest or objective between the decision-making and interests of the different bodies. Although each authority having a clear remit and decision-making process, it does lead to the risk of conflict.

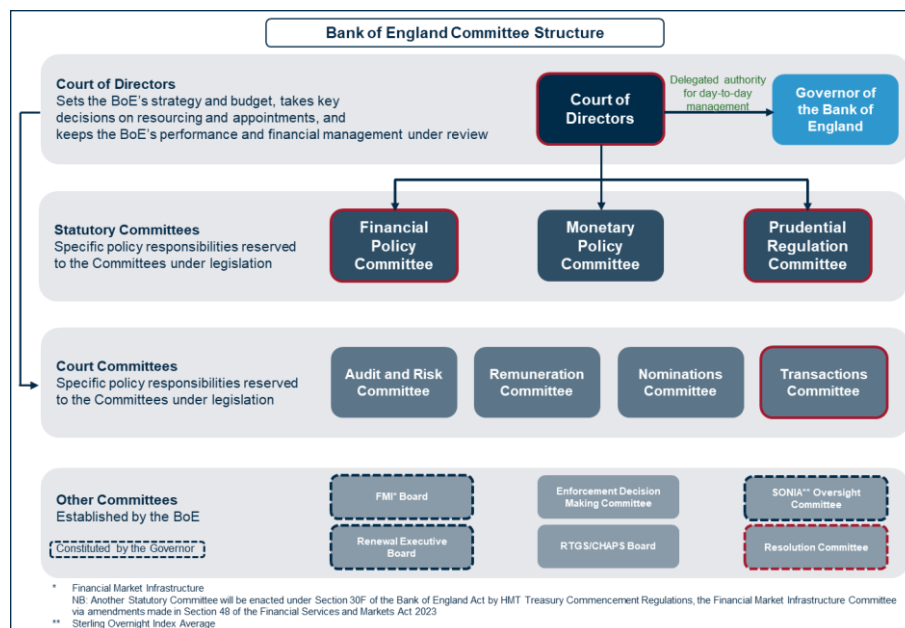
Annex 4: Jurisdiction Focus – United Kingdom

Section 1: Responsibilities

Area of Responsibility	UK
Macroprudential Supervision	Bank of England – the Financial Policy Committee
Prudential Supervision	Bank of England – the Prudential Regulation Authority
Recovery	Bank of England – the Prudential Regulation Authority
Resolution - Restructuring	Bank of England – Resolution Directorate
Resolution - Liquidation	Bank of England – Resolution Directorate
Lender of Last Resort	Bank of England

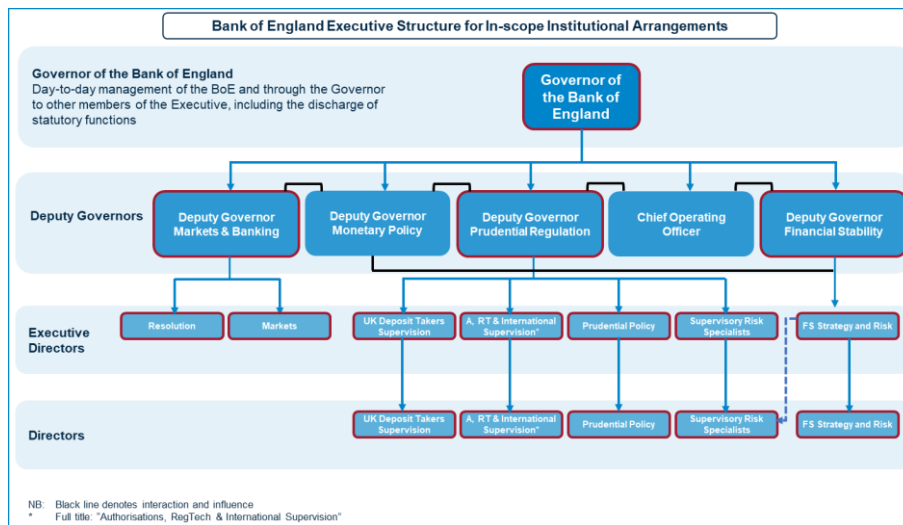
(359) The United Kingdom's (UK's) institutional arrangements for the supervision (prudential and macroprudential), recovery (stabilisation), resolution (restructuring and liquidation) and lender-of-last resort (the 'in scope institutional arrangements') are all within the remit of the **Bank of England** (the BoE); the BoE acts as the UK's central bank, prudential supervisor (competent authority), resolution authority and lender of last resort. Although the BoE has a number of subsidiaries³²⁹, the in-scope institutional arrangements reside within one statutory entity.

Key Committees and Organisational Setup



Source: Alvarez & Marsal

³²⁹ Bank of England Asset Purchase Facility Fund Ltd, Bank of England Alternative Liquidity Facility Ltd, Covid Corporate Financing Facility



Source: Alvarez & Marsal

The Court of Directors³³⁰

- (360) The Court of Directors (Court) acts as a unitary Board, with Executive and Non-Executive members and an Independent Non-Executive Chair. The Court meets at least seven times a year and sets the BoE's strategy and budget, takes key decisions on resourcing and appointments, and keeps the Bank's performance and financial management under review.
- (361) The Court manages the affairs of the BoE as a corporation, while specific policy responsibilities are reserved to the policy committees. The Court's responsibilities are set out in the Bank of England Act 1998 as amended from time to time.
- (362) The Court's responsibilities include determining the BoE's objectives and strategy and ensuring the effective discharge of the BoE's functions and the most efficient use of its resources. The BoE also has a statutory objective to 'protect and enhance the stability of the financial system of the United Kingdom' and Court is responsible for the BoE's strategy in relation to that objective.
- (363) The Court also keeps under review the BoE's performance in relation to its objectives, the exercise of the BoE's statutory functions and the processes of the policy committees, whose meetings the members of the Court are entitled to attend as observers. It is supported by an Independent Evaluation Office.
- (364) The members of Court are appointed by the sovereign on the recommendation of the Prime Minister and the Chancellor of the Exchequer. There are five Executive members: the Governor, and the four Deputy Governors. The Deputy Governors have designated responsibilities respectively for: Monetary Policy; Financial Stability; Markets, Banking and Resolution; and Prudential Regulation. The BOE's Chief Operating Officer (COO) also attends meetings of Court. The remaining members of Court are Non-executive Directors from which the Chair and Deputy Chair of Court are appointed by the Chancellor of the Exchequer. The Court itself appoints a Senior Independent Director and the Chairs of Court committees.
- (365) The Court delegates to the Governor the day-to-day management of the BoE and through him to other members of the Executive, including the discharge of statutory functions, while reserving certain key decisions to itself ('Matters Reserved to Court').

³³⁰ See:

- [Part I "Constitution, regulation and financial arrangements" of the Bank of England Act 1998, as amended](#)
- [Governance of the Bank of England including Matters Reserved to Court \(Approved by Court on 12 July 2022\)](#)
- [Bank of England Annual Report and Accounts 1 March 2022–28 February 2023](#)

Macroprudential Supervision Financial Policy Committee³³¹

- (366) One of the BoE’s statutory objectives is to “protect and enhance the stability of the financial system of the United Kingdom (the “Financial Stability Objective”)”.³³² Under the Bank of England Act 1998, as amended³³³ the Court determines the BoE’s “strategy in relation to the Financial Stability Objective” and “from time to time review, and if necessary revise, the strategy”. The BoE shall “aim to work with other relevant bodies (including the Treasury and the Financial Conduct Authority)”³³⁴ in pursuing this objective.³³⁵ Legislation does not restrict the sector or types of firm to which the Financial Stability Objective or the BoE’s financial stability strategy applies.
- (367) The Court is required, at least every three years, to review the BoE’s strategy in relation to the Financial Stability Objective and although the Court retains responsibility it has delegated this function to the FPC.³³⁶
- (368) The Financial Policy Committee (FPC) is one of the two statutory bodies of the BoE with responsibilities to make specific contributions to UK financial stability (the other is the PRA as part of its micro-supervisory responsibilities outlined below) and “may at any time make recommendations to the court of directors as to the provisions of the Bank’s financial stability strategy”.³³⁷ The FPC leads the BoE’s work on financial stability. It identifies and monitors risks that threaten the resilience of the UK financial system as a whole.
- (369) The FPC is required under legislation to exercise its functions with a view to “(a) contributing to the achievement by the Bank of the Financial Stability Objective, and (b) subject to that, supporting the economic policy of Her Majesty’s Government, including its objectives for growth and employment.”³³⁸ Achieving this objective by the FPC relates primarily to “the identification of, monitoring of, and taking of action to remove or reduce, systemic risks with a view to protecting and enhancing the resilience of the UK financial system”.³³⁹ The systemic risks referred to include those attributable to “structural features of financial markets, such as connections between financial institutions” and “to the distribution of risk within the financial sector”.³⁴⁰
- (370) If the FPC identifies a potential risk, it has the power to act. It can use its power of direction³⁴¹ or its power of recommendation³⁴². Its directions are binding instructions it can give to the PRA and Financial Conduct Authority (FCA) including adjusting specific macroprudential tools, for example a direction to the PRA to make banks carry out certain actions. The FPC may issue a direction power over sectoral capital requirements (SCRs) and the UK countercyclical capital buffer (CCyB) rate is set each quarter by the FPC.³⁴³

³³¹ See:

- Part 1A “Financial Stability” and Schedule 2A “Financial Policy Committee” of [the Bank of England Act 1998, as amended](#)
- [Governance of the Bank of England including Matters Reserved to Court \(Approved by Court on 12 July 2022\)](#);
- [Bank of England Annual Report and Accounts 1 March 2022–28 February 2023](#)

³³² Section 2A(1) of the Bank of England Act 1998, as amended

³³³ Section 9A(1) of the Bank of England Act 1998, as amended

³³⁴ Section 2A(2) of the Bank of England Act 1998, as amended

³³⁵ HMT determines the regulatory framework for the UK financial system and is able to specify which activities should be regulated and which activities should be prudentially regulated by the PRA. The FCA is the conduct regulator for financial companies and financial markets in the UK and the prudential regulator for some of those firms, including asset managers, consumer credit providers and insurance brokers

³³⁶ As delegated under Schedule 1 Paragraph 11 of the Bank of England Act 1998, as amended

³³⁷ Section 9A(3) of the Bank of England Act 1998, as amended

³³⁸ Section 9C(1) of the Bank of England Act 1998, as amended

³³⁹ Section 9C(2) of the Bank of England Act 1998, as amended

³⁴⁰ Section 9C(3) of the Bank of England Act 1998, as amended

³⁴¹ Section 9H of the Bank of England Act 1998, as amended

³⁴² Section 9Q of the Bank of England Act 1998, as amended

³⁴³ Bank of England – [The Financial Policy Committee’s approach to setting the countercyclical capital buffer - Policy Statement \(12 July 2023\)](#)

- (371) The FPC can make recommendations to any body. But the FPC has a specific power to make Recommendations, on a comply or explain basis, to the PRA and the FCA about the exercise of their functions, such as to adjust the rules that banks and other regulated financial institutions must abide by. Should the regulators decide not to implement recommendations they are required by the legislation to explain their reasons for not doing so.
- (372) The FPC meets at least quarterly and consists of the Governor, the four Deputy Governors, the Chief Executive of the FCA, the BoE's Executive Director responsible for Financial Stability, five external members appointed by the Chancellor and a non-voting member from HM Treasury (HMT). It publishes a record of its formal policy meetings and is responsible for producing the (at least) twice-yearly Financial Stability Report.

Micro-Prudential Supervision

Prudential Regulation Committee and Prudential Regulation Authority³⁴⁴

- (373) The BoE's functions as the PRA must be exercised through the Prudential Regulation Committee (PRC). Under legislation³⁴⁵, the PRC consists of the Governor, the Deputy Governors for Prudential Regulation, Financial Stability and Markets and Banking³⁴⁶, the Chief Executive of the FCA, a member appointed by the Governor with the approval of the Chancellor, at least six external members appointed by the Chancellor.
- (374) The PRC is independent in all its decision-making functions, including making rules and the PRA's most important supervisory and policy decisions.
- (375) The PRA is the micro-prudential regulator of banks, building societies, credit unions (hereafter "banks") as well as designated investment firms and insurers. It must take into account financial stability considerations when advancing its general objective to promote the safety and soundness of the firms it regulates, including banks.³⁴⁷ The PRA also a secondary objective to facilitate effective competition. The PRA's most important decisions are taken by the PRC. The strategy for delivering its statutory objectives is set by the PRC in consultation with the Court and published in the annual PRA Business Plan.
- (376) The PRA uses a risk element framework to assess the risk posed by firms to the PRA's objectives, assessing gross risk and mitigating factors.
- (377) The starting point is to assess the gross risk by measuring the potential impact a firm has on the stability of the UK financial system and the external context and business model risk which a firm is exposed to. This is then overlaid with mitigating factors³⁴⁸ which are the actions a firm takes to offset the gross risk to assess the net risk to the PRA's objectives. It considers³⁴⁹: Business Risk, Management and Governance, Design and effectiveness of the Board and Senior Management, Structures, Risk Management and Controls, Control Framework, Capital, Leverage Ratio Framework, Liquidity, Operational Resilience and Resolvability.

³⁴⁴ See:

- See Part 3A "Prudential regulation" and Schedule 6A "Prudential Regulation Committee" of [the Bank of England Act 1998, as amended](#)
- [Governance of the Bank of England including Matters Reserved to Court \(Approved by Court on 12 July 2022\)](#);
- [Bank of England Annual Report and Accounts 1 March 2022–28 February 2023](#)
- Chapter 2 of the Financial Services and Markets Act 2000, as amended
- The Prudential Regulation Authority's approach to banking supervision (July 2023)

³⁴⁵ Section 30A of the Bank of England Act 1998, as amended.

³⁴⁶ Currently, the Deputy Governor for Monetary Policy is the additional member of the PRC.

³⁴⁷ Section 2B of the Financial Services and Markets Act 2000, as amended

³⁴⁸ Including Operational mitigation (management & governance and risk management & control), Financial resilience (capital and liquidity), Operational Resilience and Structural mitigation (Resolvability). See Figure 1: The PRA's Risk Element Framework of [The Prudential Regulation Authority's approach to banking supervision](#) (July 2023)

³⁴⁹ See Section 3 of [The Prudential Regulation Authority's approach to banking supervision](#) (July 2023)

- (378) The PRA divides the banks that it supervises into one of the four ‘categories’:
- Category 1: The most significant firms whose size, interconnectedness, complexity, and business type give them the capacity to cause very significant disruption to the UK financial system by failing, or by carrying on their business in an unsafe manner.
 - Category 2: Significant firms whose size, interconnectedness, complexity and business type give them the capacity to cause some disruption to the UK financial system by failing, or by carrying on their business in an unsafe manner.
 - Category 3: Firms whose size, interconnectedness, complexity, and business type give them the capacity to cause minor disruption to the UK financial system by failing, or by carrying on their business in an unsafe manner, but where difficulties across a whole sector or subsector have the potential to generate disruption.
 - Category 4: Firms whose size, interconnectedness, complexity, and business type give them almost no capacity individually to cause disruption to the UK financial system by failing, or by carrying on their business in an unsafe manner, but where difficulties across a whole sector or subsector have the potential to generate disruption.
- (379) The PRA uses a Proactive Intervention Framework (PIF) to support early identification of risks to a firm’s viability. Firms are assigned a PIF score that is reflective of the PRA’s judgement of the firm’s proximity to failure and supervisors consider a firm’s proximity to failure when drawing up its supervisory plan. There are five PIF stages³⁵⁰ with intensifying supervisory actions.
- (380) The PRA holds regular Periodic Summary Meetings (PSMs) for all firms that it supervises to discuss the major risks they face, agree the supervisory strategy, and proposed remedial actions, including guidance about the adequacy of a firm’s capital and liquidity. Following the PSM, the PRA sends a letter detailing outcomes and required actions.
- (381) For smaller firms, such as credit unions, the PRA supervises firms on a portfolio basis using automated tools to analyse their regulatory returns. The PRA examines individual firms when a risk crystallises or in response to authorisation requests from the firm. It conducts peer group analysis across sectors to develop a clear understanding of the risks posed by both small firms in aggregate and by a typical firm and conducts annual peer group assessments of these firms.

Recovery **Prudential Regulation Committee and Prudential Regulation Authority**

- (382) As part of its responsibilities as the UK’s prudential supervisor, the PRA acts pre-emptively to help ensure either recovery or the orderly resolution of banks. It works to deliver this with the rest of the BoE through its supervisory strategy for individual firms.
- (383) The PRA requires banks to undertake recovery planning so that they are ready for periods of financial stress, can stabilise their financial position and can recover from financial losses. Banks are required to have a number of recovery options and maintain and test their plans. Governance of the plan should be clearly defined, and firms should have effective processes to identify and report the risks affecting their ability to recover. Recovery planning is a prescribed responsibility under the UK’s Senior Managers Regime. The PRA engages with firms on the feasibility of their identified recovery options.
- (384) The PRA may also apply ‘early intervention’ powers, prior to formal resolution, including such as removal of senior staff and restructuring of the bank.

³⁵⁰ See Box 5: Stages in the Proactive Intervention Framework of [The Prudential Regulation Authority’s approach to banking supervision](#) (July 2023)

Resolution (Restructuring and Liquidation)

Bank of England's Resolution Committee and Resolution Directorate³⁵¹

- (385) The PRA also makes rules covering submission of resolution planning documentation, in support of the BoE's resolution responsibilities. Where, as in the case of smaller deposit-taking firms, the preferred resolution strategy for failure is insolvency, the BoE Resolution Directorate and PRA will need to determine whether the firm's systems are able to provide the information needed by the Financial Services and Compensation Scheme³⁵² for a rapid payout or transfer of protected deposits (within a target of seven days in relation to pay-out for the majority of customers). The PRA requires relevant banks to be able to produce a single, consistent view of each depositor's funds: the 'Single Customer View' (SCV).
- (386) However, the BoE's Resolution Directorate executes the BoE's responsibilities as resolution authority for the UK.
- (387) As resolution authority, the BoE is responsible for developing a strategy for how it would manage the failure of every bank, including systemically important institutions to credit unions. The Banking Act 2009 provides the BoE with a set of legal powers to help ensure resolution is an orderly process and help enable a failing bank's critical functions to continue while the remaining parts of the bank's business are restructured to restore viability or are wound down.
- (388) Under the Banking Act 2009, the UK resolution regime applies to banks, building societies and certain investment firms, and their financial holding companies that are incorporated in the UK. It therefore includes the UK subsidiaries of non-UK firms. The UK resolution regime also covers central counterparties.
- (389) In its role as the UK's resolution authority, the BoE's Resolution Directorate (RD) works closely with the PRA, the FCA, the Financial Services Compensation Scheme (FSCS), particularly where there is a risk of failure and when firms fail, to ensure that eligible depositors are protected (up to £85,000), HMT, other international resolution authorities where relevant.
- (390) The BoE RD, in close co-operation with the PRA and FCA, has a statutory responsibility to identify a preferred resolution strategy and develop a resolution plan for every bank or group in the UK. The BoE must provide HMT with an assessment of potential risks to public funds where the resolution plan involves the use of resolution powers.
- (391) A bank will enter resolution upon satisfaction of two conditions:
- The firm is failing or likely to fail. This is assessed by the PRA or FCA (the latter for investment firms regulated solely by the FCA), following consultation with the BoE.
 - It is not reasonably likely that action will be taken that will result in the firm recovering. This assessment is made by the BoE RD, consulting the PRA, FCA and HMT.
- (392) Resolution via use of the stabilisation tools outlined below is executed if the BoE RD judges it is in the public interest (having consulted the PRA, FCA and HMT). The BoE RD determines whether or not the public interest test is met by assessing the objectives for resolution set out in the Banking Act 2009.³⁵³

³⁵¹ See:

- [The Banking Act 2009, as amended](#)
- [The Bank Recovery and Resolution \(No. 2\) Order 2014](#)
- [The Bank of England's approach to resolution \(October 2017\)](#)
- [The Bank of England Act 1998, the Charters of the Bank and related documents \(June 2018\)](#)

³⁵² The UK's Deposit Guarantee Scheme

³⁵³ Section 4 of the Banking Act 2009, as amended refers: Objective 1 is to ensure the continuity of banking services in the United Kingdom and of critical functions; Objective 2 is to protect and enhance the stability of the financial system of the United Kingdom; Objective 3 is to protect and enhance public confidence in the stability of the financial system of the United Kingdom; Objective 4 is to protect public funds, including by minimising reliance on extraordinary public financial

- (393) The BoE RD must also consider whether the resolution objectives would be met to the same extent by placing the firm into the relevant statutory insolvency process (e.g., the bank insolvency procedure). If this assessment indicates that use of the bank insolvency procedure would not meet the resolution objectives to the same extent as use of the resolution tools, then the resolution tools may be used.
- (394) For firms which met the public interest test, a strategy of bail-in or partial transfer is preferred.³⁵⁴
- **Bail-in:** Bail-in involves the write-down of the claims of the bank's unsecured creditors (including holders of capital instruments) and conversion of those claims into equity as necessary to restore solvency to the bank.
 - **Transfer to a private sector purchaser** (known as sale of business in the European Banking Union) involves the transfer of all or part of a bank's business, which can include either its shares or its property (its assets and liabilities), to an appropriately authorised private sector purchaser without need for consent of the failed bank, or its shareholders, customers or counterparties.
 - **Bridge Bank:** The bridge bank involves the transfer of all or part of the bank's business to a temporary bank controlled by the BoE RD to maintain continuity of the failed bank's critical functions until the sale of the bridge bank.
- (395) Two additional powers can only be used in conjunction with these resolution tools:
- **An asset management vehicle (AMV):** An AMV allows all or part of the business of a failed bank or a bridge bank to be transferred to and managed by a separate asset management vehicle, wholly or partially owned by the BoE or HMT and controlled by the BoE, with a view to maximising the value of assets through an eventual sale or orderly wind down.
 - **The bank (or building society) administration procedure (BAP):** The BAP is the insolvency process by which the part of a failed firm not transferred to a private sector purchaser or bridge bank is wound up. This part of the firm can be required to continue to provide services (e.g., IT infrastructure, or mortgage servicing) needed by the new owner of the transferred business until permanent arrangements for those services can be put in place, after which it is wound up.
- (396) HMT is consulted on the decision to trigger resolution and the choice of tools. It must also authorise the use of Emergency Liquidity Assistance (ELA), the Resolution Liquidity Framework or the use of any stabilisation power which would have implications for public funds.³⁵⁵ However, as acknowledged in the Memorandum of Understanding (MoU) on resolution planning and financial crisis management (October 2017) between HMT, the BoE and PRA, the Chancellor has responsibility for "authorising the use of any stabilisation power which would have implications for public funds, including in respect of a firm to which financial assistance has already been extended by the Treasury".³⁵⁶ It can veto the use of powers in certain circumstances and can decide whether to put a bank into temporary public ownership; in such circumstances, HMT conducts the resolution alongside the BoE.³⁵⁷
- (397) If the public interest test is not met, firms are placed into a special insolvency regime if they hold deposits or client assets and normal insolvency if they do not. The resolution strategy for these

support; Objective 5 is to protect investors and depositors to the extent that they have investments or deposits covered by the FSCS; Objective 6, which applies in any case in which client assets may be affected, is to protect those assets; Objective 7 is to avoid interfering with property rights in contravention of a Convention right (within the meaning of the Human Rights Act 1998).

³⁵⁴ [The Bank of England's approach to resolution October 2017](#)

³⁵⁵ Paragraph 6 of the Memorandum of Understanding on resolution planning and financial crisis management (October 2017)

³⁵⁶ Paragraph 6 of the [Memorandum of Understanding on resolution planning and financial crisis management \(October 2017\)](#)

³⁵⁷ [The Bank of England's approach to resolution \(October 2017\)](#)

firms is the bank (or building society) insolvency procedure (BIP/BSIP). Under these procedures, a liquidator is appointed by a Court with two statutory objectives. The first, which takes precedence, is to work with the FSCS to facilitate rapid payout (with a target of seven days) of the protected deposits or else transfer those deposits to a viable firm. In both cases, the FSCS takes over the depositor's claim in the insolvency, equal to the total of their eligible deposits. Initially the FSCS will levy the industry if necessary to meet any claims and recoup the costs later in the insolvency. Once this objective is achieved, the second objective of the liquidator is to wind up the affairs of the firm so as to achieve the best result for its creditors as a whole.³⁵⁸

Lender of Last Resort

Bank of England

(398) In addition to its policy, supervisory and resolution activities, the BoE can use its balance sheet to provide liquidity support – i.e., act as lender of last resort. To deliver the BoE's statutory responsibilities for monetary and financial stability it uses its balance sheet to provide a range of facilities and operations, available on public, market-wide terms to eligible financial firms. These activities all involve the creation or management of central bank money.

Emergency Liquidity Assistance (ELA)

(399) ELA is considered to be all liquidity insurance provided outside of the SMF.

(400) HMT, the BoE and the PRA are required to have a MoU on resolution planning and crisis management³⁵⁹. This MoU outlines the procedures under which ELA (a “public funds notification”³⁶⁰) would be provided. The BoE has “primary operational responsibility for financial crisis management” including “the provision, when authorised by the Treasury, of Emergency Liquidity Assistance (ELA - defined as support operations outside the Bank's published frameworks) to firms that are at risk but are judged to be solvent”.³⁶¹

(401) The ELA must be approved by the BoE's Court of Directors. If this is not practical, a decision can be taken by the Governor in consultation with the Court's Transaction Committee. The Transactions Committee may be consulted by the Governor about any loan, commitment or other transaction which is not in the ordinary course of the BoEs business, and where it is not practicable for the Governor to consult the full Court.³⁶²

(402) Where the BoE proposes to make ELA available to one or more financial institutions it will notify HMT and seek HMTs approval. The Chancellor and HMT have responsibility for any decision on whether and how to use public funds, including “authorising any proposal by the Bank to provide ELA to one or more individual firms in a support operation that goes beyond the Bank's published frameworks”.³⁶³

(403) Firms are expected to provide collateral, although the range of assets accepted as collateral for ELA may be broader than those routinely accepted in SMF operations. A going concern assessment would be performed to help ensure the ability to repay ELA. There is no statutory requirement for ELA recipients to be systemically important, although the Governor and Chancellor would be advised on the level of systemic importance when a case is made for ELA.³⁶⁴

³⁵⁸ Section 90 of the Banking Act 2009, as amended

³⁵⁹ [Memorandum of Understanding on resolution planning and financial crisis management \(October 2017\)](#) as required under Section 65 of the [Financial Services Act 2012](#)

³⁶⁰ Section 58 of the [Financial Services Act 2012](#)

³⁶¹ Paragraph 5 of the Memorandum of Understanding on resolution planning and financial crisis management (October 2017)

³⁶² [Governance of the Bank of England including Matters Reserved to Court \(Approved by Court on 12 July 2022\)](#)

³⁶³ Paragraph 6 of the Memorandum of Understanding on resolution planning and financial crisis management (October 2017)

³⁶⁴ [Financial Sector Assessment Program United Kingdom – Review of the Bank of England's Liquidity Provision Framework Technical Note \(June 2016\)](#)

(404) However, in certain circumstances, the Chancellor may direct the BoE to provide ELA in a support operation going beyond the BoE’s published frameworks to one or more firms that are “not judged by the Bank to be solvent and viable” or “on terms other than those proposed by the Bank”.³⁶⁵

Section 2: Independence between In-Scope Authorities

Within the Bank of England

(405) The BoE is a single legal institution subject to the ultimate governance of the BoE’s Court of Directors. Specific areas of responsibility and policy under specific governance within the BoE structure:

- **Financial Policy Committee:** The FPC is required under legislation to exercise its functions with a view to “(a) contributing to the achievement by the Bank of the Financial Stability Objective, and (b) subject to that, supporting the economic policy of Her Majesty’s Government, including its objectives for growth and employment.”³⁶⁶ Achieving this objective by the FPC relates primarily to “the identification of, monitoring of, and taking of action to remove or reduce, systemic risks with a view to protecting and enhancing the resilience of the UK financial system”.³⁶⁷
- **Prudential Regulation Committee:** The BoE’s functions as PRA must be exercised through the PRC.³⁶⁸ The PRC is independent in all its decision-making functions, including making rules and the PRA’s most important supervisory and policy decisions. The PRC is required to report annually to the Chancellor of the Exchequer on the adequacy of resources allocated to the PRA functions and the extent to which the exercise of those functions is independent of the exercise of the BoE’s other functions.

NB: There are, however, common members of the FPC and PRC, specifically the Governor and four Deputy Governors of the BoE.

- **Resolution Directorate:** The BoE’s resolution decision-making structures are generally separate to the decision-making structures of other parts of the BoE and the PRA. The Deputy Governor for Markets and Banking and the Executive Director for Resolution have responsibility for resolution matters within the BoE and are advised by the BoE’s Resolution Committee and the Resolution Advisory Committee respectively. These committees have members from across the BoE and the PRA. However, decision-making authority within the Resolution Committee and the Resolution Advisory Committee rests solely with the Deputy Governor for Markets and Banking and the Executive Director for Resolution respectively to help ensure that when the BoE takes decisions as resolution authority, the decision-makers are separate from the other parts of the BoE and PRA. The most important resolution decisions are reserved for, or may be escalated to, the Governor.³⁶⁹ Commitment of the BoE’s resources to support a resolution requires the approval of the Court.

(406) Legislation requires the BoE to “make arrangements to ensure that the discharge of its resolution functions ... is operationally independent of the discharge of its functions as the PRA”.³⁷⁰ The ‘Statement on operational independence’³⁷¹ states that:

- “The separation of the Bank’s decision-making structures is facilitated by the fact that decision-making authority for the Bank’s micro-prudential, macroprudential and monetary

³⁶⁵ Paragraph 38 of the Memorandum of Understanding on resolution planning and financial crisis management (October 2017) and [Section 61 of the Financial Services Act 2012](#)

³⁶⁶ Section 9C(1) of the Bank of England Act 1998, as amended

³⁶⁷ Section 9C(2) of the Bank of England Act 1998, as amended

³⁶⁸ [Governance of the Bank of England including Matters Reserved to Court \(Approved by Court on 12 July 2022\)](#)

³⁶⁹ [Statement on operational independence of the resolution and supervision functions of the Bank of England \(January 2021\)](#)

³⁷⁰ Section 30C of the Bank of England Act 1998

³⁷¹ [Statement on operational independence of the resolution and supervision functions of the Bank of England \(January 2021\)](#)

policy functions resides with the relevant statutory committees (which include external members), i.e., the PRC, FPC (and [Monetary Policy Committee]) respectively”; and

- “The Deputy Governor for Markets and Banking and the Executive Director for Resolution have responsibility for resolution matters within the Bank and are advised by the Bank’s Resolution Committee and the Resolution Advisory Committee respectively.”

Other UK Authorities

(407) In a crisis or resolution scenario, other UK authorities would have specific roles. Each of these are separate legal institutions, established under legislation with specific remit, responsibilities and objectives. These are HMT, the FCA as the UKs conduct supervisor for banks and the FSCS which protects eligible customers of authorised financial services firms that have failed. The BoE RD works with the FSCS, particularly when it has concerns that a firm is at risk of failure and when firms fail, to ensure that those eligible depositors are protected (up to £85,000). Legislation includes the requirement for cooperation between the authorities, but decision-making remit remains within institutions governance arrangements.

