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Joint response by the Swedish authorities Sveriges Riksbank, Finansinspektionen and Riksgäldskontoret to the DG Internal Market and Services "Consultation on a possible recovery and resolution framework for financial institutions other than banks"

Sveriges Riksbank (the Swedish Central Bank), Finansinspektionen (the Swedish Financial Supervisory Authority) and Riksgäldskontoret (the Swedish National Debt Office), welcome the opportunity to comment on and present a shared view on the Consultation.

Comments and answers to particular questions are provided with reference to the enumeration and particular question in the Consultation. If a question or topic has not been commented or answered, that should not be taken to constitute our approval or dismissal.

When used herein, 'we' or "the Swedish authorities" should be taken as the common view of Sveriges Riksbank, Finansinspektionen and Riksgäldskontoret.

1. General remarks

The Swedish authorities support the view in the Consultation that ordinary insolvency law might not be sufficient to handle severe problems in certain financial institutions other than banks, and hence a recovery and resolution framework for such institutions will be needed. Before answering the detailed questions in the Consultation we would like to make some general remarks.

In our view financial stability means that the financial system can maintain its basic functions and also has resilience to disruptions that threaten these functions. The term 'financial system' refers not only to banks, but also to the financial markets, the financial infrastructures and other financial agents, e.g. insurance companies, etc. that are required to make and handle payments and exchange securities.

The three fundamental functions of the financial system are to mediate payments, allocate savings to investments, and manage risk. It is a public interest to ensure that these functions are maintained.

We believe that there is a clear need for crisis management frameworks to be able to handle situations where these functions are threatened. Therefore, the directive "establishing a framework for the recovery and resolution of credit institutions and investment firms" (hereinafter "the Crisis Management Directive") needs to be complemented for those parts

of the financial system that potentially may threaten the stability but fall outside this Directive.

Recognizing that such a framework; 1) by definition will entail far-reaching powers for authorities that in many ways deviate from basic principles of regular company and insolvency law; and 2) in some ways may damage market discipline (i.e. create moral hazard problems that have distorting effects on the functioning of the financial system), a restrictive approach should be adopted as to which institutions to include under the framework. The process of setting the scope and the perimeter of the framework should therefore be guided by a careful analysis of systemic relevance with regard to different sectors or institutions. The Swedish authorities believe that it is equally important to include those firms that are, or may be, of systemic relevance as it is to exclude those that are not. At the same time, the framework has to take into account that the scope may vary over time as the entire concept of systemic importance is time varying.

Following this principle, we are convinced that a recovery and resolution framework for non-bank financial institutions should at least be introduced for all central counterparties (CCPs) and all central securities depositaries (CSDs) as well as other operators of settlement systems that are notified in accordance with the Settlement Finality Directive, except those operated by central banks or other government agencies.

With regards to other non-bank financial institutions, including insurance companies, the need for a designated recovery and resolution framework seems less acute, at least for the moment.

As pointed out in the Consultation document, undertakings engaged in traditional insurance activities are not systemic in nature. Rather, the undertakings in scope for the framework are those engaged in non-traditional insurance activities and non-insurance activities. Thus the proposed recovery and resolution framework in practice applies only to a small subset of the insurance sector, i.e. the systemic relevant insurance companies.

Within the insurance sphere, policyholder protection could be a rationale for developing a recovery and resolution framework for traditional insurance. A recovery and resolution framework designed for the purpose of financial stability is not necessarily optimal for the purpose of policyholder protection. In our answer, we implicitly assume that the recovery and resolution framework is for the purpose of financial stability, unless stated otherwise.

The purpose of new regulations for banks, i.e. the stricter capital requirements and new liquidity requirements in Basel III, and for derivatives, e.g. in the regulation on OTC-derivatives, central counterparties and trade repositories (EMIR), is to make the financial system more resilient and the banks more resistant to the failure of another bank, an insurance company or other financial nonbank institution. Thus, these new regulations should in principle lead to fewer systemically relevant insurance companies and other nonbank financial institutions. However, at the same time these

regulations will substantially increase the systemic relevance of certain types of institutions, such as CCPs.

