

Resolution and the Key Attributes

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The most important contribution of the FSB to international financial regulation is its framework for the resolution of failing financial institutions. The global financial crisis had shown that the authorities had no satisfactory instruments for dealing with the failure of a large, interconnected bank. They faced a choice between a disorderly insolvency, as in the case of Lehman Brothers in September 2008, and a bail-out with public funds, as in the case of many banks in the United States and Europe. Both options were costly. The first caused contagion throughout the financial system, and the second placed the burden on taxpayers while encouraging the expectation that large banks would always be rescued.

In October 2011, the FSB adopted the *Key Attributes of Effective Resolution Regimes for Financial Institutions*, which the G20 leaders endorsed at their summit in Cannes in November 2011.¹ The Key Attributes set out the core elements that every jurisdiction should have in place to resolve financial institutions without severe systemic disruption and without exposing taxpayers to loss. They require a designated resolution authority with a broad range of powers, among them the power to transfer assets and liabilities to a third party or a bridge institution, to write down or convert claims of creditors into equity (bail-in) and to impose a temporary stay on the exercise of early termination rights. They also require recovery and resolution planning, resolvability assessments, cooperation agreements among the authorities of home and host jurisdictions and the establishment of crisis management groups for global systemically important institutions.

The Key Attributes were updated in 2014 with annexes on the resolution of financial market infrastructures, insurers and client asset protection. They were complemented in November 2015 by the standard on total loss-absorbing capacity (TLAC), which requires global systemically important banks to hold a minimum amount of instruments that can be written down or converted in resolution.² Further guidance followed on funding in

resolution, on the continuity of access to financial market infrastructures and on the operational continuity of critical services. In the European Union, the Key Attributes were transposed by the Bank Recovery and Resolution Directive of 2014 and the Single Resolution Mechanism Regulation. In Switzerland, the corresponding rules are contained in the Banking Act and in FINMA's Banking Insolvency Ordinance, which Part E examined in connection with the Swiss too-big-to-fail regime.

The collapse of Credit Suisse in March 2023 put the Key Attributes to their first major test in a global systemically important bank. The Swiss authorities decided against the resolution of Credit Suisse under the prepared single-point-of-entry strategy and supported its acquisition by UBS under emergency law, with a write-down of AT1 instruments of about CHF 16 billion. Part E and Chapter III of this Part discuss this decision. The FSB examined the lessons from the bank failures of 2023 in a report published in October 2023, which concluded that the international resolution framework remained sound while identifying areas in which implementation needed to be strengthened, among them the operationalisation of bail-in, the availability of liquidity in resolution and the preparedness of authorities to use their resolution tools.³ For the international resolution community, the case of Credit Suisse thus became both a confirmation that the preparatory work had created usable tools and a warning that authorities might prefer other routes when a crisis arrives.

The FSB monitors the implementation of the Key Attributes through its Resolution Steering Group and its annual resolution reports. These reports show that the member jurisdictions have made considerable progress in introducing resolution powers for banks, while progress for insurers and financial market infrastructures has been slower. The establishment of crisis management groups for each global systemically important bank, in which the authorities of the home jurisdiction and the main host jurisdictions cooperate, has created a dense network of contacts among resolution authorities. For UBS, as for other global systemically important banks, the crisis management group brings together the Swiss authorities with those of the United States, the United Kingdom and other relevant jurisdictions.⁴

1 Notes

1. FSB, Key Attributes of Effective Resolution Regimes for Financial Institutions, October 2011, updated in October 2014 with sector-specific annexes; G20, Cannes Summit Final Declaration, 4 November 2011. To be verified. ↩

2. FSB, Principles on Loss-absorbing and Recapitalisation Capacity of G-SIBs in Resolution: Total Loss-absorbing Capacity (TLAC) Term Sheet, 9 November 2015. To be verified. ↩
3. FSB, 2023 Bank Failures: Preliminary Lessons Learnt for Resolution, 10 October 2023. To be verified. ↩
4. FSB, annual Resolution Report (various years); on crisis management groups for G-SIBs, see Key Attributes, KA 8. To be verified. ↩

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