Section 3: Resource Endowment

(408) BoE personnel are direct employees of the BoE. The number of persons employed by the BoE at the end of February 2023 was 5,239 of which 4,529 were full-time and 710 part-time (2022: 4,740; with 4,099 full-time and 641 part-time).³⁷²

(409) The number of persons employed by the BoE and working for the PRA was 1,529 of 28 February 2023, of which 1,304 were full-time staff and 225 were part-time (2022 1,356; with 1,153 full-time and 203 part-time).³⁷³

(410) The BoE RD has its own staff and is separate to other parts of the BoE and the PRA. Staff of the RD have separate reporting lines to other parts of the Bank and PRA through an immediate reporting line to the Executive Director for Resolution. The Executive Director for Resolution reports to the Deputy Governor for Markets and Banking who reports in turn to the Governor.³⁷⁴

Section 4: Financing of Authorities

(411) The UK government owns the BoE. The Treasury Solicitor, on behalf of HMT holds the entire capital (around £14.6 million) of the BoE. This figure refers to capital under its accounting definition, not total equity, which includes retained earnings.

(412) However, the BoE does not get a budget from the UK Treasury. The BoE generates its funding by investing the money banks have to hold with the BoE (i.e., the 'Cash Ratio Deposit scheme') and providing banking services to its customers and charging the firms it regulates a fee.

(413) Each year, a proportion of any profits made by the BoE from its activities goes to HMT (including all of the profit generated from the printing of banknotes).

(414) The following are reserved matters for the Court³⁷⁵:

- Approval of the Bank’s financial framework which describes how the BoE’s sources of income and capital support its activities and forms the basis for the statutory cash ratio deposits).

³⁷² Page 164 [Bank of England Annual Report and Accounts 1 March 2022–28 February 2023](#)

³⁷³ Page 210 [Bank of England Annual Report and Accounts 1 March 2022–28 February 2023](#)

³⁷⁴ Bank of England – [Statement on operational independence of the resolution and supervision functions of the Bank of England](#)

³⁷⁵ Section 2 'Matters Reserved to Court' of [Governance of the Bank of England including Matters Reserved to Court \(Approved by Court on 12 July 2022\)](#)

- Approval of the Bank’s annual operating and capital expenditure budgets.
- Approval of any individual project or contract with a budget in excess of £10 million.

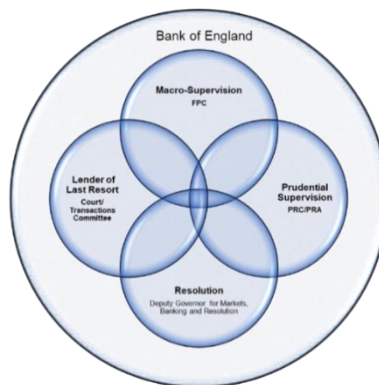
(415) The PRC must “with the approval of the court of directors, for each of the Bank’s financial years adopt an annual budget for the Bank’s functions as the Prudential Regulation Authority”.³⁷⁶ The PRA has rules³⁷⁷ and a Supervisory Statement³⁷⁸ outlining the PRA’s approach to annual funding.

(416) The PRA consults annually on fee rates with the publication of a consultation paper (CP). Feedback on the proposals in the CP is then published in a policy statement (PS), together with the final rule-making instrument and any agreed policy. There are a range of fee types set by the PRA: Periodic Fees which are allocated across ‘fee blocks’, which are groupings of firms conducting broadly similar regulated activities (including banks), Regulatory Transaction Fees and Special Project Fee (SPF) for Restructuring.

Section 5: Coordination of the Authorities – Nationally

Within the Bank of England

(417) The roles of each of the bodies within the BoE responsible for the ‘in-scope institutional arrangements are clearly defined.



Source: Alvarez & Marsal

(418) As a single institution, there is a presumption between cooperation and coordination between the parties although each area has specific and clearly defined parameters and objectives which will be the focus for their activities. While locating the resolution and supervisory functions within the BoE helps ensure there is close coordination between the PRA and the BoE RD in the preparation, planning and application of resolution decisions, however, there is functional and decision-making independence as described previously.

Other UK Authorities

(419) The BoE contains the in-scope institutional arrangements. However, in a crisis or resolution event, the BoE will coordinate with other UK authorities.

- HM Treasury: HMT is consulted on the decision to trigger resolution and the choice of tools, and HMT will as stated approve the use of public funds including ELA or Resolution Liquidity

³⁷⁶ [Section 18\(1\) Schedule 6A](#) of the Bank of England Act 1998, as amended

³⁷⁷ [Fees Part](#) of the PRA Rulebook

³⁷⁸ [Supervisory Statement | SS3/16 Fees: PRA approach and application \(June 2023\)](#)

Framework (RLF)³⁷⁹ and decide to put a bank into temporary public ownership where HMT conducts the resolution alongside the BoE.³⁸⁰

- **Financial Conduct Authority:** The PRA and the FCA have separate and independent mandates, which are set out in statute, reflecting the UK's 'Twin Peaks' micro-regulatory system. The FCA and the PRA will coordinate with each other before taking a number of actions, including triggering resolution under the Banking Act 2009. The PRA and the FCA will coordinate between themselves in the discharge of their responsibilities in respect of the FSCS, for instance the appointment of FSCS Board members or making rules in respect of the FSCS³⁸¹.
- **Financial Services Compensation Scheme:** The BoE works with the FSCS, particularly when it has concerns that a firm is at risk of failure and when firms fail, to ensure that those eligible depositors are protected (up to £85,000).³⁸² The MoU between the BoE and the FSCS³⁸³ places both parties under a duty to take such steps as they consider appropriate to cooperate with each other in the exercise of their functions.

The PRA will outline to the FSCS its priorities in relation to the FSCS. The FSCS will provide information, where requested, to support the PRA's assessment of a firm's resolvability and the likelihood that any failure would be orderly. The PRA will notify the FSCS as soon as reasonably practicable upon becoming aware that a deposit-taker or insurer has financial difficulties or there is activity in the sector which may reasonably likely to require either: (i) FSCS intervention; or (ii) a requirement for the FSCS to contribute funding. The FSCS will:

- Assist in the assessment of deposit-takers' systems to conduct a payout, including through the verification of deposit-takers' ability to provide a SCV file and exclusion file.³⁸⁴
- Keep the PRA informed of its preparedness to deliver on rapid payouts that are within its capability.
- Keep the PRA informed of the FSCS' procedures for coping with a significant failure of a firm that is beyond the capability of its existing dedicated staff and resources.

Section 6: Coordination of the Authorities – Internationally

(420) The BoE has a series of MoU outlining the form and procedures for cooperation between it and other jurisdictions Central Banks and / or supervisory organisations globally, including the EU, North and South America, Australia, Canada, Asia and China³⁸⁵, including the majority of the jurisdictions subject to this expert opinion:

- **EU Banking Union:** With the European Central Bank (ECB)³⁸⁶, Single Resolution Board (SRB)³⁸⁷, the European Banking Authority³⁸⁸ and a Multilateral MoU between EEA authorities³⁸⁹.

³⁷⁹ Paragraph 6 of the [Memorandum of Understanding on resolution planning and financial crisis management \(October 2017\)](#)

³⁸⁰ [The Bank of England's approach to resolution \(October 2017\)](#)

³⁸¹ [Memorandum of Understanding: Between the Financial Conduct Authority and the Bank of England \(exercising its prudential regulation functions\)](#)

³⁸² [Bank of England 'Resolution'](#)

³⁸³ [Memorandum of Understanding between the Bank of England and the Financial Services Compensation Scheme Ltd.](#)

³⁸⁴ [Depositor Protection](#) Part of the PRA Rulebook, chapters 12 and 14

³⁸⁵ [Bank of England - Governance and Funding](#)

³⁸⁶ [Memorandum of Understanding for supervisory cooperation between the European Central Bank and the Bank of England and the Financial Conduct Authority](#)

³⁸⁷ [Cooperation Arrangement between the Bank of England and the Single Resolution Board](#)

³⁸⁸ [Memorandum of Understanding on Cooperation and Information Exchange between European Banking Authority \('EBA'\) and the Bank of England and the Financial Conduct Authority](#)

³⁸⁹ [Multilateral Memorandum of Understanding on Supervisory Cooperation and Exchange of Information](#)

- United States: With the Federal Reserve System, Office of the Comptroller of the Currency and Federal Deposit Insurance Corporation (FDIC)³⁹⁰.
- Germany: Between the BoE, FCA and Federal Financial Supervisory Authority (BaFIN)³⁹¹.
- Canada: The BoE and PRA are both signatories to a MoU with the Canada Deposit Insurance Corporation (CDIC).³⁹²
- Hong Kong: The BoE, as prudential supervisor (PRA) With the Hong Kong Securities and Futures Commission³⁹³ and a MoU and 'side letter' with the Hong Kong Monetary Authority³⁹⁴

(421) The BoE still publishes MoUs between the former Financial Services Authority and the Swiss Federal Banking Commission³⁹⁵ and the Monetary Authority of Singapore³⁹⁶. We were unable to find information pertaining to the current status of these MoUs.

Section 7: Information Exchange between Authorities

Within the Bank of England

- (422) The general presumption is that information provided to one area of the BoE can be shared unless it is restricted information. For instance, returns provided to the PRA can be utilised for financial stability reasons.
- (423) Provisions in the Bank of England Act 1998, as amended³⁹⁷ “restricts the disclosure of information obtained for monetary policy or cash ratio deposit purposes”. However, HMT will periodically review the Cash Ratio Deposit Scheme, and a MoU between the BoE and HMT³⁹⁸ will meet to agree a timetable of key actions and meetings for the review period.
- (424) The BoE RD is required to “cooperate closely and, where appropriate, share information with other authorities and other areas of the Bank”. In relation to the PRA, this is achieved via “regular contact and a close working relationship between Resolution Directorate and the PRA.”³⁹⁹

Other UK Authorities

- (425) The MoU between the BoE and other UK authorities, HMT⁴⁰⁰, the FCA⁴⁰¹ and FSCS⁴⁰², contains the basis of the information that may be provided in a crisis / resolution event.

³⁹⁰ [Memorandum of Understanding- Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation and Bank of England](#)

³⁹¹ [Supervisory cooperation Memorandum of Understanding between the Bundesanstalt für Finanzdienstleistungsaufsicht and UK banking supervisory authorities](#)

³⁹² [Memorandum of Understanding Canada Deposit Insurance Corporation and the Prudential Regulation Authority & Bank of England](#)

³⁹³ [Memorandum of Understanding between Hong Kong SAR Securities and Future Commission and United Kingdom Bank of England](#)

³⁹⁴ Hong Kong Monetary Authority – [Supervisory Co-Operation](#)

³⁹⁵ [Memorandum of Understanding between the Swiss Federal Banking Commission and the Financial Services Authority](#)

³⁹⁶ [Memorandum of Understanding between the Monetary Authority of Singapore and the Financial Services Authority](#)

³⁹⁷ Section 37 of the Bank of England Act, as amended

³⁹⁸ [Financial relationship between HM Treasury and the Bank of England: memorandum of understanding](#)

³⁹⁹ Bank of England – [Statement on operational independence of the resolution and supervision functions of the Bank of England](#)

⁴⁰⁰ [Memorandum of Understanding on resolution planning and financial crisis management – HM Treasury and the Bank of England \(October 2017\)](#)

⁴⁰¹ [Memorandum of Understanding: Between the Financial Conduct Authority and the Bank of England \(exercising its prudential regulation functions\)](#)

⁴⁰² [Memorandum of Understanding between the Bank of England and the Financial Services Compensation Scheme Ltd.](#)

International Authorities

(426) Similarly, the MoUs referred to above, as well as the circa 47 MoUs the BoE has with other international jurisdictions, also provide for the sharing of non-public information. Though the detail varies to some extent, they generally relate to information that can be shared subject to national legal obligations and include the basis and procedure for requests being made, need to maintain confidentiality and adhere to data protection standards. In our opinion, the basis of the MoU is to provide a formal basis for co-operation and information sharing to facilitate the on-going actions of in terms of macro and micro-prudential supervision, as well as crisis/resolution management.

Section 8: Fund Solutions

Emergency Liquidity Assistance

(427) A bank will have access to the BoE's ELA provided it is solvent. ELA must be approved by HMT.

Resolution Liquidity Framework

(428) Liquidity support may be secured against a wide range of collateral, building on the collateral eligible in SMF. The terms and conditions of any lending, including the cost of drawing, would be set in a way designed to support the effectiveness of the resolution regime, incentivise the transition of the firm back to market-based funding, and protect public money.⁴⁰³ RLF funding must be approved by HMT.

Public Funds

(429) Resolution planning is conducted on the assumption that no public funds will be available to cover the losses of shareholders and creditors in resolution. However, temporary access to public funds may still be needed in some circumstances in which case. For example, a loan to the FSCS, should the FSCS incur costs above its capacity to support a rapid payout or transfer of protected deposits, may be required. The FSCS may request a loan from the National Loans Fund for the purpose of funding expenses incurred or expected to be incurred under the scheme.⁴⁰⁴

(430) Prior to the UK's exit of the EU, there was a requirement under the Bank Recovery and Resolution Directive (BRRD) there was a requirement to establish an ex-ante fund. The UK satisfied its obligations under the BRRD by raising contributions through the bank levy (a tax introduced following the financial crisis against all deposit taking institutions in the UK).⁴⁰⁵ Monies raised via the bank levy were paid into the UK's Consolidated Fund.⁴⁰⁶ Section 228 of the Banking Act 2009, as amended, provides the current legal basis for HMT to pay out of the Consolidated Fund expenditure incurred in connection with the exercise of the resolution powers.

Deposit Guarantee Scheme Funds

(431) The FSCS may be required by HMT to contribute to the cost of using a stabilisation option.⁴⁰⁷ The amount that may be requested is capped at the either the notional or actual net expenditure.⁴⁰⁸ This means the amount of expenses that were actually or would have been

⁴⁰³ [The Bank of England's approach to resolution \(October 2017\)](#)

⁴⁰⁴ Section 229 of the Banking Act 2009, as amended and [Section 223B of the Financial Services and Markets Act 2000](#) as amended

⁴⁰⁵ [Schedule 19 'The Bank Levy' of the Finance Act 2011](#). [Schedule 2AZ of the Financial Services and Markets Act 2023](#), will implement changes via Schedule 2ZA to the Bank of England Act 1998, as amended, making provision for "for the Bank to impose a charge on financial institutions in connection with the pursuit of its financial stability and monetary policy objectives".

⁴⁰⁶ Section 228 of the Banking Act, as amended

⁴⁰⁷ Section 214B of the Financial Services and Markets Act 2000, as amended

⁴⁰⁸ Section 214C of the Financial Services and Markets Act 2000, as amended

incurred under the compensation scheme in respect of the institution if the stabilisation power had not been exercised and the institution had been unable to satisfy claims against it, minus the total amount that was actually or would have been likely, at the time when the power was exercised, to be recovered in respect of the institution in those circumstances.

Section 9: Compensation Mechanisms for Government Support

Resolution Liquidity Framework

(432) Any losses incurred by the BoE or HMT in connection with the provision of liquidity support via the RLF would be recovered from industry.

Public Funds

(433) In the case a loan was provided to the FSCS to cover costs above its capacity to support a rapid payout or transfer of protected deposits, it would be repaid through levies on the industry and recoveries made by the FSCS in the insolvency.

Deposit Guarantee Scheme Funds

(434) Any payment made by the FSCS would be treated as an expense under the compensation scheme. The FSCS may impose levies for the purpose of meeting its expense on authorised firms, including banks. This is done annually, subject to an annual consultation published jointly by the PRA and FCA. All participant firms are required to contribute to the FSCS base costs, specific costs and compensation costs.⁴⁰⁹

Section 10: Advantages and Disadvantages of the UK's Institutional Approach

(435) Each of the institutional arrangements for the supervision and resolution of banks is contained in one institution subject to governance separation, though some powers of approval sit with HMT.

(436) This has a number of advantages. All aspects for financial stability are together within a single institution. The BoE is responsible for delivering systemic financial stability through macroprudential regulation, oversight of the safety and soundness of banks subject to micro-prudential policy and for crisis management including resolution and provision of Emergency Liquidity Assistance. Systemic and firm-specific regulation and resolution are coordinated.

(437) A single institution facilitates a 'continuity of processes' between macroprudential objectives and policy, supervision and resolution. Close cooperation and information exchange are eased, and views and information can be shared more effectively. For instance, the practical execution of macroprudential oversight is facilitated and informed by the intelligence gained from that micro-prudential supervision within the same institution as well as from the RD in crisis management and resolution events. Conversely it also allows the RD to be informed of deterioration in a bank's condition in a timely way and prepare for action, thus facilitating early contingency planning and speedy intervention.

(438) As a single institution, unless prohibited under legislation or internal arrangements, the expectation would be for the sharing and dissemination of information. The 'co-location' of functions may also support effective decision-making and resolution of differences. Potential conflict of objectives between the respective responsibilities and functions may more easily resolved within the internal decision-making structures of a single institution. For example, in

⁴⁰⁹ [Chapter 6 of the FCA Fees Manual](#)

respect of the PRAs supervisory responsibility in pulling the resolution trigger when declaring a bank as failing or likely to fail (FOLTF).

- (439) The potential conflict of objectives between the respective responsibilities and functions remains. A central bank, supervisor and resolution authority each have clear objectives and responsibilities, and at times these may be in conflict. PRA decisions may be counter to the RDs perspective in individual cases in the exercise of forbearance or decision to trigger the resolution decision under fail or likely to fail (FOLTF). Each function and area of responsibility may wish to promote a different objective in terms of a specific scenario and there could be stresses and tensions on internal institutional decision making. For example, the PRA may seek to delay determining a stressed bank to be in FOLTF and extend the period for recovery measures, whereas the RD may have an interest in taking resolution actions as early as possible to minimise the threat of instability in the event of a systemically important bank.
- (440) However, there is a legislative basis on which to establish governance and functional separation. Clear mandates and decision-making parameters to help ensure objectivity would be required. Decision making authority is separated subject to different statutory committee of the BoE, so this potential advantage depends entirely on internal organisation and decision-making arrangements. There are however some common memberships of the FPC and PRC.
- (441) A final advantage is of a more pragmatic nature. Ensuring a sustained level of experienced personnel with more focused and specialist knowledge which would more easily be shared via a single institution is easier. Personnel with specific experience can more easily transfer, or provide support, from one area to another. We would expect supervisory knowledge to be of greater depth than of the RD in respect of specific cases, and this would be available in a crisis scenario, while the RDs staff would have deep and specialist knowledge and skills.

Annex 5: Jurisdiction Focus – Germany

Section 1: Responsibilities

Area of Responsibility	
Macroprudential Supervision	The Financial Stability Committee (FSC): The FSC has responsibility for coordinating the combined activities of the FMF, Bundesbank and BaFin. Federal Ministry of Finance (FMF) Deutsche Bundesbank (Bundesbank) Federal Financial Supervisory Authority (BaFin)
Prudential Supervision	Federal Financial Supervisory Authority (BaFin) and the Deutsche Bundesbank through participation in Joint Supervisory Teams (JSTs) for significant banks. BaFin and Bundesbank for non-significant banks.
Recovery	Federal Financial Supervisory Authority (BaFin)
Resolution - Restructuring	Federal Financial Supervisory Authority (BaFin) and in conjunction with the SRB for significant institutions
Resolution - Liquidation	Federal Financial Supervisory Authority (BaFin) assesses public interest and liquidation carried out under normal insolvency proceedings
Lender of Last Resort	Deutsche Bundesbank (Bundesbank)

Macroprudential Supervision

Financial Stability Committee, Federal Ministry of Finance, Deutsche Bundesbank and Federal Financial Supervisory Authority

(442) This annex focuses on the activities and responsibilities at national level.

Financial Stability Committee

(443) The Financial Stability Committee (FSC) is the central body for macroprudential supervision in Germany. Established in 2013⁴¹⁰, the FSC identifies and addresses threats to financial stability.⁴¹¹

(444) The FSC includes representatives of three institutions⁴¹²:

- Federal Ministry of Finance (FMF): FMF has three representatives, one of whom is the chair.
- Deutsche Bundesbank (Bundesbank): The Bundesbank has three representatives.
- Federal Financial Supervisory Authority (BaFin): BaFin has four representatives, one of whom is a consulting member⁴¹³.

(445) Each of these institutions play a central role in safeguarding financial stability in their functions as financial ministry, central bank and supervisory authority:

⁴¹⁰ Section 2 of the [Financial Stability Act \(Finanzstabilitätsgesetz\)](#) English language version – unofficial text

⁴¹¹ Financial Stability Committee – [About the FSC](#)

⁴¹² Financial Stability Committee – [Members](#)

⁴¹³ BaFin Executive Board member responsible for the Directorate of Resolution shall be a non-voting advisory member of the Committee – Section 2(3) of the [Financial Stability Act \(Finanzstabilitätsgesetz\)](#) English language version – unofficial text

- The FMF suggests matters that are relevant to financial stability and should be discussed by the FSC.
- The Bundesbank has a legislative mandate to contribute to safeguarding the stability of the financial system (financial stability) in Germany⁴¹⁴ and identifies and assesses threats to financial stability, shares its analysis with the FSC and proposes warnings and recommendations if necessary, and evaluates their implementation.
- BaFin helps ensure financial stability through the use of supervisory tools (including macroprudential measures under the Banking Act⁴¹⁵) as the integrated supervisory authority for the banking, insurance and securities sectors.

(446) Where the FSC concludes that risks to financial stability are building up, it can issue warnings or make recommendations to the German government, BaFin or other public bodies in Germany. Though the FSC's deliberations are confidential⁴¹⁶ the FSC reports annually⁴¹⁷ to the German Bundestag and the public. The reports provide information on FSC activities and shares its assessments of stability within the German financial system.

(447) The core functions of the FCS are monitoring the risk situation and resilience of the financial system in a preventive manner:

- Monitoring the risk situation and the resilience of the financial system⁴¹⁸: The FSC discusses and assesses threats to financial stability in Germany based on Bundesbank analysis. The Bundesbank analyses and monitors the systemic and macroeconomic implications of the vulnerabilities and shocks. The Bundesbank also analyses and monitors the resilience of the financial system as resilience will impact the affect shocks have. The FSC also utilises BaFin findings arising from its supervisory activities.
- Communicating risks to financial stability⁴¹⁹: The FSC communicates regularly and transparently in order to provide effective macroprudential supervision. FSC communications account for its actions and informs the public about its activities, shares its assessment of the risk situation with market participants and notifies of a rise in systemic risks at an early stage in order to preventively reduce the likelihood and potential impact of a financial crisis.
- Warnings⁴²⁰: Warnings can be addressed to the German government, BaFin or other public bodies in Germany. They are generally published, unless publication itself may pose a threat to financial stability. Warnings are issued to alert relevant parties to an imminent threat to financial stability and when the contents of the warning can help to preserve financial stability.
- Recommendations⁴²¹: Recommendations can be addressed to the German government, BaFin or other public bodies in Germany. They are generally published, unless publication itself may pose a threat to financial stability. Imminent threats to financial stability are identified and specific courses of action proposed, including macroprudential measures that other German public authorities can take to help maintain financial stability. Recipients must inform the FSC how they will implement the recommended measures or explain why they intend to deviate from the recommendation. The FSC reviews, assesses and evaluates the implementation of recommendations, or the reasons given for deviations.

⁴¹⁴ Section 1 of the [Financial Stability Act \(Finanzstabilitätsgesetz\)](#) English language version – unofficial text

⁴¹⁵ [Banking Act \(Gesetz über das Kreditwesen\)](#) English language version – unofficial text

⁴¹⁶ Section 2(6) of the [Financial Stability Act \(Finanzstabilitätsgesetz\)](#) English language version – unofficial text

⁴¹⁷ Section 2(9) of the [Financial Stability Act \(Finanzstabilitätsgesetz\)](#) English language version – unofficial text

⁴¹⁸ Financial Stability Committee – [Monitoring](#)

⁴¹⁹ Financial Stability Committee – [FSC-Communication](#)

⁴²⁰ Section 3 of the [Financial Stability Act \(Finanzstabilitätsgesetz\)](#) English language version – unofficial text and Financial Stability Committee – [FSC-Warnings](#)

⁴²¹ [Financial Stability Act \(Finanzstabilitätsgesetz\)](#) English language version – unofficial text and Financial Stability Committee – [FSC Recommendations](#)

- Use of macroprudential tools⁴²²: Macroprudential instruments include various capital buffers, and are applied by BaFin, either at BaFin's own initiative or on FSC recommendation including the Capital Conservation Buffer (CCoB), Countercyclical Capital Buffer (CCyB), Systemic Risk Buffer (SyRB), Capital Buffer for Global Systemically Important Institutions (G-SIIs) and Capital Buffer for Other Systemically Important Institutions (O-SIIs)⁴²³. BaFin must involve the ECB in macroprudential measures within the scope of the SSM.

(448) In the event of an acute financial crisis the FSC does not respond with its own measures. However, it continues to perform its assessment of the macroprudential risk environment. The FMF, BaFin and the Bundesbank coordinate quickly and effectively via the FSC and communicate at an early stage, for example about the financial stability impact of crisis measures.⁴²⁴

Micro-Prudential Supervision

Federal Financial Supervisory Authority and Deutsche Bundesbank

(449) Significant institutions are directly supervised by the ECB. The ongoing supervision of these institutions is undertaken by Joint Supervisory Teams (JSTs) with BaFin and the Bundesbank.

(450) The less significant institutions continue to be supervised by the BaFin and the Bundesbank - approximately 1,400 less significant banks.⁴²⁵ However, the ECB performs an oversight function at the less significant institutions and exercises indirect supervision, e.g., via common guidelines on supervisory practices.

(451) BaFin and the Bundesbank seek to ensure adequate capital⁴²⁶, liquidity⁴²⁷ and risk management⁴²⁸.

(452) BaFin is the administrative authority responsible for the supervision of institutions under the Banking Act.⁴²⁹ As part of its prudential supervisory tasks, BaFin reviews the arrangements, strategies, processes and mechanisms implemented by an institution to comply with the prudential requirements, and evaluates⁴³⁰:

- The risks to which the institution is or might be exposed, including the risks revealed by stress testing taking into account the nature, scope and complexity of an institution's activities.
- The risks that an institution poses to the financial system taking into account the identification and measurement of systemic risk and recommendations of the European Systemic Risk Board (ESRB).

(453) The Bundesbank is responsible for most of the 'operational' banking supervision, including evaluating the documentation submitted by institutions, audit reports and annual financial statements as well as performing and evaluating on-site inspections.⁴³¹ It provides the results and evaluations from its ongoing monitoring available to BaFin without undue delay in order that the latter may make a final assessment of, and decision based on, the facts.⁴³²

⁴²² Financial Stability Committee - [Macroprudential instruments](#)

⁴²³ Sections 10(c) to (g) respectively of the [Banking Act \(Gesetz über das Kreditwesen\)](#) English language version – unofficial text

⁴²⁴ Financial Stability Committee – [FSC-Communication](#)

⁴²⁵ Deutsche Bundesbank – [Cooperation in the Single Supervisory Mechanism](#)

⁴²⁶ Federal Financial Supervisory Authority – [Capital requirements of credit institutions](#) Deutsche Bundesbank – [Own funds requirements](#) and Section 10 of the [Banking Act \(Gesetz über das Kreditwesen\)](#) English language version – unofficial text

⁴²⁷ Federal Financial Supervisory Authority – [Liquidity requirements](#) Deutsche Bundesbank – [Liquidity regulation](#) and Section 11 of the of the [Banking Act \(Gesetz über das Kreditwesen\)](#) English language version – unofficial text

⁴²⁸ Federal Financial Supervisory Authority – [Risk management](#) Deutsche Bundesbank – [Risk management](#) and Section 25(a) of the [Banking Act \(Gesetz über das Kreditwesen\)](#) English language version – unofficial text

⁴²⁹ Section 6(1) of the [Banking Act \(Gesetz über das Kreditwesen\)](#) English language version – unofficial text

⁴³⁰ Section 6(b) of the [Banking Act \(Gesetz über das Kreditwesen\)](#) English language version – unofficial text

⁴³¹ Deutsche Bundesbank – [Cooperation with the Federal Financial Supervisory Authority](#)

⁴³² Section 2.2.3(2) of BaFin's [Supervision Guideline](#) German language version

- (454) In consultation with the Bundesbank BaFin has issued a "Guideline on the execution and quality assurance of the ongoing supervision of credit and financial services institutions by the Deutsche Bundesbank" (Supervision Guideline).⁴³³
- (455) The Supervisory Review and Evaluation Process (SREP) evaluates four key elements: business model analysis; governance and risk management assessment; risks to capital; and risks to liquidity and funding and ⁴³⁴ there is a Supervision Guideline which outlines the approach for less significant institutes.
- (456) BaFin shall make the final summary and forward-looking assessment of⁴³⁵:
- Whether the risks that institutions have assumed are matched by policies, strategies, procedures and mechanisms that guarantee sound risk management and sound risk cover.
 - Whether the institution has ensured that the risks that it has assumed are matched by adequate liquidity and capital.
- (457) BaFin also has final assessment and decision-making authority for supervisory measures and questions of interpretation and, in consultation with the Bundesbank determines the supervisory strategy and supervisory planning for a credit institution.⁴³⁶
- (458) Differences of opinion between BaFin and the Bundesbank occurring in ongoing monitoring shall be jointly resolved. This shall occur in the regular meetings between the heads of banking supervision at the Bundesbank and BaFin. If an agreement cannot be reached, the FMF will decide in consultation with the Bundesbank.⁴³⁷

Recovery

Federal Financial Supervisory Authority

- (459) Unless exempt⁴³⁸ banks are required to prepare a recovery plan.⁴³⁹ Depending on the size, complexity, risk and potential impact of an insolvency on financial stability, BaFin, in cooperation with the Bundesbank, may permit banks to submit plans with simplified obligations and content.⁴⁴⁰
- (460) Recovery plans should set out indicators for identifying potential crises, escalation and decision-making processes, and the measures the bank can resort to (options) without external assistance in order to safeguard or restore its financial stability.
- (461) In addition to requirements in the Recovery and Resolution Act (SAG) and European Union (EU) regulations⁴⁴¹ the Regulation on the Minimum Requirements for the Design of Recovery Plans

⁴³³ Federal Financial Supervisory Authority – [Banks & financial services providers](#) and [Supervision Guideline](#) German language version

⁴³⁴ Deutsche Bundesbank - [Supervisory Review and Evaluation Process \(SREP\)](#)

⁴³⁵ Section 2.2.2(1) of BaFin's [Supervision Guideline](#) German language version

⁴³⁶ Section 2.2.2(2) and (3) of BaFin's [Supervision Guideline](#) German language version

⁴³⁷ Section 6.2 of BaFin's [Supervision Guideline](#) German language version and Section 4(a) of the [Financial Services Supervision Act \(Gesetz über die Bundesanstalt für Finanzdienstleistungsaufsicht\)](#) German language version

⁴³⁸ BaFin may in coordination with the Bundesbank, exempt an institution that is part of an institutional protection scheme – Section 20 of the [Recovery and Resolution Act \(SAG\) \(Gesetz zur Sanierung und Abwicklung von Instituten und Finanzgruppen – "Sanierungs- und Abwicklungsgesetz" \(SAG\)\)](#) German language version

⁴³⁹ Section 12 of the [Recovery and Resolution Act \(SAG\) \(Gesetz zur Sanierung und Abwicklung von Instituten und Finanzgruppen – "Sanierungs- und Abwicklungsgesetz" \(SAG\)\)](#) German language version

⁴⁴⁰ Section 19 of the [Recovery and Resolution Act \(SAG\) \(Gesetz zur Sanierung und Abwicklung von Instituten und Finanzgruppen – "Sanierungs- und Abwicklungsgesetz" \(SAG\)\)](#) German language version

⁴⁴¹ [Commission Delegated Regulation \(EU\) 2016/1075](#) of 23 March 2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the content of recovery plans, resolution plans and group resolution plans, the minimum criteria that the competent authority is to assess as regards recovery plans and group recovery plans, the conditions for group financial support, the requirements for independent valuers, the contractual recognition of write-down and conversion powers, the procedures and contents of notification requirements and of notice of suspension and the operational functioning of the resolution colleges

for Institutions⁴⁴² provides further detail on the content of recovery plans. BaFin has also published an information notice on recovery planning.⁴⁴³

(462) Recovery plans need to be updated at least once a year – and on an ad hoc basis in the event of material changes – and sent to the supervisor. Once submitted, recovery plans are reviewed by the supervisor.