Nevertheless, we do not preclude the option of establishing a general framework that can be used for resolving different types of non-bank institutions, including for example financial market infrastructures (FMIs), not only CCPs and CSDs, insurance companies and other financial institutions that at a specific point in time may be regarded to be of systemic relevance.

When considering an approach with a general framework, the obligations and costs that follow from such a framework, both with regard to institutions and authorities, needs to be carefully taken into account. Some important questions that need to be asked in this context are; how should the recovery- and resolution planning process be designed for non-bank financial institutions; should all institutions contribute to resolution funding and, if so, to what extent; and what would be the implications on market discipline?

Having this in mind, we think that the framework for non-bank financial institutions should be sufficiently flexible not only to cover different types of potentially systemically relevant institutions but also different types of scenarios (where all possible scenarios cannot be known in advance). This implies that a broad tool-box should be available, and no tools should in advance be excluded for certain types of institutions even if it is unlikely that they will ever be used.

Since various parts of the financial system are highly interconnected, there is a need for the frameworks covering the financial system to be sufficiently co-ordinated i.e. the framework for non-banks should be compatible with the framework for banks. When considering how to apply the frameworks we believe that the focus should be on the activities/functions and not on the institutional type. A CCP that happens to have a license as a credit institution is probably better handled if treated as a financial infrastructure and not as a credit institution since its main activities refer to central counterparty clearing and not to traditional banking operations.

With respect to cross-border issues, e.g. a CCP active in several countries or a CSD belonging to a group of CSDs, we believe that the concept of colleges as discussed in the Crisis Management Directive would be appropriate also for other types of financial institutions.

2. Summary of questions and answers by the Authorities

Central Counterparties (CCPs) and Central Securities Depositaries (CSDs)

1. *Do you think that a framework of measures and powers for authorities to resolve CCPs and CSDs is needed at EU level or do you consider that ordinary insolvency law is sufficient?*

Yes we believe there is a strong need for such a framework. CCPs and CSDs are institutions that provide critical services in the financial system. Where a failure or disruption could have systemic implications, there is a public

interest from a systemic perspective in ensuring that their functions can be maintained. Relying on ordinary insolvency law when dealing with this type of institutions, would not be sufficient.

2. *In your view, which scenarios/events might lead to the need to resolve respectively a CCP and a CSD? Which types of scenarios CCPs/CSDs and authorities need to be prepared for which may imply the need for recovery actions if not yet resolution?*

The Consultation as well as the CPSS-IOSCO consultative paper on resolution and recovery of FMIs describe a number of scenarios/events, which might lead to the need to resolve a CCP or a CSD. However, CCPs, CSDs and authorities must be prepared to efficiently handle scenarios/events that are unforeseen. The toolbox should be sufficient to handle failures which might lead to systemic disruptions irrespective of the scenario. Hence it is important that both plans and regulations are sufficiently flexible and that there is some room for manoeuvre for the authorities.

3. *Do you think that existing rules which may impact CCPs/CSDs resolution (such as provisions on collateral or settlement finality) should be amended to facilitate the implementation of a resolution regime for CCPs/CSDs?*

We have not identified any specific provisions that have to be amended to facilitate the implementation of a resolution regime for CCPs and CSDs but the same amendments as those proposed for recovery and resolution for credit institutions and investment firms should be considered.

It should in this context be noted that directive 2001/24/EC on the reorganisation and winding up of credit institutions is not applicable to CCPs and CSDs (other than those that are credit institutions). Instead EC Regulation 1346/2000 on insolvency proceedings will apply. The directive and the regulation have different approaches to national insolvency procedures. The principles guiding directive 2001/24/EC should be considered for CCPs and CSDs as well. Among other things that would mean that the authorities of the home Member State alone would be empowered to decide on the implementation of one or more reorganisation measures, including branches established in other Member States.

4. *Do you consider that a common resolution framework applicable to CCPs and CSDs is desirable or do you favour specific regimes by type of FMIs?*

CCPs and CSDs provide different type of services, and for that reason they are exposed to different risk scenarios. Nevertheless, they both provide critical services, and there need to be efficient resolution regimes in place for both types of institutions. Any resolution plan and the execution of such plan need to be tailor-made for the individual institutions. Most likely each CCP or CSD will have to be handled individually and not by a common solution. So the important thing is that the resolution framework is flexible enough to meet the requirement for individual institutions. Such a flexible general framework can then serve as a common framework for different types of institutions.

