

## Hierarchy of claims: the reaction abroad

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The reaction in other jurisdictions came within a day. On 20 March 2023, the Single Resolution Board, the European Banking Authority and ECB Banking Supervision published a joint statement on the treatment of AT1 instruments in the European Union. It stated that, in the European framework, common equity instruments were the first to absorb losses and that additional tier 1 would be written down only after their full use. The statement added that this approach had been consistently applied in past cases and would continue to guide the authorities' action in crisis interventions.<sup>1</sup> The Bank of England issued a similar statement on the same day, recalling that AT1 instruments in the United Kingdom rank ahead of common equity in the hierarchy of claims and that holders should expect to be exposed to losses in resolution or insolvency in the order of their positions in that hierarchy.<sup>2</sup> The Monetary Authority of Singapore and the Hong Kong Monetary Authority published comparable clarifications.<sup>3</sup>

These statements were remarkable. Supervisors of other member jurisdictions of the Basel Committee publicly distanced themselves from a decision of a fellow member, within a day, to prevent contagion in their own markets. Prices of AT1 instruments had fallen sharply on the Monday after the takeover, leaving European banks to fear that they would no longer be able to refinance this part of their capital. Once the statements had stabilised the market, AT1 issuance resumed within months. UBS itself returned to the market with a large AT1 issue in November 2023.<sup>4</sup>

The episode exposed a gap in the international framework. The Basel Committee's definition of additional tier 1 capital required loss absorption but allowed both conversion and write-down. It did not specify the relationship between the write-down of AT1 instruments and the treatment of shareholders. Different jurisdictions had translated the same standard into different instruments, which behaved differently in a crisis. Investors who had bought AT1 bonds in a global market, assuming a

common Basel product, discovered that they had bought a Swiss product subject to Swiss law. The national translation of the standard, a technical matter for a decade, had become decisive for the distribution of losses running into billions.

## 1 Notes

1. Joint statement by the Single Resolution Board, the European Banking Authority and ECB Banking Supervision on the announcement of 19 March 2023 by the Swiss authorities, 20 March 2023. To be verified. ↩
2. Bank of England, statement of 20 March 2023 on the UK framework for the resolution of banks and the position of AT1 instruments in the creditor hierarchy. To be verified. ↩
3. On the statements of the Monetary Authority of Singapore and the Hong Kong Monetary Authority of March 2023 on the position of AT1 instruments in their resolution frameworks, see the publications of both authorities. To be verified. ↩
4. On the price movements in the AT1 market after 19 March 2023, the recovery of the market and the AT1 issue by UBS of November 2023 (USD 3.5 billion), see the relevant financial press and the press release of UBS. Figures to be verified. ↩

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