(463) BaFin may also apply early intervention powers⁴⁴⁴, for example:

- Supervisors can require the management body in its management function of a particular bank to implement one or more arrangements or measures set out in the recovery plan or to change the business strategy.
- Should the supervisor find the management body in its management function unfit to perform its duties BaFin may remove of one or more members of the management body .
- BaFin may also appoint a temporary administrator replace or work with the bank’s management, under a remit as defined by BaFIN.

Resolution (Restructuring and Liquidation)

Federal Financial Supervisory Authority

(464) As a resolution authority, BaFin is part of the Single Resolution Mechanism (SRM). The SRM consists of the Single Resolution Board (SRB) and the national resolution authorities (NRAs) of participating Member States. In The SRB leads on resolution planning and, in the event of the resolution of a significant institution, the SRB will lead the resolution in consultation with BaFin as the NRA. BaFin would then execute and implement the resolution scheme.

(465) BaFin would lead on the resolution of less significant institutions as designated within the SSM. BaFin prepares resolution plans for institutions⁴⁴⁵ and assesses their resolvability⁴⁴⁶ The resolution plan must include the resolution measures that BaFin may take if the institution meets the resolution conditions and, where insolvency proceedings are not an option, sets out options for the application of the preferred resolution tools and powers. When developing the resolution plan and strategy, BaFin must not assume the granting of extraordinary financial support from public resources or Emergency Liquidity Assistance ELA).⁴⁴⁷

(466) Depending on the size, complexity, risk and potential impact an insolvency may have on financial stability, BaFin, in cooperation with the Bundesbank, allow resolution plans with simplified obligations and content.⁴⁴⁸

(467) If BaFin finds that there are material impediments to resolvability, the institution has to propose appropriate measures with which the impediments can be removed. If BaFin considers these

⁴⁴² [Regulation on the Minimum Requirements for the Design of Recovery Plans for Institutions \(Verordnung zu den Mindestanforderungen an Sanierungspläne für Institute Sanierungsplanmindestanforderungsverordnung\)](#) German language version

⁴⁴³ Federal Financial Supervisory Authority – [Information notice on recovery planning](#) German language version and Deutsche Bundesbank – [Regulation on the Minimum Requirements for the Design of Recovery Plans for Institutions](#)

⁴⁴⁴ Section 36 to 39 of the [Recovery and Resolution Act \(SAG\) \(Gesetz zur Sanierung und Abwicklung von Instituten und Finanzgruppen – “Sanierungs- und Abwicklungsgesetz” \(SAG\)\)](#) German language version

⁴⁴⁵ Section 40 of the [Recovery and Resolution Act \(SAG\) \(Gesetz zur Sanierung und Abwicklung von Instituten und Finanzgruppen – “Sanierungs- und Abwicklungsgesetz” \(SAG\)\)](#) German language version

⁴⁴⁶ Sections 57 and 58 of the of the [Recovery and Resolution Act \(SAG\) \(Gesetz zur Sanierung und Abwicklung von Instituten und Finanzgruppen – “Sanierungs- und Abwicklungsgesetz” \(SAG\)\)](#) German language version

⁴⁴⁷ Section 40 of the [Recovery and Resolution Act \(SAG\) \(Gesetz zur Sanierung und Abwicklung von Instituten und Finanzgruppen – “Sanierungs- und Abwicklungsgesetz” \(SAG\)\)](#) German language version

⁴⁴⁸ Section 41 of the [Recovery and Resolution Act \(SAG\) \(Gesetz zur Sanierung und Abwicklung von Instituten und Finanzgruppen – “Sanierungs- und Abwicklungsgesetz” \(SAG\)\)](#) German language version

measures to be appropriate, it can order the implementation of these measures; if it considers the to be inappropriate, it can order the implementation of other appropriate measures.⁴⁴⁹

(468) The bank would enter resolution upon the conditions for resolution being met⁴⁵⁰:

- The bank's status as a going concern is jeopardised, i.e., it is failing or likely to fail (FOLTF).
- No alternative measures: Other private sector or supervisory measures would not, with equal certainty, prevent the institution's failure within the available time frame.
- Public interest: Taking resolution action is proportionate and necessary in the public interest in order to achieve one or multiple resolution objectives and these would not be achieved to the same extent if the institution were wound up under normal insolvency proceedings.

(469) When using resolution tools and exercising resolution powers, BaFin takes the resolution objectives into account and selects the most suitable resolution tools and powers to achieve these objectives (i.e., ensuring the continuity of critical functions, avoiding significant adverse effects on financial stability, protecting public funds, protecting depositors covered by the German Deposit Guarantee Act and investors covered by the German Investor Compensation Act and protecting client funds and client assets).

(470) BaFin may apply the following resolution measures⁴⁵¹:

- Write-down and conversion of relevant capital instruments: BaFin must order the application of this tool to ensure that relevant capital instruments (Additional Tier 1 instruments and/or Tier 2 instruments) are written down and/or converted into shares or other Common Equity Tier 1 instruments. The institution's shareholders lose or dilute their legal position.
- Bail-in tool: BaFin may write down the eligible liabilities of an institution in full or in part and/or convert these liabilities into shares or other Common Equity Tier 1 instruments in the bank. The bail-in tool involves an absorption of the institution's losses by writing down eligible liabilities; these liabilities are used to the extent required by converting these into shares or other instruments to recapitalise the institution. The bank has to prepare a restructuring plan.
- Sale of business tool: BaFin may transfer the institution (or part of its business activities) to a third party without the consent of shareholders. BaFin has both the power to transfer shares or all or part of the institution's assets, rights and liabilities to the recipient.
- Transfer to a bridge institution: BaFin may transfer the shares or the assets, rights and liabilities of the institution under resolution to a bridge institution in order to maintain access to critical functions and sell the bridge institution or its assets, rights and liabilities to one or more private sector purchasers when conditions are appropriate within a two-year period.
- Transfer to an asset management company: BaFin may transfer all or parts of the assets, rights and liabilities of an institution under resolution to an asset management vehicle (AMV) without the consent of shareholders. This tool can only be used in combination with one or more of the other resolution tools.

(471) If the conditions for resolution are met (FOLTF, public interest, no alternative measures), the BaFin is responsible for issuing a resolution order and determining resolution measures.

(472) If BaFin judges that it the public interest assessment has not been met institutions are subject to normal insolvency proceedings via a liquidator.

⁴⁴⁹ Section 59 and 60 of the [Recovery and Resolution Act \(SAG\) \(Gesetz zur Sanierung und Abwicklung von Instituten und Finanzgruppen – "Sanierungs- und Abwicklungsgesetz" \(SAG\)\)](#) German language version

⁴⁵⁰ Section 62 of the [Recovery and Resolution Act \(SAG\) \(Gesetz zur Sanierung und Abwicklung von Instituten und Finanzgruppen – "Sanierungs- und Abwicklungsgesetz" \(SAG\)\)](#) German language version

⁴⁵¹ Federal Financial Supervisory Authority – [Resolution](#)

Lender of Last Resort **Deutsche Bundesbank**

(473) The Bundesbank may decide to grant ELA, subject to non-objection of the ECB Governing Council. Decisions on ELA are taken by the Bundesbank, which also bears their credit risk, but the non-objection of the ECB Governing Council is required for larger ELA operations. In order to obtain non-objection, ELA provided by the Bundesbank should meet requirements set out in an ELA agreement. In line with the ELA agreement, the Bundesbank would provide ELA only to solvent institutions, defined as meeting all Pillar 1 capital requirements (or being credibly able to restore compliance within a 24-week window). This assessment could be extended to include a more forward-looking assessment of bank viability (building, for example, on supervisory assessments of business models) and restoration of compliance with capital buffers.⁴⁵²

Section 2: Independence between Authorities

Financial Stability Committee

(474) The FSC was established within the FDF, the latter being part of the Federal Government. The Secretariat of the FSC⁴⁵³ assists the Chair in organising the meetings.⁴⁵⁴ Though the FSC comprises representatives from the FDF, Bundesbank and BaFin it is considered an independent body. This is supported by coordinated and uniform communications by the institutions represented in the Financial Stability Committee.⁴⁵⁵

(475) The FSC reports annually to the German Bundestag and the public.⁴⁵⁶ The reports provide information on FSC activities and shares its assessments of stability within the German financial system.

Federal Financial Supervisory Authority

(476) As part of the Federal administration, BaFin is subject to the legal and technical oversight of the FDF.⁴⁵⁷ BaFin is operationally independent when performing its supervisory responsibilities.⁴⁵⁸ The FMF and BaFin have agreed to the principles of cooperation (see Coordination of the Authorities – Nationally).

(477) BaFin is managed by the Executive Board, the President and the Administrative Council.⁴⁵⁹ The Executive Board has overall responsibility for managing the Supervisory Authority, without prejudice to the Federal Ministry's right to issue instructions.⁴⁶⁰ The Executive Board consists of the President and four Chief Executive Directors, one of whom is the President's permanent deputy. The Executive Board adopts the organisational statute⁴⁶¹ determining the functions and responsibilities within the Executive Board. The organisational statute and amendments to it are to be presented to the Federal Ministry for approval.⁴⁶²

⁴⁵² [Financial Sector Assessment Program Technical Note Germany – Crisis Management and Financial Safety Nets \(August 2022\)](#)

⁴⁵³ Section 2(1) of the [Financial Stability Act \(Finanzstabilitätsgesetz\)](#) English language version – unofficial text

⁴⁵⁴ Section 2(2) of the [Financial Stability Committee - Rules of Procedure](#) German language version

⁴⁵⁵ Financial Stability Committee – [FSC-Communication](#)

⁴⁵⁶ Section 2(9) of the [Financial Stability Act \(Finanzstabilitätsgesetz\)](#) English language version – unofficial text

⁴⁵⁷ Section 2 of the [Act Establishing the Federal Financial Supervisory Authority \(Finanzdienstleistungsaufsichtsgesetz – FinDAGI\)](#) English language version and Federal Financial Supervisory Authority – [Legal bases & organisation](#)

⁴⁵⁸ Federal Financial Supervisory Authority - [Principles of cooperation](#)

⁴⁵⁹ Section 5 of the [Act Establishing the Federal Financial Supervisory Authority \(Finanzdienstleistungsaufsichtsgesetz – FinDAGI\)](#) English language version

⁴⁶⁰ Section 2 of the [Statutes of the Federal Financial Supervisory Authority \(Satzung der Bundesanstalt für Finanzdienstleistungsaufsicht\)](#) English language version

⁴⁶¹ [Organisational Statute for the Federal Financial Supervisory Authority \(Organisationsstatut für die Bundesanstalt für Finanzdienstleistungsaufsicht – OsBaFin\)](#) English language version

⁴⁶² Section 6 of the [Act Establishing the Federal Financial Supervisory Authority \(Finanzdienstleistungsaufsichtsgesetz – FinDAG\)](#) English language version

- (478) The President⁴⁶³ decides on the strategic orientation of BaFin, is responsible for preparing BaFin's budget and defining BaFin's organisational structure, is responsible for central management, can issue instructions on an individual basis or take charge of matters.
- (479) The Administrative Council monitors the management of BaFin and supports it in the performance of its functions. The President must keep the Administrative Council regularly informed of BaFin's management activities and the Chief Executive Directors must report on their directorates' activities. Members of the members of the Administrative Council are appointed by the Federal Ministry and include the Chairperson and their Deputy, who are seconded by the Federal Ministry, two further representatives of the Federal Ministry, one representative of the Federal Ministry of Economics and Technology, one representative of the Federal Ministry of Justice, five members of the Bundestag, five representatives of the credit institutions, four representatives of insurance undertakings, one representative of asset management companies.

Deutsche Bundesbank

- (480) The Bundesbank is a federal legal entity under public law.⁴⁶⁴ When exercising the powers to which it is entitled the Bundesbank is independent of instructions from the Federal Government and it supports the general economic policy of the Federal Government.⁴⁶⁵
- (481) The Executive Board governs and manages the Bundesbank. It comprises the President, the Vice-President and four other members. The members of the Executive Board are appointed by the President of the Federal Republic of Germany. The President, the Vice-President and one other member are nominated by the Federal Government; the other three members are nominated by the Bundesrat (the upper house of Parliament representing the Federal States) in agreement with the Federal Government.⁴⁶⁶
- (482) As a member of the European System of Central Banks (ESCB), "neither the ECB, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from Union institutions, bodies, offices or agencies, from any government of a Member State or from any other body".⁴⁶⁷

Section 3: Resource Endowment

Federal Financial Supervisory Authority

- (483) BaFin had 2,870 employees as of 31 December 2022.⁴⁶⁸ In February 2022, about 550 employees worked in banking supervision.⁴⁶⁹

Deutsche Bundesbank

- (484) The Bundesbank had 10,294 FTE, 5,405 in the Central Office, 2,667 in Regional Offices and 2,223 in Branches as of 31 December 2022.⁴⁷⁰ In February 2022 about 1,500 were directly involved in the supervision of banks and Central Counterparties (CCPs).⁴⁷¹

⁴⁶³ Section 2 of the [Statutes of the Federal Financial Supervisory Authority \(Satzung der Bundesanstalt für Finanzdienstleistungsaufsicht\)](#) English language version

⁴⁶⁴ Section 2 of the [Law on the German Bundesbank - Gesetz über die Deutsche Bundesbank](#) German language version

⁴⁶⁵ Section 12 of the [Law on the German Bundesbank - Gesetz über die Deutsche Bundesbank](#) German language version

⁴⁶⁶ Deutsche Bundesbank - [Executive Board of the Deutsche Bundesbank](#) and Section 7 of the [Law on the German Bundesbank - Gesetz über die Deutsche Bundesbank](#) German language version

⁴⁶⁷ Protocol Number 4 Article 7 of the [Treaty on European Union](#) and the [Treaty on the Functioning of the European Union](#)

⁴⁶⁸ [2022 Annual Report Federal Financial Supervisory Authority](#)

⁴⁶⁹ [Financial Sector Assessment Program Technical Note Germany – Crisis Management and Financial Safety Nets \(August 2022\)](#)

⁴⁷⁰ Deutsche Bundesbank [Annual Report 2022](#)

⁴⁷¹ [Financial Sector Assessment Program Technical Note Germany – Crisis Management and Financial Safety Nets \(August 2022\)](#)

Section 4: Financing of Authorities

Federal Financial Supervisory Authority

(485) BaFin covers its expenditure entirely through its own cost allocations, fees and reimbursements. It receives no funding from the federal budget. BaFin raises the funds required to cover its costs from the undertakings it supervises.⁴⁷² BaFin's sources of funding consist primarily of:

- Fees: Charges under public law for administrative services, e.g., granting of a special authorisation or of an exemption.
- Separate reimbursements: The costs associated with a particularly expensive activity carried out for an individual undertaking are to be reimbursed separately by the latter.
- Cost allocations: The annual cost allocation usually constitutes the largest financial burden for the supervised undertakings and insofar as BaFin's costs are not covered by fees or by "separate reimbursement", they have to be apportioned on a pro rata basis to all the undertakings under its supervision.

Deutsche Bundesbank

(486) The Bundesbank is required to prepare a cost account to assist it in its management and administrative tasks. In compliance with this legislation, the Bundesbank draws up a standard cost account and an investment plan before the start of each financial year.⁴⁷³

(487) The Bundesbank receives income from a variety of its operations, including interest income, income from its financial operations, fees and commissions and gold. Its administrative and personnel expenses accounted for in its annual report.⁴⁷⁴

Section 5: Coordination of the Authorities – Nationally

(488) The FSC provides a forum for the cooperation and coordination of the key institutional authorities within the institutional setup for the supervision and resolution of banks in Germany. One of its specific tasks is the "strengthening [of] cooperation between the institutions represented on the Financial Stability Committee in the event of a financial crisis".⁴⁷⁵ The participating authorities exchange relevant information on an ongoing basis and collaborate in a coordinated manner. The FSC regularly discusses assessments of the risk situation, the resilience of the financial system, and new developments and their implications for financial stability.

(489) The legislation underpinning BaFin and the Bundesbank, also contain specific provisions on cooperation and coordination with other parties. For instance:

- The Bundesbank must advise the Federal Government on matters of major monetary policy importance and provide it with information upon request, while the Federal Government should involve the President of the German Bundesbank in its discussions on matters of monetary policy importance.⁴⁷⁶

⁴⁷² Federal Financial Supervisory Authority – [Financing](#) and Sections 13 to F6 of the [Act Establishing the Federal Financial Supervisory Authority \(Finanzdienstleistungsaufsichtsgesetz – FinDAGI\)](#) English language version

⁴⁷³ Section 26(4) of the [Law on the German Bundesbank - Gesetz über die Deutsche Bundesbank](#) German language version

⁴⁷⁴ Deutsche Bundesbank – [Annual Report 2022](#)

⁴⁷⁵ Section 2(2)2 of the [Financial Stability Act \(Finanzstabilitätsgesetz\)](#) English language version – unofficial text

⁴⁷⁶ Section 13 of the [Law on the German Bundesbank - Gesetz über die Deutsche Bundesbank](#) German language version

- BaFin and the Bundesbank actively and routinely cooperate in regard to banking supervision activities, with the respective roles and responsibilities supported in legislation and BaFin's Supervisory Guideline, made in consultation with the Bundesbank.⁴⁷⁷

(490) Although BaFin is subject to the legal and technical oversight of the FMF BaFin is operationally independent in its supervisory measures and takes such measures in its own responsibility. The FMF and BaFin have therefore agreed to the principles of cooperation⁴⁷⁸:

- Legal and technical supervision: The FMF respects the operational independence of BaFin, and the supervisory measures taken by BaFin are not reviewed ex-ante by the FMF. BaFin informs the FMF about the methods and manner of its supervision and the FMF can request ad hoc reports. BaFin informs the FMF of any politically important supervisory decisions. The FMF informs BaFin about significant political developments.
- Cooperation in regulation: BaFin supports the FMF in meeting its objectives and performing its duties in matters of national, European and international regulation. This includes technical support in the analysis, assessment and preparation of regulatory and legislative proposals.
- National regulation and standard-setting by BaFin: BaFin coordinates with the FMF regarding any statutory instruments, publications interpreting legal standards, and general administrative acts that are of a standard-setting nature.
- Staff and organisation: As a general principle, issuances under the remit of the FMF that concern organisational matters, rules of conduct or other measures in the area of federal revenue administration apply to BaFin, taking particular account of its status as a legal entity governed by public law with the right to employ civil servants.

Section 6: Coordination of the Authorities – Internationally

(491) The German authorities are subject to the duties of cooperation with the ECB, SRB and other members of the European Banking Union as outlined in the Annex European Banking Union Annex. For instance:

- There is “a duty of cooperation in good faith” between the ECB and national competent authorities within the SSM.⁴⁷⁹ The duty to cooperate in good faith is further developed in a Regulation establishing the framework for cooperation within the Single Supervisory Mechanism between the ECB and national competent and designated authorities.⁴⁸⁰
- The SRB works closely with Banking Union, European and international authorities.⁴⁸¹ The SRB and the NRAs such as BaFin closely cooperate with the (SSM), the European Commission, the Council of the EU, the European Parliament, as well as other European and international authorities: “... the Board, the Council, the Commission, the ECB and the

⁴⁷⁷ Section 7 of the [Banking Act \(Gesetz über das Kreditwesen\)](#) English language version – unofficial text and [Supervision Guideline](#) German language version

⁴⁷⁸ Federal Financial Supervisory Authority - [Principles of cooperation](#)

⁴⁷⁹ Article 6 of the Single Supervisory Mechanism Regulation - [Council Regulation \(EU\) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions](#)

⁴⁸⁰ [Regulation \(EU\) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities \(SSM Framework Regulation\) \(ECB/2014/17\)](#)

⁴⁸¹ Articles 30 to 32 of the Single Resolution Mechanism Regulation - [Regulation \(EU\) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation \(EU\) No 1093/2010](#)

national resolution authorities and national competent authorities shall cooperate closely, in particular in the resolution planning, early intervention and resolution phases...”.⁴⁸²

- (492) Each of the authorities with responsibility for the supervision and resolution of banks in Germany have further specific cooperation and coordination provisions as part of their remit.
- (493) The FSC functions as an interface with macroprudential supervisors across Europe. It serves as point of contact for the ESRB and the macroprudential authorities of other EU member states. Where warnings or recommendations may be expected to have a material cross-border impact, the FSC shall inform the ESRB prior to issuing its warning or recommendation.⁴⁸³ Similarly, it also provides advice with regard to warnings and recommendations addressed to Germany by the ESRB.⁴⁸⁴
- (494) The Bundesbank President is also a voting member of the European Systemic Risk Board (ESRB) and the Bundesbank is a member of the ESCB and, as such, is jointly responsible for price stability within the euro area.⁴⁸⁵ The Bundesbank also participates and engages in other European and international committees and organisations on issues concerning financial stability and the financial and monetary system are analysed and policy measures coordinated. These include: the Economic and Financial Affairs Council (Ecofin) and Economic and Financial Committee (EFC), the Financial Stability Board (of which the Bundesbank’s President is a member), the International Monetary Fund, Bank for International Settlements (and its Committee on the Global Financial System), multilateral development banks (MDBs) and informal cooperation in key groups of countries, most notably the G20 and the G7.⁴⁸⁶
- (495) Among BaFin’s tasks is to get involved in the creation of a single European financial market. In addition, it is represented in other international bodies and is involved in shaping international regulatory standards. In doing so, it represents the interests of Germany as a financial marketplace. These include the Basel Committee on Banking Supervision (BCBS) and the Financial Stability Board, of which BaFin’s President is a member.⁴⁸⁷
- (496) BaFin has legislative authority and requirement to cooperates with the European Commission, the European Banking Authority (EBA), the European Securities and Markets Authority and the European Insurance and Occupational Pensions Authority and ESRB. BaFin may further cooperate with the competent European Economic Area (EEA) authorities and with EBA and European Securities and Markets Authority (ESMA) in the supervision of institutions which conduct banking business or provide financial services in another EEA state.⁴⁸⁸
- (497) BaFin maintains contact with other global supervisory authorities. It mainly organises bilateral meetings with other supervisors and discusses current issues and developments with them. BaFin gives advice to foreign supervisory authorities within the framework of technical cooperation in order to support them in establishing and further developing their supervisory systems.⁴⁸⁹
- (498) BaFin also entered into a series of MoUs with supervisors globally. Some cover specific institutions and specific sectors as well as cross-sectoral MoUs and agreements also exist in bilateral and multilateral form. BaFin has over 60 in respect of banking supervision, including the

⁴⁸² Article 30 of the Single Resolution Mechanism Regulation - [Regulation \(EU\) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation \(EU\) No 1093/2010](#)

⁴⁸³ Section 4 of the [Financial Stability Act \(Finanzstabilitätsgesetz\)](#) English language version – unofficial text

⁴⁸⁴ Financial Stability Committee – [About the FSC](#)

⁴⁸⁵ Deutsche Bundesbank – [Role of the Bundesbank in financial and monetary stability](#)

⁴⁸⁶ Deutsche Bundesbank – [International Cooperation](#)

⁴⁸⁷ Federal Financial Supervisory Authority – [International Cooperation](#)

⁴⁸⁸ Sections 7(a), (b), (c), (d) and 8 of the of the [Banking Act \(Gesetz über das Kreditwesen\)](#) English language version – unofficial text –

⁴⁸⁹ Federal Financial Supervisory Authority – [Bilateral cooperation](#)

United States (Federal Reserve, Office of the Comptroller of the Currency and Federal Deposit Insurance Corporation), United Kingdom (Bank of England), Canada, Singapore and Hong Kong.⁴⁹⁰ In respect of its activities, it also has a MoU with the Single Resolution Board.⁴⁹¹

Section 7: Information Exchange between Authorities

- (499) The FSC may exchange information with the ESRB and, insofar as necessary, with the authorities charged with safeguarding financial stability in the other member states of the EU as required to safeguard financial stability.⁴⁹² Persons are exempt from their respective confidentiality requirements for the purposes of performing tasks on the FSC.⁴⁹³
- (500) There is a duty on members of the ESRB to “ensure that appropriate and reliable information flows between them”.⁴⁹⁴ The ESRB will provide the European Supervisory Authorities (ESAs), with the information on risks necessary for the achievement of their tasks and the ESAs, ESCB, the European Commission and national supervisory authorities shall cooperate closely with the ESRB and shall provide it with all the information necessary for the fulfilment of its tasks in accordance with EU legislation.⁴⁹⁵
- (501) The Bundesbank and BaFin exchange all information, in particular observations, findings and assessments, required for the purposes of BaFin performing its supervisory functions and by the Bundesbank for the purposes of performing its functions as set out in the Financial Stability Act.⁴⁹⁶ The Bundesbank and BaFin also exchange observations and findings that are necessary for the performance of their respective functions.⁴⁹⁷
- (502) BaFin and the Bundesbank, when cooperating with the supervisory authorities of other EEA Member States will exchange “all relevant and fundamental information required for the exercise of supervision”.⁴⁹⁸ BaFin may also provide the Bundesbank with information it has in respect of collections raised for the Restructuring Fund.⁴⁹⁹
- (503) There are general duties of cooperation and information exchange under legislation for both the ECB and SRB with national authorities such as BaFin and the Bundesbank. Under the SSM Regulation, the ECB and national competent authorities within the SSM have a “obligation to exchange information” and “national competent authorities shall in particular provide the ECB with all information necessary for the purposes of carrying out the tasks conferred on the ECB under the SSM Regulation.”⁵⁰⁰

⁴⁹⁰ Federal Financial Supervisory Authority – [Memoranda of Understanding](#)

⁴⁹¹ [Memorandum of Understanding between the European Central Bank and the Bundesanstalt für Finanzdienstleistungsaufsicht \(BaFin\)](#)

⁴⁹² Section 4 of the [Financial Stability Act \(Finanzstabilitätsgesetz\)](#) English language version – unofficial text

⁴⁹³ Section 2(7) of the [Financial Stability Act \(Finanzstabilitätsgesetz\)](#) English language version – unofficial text

⁴⁹⁴ Article 1(4) of the European Systemic Risk Board Regulation - [Regulation \(EU\) No 1092/2010 of the European Parliament and of the Council](#) as amended by [Regulation \(EU\) 2019/2176 of the European Parliament and of the Council of 18 December 2019 amending Regulation \(EU\) No 1092/2010 on European Union macroprudential oversight of the financial system and establishing a European Systemic Risk Board](#)

⁴⁹⁵ Article 15 of the European Systemic Risk Board Regulation - [Regulation \(EU\) No 1092/2010 of the European Parliament and of the Council](#) as amended by [Regulation \(EU\) 2019/2176 of the European Parliament and of the Council of 18 December 2019 amending Regulation \(EU\) No 1092/2010 on European Union macroprudential oversight of the financial system and establishing a European Systemic Risk Board](#)

⁴⁹⁶ Section 5 of the [Financial Stability Act \(Finanzstabilitätsgesetz\)](#) English language version – unofficial text

⁴⁹⁷ Section 7(3) of the [Banking Act \(Gesetz über das Kreditwesen\)](#) English language version – unofficial text

⁴⁹⁸ Section 8(3) of the [Banking Act \(Gesetz über das Kreditwesen\)](#) English language version – unofficial text

⁴⁹⁹ Section 14 of the [Restructuring Fund Act \(Gesetz zur Errichtung eines Restrukturierungsfonds für Kreditinstitute\)](#) German language version

⁵⁰⁰ Article 6 of the SSM Regulation - [Council Regulation \(EU\) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions](#)

- (504) The exchange of information between the ECB and national authorities is further provided for in the regulation establishing the framework for cooperation within the SSM. Information should be provided for in a timely and accurate manner.⁵⁰¹
- (505) The MoU between BaFin and the SRB includes provisions relating to the sharing of non-public information and cooperation. We would anticipate the other MoU to have similar information sharing provisions, but we have not been able to review them.