5. *Do you consider that it should only apply to those FMIs which attain specific thresholds in terms of size, level of interconnectedness and/or degree of substitutability, or to those FMIs that incur particular risks, such as credit and liquidity risks, or that it should apply to all? If the former, what are suitable thresholds in one or more of these respects beyond which FMIs are relevant from a resolution point of view? What would be an appropriate treatment of CSDs that do not incur credit and liquidity risks and those that incur such risks?*

The resolution framework should be possible to use for any CCP or CSD. What is deemed systemically important is time-varying.

6. *Regarding FMIs (some CSDs and some CCPs) that are also credit institutions, is the proposed bank recovery and resolution framework sufficient or should something in addition be considered? If so, what should the FMI-specific framework add to the bank recovery and resolution framework? How do you see the interaction between the resolution regime for banks and a specific regime for CCPs/CSDs?*

Recovery and resolution plans as well as the resolution framework as a whole should be based rather on the activities/functions conducted than on the institutional type. This might imply that one possible solution is to have one single, but flexible, framework for all types of institutions banks as well as non-banks, that could be systemically relevant. However, if one common framework is chosen, it must be possible for the relevant authorities to apply it in a way that is the most appropriate in relation to the type of institution and the actual situation at stake. This might have the effect that in certain cases, the bail-in tool would not be used. Having one single framework, that is used differently for different types of institutions, could be in line with having only one set of Key Attributes that are used slightly different for e.g. FMIs as described in the CPSS-IOSCO consultative paper.

7. *Do you agree that the general objective for the resolution of CCPs/CSDs should be continuity of critical services?*

The overall objective should be systemic stability as outlined in our general remarks. One way of achieving that is to ensure that critical services continue to be provided, irrespective of who would provide them.

8. *Do you agree with the above objectives for the resolution of CCPs/CSDs?*

9. *Which ones are, according to you, the ones that should be prioritized?*

10. *What other objectives are important for CCP/CSD resolution?*

We agree with the objectives for resolution as described in the Consultation. A sustainable framework for resolution needs to take all these objectives into account. They are all important to an efficient framework built on harmonised principles.

11. *What should be the respective roles of FMIs and authorities in the development and execution of recovery plans and resolution plans? Should resolution*

authorities have the power to request changes in the operation of FMIs in order to ensure resolvability?

Our starting point is that there are no compelling reasons to differentiate between banks and FMIs concerning the structure and overall contents of such recovery and resolution plans. Concerning the possibility to request changes in the operation of the institution, it is important to ensure close co-ordination between the resolution authority and the supervisory authority since both authorities most likely will have powers to intervene in going concern operations. Furthermore, due to the central banks oversight mandate it is also important to include them in the recovery and the resolution planning.

In line with the Crisis Management Directive we believe that the establishment of a recovery plan should be the responsibility of the FMI, while the resolution authority should be responsible for the development of resolution plans.

One objective of the recovery planning should be to ensure that the FMI is resilient to shocks. In principle this responsibility of the FMI should be assessed and handled as part of the normal supervisory and oversight process. However, it should be up to the individual Member States to decide on the roles of different types of authorities (supervisors, resolution authorities and central banks) with respect to both recovery and resolution plans. It is essential that agreed recovery plans are both sufficient and realistic and can be followed when problems occur. If the measures foreseen in the recovery plan are not sufficient or appropriate, a new plan has to be developed. To ensure that the potential costs for tax payers are minimised, it is therefore important that the supervisory authority has necessary powers to firstly require amendments to such plans and secondly to take appropriate supervisory measures.

The authorities should have the same set of powers for banks and non-banks. However any early intervention is part of the on-going supervision and should therefore be entrusted to the supervisory authority. When an institution enters the resolution phase the responsibility should be transferred to the designated resolution authority. It is important that the new framework allows for close cooperation with other relevant authorities, such as central banks, during the whole process of recovery and resolution.