Section 8: Fund Solutions

Restructuring Fund

- (506) Under the SRM, the Single Resolution Fund (SRF)⁵⁰² is an emergency fund that can be called upon in times of crisis. It can be used to help ensure the efficient application of resolution tools for resolving the failing banks, after other options, such as the bail-in tool, have been exhausted.
- (507) The SRF is being built up over a period of 8 years (2016-2023) and must reach at least 1% of the amount of covered deposits of credit institutions in the Banking Union countries. Within the resolution scheme, the SRF may be used only to the extent necessary to help ensure the effective application of the resolution tools as described in Annex 2. The SRF shall not be used to absorb the losses of an institution or to recapitalise an institution. In exceptional circumstances, where an eligible liability or class of liabilities is excluded or partially excluded from the write-down or conversion powers, a contribution from the SRF may be made to the institution under resolution under two conditions, namely:
- Bail-in of at least 8%: losses totalling not less than 8% of the total liabilities including own funds of the institution under resolution have already been absorbed by shareholders after counting for incurred losses, the holders of relevant capital instruments and other eligible liabilities through write-down, conversion or otherwise.
 - Contribution from the SRF of maximum 5%: the SRF contribution does not exceed 5% of the total liabilities including own funds of the institution under resolution.
- (508) During the transitional period contributions raised at national level and transferred to the SRF are allocated to national compartments. Where the SRF is required, the SRB may use the available means in the SRF pursuant to a system of gradual mutualisation as described in Annex 2.
- (509) Germany's 'national compartment' is being funded via contributions from institutions into Germany's Restructuring Fund⁵⁰³, which is managed by BaFin as Germany's NRA⁵⁰⁴. BaFin's responsibilities include requesting the transfer of financial resources from another Member State's chamber or raising objections to the use of Germany's chamber.⁵⁰⁵
- (510) The uses of the Restructuring Fund reflect the EU requirements and can include:

⁵⁰¹ Articles 20 and 21 of the [Regulation \(EU\) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities \(SSM Framework Regulation\) \(ECB/2014/17\)](#)

⁵⁰² Chapter 2 of the Single Resolution Mechanism Regulation - [Regulation \(EU\) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation \(EU\) No 1093/2010](#)

⁵⁰³ Section 11a of the [Restructuring Fund Act \(Gesetz zur Errichtung eines Restrukturierungsfonds für Kreditinstitute](#) German language version

⁵⁰⁴ Section 1 of the [Restructuring Fund Act \(Gesetz zur Errichtung eines Restrukturierungsfonds für Kreditinstitute](#) German language version

⁵⁰⁵ Section 11(c) of the [Restructuring Fund Act \(Gesetz zur Errichtung eines Restrukturierungsfonds für Kreditinstitute](#) German language version

- Granting guarantees to an institution under resolution, its subsidiaries, a bridge institution or an asset management company.
- Securing assets an institution under resolution, its subsidiaries, a bridge institution or an asset management company, and when utilising the transfer of business tool can also secure the assets of the acquirer.
- Granting of loans institution under resolution, its subsidiaries, a bridge institution or an asset management company, and when utilising the transfer of business tool can also grant loans to the acquirer.
- Participating in the recapitalisation of a bridge institution or an asset management vehicle.
- Providing compensation to an institution if under a bail-in they suffered a larger shortfall due to the exclusion from write down of other liabilities.
- Paying of compensation under the ‘no creditor worse off’ principle

(511) The Restructuring Fund was established prior to the SRF. The Restructuring Fund may make the funds accumulated in years prior to SRM and SRF requirements available to the German chamber of the SRF as a loan to finance resolution measures.⁵⁰⁶

Deposit Guarantee Scheme (including Institutional Protection Schemes)

(512) Under the Deposit Guarantee Schemes Directive (DGSD)⁵⁰⁷ each Member State is required to have a deposit guarantee scheme, providing covered funds of €100,000 per depositor per authorised bank. In the event a depositor's funds become unavailable, i.e., in a bank insolvency, then the depositor would receive an amount up to the coverage level.

(513) DGS funds may be made available⁵⁰⁸ provided that the action ensures that depositors continue to have access to their deposits. The DGS to which the institution is affiliated is liable for⁵⁰⁹:

- When the bail-in tool is applied, the amount by which covered deposits would have been written down in order to absorb the losses in the institution had covered deposits been included within the scope of bail-in and been written down to the same extent as creditors with the same level of priority under the national law governing normal insolvency proceedings. However, the deposit guarantee scheme shall not be required to make any contribution towards the costs of recapitalising the institution or bridge institution.
- When one or more resolution tools other than the bail-in tool is applied, the amount of losses that covered depositors would have suffered, had covered depositors suffered losses in proportion to the losses suffered by creditors with the same level of priority under the national law governing normal insolvency proceedings.

(514) In all cases, the liability of the deposit guarantee scheme shall not be greater than the amount of losses that it would have had to bear had the institution been wound up under normal insolvency proceedings. If a post resolution valuation shows that the deposit guarantee scheme's contribution to resolution was greater than the net losses it would have incurred had the institution

⁵⁰⁶ Section 12j of the [Restructuring Fund Act \(Gesetz zur Errichtung eines Restrukturierungsfonds für Kreditinstitute\)](#) German language version

⁵⁰⁷ Deposit Guarantee Schemes Directive – [Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes \(recast\)](#)

⁵⁰⁸ Article 79 of the Single Resolution Mechanism Regulation - [Regulation \(EU\) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation \(EU\) No 1093/2010](#)

⁵⁰⁹ Article 109 of the [Bank Recovery and Resolution Directive](#)

been wound up under normal insolvency proceedings, the deposit guarantee scheme shall be entitled to the payment of the difference from the resolution financing arrangement.

- (515) In Germany, all banks are required to guarantee deposits with them through membership of a statutory deposit guarantee scheme (DGS) or a recognised institutional protection scheme (IPS).⁵¹⁰ Guarantees under the Deposit Insurance Act cover customer deposits of up to €100,000 per institution. Subject to certain conditions, coverage can be increased to up to €500,000 for a period of six months after deposited amounts are credited.⁵¹¹

Emergency Liquidity Assistance

- (516) The Bundesbank may decide to grant ELA, subject to non-objection of the ECB Governing Council. The Bundesbank would provide ELA only to solvent institutions.⁵¹²

Section 9: Compensation Mechanisms for Government Support

Restructuring Fund

- (517) Institutions make annual contributions to the Restructuring Fund, collected by BaFin, subject to the target fund level. Once the target level of the fund is reached, if the available financial resources fall below the target level, annual contributions will resume. If the available financial means are not sufficient for the resolution measure being undertaken, special contributions may be levied. BaFin may defer payments of a levy by an individual institution if the payment would jeopardise the institutions liquidity or solvency.⁵¹³

Deposit Guarantee Scheme (including Institutional Protection Schemes)

- (518) The DGSD requires build-up of a DGS ex-ante fund. DGSs raise the available financial means by contributions to be made by member banks at least annually.
- (519) Where the financing capacity falls short of the target level, the payment of contributions shall resume at least until the target level is reached again. If, after the target level has been reached for the first time, the available financial means have been reduced to less than two-thirds of the target level, the regular contribution shall be set at a level allowing the target level to be reached within six years.
- (520) The Deposit Insurance Act reflects the scope of EU legislation. Until the target level of the statutory compensation scheme to which they are assigned is reached, institutions are obliged to make annual contributions to Germany's statutory compensation scheme. If the available financial resources of the DGS are not sufficient to compensate depositors, then required to pay special contributions to cover costs or repay any loan that has been taken to fund the compensation payments. If special contributions were not ultimately used to pay compensation they will be refunded to the institution. The deposit guarantee scheme will also recover monies via normal insolvency proceedings.⁵¹⁴

⁵¹⁰ Section 1 of the [Deposit Insurance Act \(Einlagensicherungsgesetz \(EinSiG\)\)](#) German language version and Federal Financial Supervisory Authority - [What is covered by the German Deposit Guarantee Act?](#)

⁵¹¹ Section 20 of the [Deposit Insurance Act \(Einlagensicherungsgesetz \(EinSiG\)\)](#) German language version and Section 145 of the [Recovery and Resolution Act \(SAG\) \(Gesetz zur Sanierung und Abwicklung von Instituten und Finanzgruppen – "Sanierungs- und Abwicklungsgesetz" \(SAG\)\)](#) German language version

⁵¹² [Financial Sector Assessment Program Technical Note Germany – Crisis Management and Financial Safety Nets \(August 2022\)](#)

⁵¹³ Sections 12, 12a, 12b, 12c, 12d, 12e and 12o of the [Recovery and Resolution Act \(SAG\) \(Gesetz zur Sanierung und Abwicklung von Instituten und Finanzgruppen – "Sanierungs- und Abwicklungsgesetz" \(SAG\)\)](#) German language version

⁵¹⁴ Sections 17, 18, 19, 20, 26, 27, 28, 29, 30 and 31 of the [Deposit Insurance Act \(Einlagensicherungsgesetz \(EinSiG\)\)](#) German language version

Emergency Liquidity Assistance

(521) The facilities offered by the Bundesbank as part of its normal open market operations⁵¹⁵ will only be provided to institutions upon receipt of suitable collateral.⁵¹⁶ Assets need to fulfil a number of criteria to be accepted as eligible collateral by the Eurosystem.⁵¹⁷

Section 10: Advantages and Disadvantages of the German Institutional Approach

(522) There are three authorities responsible for the institutional arrangements (i.e., the institutional separation approach) for bank supervision and resolution in Germany: the FMF, Bundesbank and BaFin. For macroprudential supervision these are brought together under the auspices of the FSC.

(523) There is a clear advantage to the approach taken. Objectivity is clearly demonstrated, with each authority having specific legislative objectives and mandates to on which to act. In relation to macroprudential supervision each authority, including the FSC, has a specific role and activities it performs but the close cooperation and information exchange are facilitated with the FSC and the practical execution of macroprudential oversight is facilitated and informed by the intelligence gained from that micro-prudential supervision performed by BaFin and the Bundesbank. However, given the activities the Bundesbank undertakes in cooperation with BaFin in micro-prudential supervision, it needs to ensure appropriate arrangements are in place to minimise potential conflicts of interest or objective between its internal functions.

(524) In addition, BaFin has a dual role as supervisor and resolution authority. Consequently, there remains a possibility that the objectivity existing between the Bundesbank and BaFin is lessened when considering this dual role.

(525) There is an inherent potential conflict of interest or objective between the differing functions of a single institution such as BaFin's activities as supervisor and resolution authority. Supervisory decisions may be counter to the resolution functions perspective in individual cases whether it is in the exercise of forbearance or decision to declare a bank as failing or likely to fail (FOLTF). Each function and area of responsibility may wish to promote a different objective in terms of a specific scenario and there could be stresses and tensions on BaFin's internal decision making. For example, the supervisor may seek to delay determining a stressed bank to be non-viable (FOLTF) and extend the period for recovery measures, whereas the resolution function may have an interest in taking resolution actions as early as possible to minimise the threat of instability in the event of a systemically important bank. Clear mandates and decision-making processes need to be in place to minimise potential conflicts of interest or objective.

(526) The emergence of formally established resolution authorities is a relatively new trend arising from the GFC. Where a resolution authority function is newer and possibly less resourced within a single authority its reputation and influence may not be as strong as the supervisory function. However, this is not based on specific information or an assessment of BaFin's setup.

(527) Close cooperation and information exchange may be more difficult to manage and facilitate from a practical perspective between multiple authorities. However, there is a legislative basis for information sharing and cooperation between the FSC members, and the FSC has a specific task to ensure coordination and collection and sharing of information between parties and its members have a duty to share information between them. The Bundesbank and BaFin have a clear obligation to cooperate and share information in respect of supervisory activities. There is a legislative basis for setting up a joint database between the Bundesbank and BaFin which may

⁵¹⁵ Deutsche Bundesbank – [Open market operations](#)

⁵¹⁶ Deutsche Bundesbank – [Collateral](#)

⁵¹⁷ Deutsche Bundesbank – [Eligibility criteria](#)

ease the practical and logistical issues, but what is put into such databases will still be subject to individual or institutional judgement.

- (528) By virtue of multiple authorities with multiple decision-making arrangements being employed, actions and required activities may be less effective and time-efficient, thus potentially decreasing the timeliness in a crisis. In a crisis event, speed and effectiveness of actions is essential. However, the FSC and general obligations in legislation between the Bundesbank and BaFin should help mitigate these. They have long-practiced experience of sharing and coordinating actions, for instance the Bundesbank and BaFin's micro-prudential supervision.
- (529) A final disadvantage is of a more pragmatic nature. Ensuring a sustained level of experienced staff with sufficient expertise is more difficult when there are two or more authorities competing for similarly qualified personnel. We would also note from our experience that central banks tend to have personnel with more focused and specialist knowledge, which would more easily be shared via a single institution approach. However, the housing of the supervisory and resolution function within BaFin means that the assumed greater depth of supervisory knowledge of a bank to be available to BaFin's resolution function while the resolution functions staff would have deep and specialist knowledge and skills to deploy in a crisis event.

Annex 6: Jurisdiction Focus – Canada

Section 1: Responsibilities

Area of Responsibility	
Macroprudential Supervision	Office of the Superintendent of Financial Institutions Bank of Canada
Prudential Supervision	Office of the Superintendent of Financial Institutions
Recovery	Office of the Superintendent of Financial Institutions
Resolution - Restructuring	Canada Deposit Insurance Corporation
Resolution - Liquidation	Canada Deposit Insurance Corporation and Office of the Superintendent of Financial Institutions may apply for a bank to be wound up
Lender of Last Resort	Bank of Canada

Canada's regulatory system is based on a constitutional framework that divides responsibility for supervision of the financial markets between federal and provincial governments and designated agencies. This annex focuses on the federal approach to banking supervision and resolution.

Macroprudential Supervision

Office of the Superintendent of Financial Institutions and Bank of Canada

(530) Responsibility for systemic risk oversight is not explicitly assigned to any specific body, though powers over macroprudential tools for the banking sector lie with the Office of the Superintendent of Financial Institutions (OSFI) and the Bank of Canada (BOC).⁵¹⁸

Office of the Superintendent of Financial Institutions

(531) OSFI is an independent agency of the Government of Canada, established to protect depositors, policyholders, financial institution creditors, and pension plan members, while allowing financial institutions to compete and take reasonable risks. In addition to its enabling act, the Office of the Superintendent of Financial Institutions Act⁵¹⁹, it operates within the framework of other key legislation⁵²⁰ and regulations. These acts set out specific requirements and provisions relating to the operation, governance, capital adequacy, risk management, and prudential supervision of financial institutions and pension plans in Canada.⁵²¹

(532) Its overarching mandate is to contribute to strengthening public confidence in the Canadian financial system by:

- Fostering sound risk management and governance practices.
- Supervising and intervening early.
- Conducting environmental scanning for the safety and soundness of financial institutions.
- Taking a balanced approach.

⁵¹⁸ [Financial Sector Assessment Program Technical Note Canada – Systemic Risk Oversight and Macroprudential Policy \(January 2020\)](#)

⁵¹⁹ [The Office of the Superintendent of Financial Institutions Act](#)

⁵²⁰ [The Bank Act](#), the Insurance Companies Act, the Trust and Loan Companies Act and the Cooperative Credit Associations Act, the Pension Benefits Standards Act and the Pooled Registered Pension Plans Act

⁵²¹ Office of the Superintendent of Financial Institutions – [OSFI Annual report 2022-2023](#)

- (533) OSFI supervises and regulates federally registered banks and other financial institutions, including the designation and supervision of Canada's domestic systemically important banks (D-SIBs).⁵²²
- (534) OSFI's risk appetite statement⁵²³ takes a macro-responsive risk management approach. That risk perspective is then taken into consideration in the work OSFI does at individual financial institutions and pension plans. It seeks to influence policymaking and supervision to strengthen public confidence and achieve long-term resilience in the Canadian financial system. OSFI's macro-responsive mindset extends to its Annual Risk Outlook⁵²⁴ which provides an overview of the most significant risks facing Canada's financial system.
- (535) OSFI has the power to issue guidelines setting prudential requirements regarding capital and liquidity to federally regulated deposit-taking institutions.⁵²⁵ OSFI's prudential tools may also be deployed to enhance system-wide financial stability. For instance, the D-SIB capital surcharge and Domestic Stability Buffer (DSB). OSFI reviews and sets the level of the DSB on a semi-annual basis (June and December), based on its ongoing monitoring of federally regulated financial institutions (FRFIs) as well as system-wide and sectoral developments.
- (536) The countercyclical capital buffer (CCyB) framework is in place, but the CCyB has not been activated.⁵²⁶
- (537) When OSFI identifies issues that may impact the stability of the financial system, it reports them to the Financial Institutions Supervisory Committee (FISC).⁵²⁷

Bank of Canada

- (538) BOC acts "to regulate credit and currency in the best interests of the economic life of the nation."⁵²⁸ The BOC promotes the economic and financial welfare of Canada by fostering a stable and efficient financial system, which includes banks and credit unions, the financial markets, and clearing and settlement systems.
- (539) The Governing Council leads the Bank. As its policy-making body, it is responsible for conducting monetary policy and promoting a safe and efficient financial system. The Governing Council is comprised of the Governor, the Senior Deputy Governor and the Deputy Governors. The Executive Council comprised of the Governing Council, the Chief Operating Officer and the Executive Director – Supervision. They chart the strategic direction of the Bank.
- (540) BOC conducts analysis and research to identify and mitigate systemic risks that might impair the functioning of the financial system. The results are published once a year in the Financial System Review.⁵²⁹ BOCs stress testing provides a quantitative assessment of the expected impact of financial stability risks on financial system participants should those risks materialise.
- (541) BOCs stress-test model for the banking sector, the MacroFinancial Risk Assessment Framework (MFRF)⁵³⁰ quantifies the impact of risk scenarios on D-SIBs. It focuses on systemic risk and so the focus of stress testing at the BOC is not on the impact on individual banks, but on the banking sector as a whole.
- (542) However, the MFRF does consider individual banks separately to take into account their interactions and contagion effects (e.g., fire sales and network effects). MFRF contributes to

⁵²² Office of the Superintendent of Financial Institutions – [Supervisory Framework](#)

⁵²³ Office of the Superintendent of Financial Institutions – [Refining how we approach risk](#)

⁵²⁴ Office of the Superintendent of Financial Institutions – [OSFI's Annual Risk Outlook – Fiscal Year 2023-2024](#)

⁵²⁵ [Financial Sector Assessment Program Technical Note Canada – Systemic Risk Oversight and Macroprudential Policy \(January 2020\)](#)

⁵²⁶ [Financial Sector Assessment Program Technical Note Canada – Systemic Risk Oversight and Macroprudential Policy \(January 2020\)](#)

⁵²⁷ Office of the Superintendent of Financial Institutions – [Supervisory Framework](#)

⁵²⁸ Preamble of the [Bank of Canada Act](#)

⁵²⁹ Bank of Canada – [Financial system](#) and Bank of Canada – [Financial System Review](#)

⁵³⁰ Bank of Canada – [The MacroFinancial Risk Assessment Framework \(MFRF\), Version 2.0](#)

the BOCs ability to assess systemic risk and its transmission channels by enhancing BOCs understanding of how these different risks interact and how the actions of individual banks under stress affect the overall banking system.

- (543) While MFRAF has been developed as a top-down stress-test model to be used by authorities for purposes of systemic risk assessment, it has also been used as a “hybrid” in the context of the OSFI–BOC macro stress test.⁵³¹ BOC co-operates with OSFI and the Canadian D-SIBs to conduct a macroprudential stress test every other year. These tests consider interactions between banks and the real economy as well as contagion effects across the financial system.⁵³²

Micro-Prudential Supervision **Office of the Superintendent of Financial Institutions**

- (544) As stated OSFI supervises and regulates federally registered banks. Currently, that covers 81 banks⁵³³ including Canada’s six D-SIBs.
- (545) OSFI applies a Supervisory Framework⁵³⁴ which assesses the safety and soundness of FRFIs, providing feedback as appropriate, and using powers for timely intervention where necessary. Its primary goal is to safeguard depositors and policyholders from loss.
- (546) The intensity of supervision will depend on the nature, size, complexity and risk profile of a FRFI, and the potential consequences of the FRFI’s failure. Where there are identified risks or areas of concern, the degree of intervention will follow the Guide to Intervention for Federally Regulated Deposit-Taking Institutions⁵³⁵ which involves 4 stages after ‘No significant problems/Normal activities’ status: Stage 1 - Early warning; Stage 2 - Risk to financial viability or solvency; Stage 3 - Future financial viability in serious doubt; Stage 4 - Non-viability / insolvency imminent.
- (547) The Supervisory Framework uses a number of concepts to enable a common approach to risk assessment across FRFIs. These cover significant activities, inherent risk, quality of risk management (QRM), net risk, overall net risk, earnings, capital, liquidity, the Risk Matrix and Composite Risk Rating. OSFI uses a defined process to guide its FRFI-specific supervisory work: the first step is planning supervisory work; the second is executing supervisory work and updating the risk profile; and the third is reporting and intervention.
- (548) OSFI's enhanced supervision of D-SIBs includes the following⁵³⁶:
- Supervisory colleges.
 - Greater frequency and intensity of on- and off-site monitoring of institutions' risk management activities and corporate governance, including more granular reporting to OSFI.
 - More extensive use of specialist expertise.
 - Greater use of cross-institution reviews, both domestically and internationally.
 - Selective use of external reviews.
 - Regular use of stress tests to inform capital and liquidity assessments and setting, monitoring, and enforcing minimum and target total loss-absorbing capacity.

⁵³¹ Bank of Canada – [The MacroFinancial Risk Assessment Framework \(MFRAF\), Version 2.0](#)

⁵³² [Bank of Canada – Financial System Review June 2017](#)

⁵³³ 35 domestic banks, 15 foreign banks, 27 foreign bank branches (fill service) and 4 foreign bank branches (lending) - Office of the Superintendent of Financial Institutions - [Who We Regulate](#)

⁵³⁴ Office of the Superintendent of Financial Institutions – [Supervisory Framework](#)

⁵³⁵ Office of the Superintendent of Financial Institutions – [Guide to Intervention for Federally Regulated Deposit-Taking Institutions](#)

⁵³⁶ Chapter 1 of the Office of the Superintendent of Financial Institutions [Capital Adequacy Requirements \(CAR\) Guideline](#)

Recovery

Office of the Superintendent of Financial Institutions

- (549) OSFI requires all D-SIBs to have recovery plans⁵³⁷ and uses a range of criteria to determine which other banks must prepare recovery plans (in general, medium-sized and small deposit taking institutions in 'stage 2'⁵³⁸ or higher must prepare recovery plans). OSFI provides guidance in the form of the 2012 recovery plan principles and a series of technical notes, but the recovery plan principles and technical notes have not been published.⁵³⁹ Recovery planning supervision and assessment undertaken within OSFI's routine supervisory framework for D-SIBs and may also be pursued in mid-sized and small banks.⁵⁴⁰
- (550) The Canada Deposit Insurance Corporation (CDIC), BOC and host Crisis Management Group (CMG) members provide feedback to OSFI on D-SIB and other deposit takers recovery plans. CDIC reviews recovery plans largely to support CDIC's resolution planning efforts and BOC reviews D-SIBs' recovery plans with a focus mainly from funding, liquidity, and access to FMI. The four federal authorities also participate in periodic recovery planning information-sharing meetings which address firm-specific matters for mid-sized and small banks. D-SIBs' recovery plans are reviewed by host authorities in the context of OSFI-led CMG meetings.⁵⁴¹
- (551) As a bank's position deteriorates according to the Guide to Intervention for Federally Regulated Deposit-Taking Institutions⁵⁴², OSFI will intervene to a greater extent to help facilitate recovery and a return to a stable and viable position. Similarly, the CDIC involvement and potential actions will increase with a view to facilitating the resolution of the bank or reimbursement of depositors.

- **Stage 1 - Early warning:** In addition to its normal activities OSFI's may include but not be limited to formally notifying management, the Board and external auditor the institution is required to take measures to mitigate or rectify identified deficiencies, conducting enhanced or more frequent supervisory reviews, entering a prudential agreement with the institution for the purpose of implementing any measure designed to maintain or improve the safety and soundness of the institution, increasing capital or imposing business restrictions.

The CDIC may also request further information or place the bank on the CDIC watchlist but would not normally intervene at Stage 1.

- **Stage 2 - Risk to financial viability or solvency:** Further OSFI activities may include but not be limited to enhanced monitoring of remedial measures, conducting follow-up supervisory reviews more frequently and/or enlarging their scope and developing a contingency plan to enable OSFI to be ready to take rapid control of the assets of the institution or the institution itself in case of rapid deterioration.

CDIC actions at Stage 2 may include but not be limited to sending a report on to the Chair/Chief Executive Officer (CEO) if the member institution is not in compliance with a CDIC by-law or is in breach of its policy of deposit insurance. CDIC may terminate the member institution's policy of deposit insurance. The CDIC may conduct a preparatory examination with the approval of the Superintendent and apply to Court for an order directing compliance with the Canada Deposit Insurance Act (CDIC Act)⁵⁴³.

⁵³⁷ As referenced in Chapter 1 of the Office of the Superintendent of Financial Institutions [Capital Adequacy Requirements \(CAR\) Guideline](#)

⁵³⁸ Office of the Superintendent of Financial Institutions – [Guide to Intervention for Federally Regulated Deposit-Taking Institutions](#)

⁵³⁹ [Financial Sector Assessment Program Technical Note Canada – Bank Resolution and Crisis Management \(January 2020\)](#)

⁵⁴⁰ [Financial Sector Assessment Program Technical Note Canada – Bank Resolution and Crisis Management \(January 2020\)](#)

⁵⁴¹ [Financial Sector Assessment Program Technical Note Canada – Bank Resolution and Crisis Management \(January 2020\)](#)

⁵⁴² Office of the Superintendent of Financial Institutions – [Guide to Intervention for Federally Regulated Deposit-Taking Institutions](#)

⁵⁴³ [Canada Deposit Insurance Corporation Act](#)

- Stage 3 - Future financial viability in serious doubt: OSFI's further actions may include but not be limited to directing external specialists or professionals to assess certain areas, enhanced business restrictions, OSFI staff being present at the institution to monitor the situation on an ongoing basis and expanding contingency planning.

CDIC actions at Stage 3 may include but not be limited to minimising the exposure of CDIC to loss by providing support for a restructuring transaction by acquiring assets from the member institution, making or guaranteeing loans or advances with or without security, to the member institution or making or guaranteeing a deposit with the member institution.

- Stage 4 – Non-viability/insolvency imminent: OSFI activities may at this stage include but not be limited to assuming temporary control of the assets of the institution the Minister advises OSFI that it is not in the public interest to do so and requesting that the Attorney General of Canada apply for a winding-up order in respect of the institution where the assets of the institution are under the control of the Superintendent, or the institution is under the control of the Superintendent.

CDIC actions at Stage 4 may include but not be limited to cancelling the policy of deposit insurance, initiating a “FIRP”⁵⁴⁴ following receipt of the formal Superintendent’s report that the institution has ceased, or is about to cease, to be viable or circumstances exist that would allow the Superintendent to take control and grounds would exist to make a winding-up order, applying for a winding-up order under the Winding-up and Restructuring Act⁵⁴⁵.

Resolution (Restructuring and Liquidation) **Canada Deposit Insurance Corporation**

(552) OSFI can requesting that the Attorney General of Canada apply for a winding-up order in respect of the institution where the assets of the institution are under the control of the Superintendent, or the institution is under the control of the Superintendent. CDIC may apply for a winding-up order under the Winding-up and Restructuring Act where, in the opinion of CDIC, the member institution is or is about to become insolvent, unless the Minister advises that it would not be in the public interest to do so.⁵⁴⁶

(553) Resolution occurs when OSFI determines that no supervisory or private sector solution alone can restore the member institution to viability. The CDIC is responsible for ensuring that effective measures are in place to deal with such events. CDIC plans for the resolution of all its member institutions by:

- Monitoring risks and emerging issues that could affect member institutions and CDIC.
- Developing plans and processes to ensure eligible deposits are protected in the event of a failure at financial institutions of any size.
- Requiring member institutions to maintain data standards that would facilitate timely insurance calculation and reimbursement of deposits in the event of failure.
- Coordinating with domestic and foreign counterparts on ways to resolve the largest banks which operate internationally.
- Canada’s D-SIBs must prepare resolution plans, which describe how they could be resolved in an orderly manner, while ensuring the continuity of critical financial services. CDIC’s role is to seek to ensure these plans are realistic and meet the objectives of resolution. CDIC must also be ready and capable to implement the plan. CDIC meets regularly with D-SIBs

⁵⁴⁴ Canada Deposit Insurance Corporation - [Financial Institution Restructuring Provisions](#)

⁵⁴⁵ [Winding-up and Restructuring Act](#)

⁵⁴⁶ Office of the Superintendent of Financial Institutions – [Guide to Intervention for Federally Regulated Deposit-Taking Institutions](#)

and provides guidance⁵⁴⁷ to seek to ensure these plans are credible. Canadian and foreign regulators as well as other stakeholders also share information and perspectives on the resolution of Canada's D-SIBs.

(554) The Resolution Tools available to the CDIC for D-SIBs are⁵⁴⁸:

- Enhanced Financial Institution Restructuring Powers (E-FIRP): CDIC may assume temporary control of a D-SIB to stabilise and restructure its operations, and to help restore the institution to viability and maintain public confidence. This tool gives CDIC the ability to convert prescribed D-SIB liabilities into equity through the bail-in process.
- Bail-in: Bail-in converts certain classes of preferred shares and unsecured debt into equity. CDIC must request an order from the Governor in Council (GiC) in order to initiate the bail-in process following an opinion of non-viability by OSFI. Bank customers' deposits are not bailed-in and this resolution tool doesn't reduce the deposit protection offered by CDIC.
- Bridge Bank: The Minister of Finance can create a new bank (called a "bridge bank") temporarily owned by CDIC. Selected assets and critical services from the failing institution are transferred to the bridge bank, in which CDIC maintains core services of the D-SIB for up to five years after which point the institution is returned to the private sector or wound down. At a minimum, all insured deposits would be transferred to the bridge bank.

(555) In the case of a small to medium-sized member institution, CDIC's resolution toolkit includes⁵⁴⁹:

- Reimbursement: When a failed bank is closed the CDIC launches its rapid reimbursement process so to return insured deposits (up to prescribed limits) to depositors. This process is automatic, and depositors do not have to file a claim. Reimbursement of insured deposits is CDIC's baseline option when there is no other resolution option that minimises CDIC's exposure to loss and when closing the institution poses no risk to Canada's financial stability.

The CDIC is required to effect a reimbursement of insured deposits when a winding-up order⁵⁵⁰ is issued. A winding up order is an order granted by a court to wind up the business of a company, and includes any order granted by the court to bring any company in liquidation or in process of being wound up.

CDIC may elect to effect a reimbursement of insured deposits in certain specific circumstances including if the member institution is unable to make a payment in respect of deposits to customers by reason of an order of the court or of any action taken by a supervisory or regulatory body or /if the CDIC terminates the deposit insurance policy.

Upon making the reimbursement, the CDIC would have an unsecured claim against the member institution in the winding-up proceedings.

- Assisted Transaction: The CDIC can assist with the sale of a failing institution to a viable buyer by providing financial support (ex. loans, guarantees or loss-sharing arrangements).
- Financial Institution Restructuring Provisions (FIRP): FIRP allows the CDIC to force a restructuring transaction. CDIC would cede control upon completion of the restructuring or expiration of the statutory period. CDIC has 12 months from the day the order is made (which may be extended up to a maximum of 18 months) to complete the restructuring. If unsuccessful, CDIC must apply for a winding-up order.
- Bridge Bank: The Minister of Finance can create a new bank (called a "bridge bank") temporarily owned by CDIC. Selected assets and critical services from the failing institution are transferred to the bridge bank, in which CDIC maintains core services for up to five years

⁵⁴⁷ [CDIC Resolution Plan Guidance for Domestic Systemically Important Banks June 2022](#)

⁵⁴⁸ Canada Deposit Insurance Corporation – [Resolution Tools for D-SIBs](#)

⁵⁴⁹ Canada Deposit Insurance Corporation – [Resolution tools for small and medium-size banks](#)

⁵⁵⁰ Section 2(1) of the [Winding-up and Restructuring Act](#)

after which point the institution is returned to the private sector or wound down. At a minimum, all insured deposits would be transferred to the bridge bank.

- **Financial assistance:** The CDIC can provide financial assistance to its members. CDIC can provide this assistance on a stand-alone basis, to assist in a private transaction, or in combination with any of its other resolution tools. Financial assistance may be provided to a CDIC member institution. It may also be provided to a third-party acquirer, to facilitate a sale involving a CDIC member institution. It can take the form of recapitalisation, asset purchases, asset guarantees or funding and liquidity support.

Lender of Last Resort **Bank of Canada**

(556) BOC is the ultimate source of liquid funds to the financial system and serves as the system's Lender of Last Resort. The deployment of its routine and emergency liquidity tools are guided by BOCs framework for market operations and liquidity provision. The following tools for providing Lender of Last Resort liquidity are part of the BOCs broader Framework for Market Operations and Liquidity Provision⁵⁵¹ and include:

- **Emergency Lending Assistance**⁵⁵²: Emergency Lending Assistance is a loan or advance to eligible financial institutions at BOCs discretion.⁵⁵³ The provision of ELA is extraordinary and designed to provide last-resort liquidity to individual financial institutions that are facing serious liquidity problems. BOC consults with the relevant authorities to determine whether the preconditions for ELA have been met prior to and at the time of an ELA request.
- **Extraordinary Market-Wide Liquidity Facilities:** Under exceptional circumstances, the Bank can provide extraordinary liquidity on a market-wide basis through its market-wide liquidity facilities.⁵⁵⁴

Section 2: Independence between Authorities

Office of the Superintendent of Financial Institutions

(557) OSFI is an independent agency of the Government of Canada. OSFI reports to the Canadian Parliament through the Minister of Finance. Although the Minister of Finance is responsible for OSFI⁵⁵⁵, the Superintendent is solely responsible for exercising the powers provided by the financial institution and pension legislation and reporting to the Minister on the administration of said legislation.⁵⁵⁶

Bank of Canada

(558) The BOC is a Crown corporation, owned by the federal government, but with considerable independence to carry out its responsibilities.⁵⁵⁷

- The Governor and Senior Deputy Governor are appointed by the Bank's Board of Directors (with the approval of Cabinet), not by the federal government.
- The Deputy Minister of Finance sits on the Board of Directors but has no vote.

⁵⁵¹ Bank of Canada – [Emergency Lending Assistance](#)

⁵⁵² Bank of Canada – [Emergency Lending Assistance](#)

⁵⁵³ Section 18(h) of the [Bank of Canada Act](#)

⁵⁵⁴ Bank of Canada – [Emergency Lending Assistance](#)

⁵⁵⁵ Section 4(1) of the [Office of the Superintendent of Financial Institutions Act](#)

⁵⁵⁶ [OSFI Annual report 2022-2023](#) and Articles 5(1) and 6(1) of the [Office of the Superintendent of Financial Institutions Act](#)

⁵⁵⁷ Bank of Canada – [About us](#)

- BOC submits its expenditures to its Board of Directors, whereas federal government departments submit theirs to the Treasury Board.
- BOCs employees are regulated by the BOC itself, not by federal public service agencies.
- BOCs is audited by external auditors appointed by Cabinet on the recommendation of the Minister of Finance, not by the Auditor General of Canada.

Canada Deposit Insurance Corporation

(559) The CDIC was established as an independent Crown corporation and does not receive tax dollars or public funds to operate. CDIC is fully funded by premiums paid by its member institutions.

(560) The CDIC is governed by a Board of Directors. Its Directors have the obligation to act in the best interests of the CDIC and to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances, pursuant to the provisions of the Financial Administration Act.

(561) Day-to-day management is handled by the CDIC's corporate officers. The President and CEO is the executive head of CDIC's management and provides a link between the Board of Directors and CDIC employees. As the head of the CDIC's executive team, the President and CEO leads CDIC and is responsible for overseeing the effective functioning of the corporation's business and affairs. The President and CEO seek to ensure that in fulfilling the CDIC's objectives, employees act in a manner consistent with Board policies and directions.

(562) The Board includes a Chairperson, five private sector directors and five public sector directors. They include leaders of the Department of Finance, the BOC, OSFI and the Financial Consumer Agency of Canada.

Section 3: Resource Endowment

Office of the Superintendent of Financial Institutions

(563) OSFI's full-time equivalent employees in 2022-23 were 1024.⁵⁵⁸ OSFI's Department Plan⁵⁵⁹ for 2023-24 show that 637 employees were forecast for 'Financial Institution and Pension Plan Regulation and Supervision'.

Bank of Canada

(564) BOC had 2,250 employees as of 31 December 2022.⁵⁶⁰

Canada Deposit Insurance Corporation

(565) CDIC had 176 employees as of 31 March 2023.⁵⁶¹

Section 4: Financing of Authorities

Office of the Superintendent of Financial Institutions

(566) OSFI's revenues comprise assessments, service charges and fees. The expenses against which assessments may be charged include those in connection with the administration of the Bank Act. The formula for the calculation of assessments is included in regulations.

⁵⁵⁸ [OSFI Annual report 2022-2023](#)

⁵⁵⁹ [Office of the Superintendent of Financial Institutions 2023 – 24 Department Plan](#)

⁵⁶⁰ [Bank of Canada Annual Report 2022](#)

⁵⁶¹ [Canada Deposit Insurance Corporation 2023 Annual Report](#)

- (567) OSFI is primarily funded through assessments on financial institutions and private pension plans.⁵⁶² Costs are assigned based on effort spent regulating each industry and assigned to institutions using specific formulas⁵⁶³, including calculations for a based amount and fees calculated for banks. OSFI also receives revenue from cost-recovered services⁵⁶⁴ and collects administrative monetary penalties for violations.
- (568) Assessments may be charged for the administration of the Pension Benefits Standards Act and the Pooled Registered Pension Plans Act.⁵⁶⁵
- (569) The Office of the Chief Actuary provides a range of actuarial valuation and advisory services to the Canada Pension Plan and some federal government entities, including providing advice in the form of reports tabled in Parliament. These services are funded by fees charged to either the underlying pension plan or the federal government entity to which advisory services are provided, and by parliamentary appropriation.⁵⁶⁶

Bank of Canada

- (570) BOC has a variety of income source in its operations as a central bank. Seigniorage earnings are used to cover BOCs operating costs.⁵⁶⁷ BOC also earns interest on its investments in Government of Canada securities, securities purchased under resale agreements and on assets from the large-scale asset purchase programs.⁵⁶⁸

Canada Deposit Insurance Corporation

- (571) The CDIC does not receive government funding or public funds to operate. The CDIC is fully funded by premiums paid by its member institutions. Each CDIC member institution must pay annual premiums on insured deposits as a condition of membership.⁵⁶⁹ These premiums constitute a reserve fund which CDIC would also draw from in order to resolve any of its members.
- (572) The CDIC Differential Premiums By-law⁵⁷⁰ establishes a system of classifying member institutions into four different categories, fixes the annual premium applicable to each category, sets out the various information that must be provided to CDIC for the purposes of classifying member institutions, and sets the criteria or factors to be taken into account in determining the category classification.
- (573) The CDIC advises each member institution by written correspondence of its score, categorisation and premium rate annually.

Section 5: Coordination of the Authorities – Nationally

- (574) As well as various bilateral arrangements, for instance between OSFI and the CDIC in the oversight, early intervention and ultimately resolution of a bank, BOC and CDIC have a number of Memorandum of Understanding (MoU) with other Canadian agencies. CDIC entered into MoUs with the Investment Industry Regulatory Organization of Canada (IIROC), the Canadian Investor Protection Fund (CIPF) and the with Autorité des marchés financiers. BOC entered into

⁵⁶² [OSFI Annual report 2022-2023](#)

⁵⁶³ As outlined in the [Assessment of Financial Institutions Regulations, 2017 \(SOR/2016-297\)](#)

⁵⁶⁴ [Charges for Services Provided by the Office of the Superintendent of Financial Institutions Regulations 2002](#)

⁵⁶⁵ [OSFI Annual report 2022-2023](#)

⁵⁶⁶ [OSFI Annual report 2022-2023](#)

⁵⁶⁷ Bank of Canada – [Understanding seigniorage](#)

⁵⁶⁸ Bank of Canada [Annual Report 2022 - Financial results](#)

⁵⁶⁹ Articles 21 to 25 of the [Canada Deposit Insurance Corporation Act](#)

⁵⁷⁰ [Canada Deposit Insurance Corporation Differential Premiums By-law SOR/99-120](#)

MoUs with three provincial supervisors of credit unions in Québec (i.e., Autorité des marchés financiers), Manitoba, and Saskatchewan.⁵⁷¹

(575) There are also several committees designed to promote cooperation and information sharing:

- Financial Institutions Supervisory Committee: FISC facilitates consultation and the exchange of information on matters relating to the supervision of federal financial institutions. FISC is chaired by the Superintendent of Financial institutions and includes the Canada Deposit Insurance Corporation, the Department of Finance Canada, the BOC and the Financial Consumer Agency of Canada.⁵⁷²
- Senior Advisory Committee: The SAC is a discussion forum for financial sector policy issues, including financial stability and systemic vulnerabilities. The SAC supports the provision of advice to the Minister of Finance and serves as a forum to coordinate actions among the agencies so that they reinforce each other. The SAC is chaired by the Deputy Minister of Finance and includes the same members as FISC.⁵⁷³

(576) Heads of Regulatory Agencies (HoA) Committee: A federal-provincial forum for the discussion of financial sector issues, the Heads of Regulatory Agencies (HoA) is chaired by the Governor of the BOC and includes the Department of Finance Canada, the Office of the Superintendent of Financial Institutions, l'Autorité des marchés financiers (Quebec), the Ontario Securities Commission, the Alberta Securities Commission and the British Columbia Securities Commission.⁵⁷⁴ The HoA holds semi-annual meetings, chaired by the BOC. The Governor of the BOC can also convene an HoA meeting on an ad-hoc basis to coordinate on urgent matters as they arise.

The objective of the HoA Committee is to share information and perspectives on⁵⁷⁵ emerging regulatory issues, financial system trends and broad market developments that cut across functional responsibilities of HoA members.

Specifically, the HoA provides a forum for members to:

- Share information and cooperate on areas of common interest, including systemic risk surveillance and data gaps.
- Inform each other of their agencies' policy priorities.
- Share views on domestic and international regulatory work underway.
- Support relationships and coordinate with member agencies, including to prepare for and manage crises.
- Discuss policy and inform the formulation of their agencies' own policies, including with respect to mitigating systemic risk.

HoA members are invited to collaborate and share information in accordance with their own independent mandates and subject to their confidentiality obligations. HoA members are responsible for keeping confidential, to the extent permissible by law, any non-public information they receive or otherwise access through the HoA. This includes any information shared in confidence with HoA members by Canadian representatives from various international forums, bodies and working groups.

⁵⁷¹ [Financial Sector Assessment Program Technical Note Canada – Bank Resolution and Crisis Management \(January 2020\)](#)

⁵⁷² Section 18 of the [Office of the Superintendent of Financial Institutions Act](#) and [Oversight of Canada's Financial System](#) and Bank of Canada – [Financial system committees](#)

⁵⁷³ [Oversight of Canada's Financial System](#) and Bank of Canada – [Financial system committees](#)

⁵⁷⁴ Bank of Canada – [Financial system committees](#)

⁵⁷⁵ Bank of Canada – [Heads of Regulatory Agencies Committee: Terms of Reference](#)

- Systemic Risk Surveillance Committee (SRSC): The SRSC includes all agencies that participate in HoA plus the CDIC, Canada Mortgage and Housing Corporation, Financial Services Regulatory Authority of Ontario and BC Financial Services Authority.⁵⁷⁶

Created by the HoA to collaborate and share information on the assessment of vulnerabilities and risks to the Canadian financial system among Canadian financial authorities for the purpose of monitoring and assessing systemic risk. This includes identifying both existing financial system vulnerabilities and emerging vulnerabilities that may become important over time. To carry out its mandate, the SRSC meets at least twice a year to:

- Discuss authorities' assessments of vulnerabilities and risks to the Canadian financial system.
- Identify new or emerging vulnerabilities and potential risks that deserve heightened monitoring or further study,
- Share other information on issues and trends relevant to the assessment of systemic risk identified by authorities in their area of responsibility and from other sources (such as global counterparts or international bodies).
- Consider data requirements to enhance systemic risk surveillance by the committee or individual members and to address data gaps.

In the SRSC, member authorities are invited to collaborate and share information in accordance with their mandates. SRSC members are responsible for keeping confidential, to the extent permissible by law, any non-public information they receive through the SRSC.

Section 6: Coordination of the Authorities – Internationally

Office of the Superintendent of Financial Institutions

(577) OSFI participates in international organisations, such as the Financial Stability Board, the Basel Committee on Banking Supervision which allows it to share Canadian perspectives and help shape international rule-setting.⁵⁷⁷

(578) OSFI has entered into a number of bilateral and multilateral agreements for information-sharing, cooperation and coordination. OSFI has MoUs in place with over 30 foreign supervisory authorities. OSFI's bilateral and multilateral MoUs include language that deals with ongoing supervision/recovery related matters.⁵⁷⁸

Bank of Canada

(579) BOC contributes to international discussions on important financial system issues, collaborates with other central banks on research into the international financial system and provides technical assistance. BOC⁵⁷⁹:

- Provides experienced personnel to take part in joint missions of the International Monetary Fund (IMF) and the World Bank.
- Is a major participant in the Financial Stability Board (FSB), which was established to address vulnerabilities and to develop and implement strong regulatory, supervisory and other policies in the interest of financial stability.

⁵⁷⁶ Bank of Canada – [Systemic Risk Surveillance Committee: Terms of Reference](#) and Bank of Canada – [Financial system committees](#)

⁵⁷⁷ Office of the Superintendent of Financial Institutions – [About us](#)

⁵⁷⁸ [Financial Sector Assessment Program Technical Note Canada – Bank Resolution and Crisis Management](#)

⁵⁷⁹ Bank of Canada - [Financial system](#)

- Contributes to Canada's participation in G-20 discussions on global economic stability.
- Provides ongoing support for the work of committees and working groups of the Bank for International Settlements (BIS).

(580) The Bank met regularly with central banks and financial market participants to build relationships, hear diverse opinions and improve its understanding of global policy issues.⁵⁸⁰

Canada Deposit Insurance Corporation

(581) CDIC has signed MoUs with key foreign resolution authorities (i.e., those participating in the OSFI/CDIC-led CMGs); these MoUs govern information sharing, cooperation and coordination in the context of early intervention and resolution.⁵⁸¹

(582) CDIC maintains MoUs with the resolution authorities of several other jurisdictions to facilitate cross-border resolution should the need arise. These include a number of the jurisdictions subject to this opinion including the United States⁵⁸², the United Kingdom⁵⁸³ and the European Banking Union⁵⁸⁴ as well as other international jurisdictions including Mexico's Instituto para la Protección al Ahorro Bancario (IPAB), the Deposit Insurance Corporation of Japan (DICJ) and Taiwan's Central Deposit Insurance Corporation.⁵⁸⁵

(583) CDIC's mandate focuses on the Canadian financial system and deposits payable in Canada. CDIC would not directly resolve the foreign operations of a Canadian bank. However, given the interconnectedness of Canada's largest banks, CDIC would work in close cooperation with foreign resolution authorities. CDIC also works closely with its foreign counterparts via the International Association of Deposit Insurers.

(584) CDIC is also involved in the FSB which sets out the responsibilities and powers that countries should have in place to resolve these large complex banks. Known as the Key Attributes of Effective Resolution Regimes for Financial Institutions, these have been endorsed by Canada and other G-20 countries.

Section 7: Information Exchange between Authorities

(585) The committees implemented to facilitate national coordination also facilitate and support the exchange of information. This can subject to the terms of reference of the committee, MoUs or legislation.

(586) For instance, as stated FISC facilitates consultation and the exchange of information on matters relating to the supervision of federal financial institutions. Under legislation every member of the committee is entitled to any information on matters relating directly to the supervision of financial institutions, bank holding companies or insurance holding companies that is in the possession or under the control of any other member and any member requested by another member to provide any such information shall forthwith provide it.⁵⁸⁶ There is a MoU⁵⁸⁷ for the confidentiality of information between the Members of the HoA, and additional parties, such as the CDIC.

⁵⁸⁰ [Bank of Canada Annual Report 2022](#)

⁵⁸¹ [Financial Sector Assessment Program Technical Note Canada – Bank Resolution and Crisis Management](#)

⁵⁸² [Memorandum of Understanding for the resolution of insured depository institutions and certain other financial companies with cross-border operations in the United States and Canada](#)

⁵⁸³ [Memorandum of Understanding between the Canada Deposit Insurance Corporation and the Prudential Regulation Authority & Bank of England](#)

⁵⁸⁴ [Cooperation Arrangement concerning the Resolution of Financial Institutions with Cross-border operations in Canada and the European Banking Union](#)

⁵⁸⁵ Canada Deposit Insurance Corporation – News Release: [CDIC signs MoU with the UK's Prudential Regulation Authority](#)

⁵⁸⁶ Section 18 of the [Office of the Superintendent of Financial Institutions Act](#)

⁵⁸⁷ [Memorandum of Understanding for the Confidentiality of Information among: Bank of Canada \(the "Bank"\) Office of the Superintendent of Financial Institutions \("OSFI"\) Department of Finance Canada \(the "Department of Finance"\) Alberta Securities Commission \(the "ASC"\) Autorité des marchés financiers \(the "AMF"\) British Columbia Securities Commission \(the "BCSC"\) Ontario Securities Commission \(the "OSC"\) \(each an "Agency" and collectively, the "Agencies"\) and Additional](#)

- (587) The CDIC Act allows for the disclosure of information to the Governor of the BOC. The CDIC Act also enables the CDIC to disclose information from OSFI after consultation with the Superintendent to any government or other agency or body that regulates or supervises financial institutions, for purposes related to that regulation or supervision.⁵⁸⁸ For instance, OSFI shares its Supervisory Letters with the CDIC and provincial regulators.⁵⁸⁹
- (588) As part of its ongoing supervisory work, OSFI monitors FRFIs and also scans the financial system in which they operate. In doing so, OSFI is able to identify issues that may impact the stability of the financial system. Where OSFI identifies such issues, it reports them to FISC and/or SAC, as appropriate, for further discussion and the determination of any necessary actions. Information received from FISC and SAC members also, in turn, informs OSFI's environmental scanning and identification of broad issues that may impact specific FRFIs.⁵⁹⁰

Section 8: Fund Solutions

Canada Deposit Insurance Corporation

- (589) CDIC has two primary funding mechanisms that would be relied upon: the CDIC's investment portfolio and its borrowing authority.
- (590) The investment portfolio (the CDIC's ex-ante fund) is built up over time from annual premiums that CDIC member institutions pay on insured deposits. It is invested in debt securities issued or guaranteed by the Government of Canada or Provincial governments. The objectives of the portfolio are to provide funding as necessary for member resolution and CDIC operations, to preserve capital and to provide a reasonable yield considering overall investment constraints.
- (591) Under the CDIC Act, CDIC has the authority to access additional funds through borrowing.⁵⁹¹ Additional borrowing could be provided by Parliament through an Appropriation Act if available funding was not sufficient. CDIC could also receive loans from the Government of Canada beyond its statutory borrowing limit when deemed necessary to promote the stability or maintain the efficiency of the financial system in Canada.

Emergency Liquidity Assistance⁵⁹²

- (592) Emergency Lending Assistance can provide liquidity in support of recovery actions undertaken by a financial institution, e.g., restructuring or raising capital.
- (593) Should recovery actions be insufficient to mitigate stress faced by a financial institution it could be put into resolution. At the point of entering resolution, financial institution would be deemed "non-viable." Through the resolution process, the resolution authority (i.e., CDIC for banks) would seek to maintain functions that are critical to the economy and return the firm to viability or liquidate the firm in an orderly fashion, e.g., via recapitalisation and restructuring, or if non-viable it would wind down the firm in an orderly fashion. Emergency Lending Assistance could serve as a source of temporary public sector liquidity to support the broader efforts of authorities to conduct an orderly resolution of the firm.
- (594) The terms and conditions of ELA loans are determined by the Bank of Canada Act, and the BOCs lending policies and its loan and security agreements⁵⁹³.

[HOA Agencies and Sub-HOA Committee Members who accede to this MOU by signing a Letter of Adherence](#) NB: The CDIC has signed a Letter of Adherence

⁵⁸⁸ Articles 45.2(1.1) and 45.2(2) of the [Canada Deposit Insurance Corporation Act](#)

⁵⁸⁹ Office of the Superintendent of Financial Institutions – [Supervisory Framework](#)

⁵⁹⁰ Office of the Superintendent of Financial Institutions – [Supervisory Framework](#)

⁵⁹¹ Section 10.1 of the [Canada Deposit Insurance Corporation Act](#)

⁵⁹² Bank of Canada – [Emergency Lending Assistance](#)

⁵⁹³ [Bank of Canada Rules Governing Advances to Financial Institutions](#) and Bank of Canada – [Emergency Lending Assistance](#)

Section 9: Compensation Mechanisms for Government Support

Canada Deposit Insurance Corporation

(595) The CDICs investment portfolio is funded via annual premiums from its member institutions.

Emergency Liquidity Assistance⁵⁹⁴

(596) The minimum rate that the BOC charges on ELA loans is the Bank Rate, which is the rate of interest that the BOC charges on one-day loans to major financial institutions. While the BOC has the discretion to charge an interest rate higher than the Bank Rate, historically, the BOC has charged the Bank Rate for ELA.

(597) Lending must be secured. BOC must be able to obtain a valid first-priority security interest in any collateral pledged or assigned to support ELA. If the counterparty fails to repay the ELA loan, the BOC can then sell or retain the collateral to address any losses it may face.

(598) The ELA loan agreements between the BOC and the borrowing entity would create a one-day revolving facility in which the BOC would have discretion to decline to make any further one-day loans. This would allow the BOC to readily cease ELA.

Section 10: Advantages and Disadvantages of the Canadian Institutional Approach

(599) The institutional arrangements in Canada for the supervision and resolution of banks is predominantly shared between three authorities: OSFI, BOC and the CDIC – the institutional separation approach. There is also a number of senior level industry wide committees which support different aspects of the institutional arrangements, including FISC, SAC, HoA Committee and SRSC.

(600) There is no distinct authority or legislative basis for macroprudential policy. Though OSFI and BOC have specific responsibilities and duties, for instance development and application of macroprudential tools and systemic risk surveillance and analysis respectively, there is no federal body with a clearly defined mandated, objective and scope for macroprudential policy though the SRSC fosters collaboration and shares information on the assessment of vulnerabilities and risks to the Canadian financial system among Canadian financial authorities for the purpose of monitoring and assessing systemic risk.

(601) Having distinct authorities with separate responsibilities has the clear advantage. Objectivity is clearly demonstrated, with separate institutions having legislative objectives and mandates to act. For instance, the decisions made by BOC based on its specific focus and objectives may diverge from that of OSFI as the micro-prudential supervisor. Having three bodies, though with a duty to consult and cooperate with each other, with separate and distinct decision-making parameters means that the potential for differing levels of influence for functions within a single institution which may impact decision-making in respect of each area of responsibility is minimised – each institution will act subject to its own remit.

(602) Supervisory and resolution responsibilities are separate so there is a potential for conflicts of interest or objective between the decision-making and interests between the OSFI and CDIC. For instance, OSFI may exercise forbearance while the CDIC's objectives may be better accommodated with a decision that the bank is non-viable. With separate bodies having legal responsibility in these areas, conflicts may be more difficult to reconcile.

(603) Close cooperation and Information exchange may be more difficult to manage and facilitate from a practical perspective. All parties would have detailed information on banks, especially those of systemic importance, and it is not feasible to share everything and what is shared may be subject

⁵⁹⁴ Bank of Canada – [Emergency Lending Assistance](#)

to a judgement of what is important or significant enough to share. However, one of FISC's core functions is to facilitate the sharing of information between its members for the purpose of supervising federal financial institutions and members are required to act accordingly. The SAC and HoA also further foster information sharing and collaboration.

- (604) There is also a clear mandate for coordination between the Canadian authorities which helps facilitate the close cooperation and information exchange required in an institutional separation arrangement. The committees foster collaboration and communication. However, none of the committee hold clear of definitive decision-making authority. By virtue of multiple authorities with multiple decision-making arrangements being employed, actions and required activities may be less effective and time-efficient, thus potentially decreasing the timeliness of actions required in a crisis. Clear mandates, decision-making protocols and roles and responsibilities and potential actions need to be clearly defined and understood at an inter-institutional level and supported via inter-agency agreements.

Annex 7: Jurisdiction Focus – Singapore

Section 1: Responsibilities

Area of Responsibility	
Macroprudential Supervision	Monetary Authority of Singapore
Prudential Supervision	Monetary Authority of Singapore
Recovery	Monetary Authority of Singapore
Resolution - Restructuring	Monetary Authority of Singapore
Resolution - Liquidation	Monetary Authority of Singapore will assess whether resolution is in the public interest, if not it will apply to the Court for the bank to be wound up and liquidated
Lender of Last Resort	Monetary Authority of Singapore

Macroprudential Supervision

Monetary Authority of Singapore

(605) The Monetary Authority of Singapore (MAS) is established under the provisions of the Monetary Authority of Singapore Act 1970 (MAS Act).⁵⁹⁵

(606) MAS’s legislative objectives include that it will “Foster a sound and reputable financial centre and to promote financial stability”.⁵⁹⁶ It is this legislative basis which provides MAS with its mandate in relation to macroprudential supervision.

(607) MAS has a sub-committee – The Chairman’s Meeting – which has decision-making remit over supervisory polices includes those related to macroprudential policies (e.g., the domestic systemically-important bank framework and the counter-cyclical capital buffer framework).

(608) MAS macroprudential policy tools for the banking sector include:

- Countercyclical Capital Buffer (CCyB): Aimed to reduce procyclicality by restraining credit growth during a boom while building buffers that can be released during periods of stress to support continued flow of credit to the economy.
- Domestic systemically important bank framework: Aimed to minimise spill-overs to the financial system from the failure of systemically important banks by providing for additional financial buffers against risk and orderly resolution of these banks.
- Property Sector Exposure Limit: Aimed to minimise spill-overs from a property downturn by preventing banks from amassing concentrated exposures to the sector.

(609) MAS’ approach to macroprudential policy and supervision is based on three categories⁵⁹⁷:

- Surveillance and Risk Identification: MAS takes a system-wide perspective in its macroprudential surveillance. MAS identifies potential risks arising from global and domestic developments, as well as their interactions, and then traces their transmission channels through Singapore’s financial system and economy.

⁵⁹⁵ Section 3 of the [Monetary Authority of Singapore Act 1970](#)

⁵⁹⁶ Section 4 of the [Monetary Authority of Singapore Act 1970](#)

⁵⁹⁷ Monetary Authority of Singapore – [MAS’ Approach to Macroprudential Policy](#)

- **Impact and Vulnerability Assessment:** MAS uses a combination of stress tests and sensitivity analyses to assess potential vulnerabilities in the financial system. MAS conducts an annual industry-wide stress test of key financial institutions to evaluate the resilience of the financial system to plausible scenarios of stressed macroeconomic and financial conditions, including solvency, credit, market, and liquidity risks, as well as thematic dives into emerging risks.

MAS prescribes stress scenarios for each year's industry-wide stress test, and these are communicated to the participating institutions for their bottom-up stress tests. MAS validates the financial institutions' stress test results, assesses the stress test methodologies that financial institutions use and conducts analyses of the results. MAS complements the industry's bottom-up stress tests with its own top-down stress test.

- **Policy Response:** If MAS' surveillance and impact assessments identify a material systemic risk that could impact the financial system or the real economy adversely, MAS will take policy action to remove or mitigate the risk or build resilience against it. MAS will continue to conduct surveillance and impact assessments so as to review the effectiveness of the policy measures and monitor if there are any unintended consequences and adjust policy as necessary.

Micro-Prudential Supervision **Monetary Authority of Singapore**

- (610) MAS is the micro-prudential supervisor of Singapore. Its functions include: "to conduct integrated supervision of the financial services sector and financial stability surveillance".⁵⁹⁸
- (611) MAS's supervisory approach⁵⁹⁹, including for banks, is based in its impact and risk model.
- (612) **Impact and Risk Model:** The model considers the impact of a financial institution within each financial services sector (i.e., relative systemic importance) and its risk (i.e., relative risk profile). These two inputs allocate the intensity of MAS' supervision. The impact rating within the relevant financial services sector – including banking – and the risk rating of each institution are combined to assign the institution to one of four categories (Supervisory Buckets 1 to 4). For institutions of the same risk, those having higher impact would generally be in a higher bucket and where institutions have the same impact, those of a higher risk would generally be in a higher bucket.
- (613) **Intensity of Supervision:** All financial institutions are subject to standard, base-level monitoring which includes monitoring key indicators and the development of the institution's business, reviewing regulatory returns, questionnaires and audit reports, as well as taking any necessary follow-up actions. As the buckets rise from 4 to 1, supervisory intensity increases (bucket 1 includes institutions which are complex and pose potentially damaging consequences for systemic stability, market confidence and trust in the integrity of the financial system).
- (614) **Impact Assessment:** The assessment of impact captures the relative importance of an institution within its own sector of the financial services industry and considers the relative size and importance in terms of share of activity in different markets, relative scale of retail reach in terms of number of customers and representatives, and of type of business and criticality to the stable functioning of and confidence in the financial system.
- (615) **Risk assessment – Comprehensive Risk Assessment Framework and Techniques (CRAFT):** As part of the CRAFT process and to arrive at the Overall Risk Rating, MAS will identify significant activities, assess inherent risk and control factors for each significant activity, assess the oversight and governance, and assess capital, earnings, and parental support.

⁵⁹⁸ Section 4(2)(b) of the [Monetary Authority of Singapore Act 1970](#)

⁵⁹⁹ Monetary Authority of Singapore – [MAS' Framework for Impact and Risk Assessment of Financial Institutions](#)

COMPREHENSIVE RISK ASSESSMENT FRAMEWORK AND TECHNIQUES (CRAFT)			
Overall Risk Rating			
Institution Net Risk			Capital & Support
Inherent Risks	Control Factors	Oversight & Governance	Capital & Support
<ul style="list-style-type: none"> • Credit / asset • Liquidity • Market • Operational • Technology • Insurance • Market conduct • Money laundering / Terrorism financing • Legal, reputational and regulatory 	<ul style="list-style-type: none"> • Risk management systems and control • Operational management • Internal audit • Compliance 	<ul style="list-style-type: none"> • Board of directors • Senior management • Head office / parent company 	<ul style="list-style-type: none"> • Capital • Earnings • Parental support
<< Assessed at Significant Activity Level >>		<< Assessed at Institution Level >>	

Source: MAS' Framework for Impact and Risk Assessment of Financial Institutions, page 11⁶⁰⁰

- (616) Development of a supervisory plan: The supervisory plan sets out areas of supervisory coverage, selects the range of supervisory tools, establishes any remedial action required and determines the desired timeframe for taking corrective actions to address any issue of supervisory concern.
- (617) MAS's D-SIB Framework: As reported in MAS' Financial Stability Review MAS introduced a tailored regime for domestic systemically important banks (D-SIBs) in 2015.⁶⁰¹ MAS' D-SIB framework adopts an indicator-based approach based on four factors to assess banks' systemic importance: Size, Interconnectedness, Substitutability and Complexity.
- (618) MAS adopts an annual two-stage assessment process of banks' systemic importance:
- Stage One: Preliminary Selection – MAS will select banks that cross the threshold of any prescribed impact indicators in the Size, Interconnectedness and Substitutability categories as this approach recognises that the failure of a bank which ranks highly in any of these categories could have a significant impact on the domestic financial system and economy.
 - Stage Two: Detailed Consideration – MAS will subject banks selected in the first stage to a second stage review. MAS will consider other factors such as size of overseas operations (in the case of locally incorporated banks), share of credit facilities granted to non-bank financial institutions or a particular non-financial institution sector, share of interbank GIRO (General Interbank Recurring Order), and the provision of time-critical services. MAS will make an overall assessment, taking into account all four factors of systemic importance.
- (619) Each D-SIB will be subject to specific measures⁶⁰²:
- Locally incorporated bank groups: Higher loss absorbency, enhanced disclosures, recovery and resolution planning, effective risk data aggregation and risk reporting and liquidity coverage ratio (LCR).
 - Foreign bank group comprising a locally incorporated bank and a sister branch (if any): Locally-incorporated foreign bank – As per locally incorporated bank group; Branch – Recovery and resolution planning, effective risk data aggregation and risk reporting and LCR.
 - Foreign bank branch: Local incorporation requirement of the retail operations for a foreign bank branch that has a significant retail presence in Singapore and as per branch above.