When entrusting powers to supervisory or resolution authorities, especially in the recovery phase, it is important to ensure that the authorities have the powers necessary for their supervisory/oversight task without taking over the responsibility for how the business is run by the owners and management.

12. *To what extent do you think that CCPs/CSDs in cooperation with their users would be able to define efficient recovery and resolution plans on the basis of amendments to their contractual laws?*

Having mandatory rules on e.g. loss-sharing in a CCP could be seen as alternatives to bail-in and would be in line with the Principles for Financial Market Infrastructures (PFMI) and the CPSS-IOSCO consultation. This would

then be a part of an FMI's recovery plan. We don't believe that privately agreed plans eliminates the need for the relevant authorities to have resolution powers and being responsible for establishing resolution plans.

13. *Should resolution be triggered when an FMI has reached a point of distress such that there are no realistic prospects of recovery over an appropriate timeframe, when all other intervention measures have been exhausted, and when winding up the institution under normal insolvency proceedings would risk causing financial instability?*

14. *Should these conditions be refined for FMIs? For example, what would be suitable indicators that could be used for triggering resolution of different FMIs? How would these differ between FMIs?*

In general we agree with the conditions for resolution mentioned in Q.13. However, if an institution is systemically relevant one should not differentiate between the resolution triggers (e.g. by withdrawal of the authorisation). The critical issue is whether the institution after entering into resolution can be resolved without systemic consequences. The conditions for this may differ.

15. *Should there be a framework for authorities to intervene before an FMI meets the conditions for resolution when they could for example amend contractual arrangements and impose additional steps, for example require unactivated parts of recovery plans or contractual loss sharing arrangements to be put into action?*

The Swedish authorities support a possibility for the supervisor to intervene at an early stage, even before a crisis has occurred. However, it is imperative to strike a balance between early intervention and the responsibility or tools of the intervening authorities, so that they will not have to conduct the operations of the institution.

16. *Should resolution authorities of FMIs have the above powers? Should they have further powers to successfully carry out resolution in relation to FMIs? Which ones?*

17. *Should they be further adapted or specified to the needs of FMI resolution?*

As a starting point the powers entrusted to the resolution authority and the procedure when using them should be the same for banks and FMIs. There should also be a possibility to sell the shares issued by the FMI (and not only the assets and liabilities) to a private purchaser or to temporary nationalise the FMI. In line with the Crisis Management Directive, Member States should not be prevented from conferring additional powers to its national resolution authority besides those explicitly mentioned in the EU-legislation.

18. *Do you consider that temporary stay on the exercise of early termination rights could be a relevant tool for FMIs? Under what conditions? How should it apply between interoperated FMIs? How should it be articulated*

Yes, it could be a relevant tool. We agree with the conclusions drawn by CPSS-IOSCO in its consultation paper, sections 4.16-4.18.

19. *Do you consider that moratorium on payments could be a relevant tool for all FMIs or only some of them? If so, under what conditions?*

No, we don't believe it to normally be a relevant tool for FMIs, the purpose of which is actually to ensure that payment obligations can be settled as agreed. We agree with the conclusions in the CPSS-IOSCO consultation paper, sections 4.6-4.8. Nevertheless, the possibility to decide on a moratorium on payments should be included in a comprehensive toolbox covering different types of institutions, to be used only when regarded as an efficient tool for resolution.

20. *Which reorganisation tools could be appropriate for resolving different types and CSDs and CCPs? What would be their advantages and disadvantages?*

21. *Which loss allocation and recapitalisation tools could be appropriate for resolving different types of CSDs and CCPs? Would this vary according to different types of possible failures (e.g. those caused by defaulting members, or those caused by operational risks)? What would be their advantages and disadvantages?*

22. *What other tools would be effective in a CCP/CSD resolution?*

In general it is important that there is a comprehensive resolution toolbox that could handle different types of situations. Hence, no tool available in the Crisis Management Directive should be ruled out for any type of institution, even if it is unlikely that a certain tool is used for a certain type of institution.

Loss-sharing among participants combined with recapitalisation through commitments by participants to replenish default funds, might be part of a CCP's recovery plans. The linkage from e.g. FMIs such as CCPs and CSDs to other systemically relevant institutions through memberships makes the choice of the "right" resolution tools important. We also believe that proposed resolution tools like haircuts on margins and liquidity calls merit further analysis regarding their consequences for financial stability if implemented.