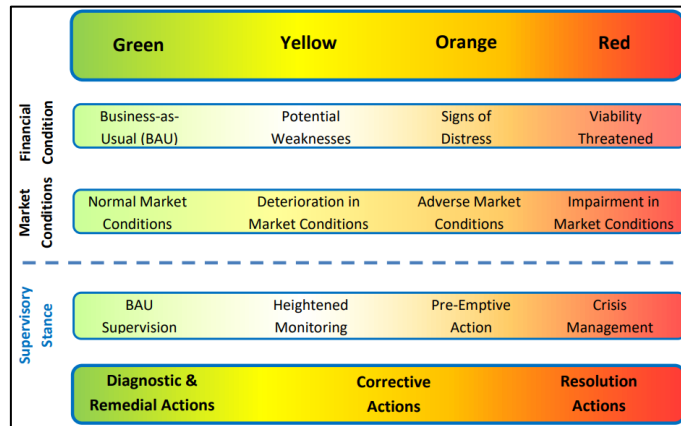
⁶⁰⁰ Monetary Authority of Singapore – [MAS' Framework for Impact and Risk Assessment of Financial Institutions](#)

⁶⁰¹ Monetary Authority of Singapore – [MAS' Financial Stability Review](#)

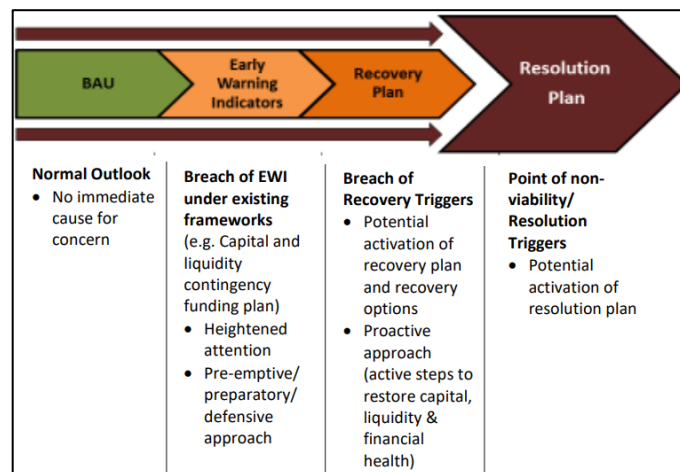
⁶⁰² Monetary Authority of Singapore – [MAS' Framework for Impact and Risk Assessment of Financial Institutions](#)

Recovery
Monetary Authority of Singapore

(620) MAS’ risk-based supervisory approach also applies to its MAS’ Crisis Management Framework. MAS’ Crisis Management Framework has both quantitative and qualitative indicators designed to detect potential deterioration in the financial soundness of the institution, re-assess its risk profile, and consider appropriate supervisory actions. Oversight and surveillance intensify as the position deteriorates.



Source: MAS’ Approach to Resolution of Financial Institutions in Singapore, page 4⁶⁰³



Source: MAS’ Approach to Resolution of Financial Institutions in Singapore, page 11⁶⁰⁴

(621) MAS may notify institutions that they are required to prepare and submit recovery plans⁶⁰⁵ and D-SIBs are subject to recovery and resolution planning (RRP) requirements.⁶⁰⁶ The supervisory teams monitor the on-going financial position of financial institutions and are responsible for reviewing the recovery plans.⁶⁰⁷

(622) The recovery plan should outline actions that can be taken to stabilise and restore its financial strength and viability under situations of severe stress. Expectations include⁶⁰⁸:

⁶⁰³ Monetary Authority of Singapore – [MAS’ Approach to Resolution of Financial Institutions in Singapore](#)

⁶⁰⁴ Monetary Authority of Singapore – [MAS’ Approach to Resolution of Financial Institutions in Singapore](#)

⁶⁰⁵ Section 43 of the [Monetary Authority of Singapore Act 1970](#)

⁶⁰⁶ Sections 42 to 48 of the [Monetary Authority of Singapore Act 1970](#) and Monetary Authority of Singapore – [MAS’ Framework for Impact and Risk Assessment of Financial Institutions](#)

⁶⁰⁷ [Financial Sector Assessment Program Technical Note Singapore – Crisis Management, Resolution, and Safety Nets \(July 2019\)](#)

⁶⁰⁸ Section 42 of the [Monetary Authority of Singapore Act 1970](#) and Monetary Authority of Singapore – [MAS’ Approach to Resolution of Financial Institutions in Singapore](#)

- Maintaining information and systems for the preparation, review and update of the plan.
- Putting in place robust governance structures and sufficient resources to support its recovery planning processes with clear assignment of roles and responsibilities.
- Establishing a framework of qualitative and quantitative recovery triggers.
- Establishing clear escalation and assessment processes upon a trigger event.
- Establishing credible recovery options that can be executed within a reasonable timeframe.
- Devising a communication plan for internal and external stakeholders.
- Ensuring that continuity of service including outsourcing arrangements.
- Enabling continued access to critical financial market infrastructures during crisis situations.
- Establishing a framework to regularly test the feasibility and effectiveness of its recovery plan.

(623) MAS may also utilise powers if it is the public interest when an institution is likely to or become insolvent, become unable to meet its obligations, or that it has suspended or is about to suspend payments. In this case MAS can require the relevant financial institution to immediately take any action, or to undertake or cease actions that MAS considers necessary. It may appoint a statutory advisor in respect to the institution or take control of the institution.⁶⁰⁹

Resolution (Restructuring and Liquidation)

Monetary Authority of Singapore

(624) MAS' function also comprise that of Singapore's resolution authority.⁶¹⁰ The Resolution Office is part of the Policy, Payments and Financial Crime department with the Financial Supervision division.⁶¹¹

(625) Resolution plans for systemically important institutions are developed by MAS, including Singapore's D-SIBs.⁶¹² Resolution plans include a resolution strategy, as well as an operational plan for its implementation. To facilitate resolution planning, MAS may require systemically important institutions to provide essential information and they are required to maintain information and systems needed to facilitate resolution planning, which include amongst others:

- Organisational and legal structure, including material entities.
- Core business lines and critical functions.
- Inter-dependencies amongst entities and business lines, including funding and operational dependencies.
- Preferred resolution strategy and options to preserve or wind down critical functions.
- Potential barriers or impediments to effective resolution; and f. Actions to mitigate potential barriers or impediments.

(626) As part of the resolution planning process, MAS conducts resolvability assessments to identify barriers to resolution and measures necessary to improve resolvability.⁶¹³ These issues are discussed with the banks and within supervisory colleges and Crisis Management Groups.⁶¹⁴

⁶⁰⁹ Section 33 of the [Monetary Authority of Singapore Act 1970](#)

⁶¹⁰ Monetary Authority of Singapore – [MAS' Approach to Resolution of Financial Institutions in Singapore](#)

⁶¹¹ Monetary Authority of Singapore – [Organisation Structure](#)

⁶¹² Section 44 of the [Monetary Authority of Singapore Act 1970](#)

⁶¹³ Section 45 of the [Monetary Authority of Singapore Act 1970](#)

⁶¹⁴ Monetary Authority of Singapore – [MAS' Approach to Resolution of Financial Institutions in Singapore](#)

(627) MAS may utilise a range of resolution powers and measures⁶¹⁵, including:

- Transfer of business: MAS may transfer all or part of the business or shares of a non-viable financial institution to a private sector acquirer. The acquirer purchases the assets and assumes the liabilities of the non-viable institution and assumes its critical functions and businesses.
- Transfer to a bridge bank: A bridge bank is a temporary entity that is set up to assume the critical functions and businesses of a non-viable institution. If private transfer cannot be achieved MAS may first transfer all or part of the institutions business to a bridge bank and then facilitate an onward sale to a private sector acquirer.
- Transfer of assets to an asset management company: MAS may set up an asset management company to coordinate the acquisition, management and disposal of some or all of a non-viable institution's assets. The asset management company is typically dissolved when all or most of the FI's assets are sold or liquidated.
- Bail-in: MAS has statutory powers to bail-in the liabilities of a non-viable FI. A bail-in involves writing down or converting all or part of the non-viable FI's unsecured creditor claims into equity with the intention of absorbing losses and thus restoring viability.
- Liquidation⁶¹⁶: MAS may apply to the Court to wind-up and liquidate a non-viable institution. MAS may expedite the court process by requesting an urgent hearing of the winding-up application where this is deemed necessary. Liquidation may also be used in combination with other resolution tools where any remaining or residual assets.

(628) MAS' choice of resolution strategy and resolution tools is based on the resolution objectives to:

- Maintain market and public confidence in the financial system.
- Protect Singapore's reputation as a credible international financial centre.
- Ensure continuity of critical functions.
- Protect the interests of depositors, policy owners and investors, in coordination with the relevant deposit and insurance schemes.
- Ensure timely return of segregated client assets.
- Achieve fair outcomes for creditors; and f. avoid or minimise exposing taxpayers' monies to losses.

(629) Other considerations that MAS will take into account include preference for private sector solution, systemic importance of the non-viable institution, achieving cooperative solutions with foreign authorities, cost-efficiency, creditor hierarchy, 'no creditor worse-off' where the Minister in-charge of MAS will appoint an independent valuer to assess if any creditor or shareholder had been made worse-off than in liquidation and safeguards against separating associated assets and liabilities.

(630) MAS will consider whether the institution is (a) no longer viable or (b) likely to be no longer viable and has no reasonable prospect of becoming viable in the future. Factors considered include:

- Continued deterioration of the financial condition, in terms of erosion of regulatory capital and/or assets in a manner that may be detrimental to its depositors, policy owners, investors or other creditors, including:

⁶¹⁵ Sections 49 to 81 of the [Monetary Authority of Singapore Act 1970](#) and Monetary Authority of Singapore – [MAS' Approach to Resolution of Financial Institutions in Singapore](#)

⁶¹⁶ Section 54 of the [Monetary Authority of Singapore Act 1970](#)

- Inability to comply with an order by MAS to increase its capital or recapitalise on its own through the issuance of ordinary shares or other forms of regulatory capital.
 - Increasing signs of financial distress, such as the need to trigger sales of illiquid assets.
 - The aggregate assets of the financial institution are, or will likely be, less than its liabilities such that it is assessed to be insufficient to provide adequate protection to the institutions depositors, policy owners, investors or other creditors.
 - Serious governance issues or risk management and control deficiencies that may significantly impact the institutions financial condition.
 - Failure, or likely failure, of the financial institution to pay its liabilities and fulfil its obligations when they fall due.
- Inability of the financial institution to continue meeting regulatory and licensing requirements on an on-going basis, including breach of, or imminent risk of breaching key regulatory requirements, and MAS' assessment of the financial institutions ability to take effective and prompt remedial and recovery measures.
 - Loss or likely loss of confidence in the financial institution by the public, financial markets, depositors, policy owners, investors or creditors.
 - Actual or likely failure of recovery measures, or the recovery measures are likely to have a material negative impact on the stability of the financial system, or inability of the institution to implement the recovery measures in a timely and effective manner.
- (631) Bank resolution activities are divided between the supervisory teams and the Resolution Office⁶¹⁷. Supervisory staff will determine whether the institution is non-viable and will identify a resolution strategy. The supervisory teams are responsible for developing and periodically updating the resolution plans and the Resolution Office supports the supervisory team and reviews them.⁶¹⁸
- (632) The Resolution Office will also determine whether there is a viable private sector solution and if there is a public interest reason for resolving (rather than liquidating) the institution. If the supervisors and Resolution Office agree to recommend that the institution is to be resolved a recommendation to the Crisis Management Team (CMT) or Management Resolution Committee (MRC) for approval. The decision-making body for matters relating to resolution policies, planning and execution, including determinations of non-viability, is the MRC. If the proposed resolution plan requires public funding or involves a D-SIB or a bank whose failure will have systemic impact, the case is escalated to the CMT.⁶¹⁹

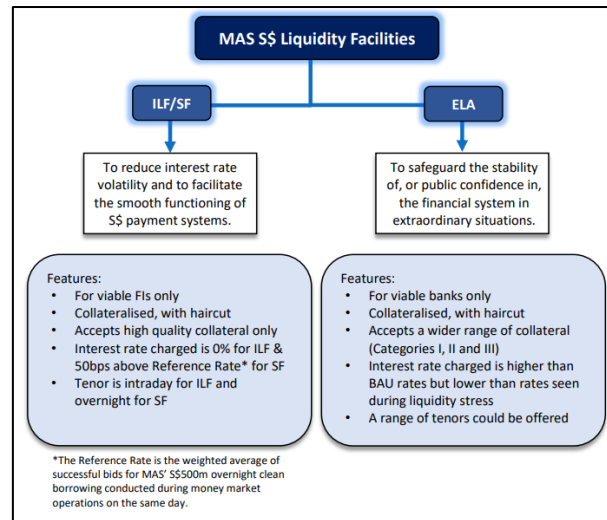
⁶¹⁷ [Financial Sector Assessment Program Technical Note Singapore – Crisis Management, Resolution, and Safety Nets \(July 2019\)](#) refers to the Resolution Unit but the current [MAS Organisation Structure](#) refers to a Resolution Office. We therefore use the current name rather than FSAP terminology from this point.

⁶¹⁸ [Financial Sector Assessment Program Technical Note Singapore – Crisis Management, Resolution, and Safety Nets \(July 2019\)](#)

⁶¹⁹ Financial Stability Institute – [FSI Insights on Policy implementation No. 32: Institutional arrangements for bank resolution and Financial Sector Assessment Program Technical Note Singapore – Crisis Management, Resolution, and Safety Nets \(July 2019\)](#)

Lender of Last Resort Monetary Authority of Singapore

(633) MAS can provide Emergency Liquidity Assistance (ELA) where MAS considers it necessary to safeguard the stability of, or public confidence in, the financial system.⁶²⁰



Source: Emergency Liquidity Assistance in Singapore, page 8⁶²¹

(634) ELA can take the following forms⁶²²:

- Market-wide ELA provision: This can take the form of a liquidity facility with standardised terms of access to address a sudden and system-wide seizing-up of funding markets. Such a facility can be open to all banks or a specified group of banks.
- Bespoke ELA provision: This relates to loans extended to one or a few D-SIBs facing institution-specific liquidity stress.

(635) MAS considers three issues in the provision of ELA: (1) MAS will only provide ELA to a bank that is assessed to be viable (2) MAS' collateral policy seeks accepts collateral with appropriate haircuts and (3) MAS will charge a premium over market interest rates in business-as-usual conditions.

(636) ELA will **not** be provided to a bank under resolution or liquidation. MAS does not intend ELA to be a form of support for banks that are not viable, as resolution or liquidation of such banks would be more appropriate. Any funding required to support resolution measures would be provided through resolution funding arrangements. However, any exercise of resolution powers on a bank would not constitute an event of default or trigger early termination of outstanding ELA, provided that the bank continues to perform its substantive obligations under the terms and conditions of the ELA provision (e.g., delivery of collateral).⁶²³

⁶²⁰ Section 26 of the [Monetary Authority of Singapore Act 1970](#)

⁶²¹ Monetary Authority of Singapore – [Emergency Liquidity Assistance in Singapore](#)

⁶²² Monetary Authority of Singapore – [Emergency Liquidity Assistance in Singapore](#)

⁶²³ Monetary Authority of Singapore – [Emergency Liquidity Assistance in Singapore](#)

Section 2: Independence between Authorities

- (637) MAS is Singapore's central bank and integrated financial regulator. MAS has a Board of Directors which is responsible for the policy and general administration of the affairs and business of MAS and has a duty to inform the Government of the regulatory, supervisory and monetary policies of the MAS.⁶²⁴ The President appoints the Chairperson and other members of the Board, including nominating the Deputy Chairperson. There are between 4 and 13 directors in addition to the Chairperson.
- (638) There are two decision-making committees covering MAS' macroprudential and supervisory and monetary policy objectives respectively⁶²⁵:
- **Chairmans Meeting:** The Chairman's Meeting makes decisions on major changes to the regulatory framework and supervisory policies. The Meeting also approves major changes to policies and strategies relating to financial centre development, international and regional relations, and payment and settlement systems operated by MAS.[
 - **Monetary and Investment Policy Meeting:** The Monetary and Investment Policy Meeting deliberates and decides on issues relating to the formulation and implementation of monetary policy with the objective of maintaining price stability for sustainable economic growth. The Meeting also oversees the investment of MAS' reserves.
- (639) The Chairman's Meeting remit over supervisory policies includes those related to macroprudential policies (e.g., the domestic systemically-important bank framework and the counter-cyclical capital buffer framework). However, there is some overlapping membership between the Chairman's Meeting and Monetary and Investment Policy Meeting as the MAS considers this and encompassing perspective to macroprudential and monetary policy objectives.⁶²⁶
- (640) MAS has operational autonomy.⁶²⁷ One of the directors will be appointed as the Managing Director of MAS.⁶²⁸ The Managing Director of the MAS is responsible for the day-to-day administration of MAS and "may make decisions and exercise all powers and do all acts which may be exercised or done by [MAS]" under the MAS Act.⁶²⁹
- (641) **Macroprudential**⁶³⁰: As stated, the Board-level Chairman's Meeting remit include those relating to macroprudential policy (e.g., the domestic systemically-important bank framework, the counter-cyclical capital buffer framework). MAS management is responsible for the day-to-day implementation of macroprudential policies (e.g., the calibration of specific policy measures) approved by Chairman's Meeting. Management escalates to the Chairman's Meeting major policy decisions to seek to ensure Board support for the policies.
- (642) Two management-level committees are involved in macroprudential policy – the Management Financial Stability Committee (FSC) and the Management Financial Supervision Committee (MFSC). FSC is responsible for formulating macroprudential policy and any associated communication plan.⁶³¹ MFSC meets weekly (or more regularly if needed) to deliberate on regulatory and supervisory issues and may refer financial stability matters to FSC for further deliberation.⁶³²

⁶²⁴ Section 7 of the [Monetary Authority of Singapore Act 1970](#)

⁶²⁵ Monetary Authority of Singapore – [Board of Directors](#)

⁶²⁶ Monetary Authority of Singapore – [MAS' Approach to Macroprudential Policy](#)

⁶²⁷ Monetary Authority of Singapore – [Board of Directors](#)

⁶²⁸ Sections 7 to 9 of the [Monetary Authority of Singapore Act 1970](#)

⁶²⁹ Section 9 of the [Monetary Authority of Singapore Act 1970](#)

⁶³⁰ Monetary Authority of Singapore – [MAS' Approach to Macroprudential Policy](#)

⁶³¹ Monetary Authority of Singapore – [MAS' Approach to Macroprudential Policy](#)

⁶³² Monetary Authority of Singapore – [MAS' Approach to Macroprudential Policy](#)

- (643) Resolution: Supervisory staff will determine whether the institution is non-viable and will identify a resolution strategy. The Resolution Office will determine whether there is a viable private sector solution and if there is a public interest reason for resolving (rather than liquidating) the institution. If the supervisors and Resolution Office agree to recommend that the institution be resolved a recommendation to the Crisis Management Team (CMT) or Management Resolution Committee (MRC) for approval. If the proposed resolution plan requires public funding or involves a D-SIB or a bank whose failure will have systemic impact, the case is escalated to the CMT, otherwise it will be referred to the MRC. In the case of disagreement between the supervisors and the Resolution Office, the Resolution Office has the authority to independently escalate breaches in supervisory indicators to the MRC/CMT for decisions on whether to trigger resolution.⁶³³
- (644) The Minister-in-charge⁶³⁴ of MAS must approve any plan that includes the use of public monies, the transfer of the business of, or shares in, a failing institution to a third party, or the restructuring of the share capital of a failing institution. Once approved the supervisors are responsible for implementing the resolution plan.⁶³⁵

Section 3: Resource Endowment

- (645) MAS may appoint such employees as it thinks fit and determine all matters relating to their remuneration and terms and conditions of appointment and employment. The directors, including the managing director, and the officers and employees of the MAS are deemed to be public servants. Remuneration at the MAS may not be related to its profits.⁶³⁶

Section 4: Financing of Authorities

- (646) At the end of each financial year, MAS net profit for that year is to be “determined after allowing for the expenses of operation”.⁶³⁷ MAS has a range of income sources, including⁶³⁸:
- Foreign Operations: Interest, dividends, profit on disposal of investments, foreign exchange gain and write-back of provision for diminution in value of investments.
 - Domestic and Other Operations: Interest from Singapore Dollar Securities and Reserves Management Government Securities, write-back of diminution in value of Singapore Dollar Securities and Reserves Management Government Securities, other income from Singapore dollar money market transactions, revenue from currency-related operations, custody fee and revenue from services provided on MASNET (the communication network operated by the MAS to provide secured communication and data exchange with Singapore financial institutions) and MAS Electronic Payment System (real-time gross settlement of payments).
 - Non-operating Income: Includes rental income and management service fees.
- (647) Each bank has to pay an annual licence fee⁶³⁹ are set at a standard rate depending on status. For a ‘full bank licence’ fees are calculated for the head office of a bank incorporated in Singapore or the main office in Singapore of a non-Singapore incorporated bank, for each Singapore branch and for each limited purpose branch.⁶⁴⁰ Different fees apply for wholesale and merchant banks.

⁶³³ [Financial Sector Assessment Program Technical Note Singapore – Crisis Management, Resolution, and Safety Nets \(July 2019\)](#)

⁶³⁴ The minister-in-charge of MAS is a Cabinet-level appointee responsible for overseeing MAS activities and is accountable to the Parliament for the actions taken by MAS.

⁶³⁵ [Financial Sector Assessment Program Technical Note Singapore – Crisis Management, Resolution, and Safety Nets \(July 2019\)](#)

⁶³⁶ Sections 15, 16 and 17 of the [Monetary Authority of Singapore Act 1970](#)

⁶³⁷ Section 6(2) of the [Monetary Authority of Singapore Act 1970](#)

⁶³⁸ Monetary Authority of Singapore – [MAS Financial Statements 2022/23](#)

⁶³⁹ Sections 8 and 13 of the [Banking Act 1970](#)

⁶⁴⁰ [Banking \(Fees\) Notification](#)

Section 5: Coordination of the Authorities – Nationally

- (648) As single institution, there is a presumption between cooperation and coordination although each function has specific parameters and remit.
- (649) Macroprudential issues are coordinated via two management-level committees – the FSC and MFSC. FSC is chaired by the MAS Managing Director and supported by the Macroprudential Surveillance Department. Its membership includes senior management overseeing various functions, including financial supervision, monetary policy, and reserve management. FSC meets quarterly and more often if needed to deliberate on macroprudential and financial stability issues. It is responsible for formulating macroprudential policy and any associated communication plan.
- (650) MFSC is chaired by the Deputy Managing Director responsible for financial supervision. Its membership comprises senior management from the financial supervision function and the General Counsel. It meets weekly (or more regularly if needed) to deliberate on regulatory and supervisory issues and may refer financial stability matters to FSC for further deliberation.⁶⁴¹
- (651) There are two committees focused on resolution issues. The MRC is chaired by the Deputy Managing Director for Financial Supervision and includes the heads of supervisory, policy, legal and technology risk and payments units. The CMT is a coordination forum chaired by MAS's Managing Director and comprises senior management from both the supervisory and central banking functions of MAS.⁶⁴²
- (652) The Resolution Office is structurally separate from the supervisory teams, and reporting lines are separate to the Assistant Managing Director (AMD). The Resolution Office reports to the AMD for Policy, Payment and Financial Crime, who has no conflicting supervisory responsibilities. Reporting lines converge at the Deputy Managing Director of Financial Supervision.⁶⁴³
- (653) MAS participates in the Financial Stability Coordinating Meeting, which includes representatives of the Ministry of Finance, which also serves as a coordination forum during a crisis.⁶⁴⁴

Section 6: Coordination of the Authorities – Internationally

- (654) MAS is a member of the Association of Southeast Asian Nations (ASEAN)⁶⁴⁵ and ASEAN+3⁶⁴⁶ Finance Ministers' and Central Bank Governors' Meetings (AFMGM and AFMGM+3) and the Executives' Meeting of East Asia-Pacific Central Banks (EMEAP). Singapore is a member of the International Monetary Fund, the World Bank Group, the Financial Stability Board, the Bank for International Settlements and the Basel Committee of Banking Supervision.
- (655) MAS organises supervisory colleges for the banking groups headquartered in Singapore and participates in CMGs of Global Systemically Important Financial Institutions (G-SIFIs) with significant presence in Singapore. MAS has multilateral institution-specific Cooperation Agreements with CMG members and has entered into MoUs with key host supervisory/resolution authorities of the local systemically important financial groups. It has MoUs with the Swiss Financial Market Supervisory Authority (FINMA)⁶⁴⁷ and the Federal Financial Supervisory Authority (BaFin)⁶⁴⁸.

⁶⁴¹ Monetary Authority of Singapore – [MAS' Approach to Macroprudential Policy](#)

⁶⁴² [Financial Sector Assessment Program Technical Note Singapore – Crisis Management, Resolution, and Safety Nets \(July 2019\)](#)

⁶⁴³ Financial Stability Institute – [FSI Insights on policy implementation No 32: Institutional arrangements for bank resolution](#)

⁶⁴⁴ Financial Stability Institute – [FSI Insights on policy implementation No 32: Institutional arrangements for bank resolution](#)

⁶⁴⁵ Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam

⁶⁴⁶ The ASEAN-Plus Three (APT) plus the People's Republic of China, Japan, and the Republic of Korea.

⁶⁴⁷ Swiss Financial Market Supervisory Authority – [FINMA's international agreements](#)

⁶⁴⁸ Federal Financial Supervisory Authority – [Memoranda of Understanding](#)

Section 7: Information Exchange between Authorities

(656) As a single institution there is a presumption of information sharing within MAS, unless restricted.

Section 8: Fund Solutions

Resolution Fund

(657) The MAS Act provides for the establishment of a resolution fund, managed by a trustee.⁶⁴⁹ The Resolution Fund may only be used to the extent necessary to support effective implementation of resolution measures. Prior to using the monies in the Resolution Fund, MAS is required to have regard to whether private sector funding can be obtained and whether appropriate losses have been imposed on unsecured subordinated creditors and shareholder.⁶⁵⁰ The Resolution Fund will be comprised of liquidity provided by the MAS which will then be repaid by the banking sector on an ex-post basis.

(658) The purposes for which the resolution funding arrangements may be used include⁶⁵¹:

- To facilitate temporary public ownership of an institution under resolution, including initial capital for a bridge entity or asset management company.
- To meet the operating costs of a bridge entity or an asset management company.
- To meet administrative costs incurred in the implementation of any resolution measure, including interest costs and the cost of advisory services procured in effecting the resolution.
- To meet creditor compensation claims and any associated costs that may arise from the implementation of a resolution measure.
- To provide guarantees in relation to the transfer of the assets or the liabilities of an institution under resolution, a resolved institution, a bridge entity or an asset management company.
- To meet the cost of selling or transferring all, or any part, of the assets, liabilities, or obligations of an institution under resolution, a resolved institution, a bridge entity or an asset management company.
- To make loans to institution under resolution, a resolved institution, a bridge entity or an asset management company.

(659) MAS has not precluded the use of resolution funding arrangements to recapitalise an institution under resolution. However, it will only be utilised after losses have been imposed on unsecured subordinated creditors and shareholders to the fullest extent possible or appropriate.

(660) MAS may provide temporary liquidity to support the implementation of resolution measures. Any costs incurred will first be borne by that institution. Losses will be imposed on its shareholders and unsecured subordinated creditors to the fullest extent possible or appropriate.⁶⁵²

Singapore Deposit Insurance Corporation – Deposit Insurance Fund

(661) The Singapore Deposit Insurance Corporation (SDIC) covers depositors up to \$75,000 in the event of a bank failure. The SDIC is also responsible for managing the Deposit Insurance Fund (DI Fund) and collecting levy contributions from Scheme Members.

⁶⁴⁹ Section 99 of the [Monetary Authority of Singapore Act 1970](#)

⁶⁵⁰ Monetary Authority of Singapore – [MAS' Approach to Resolution of Financial Institutions in Singapore](#) and Article 101(3) of the [Monetary Authority of Singapore Act 1970](#)

⁶⁵¹ Section 101(1) of the [Monetary Authority of Singapore Act 1970](#) and Monetary Authority of Singapore – [MAS' Approach to Resolution of Financial Institutions in Singapore](#) and

⁶⁵² Monetary Authority of Singapore – [MAS' Approach to Resolution of Financial Institutions in Singapore](#)

(662) Outside of liquidation, the SDIC may be directed to use the DI Fund to facilitate the timely resolution of a Deposit Insurance Scheme (DI) Scheme Member. This includes funding the cost of any resolution action. In directing the SDIC to use the DI Fund for resolution measures, MAS will have regard to the protection of depositors.⁶⁵³

(663) The DI Fund will only be used on the following basis:

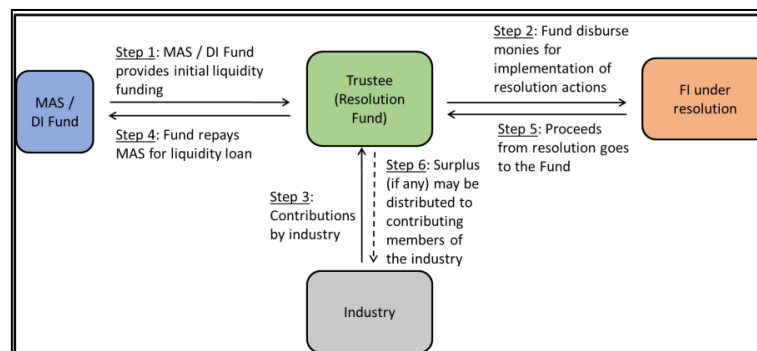
- DI Scheme Members only: DI Fund will only be used to support the resolution of a member.
- Equivalent cost criterion: The amount drawn on the DI Fund will be capped at the amount that would have been paid out in a depositor payout situation for that particular DI Scheme Member in resolution (i.e., if the DI Scheme Member had been liquidated).

(664) Similar to the use of the resolution fund, the DI Fund will be used for resolution purposes after losses have been imposed on the financial institutions unsecured subordinated creditors and shareholders to the fullest extent possible or appropriate.

Section 9: Compensation Mechanisms for Government Support

Resolution Fund

(665) The recovery of resolution costs incurred will take place on an ex-post basis once how much needs to be recovered from the industry is known. Costs will be recovered via contributions from the institutions industry.⁶⁵⁴ Where there are excess monies residing in the resolution fund after the resolution, these surpluses may be distributed back to the contributing financial institutions.⁶⁵⁵



Source: Monetary Authority of Singapore – MAS' Approach to Resolution of Financial Institutions in Singapore, page 21⁶⁵⁶

Deposit Insurance Fund

(666) DI Scheme members pay premium contributions to the DI Fund annually. The premiums levied on member institutions are differentiated according to the risk they pose to the DI Fund. These risk-based premiums are charged to member institutions as a percentage of the amount of insured deposits they hold, subject to a minimum annual premium of \$2,500.⁶⁵⁷

⁶⁵³ Monetary Authority of Singapore – [MAS' Approach to Resolution of Financial Institutions in Singapore](#)

⁶⁵⁴ Sections 102 to 104 of the [Monetary Authority of Singapore Act 1970](#)

⁶⁵⁵ Monetary Authority of Singapore – [MAS' Approach to Resolution of Financial Institutions in Singapore](#)

⁶⁵⁶ Monetary Authority of Singapore – [MAS' Approach to Resolution of Financial Institutions in Singapore](#)

⁶⁵⁷ Singapore Deposit Insurance Corporation - [Deposit Insurance Fund](#)

Section 10: Advantages and Disadvantages of the Singapore Institutional Approach

- (667) Each of the institutional arrangements for the supervision and resolution of banks is contained in one institution, MAS, typifying the need for a governance separation approach, though some elements require Ministerial approval (e.g., resolution measures and funding).
- (668) This has a number of advantages. All aspects for financial stability are together within a single institution. MAS is responsible for delivering systemic financial stability through macroprudential regulation, oversight of the safety and soundness of banks subject to macroprudential policy and for crisis management including resolution and provision of ELA. Systemic and firm-specific regulation and resolution are coordinated. The practical execution of macroprudential oversight is facilitated and informed by the intelligence gained from micro-prudential supervision within the same institution as well as from the Resolution Office in crisis management and resolution events.
- (669) A single institution facilitates a 'continuity of processes' between macroprudential objectives and policy, supervision and resolution. In MAS' case as the supervisory function leads on recovery and resolution planning and implementation the supervisory function can monitor deterioration in a bank's condition in a timely way and prepare for action, thus facilitating early contingency planning and speedy intervention. MAS functions support and work with each other which should help supervisors to use their in-depth knowledge of the institution in developing contributing to macroprudential surveillance and taking of resolution measures and avoid 'silos' that potentially inhibit the exchange of information and technical knowledge.
- (670) Close cooperation and information exchange is eased. For instance, the perspective and institution specific knowledge of the supervisory function will provide required information and data to the macroprudential assessment and systemic risk monitoring and in performance of its resolution objectives. As a single institution, unless prohibited under legislation or internal arrangements, the expectation would be for the sharing and dissemination of information. From a pragmatic perspective, ensuring a sustained level of experienced personnel with more focused and specialist knowledge which would more easily be shared via a single institution is easier in a single institution. Personnel with specific experience can more easily transfer, or provide support, from one area to another.
- (671) The 'co-location' of functions may also support effective decision-making and resolution of differences. Internal divergences or differences of approach could be more easily resolved within the internal decision-making structures of a single institution.
- (672) However, there may be a perception of a lack of objectivity in the instance where an institution has differing, and at times conflicting, responsibilities. Strong mandates and clearly set decision-making parameters to help ensure objectivity would be required.
- (673) Though there are separate two decision-making committees covering MAS' macroprudential and supervisory and monetary policy objectives (the Chairman's Meeting and Monetary and Investment Policy Meeting respectively). However, there is some overlapping membership between the two fora.
- (674) There is also a potential for conflicts of interest or objectives between the responsibilities within MAS, particularly as the supervisory function is dually responsible for supervision and resolution. This runs the risk that a potential conflict between supervisory and resolution policy, particularly on deciding a bank is non-viable, may arise. Though the Resolution Office – which has separate reporting lines up to the Deputy Director of Financial Supervision – may escalate a decision to the MRC/CMT on whether the resolution trigger should be activated, both forums are either Chaired by or have representatives from supervision involved.

Annex 8: Jurisdiction Focus – Hong Kong

Section 1: Responsibilities

Area of Responsibility	
Macroprudential Supervision	Hong Kong Monetary Authority Financial Secretary Secretary for Financial Services and the Treasury Council of Financial Regulators Financial Stability Committee
Prudential Supervision	Hong Kong Monetary Authority
Recovery	Hong Kong Monetary Authority
Resolution – Restructuring	Hong Kong Monetary Authority
Resolution – Liquidation	Hong Kong Monetary Authority assesses whether the conditions for resolution are satisfied. If not, the Financial Secretary will apply for a Court ordered winding up.
Lender of Last Resort	Hong Kong Monetary Authority

Macroprudential Supervision Hong Kong Monetary Authority

(675) The Hong Kong Monetary Authority (HKMA) is the main macroprudential regulator in the Hong Kong Special Administrative Region of the People's Republic of China (Hong Kong). The HKMA notes one of its core functions is “promoting the stability and integrity of the financial system, including the banking system”⁶⁵⁸. This reflects the legislative function of the Monetary Authority⁶⁵⁹ “to promote the general stability and effective working of the banking system”⁶⁶⁰.

(676) The HKMA has the authority to apply macroprudential tools such as the Countercyclical Capital Buffer (CCyB)⁶⁶¹ applied under its Supervisory Policy Manual “Countercyclical Capital Buffer (CCyB) – Approach to its Implementation”⁶⁶² which is calculated by the Initial Reference Calculator designed by the HKMA. In addition, banks are also required to maintain a capital conservation buffer and for systemically important banks, the higher loss absorbency buffer.

(677) To that end, the HKMA also has responsibility to designate systemically important banks – either as a global systemically important bank (G-SIB) or domestic systemically important bank (D-SIB).⁶⁶³ It also publishes a Half Yearly Monetary and Financial Stability Report.⁶⁶⁴

(678) The HKMA has a Macro Surveillance Committee⁶⁶⁵. Its remit is to:

⁶⁵⁸ Hong Kong Monetary Authority – [The HKMA](#)

⁶⁵⁹ The “Monetary Authority” is a person appointed under the [Exchange Fund Ordinance](#). As confirmed in [Functions and Responsibilities in Monetary and Financial Affairs: Exchange of Letters between the Financial Secretary and the Monetary Authority](#) the office of the Monetary Authority is known as the Hong Kong Monetary Authority (HKMA) and the Monetary Authority as the Chief Executive of the Hong Kong Monetary Authority. We shall use the terms HKMA and Chief Executive in the remainder of this annex.

⁶⁶⁰ Section 7(1) of the [Banking Ordinance](#)

⁶⁶¹ Hong Kong Monetary Authority – [Countercyclical Capital Buffer](#) and Part 1B Division 4 of the [Banking \(Capital\) Rules](#)

⁶⁶² Hong Kong Monetary Authority - [Supervisory Policy Manual CA-B-1 Countercyclical Capital Buffer \(CCyB\) – Approach to its Implementation](#)

⁶⁶³ Part 1B Division 5 Sections 3S and 3U of the [Banking \(Capital\) Rules](#)

⁶⁶⁴ Hong Kong Monetary Authority – [Half Yearly Monetary and Financial Stability Report](#)

⁶⁶⁵ Hong Kong Monetary Authority – [2022 Annual Report](#)

- Identify potential risks and threats to the monetary and financial system in Hong Kong and discuss possible measures to address such risks.
- Review existing measures for managing risks in the monetary and financial system to identify possible gaps and ensure the adequacy of these measures.
- Encourage cross-departmental sharing of relevant information on macro surveillance with a view to enhancing the macro surveillance capability of the HKMA.

(679) The HKMA is part of a wider interlacing network of authorities, government officials and committees which have a role in ensuring the financial stability of Hong Kong:

- The Financial Secretary (FS), assisted by the Secretary for Financial Services and the Treasury (SFST), shall be responsible for policies for the maintenance of the stability and integrity of the financial system of Hong Kong.⁶⁶⁶ Under the Exchange Fund Ordinance, the execution of responsibilities under the Banking Ordinance have effectively been delegated to the Chief Executive of the HKMA⁶⁶⁷. The FS and SFST are responsible for determining the relevant policy objectives at a macro level and for formulating specific policies and overseeing their implementation through the regulatory authorities respectively and so the FS and the SFST are responsible for maintaining the stability and integrity of the financial system of the Hong Kong SAR.⁶⁶⁸
- The Council of Financial Regulators (CFR) and the Financial Stability Committee (FSC) are mechanisms established, chaired by the FS and the SFST respectively, to support macroprudential policy coordination and consultation among financial regulators. The CFR is chaired by the FS and comprises representatives from the Financial Services and the Treasury Bureau, HKMA, Securities and Futures Commission (SFC), Insurance Authority (IA) and Mandatory Provident Fund Schemes Authority. The FSC is chaired by the SFST and comprises representatives from the HKMA, the SFC and the IA.

Micro-Prudential Supervision **Hong Kong Monetary Authority**

(680) The HKMA is responsible for the authorisation, regulation and supervision of banking business and the business of taking deposits in Hong Kong. The HKMA adopts a risk-based approach in evaluating banks' safety and soundness, risk-management systems and internal controls and the HKMA consider that this enables the HKMA to pre-empt any serious threat to the stability of the banking system.

(681) The Banking Ordinance provides the HKMA with the legal basis for the regulation of the banking sector. The HKMA is responsible for determining prudential policies related to the banking sector and it shall, as part of its specific functions "be responsible for supervising compliance with the provisions of [the Banking] Ordinance" and "promote and encourage proper standards of conduct and sound and prudent business practices amongst authorized institutions⁶⁶⁹ and money brokers"⁶⁷⁰. There is further legislative basis supporting key prudential requirements, such as for Capital⁶⁷¹, Liquidity⁶⁷² and Exposure Limits⁶⁷³.

⁶⁶⁶ [Functions and Responsibilities in Monetary and Financial Affairs: Exchange of Letters between the Financial Secretary and the Monetary Authority](#)

⁶⁶⁷ Section 5(B) of the [Exchange Fund Ordinance](#)

⁶⁶⁸ [Financial Sector Assessment Program Technical Note People's Republic of China – Hong Kong Special Administrative Region – Systemic Risk Oversight and Macroprudential Policies \(June 2021\)](#)

⁶⁶⁹ Defined as a bank, a restricted licence bank or a deposit-taking company in Section 2 of the [Banking Ordinance](#)

⁶⁷⁰ Section 7(2) of the [Banking Ordinance](#)

⁶⁷¹ [Banking \(Capital\) Rules](#)

⁶⁷² [Banking \(Liquidity\) Rules](#)

⁶⁷³ [Banking \(Exposure Limits\) Rules](#)

- (682) Under the Banking Ordinance banks are required to maintain adequate capital and liquidity, adhere to limitations on exposures to any single counterparty (or group of linked counterparties) or to directors and employee as well as to submit periodic returns to the HKMA and seek approval for the appointment of directors and chief executives, and for controllers. Overseas bank branches not required to hold capital in Hong Kong and are not subject to capital ratio requirements or to capital-based limits on large exposures.
- (683) HKMA supervises three types of deposit taking institutions (defined as “authorised institutions” (AI))⁶⁷⁴:
- Licensed banks: Which operate current and savings accounts, accept deposits of any size and maturity from the public, pay or collect cheques drawn by or paid in by customers and may use the name “bank” without restriction.
 - Restricted licensed banks: Which are principally engaged in merchant banking and capital market activities and may take deposits of any maturity of HK\$500,000 and above.
 - Deposit taking companies: Which are mostly owned by, or otherwise associated with, banks, engage in a range of specialised activities, including consumer finance, commercial lending and securities business and may take deposits of HK\$100,000 or above with an original term of maturity of at least three months.
- (684) HKMA’s approach is based on a policy of “continuous supervision”, through on-site examinations, off-site reviews, prudential meetings held after off-site reviews with the firm’s senior management, co-operation with external auditors and sharing information with other supervisors.⁶⁷⁵ The HKMA adopts the “CAMEL” (Capital adequacy, Asset quality, Management, Earnings and Liquidity) rating system to assess the financial condition and overall soundness of banks in Hong Kong.
- (685) HKMA’s risk-based approach is outlined in its Supervisory Policy Manual SA-1 “Risk-based Supervisory Approach”.⁶⁷⁶ Risk-based supervision factors the risk profile of an authorised institution into the CAMEL rating system. Each of the CAMEL components is affected by one or more of the eight inherent risks (credit, market, interest rate, liquidity, operational, legal, reputation and strategic) which are considered by the HKMA.
- (686) D-SIBs are subject to a tailored regime under HKMA’s Supervisory Policy Manual CA-B-2 Systemically Important Banks⁶⁷⁷ As well as explaining the HKMA’s approach to designating D-SIBs, it outlines that regulatory and supervisory measures will be taken with the aim of: reducing their probability of failure, by increasing their going-concern loss absorbency in the case of locally incorporated authorised institutions designated as D-SIBs, requiring early recovery planning, and increasing the intensity of their supervision and reducing the extent or impact of any failure, by improving the resolvability of these authorised institutions.

Recovery

Hong Kong Monetary Authority

- (687) The HKMA has a number of powers it can use in the event that an authorised institutions position is deteriorating. These are within scope of its general supervision powers under the Banking Ordinance⁶⁷⁸. These powers are exercisable on a number of bases including (but not limited to): if an authorised institution is likely to become unable to meet its obligations or if it is insolvent or

⁶⁷⁴ Hong Kong Monetary Authority – [The Three-tier Banking System](#)

⁶⁷⁵ Hong Kong Monetary Authority – [Regulatory & Supervisory Framework](#)

⁶⁷⁶ Hong Kong Monetary Authority – [Supervisory Policy Manual SA-1 Risk-based Supervisory Approach](#)

⁶⁷⁷ Hong Kong Monetary Authority – [Supervisory Policy Manual CA-B-2 Systemically Important Banks](#)

⁶⁷⁸ Section 52 of the [Banking Ordinance](#)

about to suspend payment (either being notified of that by the institution or in the opinion of the HKMA) or that the Financial Secretary advises that it is in the public interest to do so.

- (688) The HKMA must ordinarily give seven days notice but may give less notice with the consent of the Financial Secretary and it is reasonable to do so in the circumstances. The powers that may be exercised include “any action or to do any act or thing whatsoever in relation to its affairs, business and property as [the HKMA] may consider necessary (including any requirement imposing restrictions...)”⁶⁷⁹, “seek advice on the management of its affairs, business and property from an Advisor”⁶⁸⁰ appointed by the HKMA and/or appoint a manager for the institution and set the objectives under which they will work⁶⁸¹.
- (689) There are also formal recovery planning requirements in the Banking Ordinance.⁶⁸² All authorised institutions to “develop and maintain a recovery plan commensurate with the nature, scale and complexity of their operations and in compliance with statutory and supervisory requirements on recovery planning”⁶⁸³ Building on the legal basis in the Banking Ordinance, the HKMA’s Supervisory Policy Manual RE-1 Recovery Planning describes the requirements in terms of the content of the recovery plan, its annual assessment thereof, the identification and required removal of impediments to recovery.
- (690) The authorised institution is required to notify the HKMA if an event occurs which will likely lead to implementing a recovery measure of whether it has decided to implement a recovery measure as soon practicable.⁶⁸⁴ The HKMA may also require the use of one or more recovery measures if it considers that is delaying implementation, that the delay is causing or likely to cause harm to the financial soundness and viability of the institution or the measure(s) is necessary to stabilise and restore the financial resources and viability of the institution and avoid an unacceptable risk to the general stability and effective working of the financial system in Hong Kong.⁶⁸⁵

Resolution (Restructuring and Liquidation) **Hong Kong Monetary Authority**

- (691) The HKMA is the resolution authority for banking sector entities. The HKMA is also designated as the lead resolution authority, with lead responsibility for the resolution planning, and, if needed, resolution execution of all of the existing cross-sectoral groups in Hong Kong that include banking sector entities.⁶⁸⁶
- (692) The Resolution Office within the HKMA is responsible for the implementation of the resolution regime. It is operationally independent and has a direct reporting line to the Chief Executive of the HKMA, and is responsible for:
- Setting resolution standards for authorised institutions.
 - Undertaking ex-ante resolution planning and resolvability assessments for authorised institutions.
 - Identifying and requiring authorised institutions to remove impediments to their orderly resolution.

⁶⁷⁹ Section 52(1)(A) of the [Banking Ordinance](#)

⁶⁸⁰ Section 52(1)(B) of the [Banking Ordinance](#)

⁶⁸¹ Section 52(1)(C) of the [Banking Ordinance](#)

⁶⁸² Part XIA of the [Banking Ordinance](#)

⁶⁸³ Hong Kong Monetary Authority – [Supervisory Policy Manual RE-1 Recovery Planning](#)

⁶⁸⁴ Section 68G of the [Banking Ordinance](#)

⁶⁸⁵ Section 68F of the [Banking Ordinance](#)

⁶⁸⁶ Section 7 of the [Financial Institutions \(Resolution\) Ordinance](#) and Hong Kong Monetary Authority – [Resolution Framework](#)

- Where necessary, executing orderly resolution of any authorised institutions that are likely to fail or that have failed through the use of resolution powers under the Financial Institutions (Resolution) Ordinance (FIRO).
- (693) Expanding on the legislative basis in the FIRO, the HKMA has issued a number of standards⁶⁸⁷ relating to mostly to the removal of resolution impediments. These include loss absorbing capacity, operational continuity, termination of financial contracts, funding needs and accessing funding and maintaining access to payment, clearing and settlements services from financial market infrastructures and banks.
- (694) The HKMA develops resolution plans⁶⁸⁸ for authorised institutions. This is outlined in its HKMA's Approach to Resolution Planning⁶⁸⁹ covering:
- Gathering information.⁶⁹⁰
 - Setting and operationalising a preferred resolution strategy.⁶⁹¹
 - Assessing resolvability.⁶⁹²
 - Addressing impediments to resolution.⁶⁹³
- (695) Through the resolution planning process, the HKMA may work with the relevant authorised institution to implement any necessary changes to its legal structure, business operations and/or structure of financial resources necessary for enhancing resolvability so that its preferred resolution strategy can be implemented effectively if needed.
- (696) Under the FIRO, the orderly resolution may be achieved by deploying one or more of the stabilisation tools, including⁶⁹⁴:
- Transfer some or all of the business to a purchaser.⁶⁹⁵
 - Transfer some or all of the business to a bridge institution.⁶⁹⁶
 - Transfer some or all of the assets, rights and liabilities to an asset management vehicle.⁶⁹⁷
 - Bail-in (i.e., a statutory write-off or conversion into equity of certain liabilities in order to absorb losses and restore its capital position).⁶⁹⁸
 - As a last resort, transfer to a temporary public ownership company with the consent of the Financial Secretary.⁶⁹⁹
- (697) The resolution authority may only initiate resolution if it is satisfied that conditions 1, 2 and 3 are met⁷⁰⁰:
- Condition 1: The financial institution has ceased, or is likely to cease, to be viable.

⁶⁸⁷ Hong Kong Monetary Authority – [Resolution Standards](#)

⁶⁸⁸ Section 13 of the [Financial Institutions \(Resolution\) Ordinance](#)

⁶⁸⁹ Hong Kong Monetary Authority – [Code of Practice chapter RA-2 "The HKMA's Approach to Resolution Planning](#)

⁶⁹⁰ Hong Kong Monetary Authority – [Code of Practice chapter CI-1: Resolution Planning – Core Information Requirements](#) and Section 158 of the [Financial Institutions \(Resolution\) Ordinance](#)

⁶⁹¹ Section 13(1) of the [Financial Institutions \(Resolution\) Ordinance](#)

⁶⁹² Section 12 of the [Financial Institutions \(Resolution\) Ordinance](#)

⁶⁹³ Section 14 of the [Financial Institutions \(Resolution\) Ordinance](#)

⁶⁹⁴ Hong Kong Monetary Authority – [Resolution Execution](#)

⁶⁹⁵ Sections 38 to 40 of the [Financial Institutions \(Resolution\) Ordinance](#)

⁶⁹⁶ Section 41 to 48 of the [Financial Institutions \(Resolution\) Ordinance](#)

⁶⁹⁷ Sections 49 to 56 of the [Financial Institutions \(Resolution\) Ordinance](#)

⁶⁹⁸ Sections 57 to 65 of the [Financial Institutions \(Resolution\) Ordinance](#)

⁶⁹⁹ Section 66 to 73 of the [Financial Institutions \(Resolution\) Ordinance](#)

⁷⁰⁰ Section 25 of the [Financial Institutions \(Resolution\) Ordinance](#)

- Condition 2: There is no reasonable prospect that private sector action (outside of resolution) would result in the financial institution again becoming viable within a reasonable period.
- Condition 3:
 - The non-viability of the financial institution poses risks to the stability and effective working of the financial system of Hong Kong, including to the continued performance of critical financial functions; and
 - Resolution will avoid or mitigate those risks.

(698) The Chief Executive of the HKMA, in the HKMA's capacity of resolution authority, is responsible for resolution-related decisions, including whether the three conditions for resolution are met. The work supporting assessment of Condition 1 is carried out by the Banking Supervision Department (BSD), and of Conditions 2 and 3 by the Resolution Office, with inputs from the BSD and the Monetary Management Department. The Resolution Office is responsible for coordinating the decision process through the HKMA's Crisis Management Coordination Group (CMCG).⁷⁰¹

(699) The HKMA as resolution authority will consider whether the conditions for initiating a resolution are met. If not, a resolution measure may not be applied.

(700) The Financial Secretary, acting in accordance with a direction of the Chief Executive in Council (who themselves is acting upon receipt of a report from the Financial Secretary or HKMA⁷⁰²), may petition the Court of First Instance to wind up an authorised institution. The Court may do so if for instance it is unable to pay its debts or if the Court is "satisfied that it is in the public interest" to wind it up.⁷⁰³

(701) The Financial Secretary may petition the Court of First Instance upon receipt of a report⁷⁰⁴ from a competent person on the "state and conduct of the affairs, business and property" of the authorised institution (without recourse to the Chief Executive Council). The Court may wind up a deposit-taking company or restricted licence bank if the firm is "unable to pay sums due and payable to its depositors or is able to pay such sums only by defaulting on its obligations" or "the value of the deposit-taking company's or restricted licence bank's assets is less than the amount of its liabilities".⁷⁰⁵

Lender of Last Resort **Hong Kong Monetary Authority**

(702) The HKMA operates a range of liquidity facilities to maintain integrity and stability of the monetary and financial systems in Hong Kong.⁷⁰⁶ These include the Hong Kong Dollar Liquidity Facilities, RMB Liquidity Facility and Primary Liquidity Providers and US Dollar Liquidity Facilities.

(703) Within the Hong Kong Dollar Liquidity Facilities framework, all liquidity shall be provided in ways consistent with the Linked Exchange Rate System, which is underpinned by the Currency Board arrangements. It contains a range of facilities including settlement facilities, standby liquidity facilities, contingent term facilities and the resolution facility.

⁷⁰¹ Financial Stability Institute – [FSI Insights on Policy Implementation No 32: Institutional arrangements for bank resolution and Financial Sector Assessment Program Technical Note People's Republic of China – Hong Kong Special Administrative Region – Financial Safety Net and Crisis Management Arrangements \(June 2021\)](#)

⁷⁰² Section 53(1) of the [Banking Ordinance](#)

⁷⁰³ Section 122(2) of the [Banking Ordinance](#)

⁷⁰⁴ Section 117(5) of the [Banking Ordinance](#)

⁷⁰⁵ Section 122(5) of the [Banking Ordinance](#)

⁷⁰⁶ Hong Kong Monetary Authority – [Liquidity Facilities](#)

Section 2: Independence between Authorities

- (704) The HKMA is accountable to the public of Hong Kong through the Financial Secretary, who appoints the Chief Executive, and through the laws passed by the Legislative Council that set out the Monetary Authority's powers and responsibilities.
- (705) There is a formal commitment from the Chief Executive of the HKMA to appear before the Panel on Financial Affairs of the Legislative Council three times a year to brief Members and to answer questions on the HKMA's work. Representatives from the HKMA also attend Legislative Council panel and committee meetings from time to time to explain and discuss particular issues and to assist Members in their scrutiny of draft legislation.
- (706) There are internal governance arrangements that ensure the operational independence of the resolution function. The Resolution Office is a separate office within the HKMA and has a dedicated team of staff working independently from other parts of the HKMA. The Head of the Resolution Office reports directly to the Chief Executive of the HKMA in the latter's capacity as resolution authority.⁷⁰⁷ As noted, it is the Chief Executive who has decision making authority for resolution matters and the advice received from the Resolution Office and other areas such as supervision is coordinated by the Resolution Office via the CMCG. The CMCG provides the HKMA Chief Executive with coordinated options, analysis and advice and provides the basis for enhanced cooperation and coordination across relevant departments involved in bank crisis preparedness.⁷⁰⁸

Section 3: Resource Endowment

- (707) As of 1 January 2023, the establishment level of staffing was 1,040, with a strength of 937. Within that overall figure, in Banking Supervision there was an establishment level of 188 and strength of 164, in Banking Policy the numbers were 47 and 43 respectively, the Resolution Office the numbers were 13 and 9 respectively and in Monetary Management⁷⁰⁹ the numbers were 94 and 84 respectively.⁷¹⁰

Section 4: Financing of Authorities

- (708) The Chief Executive and staff appointed by him are considered as being employed by the Exchange Fund, and therefore costs are financed by the Exchange Fund.⁷¹¹
- (709) The Exchange Fund may be held in Hong Kong currency, in foreign exchange or in gold or silver or may be invested by the Financial Secretary in such securities or other assets as he, after having consulted the Exchange Fund Advisory Committee, considers appropriate. The Financial Secretary may buy or sell such currency, foreign exchange, gold, silver, securities or assets accordingly and after having consulted the Exchange Fund Advisory Committee, enter into any financial arrangement that he considers appropriate for the prudent management of the Fund.⁷¹² The Exchange Fund has a diversified long-term asset allocation portfolio and Long Term Growth Portfolio.⁷¹³

⁷⁰⁷ Hong Kong Monetary Authority – [Operational Independence of the Monetary Authority as Resolution Authority \(RA-1\)](#)

⁷⁰⁸ [Financial Sector Assessment Program Technical Note People's Republic of China – Hong Kong Special Administrative Region – Financial Safety Net and Crisis Management Arrangements \(June 2021\)](#)

⁷⁰⁹ Whose function is to maintain financial and monetary stability through macro-financial surveillance and monitoring of market operations, license and supervise stored value facilities, designate and oversee important retail payment systems, develop thought leadership and implement policies in digital finance including stablecoin regulation, take charge of the settlement function, and ensure an adequate supply of banknotes and coins.

⁷¹⁰ Hong Kong Monetary Authority – [2022 Annual Report](#)

⁷¹¹ Sections 5A(4) and 6(a) of the [Exchange Fund Ordinance](#)

⁷¹² Section 3(2) of the [Exchange Fund Ordinance](#)

⁷¹³ Hong Kong Monetary Authority – [2022 Annual Report](#)

Section 5: Coordination of the Authorities – Nationally

- (710) As a single institution, there is an expectation of internal coordination and cooperation.
- (711) The Chief Executive's Committee reports to the Chief Executive of the HKMA on the progress of major tasks being undertaken by the various departments of the HKMA and to advise him on policy matters relating to the operations of the HKMA. Its membership includes the Deputy Chief Executives and Executive Directors of the HKMA. As stated, the CMCG provides the HKMA Chief Executive with coordinated options, analysis and advice and provides the basis for enhanced cooperation and coordination across relevant departments involved in bank crisis preparedness.
- (712) The HKMA also cooperates with the other financial services regulators and government officials. The HKMA shall “co-operate with and assist recognized financial services supervisory authorities of Hong Kong ...”.⁷¹⁴
- (713) The CFR⁷¹⁵ is chaired by the FS and comprises representatives from the Financial Services and the Treasury Bureau, HKMA, SFC, IA and Mandatory Provident Fund Schemes Authority. The FSC⁷¹⁶ is chaired by the SFST and comprises representatives from the HKMA, SFC and IA. Both, by nature, foster deliberation and cooperation, and the CFR has an explicit task to “facilitate cooperation and coordination among its members”. The CFR meets four times a year, while the FSC meets at least five times a year. Decisions of the CFR and the FSC are made unanimously.⁷¹⁷ The HKMA also have MoUs with the SFC⁷¹⁸ and IA⁷¹⁹.
- (714) The HKMA's Banking Advisory Committee is Chaired by the Financial Secretary, and its members include the Secretary for Financial Services and the Treasury, Chief Executives of the HKMA and SFC and representatives from the banking sector. The Deposit-taking Companies Advisory Committee is also chaired by the Financial Secretary and members include the Secretary for Financial Services and the Treasury, Chief Executive of the HKMA and representatives of the Legislative Council and industry and consumer bodies.⁷²⁰

Section 6: Coordination of the Authorities – Internationally

- (715) The HKMA shall “co-operate with and assist recognized financial services supervisory authorities ... of any place outside Hong Kong, whenever appropriate...”.⁷²¹
- (716) The HKMA participates in multilateral institutions and international forums. These include the Asian Infrastructure Investment Bank, Asia-Pacific Economic Cooperation, ASEAN+3 Chiang Mai Initiative Multilateralisation, Bank for International Settlements, Basel Committee on Banking Supervision, Executives' Meeting of East Asia and Pacific Central Banks, Financial Stability Board, International Monetary Fund, World Bank Group and Group of Twenty (G20).
- (717) The HKMA has entered into MoUs or other formal arrangements with the relevant banking supervisory authorities outside Hong Kong. These include a number of the in-scope jurisdictions to this report, including the Germany (Federal Financial Supervisory Authority (BaFin)), the United Kingdom (Prudential Regulation Authority and Financial Conduct Authority) and the United States (Federal Reserve System, Office of the Comptroller of the Currency and Federal Deposit Insurance Corporation).⁷²²

⁷¹⁴ Section 7(2)(e) of the [Banking Ordinance](#)

⁷¹⁵ [Council of Financial Regulators – Terms of Reference](#)

⁷¹⁶ [Financial Stability Committee – Terms of Reference](#)

⁷¹⁷ [Financial Sector Assessment Program Technical Note People's Republic of China – Hong Kong Special Administrative Region – Systemic Risk Oversight and Macroprudential Policies \(June 2021\)](#)

⁷¹⁸ [Memorandum of Understanding between the Securities and Futures Commission and the Hong Kong Monetary Authority](#)

⁷¹⁹ [Memorandum of Understanding between the Monetary Authority and the Insurance Authority](#)

⁷²⁰ Sections 4 and 5 of the [Banking Ordinance](#)

⁷²¹ Section 7(2)(e) of the [Banking Ordinance](#)

⁷²² Hong Kong Monetary Authority – [Supervisory Co-Operation](#)

Section 7: Information Exchange between Authorities

- (718) As a single institution there is a presumption that information is capable of being shared internally, unless it is restricted.
- (719) As described, the HKMA shall “co-operate with and assist recognized financial services supervisory authorities of Hong Kong or of any place outside Hong Kong, whenever appropriate, to the extent permitted by this or any other Ordinance”.⁷²³ One of the tasks of the CFR is to “share information and views on regulatory and supervisory issues and important trends in the financial system”.⁷²⁴ The HKMA’s MoUs with the SFC and IA each include details on the sharing and exchange of information. Similarly, it is common practice for MoU’s and cooperation agreements include details on information exchange, and we would expect the MoUs entered into with international jurisdictions to cover such arrangements.