Should bail-in or haircut on margin not to be deemed appropriate for CCPs, in order for the cost for resolution not to fall on the public, then sufficient contributions ex-ante from the users of CCPs must be made to fund resolution. This raises the wider issue of financial institutions participation in resolution funding.

23. *Can resolution tools based on contractual arrangements be effective and compatible with existing national insolvency laws?*

Contractual arrangements with participants/members might be a part of the recovery plans for a CCP or a CSD, but should not be seen as resolution tools.

24. *Do you consider that a resolution regime for FMIs should be applicable to the whole group the FMI is a part of? What specific tools or powers for the resolution authorities should be designed?*

In principle we believe that a resolution regime should apply to the whole group which the institution is part of. An FMI could be part of a group of FMIs or of a group in which also banks are included. This might be an argument for a general framework covering both banks and other financial institutions.

25. *In your view, what are the key elements and main challenges to take into account for the smooth resolution of an FMI operating cross-border? What aspects and effects of any divergent insolvency and resolution laws applicable to FMIs and their members are relevant here? Are particular measures needed in the case of interoperable CCPs or CSDs?*

At a given time the consequences for financial stability and the cost for the market of a failing FMI might differ between the countries where the FMI is active. For that reason, authorities in different countries might have different incentives when handling resolutions. Having interoperable FMIs might complicate resolution of one of the FMIs due to the fact that the effects of the resolution also will have an effect on the other FMI and its participants. One benefit of having interoperable FMIs might be that the porting of clearing member positions from the defaulting to the surviving FMI might be simplified. The resolution authority would not have to find an FMI that is willing to take over all or parts of the defaulting FMI's operations nor have to establish a bridge institution.

26. *Do you agree that, within the EU, resolution colleges should be involved in resolution issues of cross border FMIs?*

Yes.

27. *How should the decision-making process be organized to make sure that swift decisions can be taken? Alternatively, do you think that responsibility for resolving FMIs should be centralised at EU-level?*

We believe that the process with resolution colleges that is currently discussed in relation to the Crisis Management Directive for banks should also be applied for other financial institutions.

28. *Do you agree that a recognition regime should be defined to enable mutual enforceability of resolution measures?*

29. *Do you agree that bilateral cooperation agreements should be signed with third countries?*

Yes.

30. *Do you agree that the resolution of FMIs should observe the hierarchy of claims in insolvency to the extent possible and respect the principle that creditors should not be worse off than in insolvency?*

Yes

Insurance and reinsurance firms

1. *Are the resolution tools applicable to traditional insurance considered above adequate? Should their articulation and application be further specified and harmonised at EU-level?*

The resolution tools among those listed currently available in Sweden are (1) run-off, (2) portfolio transfer and (6) compulsory winding up. It may, however, be difficult to achieve an ordered run-off or portfolio transfer in a severely afflicted insurance undertaking. Such undertakings would enter winding up proceedings fairly rapidly, which could lead to the resolution of liabilities and the distribution of remaining assets. Therefore, the available resolution tools will probably not be effective in all cases, most notably not in the more severe cases. The situation would probably improve if other tools were also available, i.e. a bridge institution and the ability to restructure liabilities. Therefore a case could probably be made for greater EU-harmonisation on tools, although that is clearly a political issue.

2. *Do you think that a further framework of measures and powers for authorities, additional to those already applicable to insurers, to resolve systemically relevant insurance companies is needed at EU level?*

In our view, the insurance companies that can be considered to be systemically relevant are those that are involved in non-insurance/non-traditional insurance activities and highly interconnected with other financial institutions. As these companies may have activities that strongly resembles those of banks, we think that a recovery and resolution framework similar to that for banks can also be desirable for such insurance companies.

3. *In your view, which scenarios/events might lead to the need to resolve a systemically relevant insurance company? Even before that, which types of scenarios systemic insurers and authorities need to be prepared for which may imply the need for recovery actions if not yet resolution?*

As there are new and forthcoming regulations these scenarios/events are very difficult to identify at this point. For example, an event similar to the failure of AIG would after the implementation of new regulations for banks, i.e. stricter capital and new liquidity requirements in Basel III, and for derivatives, e.g. in EMIR, have less systemic implications. In addition, the introduction of Solvency II will probably also have implications for the scenarios/events that could lead to the need to resolve an insurance company. As there are still significant outstanding issues in Solvency II, a thorough examination of these events/scenarios should take place once this regulation has been finalized.

4. *Do you agree with the above objectives for resolution of systemic insurance companies? What other objectives could be relevant?*

Overall we agree with the stated objectives. But given that the objectives for the resolution of a systemic insurer and the objectives for the resolution of a non-systemic insurer are not the same, a recovery and resolution

framework designed with the main objective being financial stability need not be optimal when the main objective is policyholder protection. We would therefore want to point out that if the policyholder protection concerns cannot be covered in a general framework for non-bank financial institutions there could be reasons to contemplate if there is a need for a separate resolution framework for non-systemic insurers with the narrower objective of policy holder protection.

5. *Do you think that recovery plans should be developed by systemic insurers and resolution plans by resolution authorities? Do you think that resolution authorities should have the power to request changes in the operation of insurers in order to ensure resolvability?*

We believe that recovery and resolutions plans should not be mandatory for all systemic insurers. The need for such plans should be decided after a thorough analysis, taking into consideration the magnitude of a possible failure and the problems to resolve such a company.

10. *Would the tools mentioned above be appropriate for the resolution of systemic insurers? What other tools should be considered and why?*

As pointed out, insurers are normally funded with premiums upfront. They have little debt besides the claims of policyholders. In some jurisdictions, e.g. Sweden, insurers are even prohibited by law to borrow or need permission to do so. Besides the write-downs of policyholders' claims that can take part in a run-off bail-in is therefore likely to be a tool of limited use in an insurance context.

11. *Do you think that, within the EU, resolution colleges should be set up and involved in resolution issues of cross border insurance groups?*

Yes.

13. *Alternatively, do you think that responsibility for resolving systemic insurers should be centralised at EU-level?*

Given the differences between the legislation across countries, we do not think that the responsibility for resolving systemic insurers should be centralized at EU-level.

Payment systems and other nonbank financial institutions/entities

1. *Do you agree with the above assessment regarding payment systems, payment institutions and electronic money institutions? Alternatively, do you consider that either (or both) would merit further consideration as to their ability, first, to give rise to systemic risk and, second, the need for possible recovery and resolution arrangements in response?*

We believe that two types of institutions that should be part of a framework for recovery and resolution for non-banks is payment systems and clearing institutions (like ACHs) if not operated by central banks. However, we agree that it is not likely that there would be the same need for payment institutions and electronic money institutions.

2. *Besides those covered in previous sections of this paper, which other nonbank financial institutions can become systemically relevant and how? Depending on the type of institutions, what are the main channels through which such systemic risks are transmitted or amplified?*

Examples of other institutions that can become systemically relevant, except those mentioned in the previous question, could be trading venues, which are becoming increasingly important as a consequence of new regulation for derivatives. Especially the obligation that standardised derivatives must be traded on a trading venue in the revised MiFID/MiFIR can make some trading venues systemically relevant as there might be no other trading venue where a specific (important) derivative can be traded. Also the obligation of reporting to trade repositories in EMIR can lead to those institutions potentially becoming systemically relevant.

In addition, the problems, for example, for LTCM (Long Term Capital Management) in 1998 and some money market funds 2007 -2009 did show that also hedge funds and other collective investment funds (e.g., money market funds and exchange traded funds) may become systemically relevant due to, for example, their leverage, size and interconnectedness. However, this should not be seen as an exhaustive list, as developments in the financial system can lead to that new systemically relevant non-bank financial institutions are emerging.