Section 8: Fund Solutions

FIRO Resolution Funding Account

- (720) Under the FIRO, the HKMA may charge the entity under resolution “all reasonable costs properly incurred by the resolution authority or the Financial Secretary” for the resolution measures applied. These charges must not undermine the meeting of the resolution objectives. Any monies received from the institution must be paid into a resolution funding account. Such funding cannot be used to cover the expenses of the HKMA or general operating expenses in undertaking the resolution.⁷²⁵ Potential other sources of funds for the resolution fund account include the Exchange Fund or other public money.⁷²⁶ Resolution funds may be used for a range of purposes, including provision of guarantees and indemnities, loans, and provision of capital.⁷²⁷

Resolution Facility

- (721) The Resolution Facility will be available only where resolution has been initiated under the FIRO. At the discretion of the HKMA the Resolution Facility may be made available, having regard to systemic stability, for the purpose of ensuring that a bank which has (or whose holding company has) gone into resolution in Hong Kong has sufficient liquidity to meet its obligations. This would be until the bank is able to transition back to market-based funding.

Contingent Term Facility

- (722) At the discretion of the HKMA the Contingent Term Facility may be made available to a bank facing extraordinary liquidity stress that cannot be overcome through other means (for example, market funding) where (i) access to the Settlement Facilities and/or the Standby Liquidity Facilities is not applicable or otherwise not sufficient; and (ii) the HKMA considers that the liquidity stress situation of the bank could of itself, or through the spreading of contagion or through the undermining of public confidence, threaten or damage systemic stability in Hong Kong.

⁷²³ Section 7(2)(e) of the [Banking Ordinance](#)

⁷²⁴ [Council of Financial Regulators – Terms of Reference](#)

⁷²⁵ Sections 177 and 178 of the [Financial Institutions \(Resolution\) Ordinance](#)

⁷²⁶ [Financial Sector Assessment Program Technical Note People’s Republic of China – Hong Kong Special Administrative Region – Financial Safety Net and Crisis Management Arrangements \(June 2021\)](#) and Section 176 of the [Financial Institutions \(Resolution\) Ordinance](#)

⁷²⁷ Section 178(4) of the [Financial Institutions \(Resolution\) Ordinance](#)

Emergency Liquidity Assistance

(723) ELA in Hong Kong may be provided from the Exchange Fund.⁷²⁸ The Financial Secretary has legislative control of the Exchange fund and may “use the Fund as he thinks fit to maintain the stability and the integrity of the monetary and financial systems of Hong Kong”.⁷²⁹ The Chief Executive of the HKMA is responsible for decision making on the use of the Exchange Fund under a delegation of authority from the Financial Secretary.⁷³⁰

Hong Kong Deposit Protection Board

(724) The Hong Kong Deposit Protection Board’s (HKPB) Deposit Protection Scheme (DPS) provides protection for deposits up to HK\$500,000 per depositor per member bank. The DPS may provide compensation if a winding-up order has been made by the Court of First Instance in respect of the Scheme member or the HKMA has served a notice that a Manager or liquidator has been appointed to the institution, or the institution is likely to become unable to meet its obligations, about to suspend payment to its depositors or is insolvent, has ceased to pay its debts in the ordinary course of business, or cannot pay its debts as they become due. The HKMA may, after consultation with the Financial Secretary, decide that compensation should be paid from the DPS Fund to the depositors of the Scheme member in accordance with this Ordinance and shall thereupon serve on the Board a written notice of the Monetary Authority’s decision.⁷³¹

(725) The DPS Fund may not be used to support the funding of a resolution.⁷³²

Section 9: Compensation Mechanisms for Government Support

FIRO Resolution Funding Account

(726) Any monies remaining in the resolution funding account upon completion of the resolution must be repaid to the resolution funds (i.e., public money). If there was more than one source of public funding, they would be repaid on a proportionate basis. If the public resolution funds have not been repaid, a bank levy may be imposed to the value of, but not exceeding, the monies provided (plus interest). The levy may be applied to all firms within the banking sector or a subset thereof. Any such levy must be made via a regulation made by the Financial Secretary.⁷³³ Once the resolution levy regulations have been made, the Legislative Council may, on the recommendation of the Financial Secretary prescribe the rate of the resolution levy in accordance with the resolution levy regulations.⁷³⁴

Resolution Facility

(727) Any losses arising from assistance provided under the Resolution Facility may be recovered pursuant to the levy arrangements which may be imposed under the FIRO.

⁷²⁸ [Financial Sector Assessment Program Technical Note People’s Republic of China – Hong Kong Special Administrative Region – Financial Safety Net and Crisis Management Arrangements \(June 2021\)](#)

⁷²⁹ Section 3(1A) of the [Exchange Fund Ordinance](#)

⁷³⁰ [Functions and Responsibilities in Monetary and Financial Affairs: Exchange of Letters between the Financial Secretary and the Monetary Authority](#)

⁷³¹ Sections 22(1) and (2) of the [Deposit Protection Scheme Ordinance](#)

⁷³² [Financial Sector Assessment Program Technical Note People’s Republic of China – Hong Kong Special Administrative Region – Financial Safety Net and Crisis Management Arrangements \(June 2021\)](#)

⁷³³ Sections 179 to 181 of the [Financial Institutions \(Resolution\) Ordinance](#)

⁷³⁴ Section 182 of the [Financial Institutions \(Resolution\) Ordinance](#) and Hong Kong Monetary Authority – [Overview of the Ex-post Public Money Recovery Arrangements under the Financial Institutions \(Resolution\) Ordinance](#)

Contingent Term Facility

(728) Funding received from the facility should be adequately collateralised. A wide spectrum of collateral will be considered for the purpose of providing liquidity under the Contingent Term Facility and set by the HKMA on a case-by-case basis. Losses are not recoverable pursuant to the levy arrangements which may be imposed under the FIRO.

Hong Kong Deposit Protection Board

(729) The Scheme is funded by contributions paid by Scheme members. The amount of contribution paid by a Scheme member is calculated based on the amount of protected deposits held with the Scheme member and the supervisory rating assigned to the Scheme member by the HKMA. The Board has secured a standby credit facility from the Exchange Fund to meet any liquidity requirements arising from a need to pay compensation to depositors. These payments will be recoverable from the liquidation of the failed Scheme member.⁷³⁵

Section 10: Advantages and Disadvantages of the Singapore Institutional Approach

(730) Each of the institutional arrangements for the supervision and resolution of banks is contained in one institution, the HKMA, typifying the need for a governance separation approach. Some government participation is involved, most notably the Financial Secretary's role in macroprudential and resolution objectives.

(731) This has a number of advantages. All aspects for financial stability are together within a single institution. HKMA is responsible for delivering systemic financial stability through macroprudential regulation, oversight of the safety and soundness of banks subject to macroprudential policy and for crisis management including resolution measures and provision of ELA. Systemic and firm-specific regulation and resolution are coordinated. The practical execution of macroprudential oversight is facilitated and informed by the intelligence gained from micro-prudential supervision within the same institution as well as from the Resolution Office in crisis management and resolution events.

(732) A single institution facilitates a 'continuity of processes' between macroprudential objectives and policy, supervision and resolution. Information and interaction, for instance in the deterioration of an authorised institution, can more easily be transferred from Supervisors the Resolution Office. As a single institution, areas of responsibility can support and work with each other which should help supervisors to use their in-depth knowledge of the institution in developing contributing to macroprudential surveillance and taking of resolution measures and avoid 'silos' that potentially inhibit the exchange of information and technical knowledge.

(733) Close cooperation and information exchange is eased. For instance, the perspective and institution specific knowledge of the supervisory function will provide required information and data to the macroprudential assessment and systemic risk monitoring and in performance of its resolution objectives. As a single institution, unless prohibited under legislation or internal arrangements, the expectation would be for the sharing and dissemination of information.

(734) From a pragmatic perspective, ensuring a sustained level of experienced personnel with more focused and specialist knowledge which would more easily be shared via a single institution is easier in a single institution. Personnel with specific experience can more easily transfer, or provide support, from one area to another. However, the existence of formal resolution authorities is a relatively new post-GFC trend. Where, such as with the HKMA, the resolution function is housed as part of a wider organisation and is newer and possibly less resourced its reputation and influence may not be as strong as the supervisory function.

⁷³⁵ Hong Kong Deposit Protection Board – [Funding of the DPS](#)



- (735) There is also a potential for conflicts of interest or objectives between the responsibilities within HKMA supervisory positioning may conflict with that of the Resolution Office, for instance when the resolution trigger may be triggered. There are separate reporting lines for each, but the Chief Executive of the HKMA is the ultimate decision maker as resolution authority alongside their supervisory responsibilities. However, there may be a perception of a lack of objectivity in such a position and use of authority.



Appendix: Reference Materials

115th Annual Report Swiss National Bank 2022
2022 Annual Report Financial Stability Oversight Council
Bank of Canada – Financial System Review June 2017
Bank of Canada – The MacroFinancial Risk Assessment Framework (MFRF), Version 2.0
Bank of Canada (website)
Bank of Canada Annual Report 2022
Bank of Canada Annual Report 2022 - Financial results
Bank of Canada Rules Governing Advances to Financial Institutions
Bank of England – Statement on operational independence of the resolution and supervision functions of the Bank of England
Bank of England – The Financial Policy Committee's approach to setting the countercyclical capital buffer - Policy Statement (12 July 2023)
Bank of England (website)
Bank of England Annual Report and Accounts 1 March 2022–28 February 2023
Bank of England. Governance of the Bank of England including Matters Reserved to Court (Approved by Court on 12 July 2022)
Bank of England: The Bank of England Act 1998, the Charters of the Bank and related documents (June 2018)
Bank of England: The Bank of England's approach to resolution (October 2017)
Bank of England's Market's Operations Guide
Board of Governors of the Federal Reserve System (website)
Canada Deposit Insurance Corporation – Differential Premiums By-law Manual
Canada Deposit Insurance Corporation 2023 Annual Report
Canada Deposit Insurance Corporation Act
Canada Deposit Insurance Corporation Differential Premiums By-law SOR/99-120
Canada Deposit Insurance Corporation - CDIC Resolution Plan Guidance for Domestic Systemically Important Banks June 2022
Canada Deposit Insurance Corporation (website)
Canadian Legislation: Assessment of Financial Institutions Regulations, 2017 (SOR/2016-297)
Canadian Legislation: Bank Act
Canadian Legislation: Bank of Canada Act
Canadian Legislation: Charges for Services Provided by the Office of the Superintendent of Financial Institutions Regulations 2002
Canadian Legislation: Cooperative Credit Associations Act
Canadian Legislation: Insurance Companies Act
Canadian Legislation: Office of the Superintendent of Financial Institutions Act
Canadian Legislation: The Office of the Superintendent of Financial Institutions Act
Canadian Legislation: Winding-up and Restructuring Act
Congressional Research Service – Bank Failures and the FDIC (March 2023)
Congressional Research Service - Financial Stability Oversight Council (FSOC): Structure and Activities (Updated February 12, 2018)
Cooperation Arrangement between the Bank of England and the Single Resolution Board
Cooperation Arrangement concerning the Resolution of Financial Institutions with Cross-border operations in Canada and the European Banking Union
Cooperation Arrangement concerning the Resolution of Insured Depository Institutions and certain other Financial Companies with Cross-border operations in the United States and the European Banking Union
Council of Financial Regulators – Terms of Reference

Crisis and Response: An FDIC History, 2008–2013. Chapter 3 - Use of Systemic Risk Exceptions for Individual Institutions during the Financial Crisis

Deutsche Bundesbank (website)

Deutsche Bundesbank Annual Report 2022

Dodd-Frank Wall Street Reform and Consumer Protection Act

European Union Legislation: Bank Recovery and Resolution Directive - Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council

European Banking Authority - Single Rulebook

European Banking Authority (website)

European Central Bank – Annual Report 2022

European Central Bank – Annual Report 2022: Annual Accounts

European Central Bank – Guide to banking supervision

European Central Bank – Legal Working Paper Series: The Eurosystem and the Single Supervisory Mechanism: institutional continuity under constitutional constraints (July 2018)

European Central Bank (website)

European Central Bank Occasional Paper Series Liquidity in resolution: comparing frameworks for liquidity provision across jurisdictions

European Commission – Completing the Banking Union: Reform of the crisis management and deposit insurance framework (CMDI)

European Commission (website)

European Stability Mechanism (website)

European Systemic Risk Board – Flagship Report on Macroprudential Policy in the Banking Sector

European Systemic Risk Board – The ESRB handbook on operationalising macroprudential policy in the banking sector

European Systemic Risk Board (website)

European Systemic Risk Board Regulation - Regulation (EU) No 1092/2010 of the European Parliament and of the Council as amended by Regulation (EU) 2019/2176 of the European Parliament and of the Council of 18 December 2019 amending Regulation (EU) No 1092/2010 on European Union macroprudential oversight of the financial system and establishing a European Systemic Risk Board

European Systemic Risk Board Regulation - Regulation (EU) No 1092/2010 of the European Parliament and of the Council as amended by Regulation (EU) 2019/2176 of the European Parliament and of the Council of 18 December 2019 amending Regulation (EU) No 1092/2010 on European Union macroprudential oversight of the financial system and establishing a European Systemic Risk Board

European Union Legislation: Council Implementing Regulation (EU) 2015/81 of 19 December 2014 specifying uniform conditions of application of Regulation (EU) No 806/2014 of the European Parliament and of the Council with regard to ex-ante contributions to the Single Resolution Fund

European Union Legislation: Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to ex-ante contributions to resolution financing arrangements

European Union Legislation: Commission Delegated Regulation (EU) 2016/1075 of 23 March 2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the content of recovery plans, resolution plans and group resolution plans, the minimum criteria that the competent authority is to assess as regards recovery plans and group recovery plans, the conditions for group financial support, the requirements for independent valuers, the contractual recognition of write-down and conversion powers, the procedures and contents of notification requirements and of notice of suspension and the operational functioning of the resolution colleges

European Union Legislation: Commission Delegated Regulation (EU) 2017/2361 of 14 September 2017 on the final system of contributions to the administrative expenditures of the Single Resolution Board

European Union Legislation: Council Regulation (EU) No 1096/2010 of 17 November 2010 conferring specific tasks upon the European Central Bank concerning the functioning of the European Systemic Risk Board

European Union Legislation: Deposit Guarantee Scheme Directive - Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (recast)



European Union Legislation: Protocol Number 4 Article 7 of the Treaty on European Union

European Union Legislation: Regulation (EU) No 1163/2014 of the European Central Bank of 22 October 2014 on supervisory fees (ECB/2014/41) and European Central Bank Banking Supervision – Supervisory fees

European Union Legislation: Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) (ECB/2014/17)

European Union Legislation: Single Resolution Mechanism Regulation - Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010

European Union Legislation: Single Supervisory Mechanism Framework Regulation – Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) (ECB/2014/17)

European Union Legislation: Single Supervisory Mechanism Regulation - Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions

European Union Legislation: Treaty on the Functioning of the European Union

Federal Deposit Insurance Corporation (website)

Federal Deposit Insurance Corporation: FDIC 2022 Annual Report

Federal Deposit Insurance Corporation: FDIC Law, Regulations, Related Acts - 2000 - Rules and Regulations: § 360.10 Resolution plans required for insured depository institutions with \$50 billion or more in total assets

Federal Financial Institutions Examination Council (website)

Federal Financial Supervisory Authority - Supervision Guideline German language version

Federal Financial Supervisory Authority (BaFIN) (website)

Federal Financial Supervisory Authority Annual Report 2022

Federal Reserve – Annual Report 2022

Federal Reserve – Discount Window / Payment System Risk – Getting Started

Federal Reserve - Guidance for 2018 §165(d) Annual Resolution Plan Submissions by Foreign-based Covered Companies that Submitted Resolution Plans in July 2015

Federal Reserve - SR 12-17 / CA 12-14: Consolidated Supervision Framework for Large Financial Institutions

Federal Reserve - SR 14-8: Consolidated Recovery Planning for Certain Large Domestic Bank Holding Companies

Federal Reserve - The Fed Explained – What the Central Bank Does

Federal Reserve: Examination Manual for US Branches and Agencies of Foreign Banking Organizations

Financial relationship between HM Treasury and the Bank of England: memorandum of understanding

Financial Sector Assessment Program Technical Note Canada – Bank Resolution and Crisis Management (January 2020)

Financial Sector Assessment Program Technical Note Canada – Systemic Risk Oversight and Macroprudential Policy (January 2020)

Financial Sector Assessment Program Technical Note Germany – Crisis Management and Financial Safety Nets (August 2022)

Financial Sector Assessment Program Technical Note People’s Republic of China – Hong Kong Special Administrative Region – Financial Safety Net and Crisis Management Arrangements (June 2021) and

Financial Sector Assessment Program Technical Note People’s Republic of China – Hong Kong Special Administrative Region – Systemic Risk Oversight and Macroprudential Policies (June 2021)

Financial Sector Assessment Program Technical Note Singapore – Crisis Management, Resolution, and Safety Nets (July 2019)

Financial Sector Assessment Program Technical Note Switzerland: Macrofinancial Analysis and Macroprudential Policy

Financial Sector Assessment Program Technical Note United States – Financial Crisis Preparedness and Deposit Insurance (August 2020)

Financial Sector Assessment Program United Kingdom – Review of the Bank of England’s Liquidity Provision Framework Technical Note (June 2016)

Financial Stability Committee - Rules of Procedure German language version

Financial Stability Committee – Terms of Reference

Financial Stability Committee (website)

Financial Stability Institute – FSI Insights on policy implementation No 32: Institutional arrangements for bank resolution

Financial Stability Institute - FSI Insights on policy implementation No.8: Financial supervisory architecture: what has changed after the crisis?

Financial Stability Oversight Council - Rules of Organization of the Financial Stability Oversight Council

Financial Stability Oversight Council Fiscal Year 2024 Budget Information

Functions and Responsibilities in Monetary and Financial Affairs: Exchange of Letters between the Financial Secretary and the Monetary Authority

German Legislation: Banking Act (Gesetz über das Kreditwesen) English language version – unofficial text

German Legislation: Regulation on the Minimum Requirements for the Design of Recovery Plans for Institutions (Verordnung zu den Mindestanforderungen an Sanierungspläne für Institute Sanierungsplanmindestanforderungsverordnung – MaSanV) German language version

German legislation: Act Establishing the Federal Financial Supervisory Authority (Finanzdienstleistungsaufsichtsgesetz – FinDAG) English language version

German Legislation: Deposit Insurance Act (Einlagensicherungsgesetz (EinSiG)) German language version

German Legislation: Financial Services Supervision Act (Gesetz über die Bundesanstalt für Finanzdienstleistungsaufsicht) German language version

German Legislation: Financial Stability Act (Finanzstabilitätsgesetz) English language version – unofficial text

German Legislation: Law on the German Bundesbank - Gesetz über die Deutsche Bundesbank German language version

German Legislation: Organisational Statute for the Federal Financial Supervisory Authority (Organisationsstatut für die Bundesanstalt für Finanzdienstleistungsaufsicht – OsBaFin) English language version

German Legislation: Recovery and Resolution Act (SAG) (Gesetz zur Sanierung und Abwicklung von Instituten und Finanzgruppen – “Sanierungs- und Abwicklungsgesetz” (SAG)) German language version

German Legislation: Restructuring Fund Act (Gesetz zur Errichtung eines Restrukturierungsfonds für Kreditinstitute German language version

German Legislation: Statutes of the Federal Financial Supervisory Authority (Satzung der Bundesanstalt für Finanzdienstleistungsaufsicht) English language version

Hong Kong Legislation: Exchange Fund Ordinance

Hong Kong Legislation: Banking (Capital) Rules

Hong Kong Legislation: Banking (Exposure Limits) Rules

Hong Kong Legislation: Banking (Liquidity) Rules

Hong Kong Legislation: Banking Ordinance

Hong Kong Legislation: Deposit Protection Scheme Ordinance

Hong Kong Legislation: Exchange Fund Ordinance

Hong Kong Legislation: Financial Institutions (Resolution) Ordinance

Hong Kong Legislation: Hong Kong Monetary Authority – Overview of the Ex-post Public Money Recovery Arrangements under the Financial Institutions (Resolution) Ordinance

Hong Kong Monetary Authority – 2022 Annual Report

Hong Kong Monetary Authority – Code of Practice chapter CI-1: Resolution Planning – Core Information Requirements

Hong Kong Monetary Authority – Code of Practice chapter RA-2 "The HKMA's Approach to Resolution Planning

Hong Kong Monetary Authority – Half Yearly Monetary and Financial Stability Report

Hong Kong Monetary Authority – Operational Independence of the Monetary Authority as Resolution Authority (RA-1)

Hong Kong Monetary Authority - Supervisory Policy Manual CA-B-1 Countercyclical Capital Buffer (CCyB) – Approach to its Implementation

Hong Kong Monetary Authority – Supervisory Policy Manual CA-B-2 Systemically Important Banks

Hong Kong Monetary Authority – Supervisory Policy Manual RE-1 Recovery Planning

Hong Kong Monetary Authority – Supervisory Policy Manual SA-1 Risk-based Supervisory Approach

Hong Kong Monetary Authority (website)

Interinstitutional Agreement between the European Parliament and the Single Resolution Board on the practical modalities of the exercise of democratic accountability and oversight over the exercise of the tasks conferred on the Single Resolution Board within the framework of the Single Resolution Mechanism

Memorandum of Understanding (among members of the Financial Stability Oversight Council, (FSOC)) Regarding the Treatment of Non-Public Information Shared Among Parties Pursuant to The Dodd-Frank Wall Street Reform and Consumer Protection Act, 2018

Memorandum of Understanding between Hong Kong SAR Securities and Future Commission and United Kingdom Bank of England

Memorandum of Understanding between the Bank of England and the Financial Services Compensation Scheme Ltd.

Memorandum of Understanding between the Canada Deposit Insurance Corporation and the Prudential Regulation Authority & Bank of England

Memorandum of Understanding between the Commission and the Single Resolution Board in respect of certain elements of cooperation and information exchange pursuant to the Single Resolution Mechanism Regulation

Memorandum of Understanding between the European Central Bank and the Bundesanstalt für Finanzdienstleistungsaufsicht (BaFIN)

Memorandum of Understanding between the European Central Bank and the Office of the Superintendent of Financial Institutions Canada

Memorandum of Understanding between the Federal Department of Finance (FDF) and the Swiss National Bank (SNB) on the Set of principles governing membership of the SNB Bank Council

Memorandum of Understanding between the Monetary Authority of Singapore and the Financial Services Authority

Memorandum of Understanding between the Single Resolution Board and the in respect of Cooperation and Information Exchange

Memorandum of Understanding between the Swiss Federal Banking Commission and the Financial Services Authority

Memorandum of Understanding Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation and Bank of England

Memorandum of Understanding Canada Deposit Insurance Corporation and the Prudential Regulation Authority & Bank of England

Memorandum of Understanding concerning Consultation, Cooperation and the Exchange of Information related to the Resolution of Insured Depository Institutions with Cross-border Operations in the United States and the United Kingdom

Memorandum of Understanding concerning the resolution of insured depository institutions and certain other financial companies with cross-border operations in the United States and Canada

Memorandum of Understanding Financial Industry Regulatory Authority, Inc and the Financial Services Authority

Memorandum of Understanding for supervisory cooperation between the European Central Bank and the Bank of England and the Financial Conduct Authority

Memorandum of Understanding for supervisory cooperation between the European Central Bank and the Bank of England and the Financial Conduct Authority

Memorandum of Understanding for the Confidentiality of Information among: Bank of Canada (the “Bank”) Office of the Superintendent of Financial Institutions (“OSFI”) Department of Finance Canada (the “Department of Finance”) Alberta Securities Commission (the “ASC”) Autorité des marchés financiers (the “AMF”) British Columbia Securities Commission (the “BCSC”) Ontario Securities Commission (the “OSC”) (each an “Agency” and collectively, the “Agencies”) and Additional HOA Agencies and Sub-HOA Committee Members who accede to this MOU by signing a Letter of Adherence NB: The CDIC has signed a Letter of Adherence

Memorandum of Understanding in the field of financial stability between the Swiss Financial Market Supervisory Authority (FINMA) and the Swiss National Bank (SNB)

Memorandum of Understanding New Jersey Department of Banking and Insurance and Financial Services Authority



Memorandum of Understanding on Cooperation and Information Exchange between European Banking Authority ('EBA') and the Bank of England and the Financial Conduct Authority

Memorandum of Understanding on Cooperation between the Financial Supervisory Authorities, Central Banks and Finance Ministries of the European Union on Cross-Border Financial Stability

Memorandum of Understanding on Mutual Assistance and the Exchange of Information between the United States Securities and Exchange Commission and Commodity Futures Trading Commission and the United Kingdom Department of Trade and Industry and Securities and Investments Board

Memorandum of Understanding on resolution planning and financial crisis management – HM Treasury and the Bank of England (October 2017)

Memorandum of Understanding on the Exchange of Certain Confidential Statistical Information between the European Central Bank and the Single Resolution Board

Memorandum of Understanding on trilateral cooperation in the area of financial stability and financial market regulation between the Federal Department of Finance (FDF) and the Swiss Financial Market Supervisory Authority (FINMA) and the Swiss National Bank (SNB)

Memorandum of Understanding: Between the Financial Conduct Authority and the Bank of England (exercising its prudential regulation functions)

Memorandum of Understanding: New York State Banking Department and the Bank of England and Financial Services Authority

Monetary Authority of Singapore – Emergency Liquidity Assistance in Singapore

Monetary Authority of Singapore – MAS Financial Statements 2022/23

Monetary Authority of Singapore – MAS' Approach to Macroprudential Policy

Monetary Authority of Singapore – MAS' Approach to Resolution of Financial Institutions in Singapore

Monetary Authority of Singapore – MAS' Financial Stability Review

Monetary Authority of Singapore – MAS' Framework for Impact and Risk Assessment of Financial Institutions

Monetary Authority of Singapore (website)

Multilateral Memorandum of Understanding on Supervisory Cooperation and Exchange of Information

Office of the Comptroller of the Currency - Comptroller's Handbook Recovery Planning

Office of the Comptroller of the Currency (website)

Office of the Superintendent of Financial Institutions – Guide to Intervention for Federally Regulated Deposit-Taking Institutions

Office of the Superintendent of Financial Institutions – OSFI Annual report 2022-2023

Office of the Superintendent of Financial Institutions – OSFI's Annual Risk Outlook – Fiscal Year 2023-2024

Office of the Superintendent of Financial Institutions – Supervisory Framework

Office of the Superintendent of Financial Institutions (website)

Office of the Superintendent of Financial Institutions 2023 – 24 Department Plan

Office of the Superintendent of Financial Institutions Capital Adequacy Requirements (CAR) Guideline

Orderly Liquidation Authority and Bankruptcy Reform – Report to the President of the United States

Oversight of Canada's Financial System

Prudential Regulation Authority: PRA Rulebook

Prudential Regulation Authority: PRA Supervisory Statement | SS19/13 Resolution planning (June 2018, as updated 31 August 2018)

Prudential Regulation Authority: Supervisory Statement | SS3/16 Fees: PRA approach and application (June 2023)

Prudential Regulation Authority's approach to banking supervision (July 2023)

Singapore Deposit Insurance Corporation - Deposit Insurance Fund (website)

Singapore Legislation: Banking Act 1970

Singapore Legislation: Monetary Authority of Singapore Act 1970

Single Resolution Board – Other cross border groups under the SRB remit

Single Resolution Board - The Single Resolution Mechanism Introduction to Resolution Planning

Single Resolution Board (website)

Statistics on Federal Reserve System Employment, 1915 to 2022



Statistics on Federal Reserve System Employment, 1915 to 2022 (Supporting Data)
Supervisory cooperation Memorandum of Understanding between the Bundesanstalt für
Finanzdienstleistungsaufsicht and UK banking supervisory authorities
Swiss Federal Council (website)
Swiss Financial Market Supervisory Authority – Annual Report 2022
Swiss Financial Market Supervisory Authority - Circular 2011/2 Capital buffer and capital planning – banks
Swiss Financial Market Supervisory Authority - FINMA's international agreements
Swiss Financial Market Supervisory Authority (FINMA) (website)
Swiss Financial Market Supervisory Authority FINMA – On-site supervisory reviews: one of FINMA's key
supervisory tools
Swiss Legislation: Bank Ordinance German language version
Swiss Legislation: Capital Adequacy Ordinance German language version
Swiss Legislation: Draft amendment to the Banking Act German language version
Swiss Legislation: Federal Act on Banks and Savings Banks (Banking Act) German language version
Swiss Legislation: Federal Act on the Swiss Financial Market Supervisory Authority (Financial Market Supervision
Act, FINMASA)
Swiss Legislation: Federal Act on the Swiss National Bank (National Bank Act, NBA)
Swiss Legislation: Federal Constitution of the Swiss Confederation
Swiss Legislation: Federal law on the Federal Financial Market Supervisory Authority (Financial Market
Supervision Act, FINMASA) German language version
Swiss Legislation: FINMA Ordinance on the Levying of Supervisory Fees and Levies (FINMA-GebV) German
language version
Swiss Legislation: Liquidity Ordinance German language version
Swiss Legislation: Ordinance on Banks and Savings Banks (Banking Ordinance) German language version
Swiss Legislation: Ordinance on the Financial Market Supervision Act German language version
Swiss Legislation: Ordinance to the Financial Market Supervision Act German language version
Swiss Legislation: Swiss National Bank Organisation Regulations German language version
Swiss National Bank - Sustainability Report 2022
Swiss National Bank (website)
United Kingdom Legislation: Banking Act 2009, as amended
United Kingdom Legislation: Bank of England Act 1998, as amended
United Kingdom Legislation: Finance Act 2011
United Kingdom Legislation: Financial Services Act 2012
United Kingdom Legislation: Financial Services and Markets Act 2000, as amended
United Kingdom Legislation: Financial Services and Markets Act 2023
United Kingdom Legislation: The Bank Recovery and Resolution (No. 2) Order 2014
United Kingdom Supervisory Rules: FCA Fees Manual
United States Legislation: Code of Federal Regulations Part 243 – Resolution Plans (Regulation QQ)
United States Legislation: Code of Federal Regulations Regulation A Loans to Depository Institutions
United States Legislation: Economic Growth, Regulatory Relief, and Consumer Protection Act
United States legislation: Federal Deposit Insurance Act (FDIA)
United States Legislation: Federal Deposit Insurance Corporation Improvement Act of 1991
United States Legislation: Federal Reserve Act
United States Legislation: Regulation YY Enhanced Prudential Standards (for FBOs with global consolidated
assets of \$50 billion or more)
US Department of the Treasury - Financial Stability Oversight Council (website)