3. *In your view, what could be meaningful thresholds in relation to the factors of size, interconnectedness, leverage, economic importance or any other factor to determine the critical relevance of any other nonbank financial institution?*

At this point we have no view of which thresholds to determine the critical relevance of nonbank financial institutions covered in this section of the Consultation. However, it is important to remember that the thresholds also depend on the type of institution as well as on the situation. The failure of a nonbank financial institution can have no systemic implications in normal times but a large impact on the system in times of financial stress. Thus a certain flexibility to assess which institutions are relevant in a crisis is necessary. It is difficult to assess perfectly ex ante all possible situations and the assessment of systemic importance at each future date. It is therefore important to carefully and thoroughly analyse these thresholds ex ante and allow for some flexibility in application. In addition, new regulations for banks, i.e. the stricter capital and new liquidity requirements in Basel III, and for derivatives, e.g. in EMIR, should be taken into consideration when deciding these thresholds. In our view, the purpose of these new regulations is to make the financial system more resilient and should, therefore and all else equal, result in larger air bags in the system and therefore potentially higher thresholds.

Besides those factors mentioned in the question, the complexity of the financial institution can be an additional factor of relevance. The failure of a complex institution can lead to unforeseen consequences for the financial stability and it might be very costly, difficult and time-consuming to resolve the institution. It is also important to remember the differences among these non-bank institutions. Therefore, there could also be some other

supplementary factors that can be of relevance for some of these non-bank institutions and that should be considered when determining which of those institutions that are systemically relevant.

4. *Do you think that recovery and resolution tools and powers other than existing insolvency rules should be introduced also for other nonbank financial institutions?*

We believe that a comprehensive toolbox should be available when there is great importance from a financial stability perspective to maintain certain functions of the financial system and when the failure of an institution can have systemic implications. In line with our comments under Q. 17 in the section on CCPs and CCPs, we believe that temporary public ownership should be part of the toolbox.

6. *With respect to possible preventive and preparatory measures:*

   a. *Do existing regulatory frameworks applicable to other nonbank financial institutions provide for sufficient safeguards, in particular with respect to their governance structures, market/counterparty/liquidiy risk management, transparency, reporting of relevant information and other etc.?*

   Overall we believe that current and future regulatory frameworks and regulations for banks, CCPs, CSDs and derivatives provide sufficient safeguards when finalised. However, for certain types of money market funds, especially those with CNAV (Constant Net Asset Value), it should be considered to strengthen the safeguards. Further, it cannot be ruled out that future developments of the financial system and the introduction of new regulation, for example the obligation to trade standardised derivatives on trading venues in the revised MiFID/MiFIR, might lead to that regulatory framework must be strengthen in other areas in relation to non-bank institutions

   b. *Are supervisors equipped with sufficient powers to be able to collect information and monitor the various types of risks existing or building up in the particular nonbank financial sector/institution?*

   In relation to shadow banking, there is a lack of information to monitor and identify some risks, for example, in relation to securities lending and repo transactions. However, global initiatives on this issue by, for example, the FSB might lead to regulatory initiatives in the EU.

   c. *Are additional supervisory powers needed to ensure de-risking and prevent overly complex and interlinked operations?*

   Currently we have not identified any need for additional supervisory powers.

   d. Would recovery and resolution plans be necessary to be introduced for all or only some of these institutions? Why?

   We do not think that recovery and resolution plans should be mandatory for all systemically relevant non-bank institutions. The thresholds (discussed in question 3) for those institutions that have to

have these plans ought to be significantly higher than for those institutions, for which only the resolution tools are available.

7. *With respect to possible early intervention powers and measures:*

   a. *Do existing regulatory frameworks applicable to other nonbank financial institutions provide for effective early remedial actions of supervisors aimed at correcting solvency or operational problems at an early stage?*

   Overall we believe that the existing regulatory frameworks are applicable to provide for effective early remedial actions in correcting solvency or operational problems for non-bank institutions. However, there is a possibility that for some systemic relevant other nonbank financial institutions the regulatory framework can turn out to be ineffective. Therefore, a recovery and resolution framework is needed for these institutions.

8. *With respect to possible resolution measures and tools:*

   a. *Should administrative, non-judicial procedures and tools for the restructuring or managed dissolution of other failing nonbank financial institutions be introduced?*

   b. *Depending on the entity, what could be the appropriate and specific resolution tools to be used? For which institutions are certain resolution tools or techniques not relevant? Why?*

   As the consequences and remedies of failing non-bank financial institutions can be very different, none of the possible resolution tools should be ruled out at this point.

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