INTERNATIONAL MONETARY FUND

IMF Membership in the Financial Stability Board

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1. **This paper examines the implications of the Fund accepting membership in the Financial Stability Board ("FSB").** The FSB Charter (the "Charter") explicitly contemplates the possibility of the Fund and the other international financial institutions becoming members but notes that "the acceptance of membership by the international financial institutions (IFIs) in the FSB is subject to the approval of their respective governing bodies." An Executive Board decision is required for the Fund to accept membership and is proposed below.

2. **This paper is organized as follows:** Part I outlines the institutional framework of the FSB, its legal status, mandate, and structure.[1] Part II discusses the parameters of the Fund's cooperation with the FSB, including the delineation of the two bodies' respective responsibilities. Part III outlines possible options (including membership) for strengthened cooperation between the Fund and the FSB. Part IV sets out a proposed decision for Executive Board approval.

I. Financial Stability Board—Institutional Framework

A. Legal Framework

3. **The FSB was established in April 2009 at the initiative of the G-20 as the successor to the Financial Stability Forum ("FSF").** The FSF was convened by the G-7 in 1999 as a forum to bring together national authorities and international bodies responsible for financial stability. In November 2008, in the wake of the recent financial crisis, the G-20 Leaders called for an expanded membership of the FSF and subsequently agreed at the G-20 Summit of April 2009 on the need to place the FSF on a "stronger institutional ground," with a broadened mandate.[2] The new FSB held its inaugural meeting in Basel on June 26–27, 2009.

4. **The institutional basis of the FSB was formalized in the FSB Charter** that was endorsed by the G-20 Leaders in September 2009 and that established the FSB with a formal mandate and tasks, a decision-making framework and process, and a permanent Secretariat (a copy of the Charter is attached as Appendix I). However, the FSB itself is not a legal entity, has no capacity to enter into agreements, and has no privileges or immunities.[3] Moreover, the Charter is a political rather than a legal document, and is explicit in its non-binding legal effect. Article 16 states that the Charter "is not intended to create any legal rights or obligations."

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[1] The description and legal analysis of the FSB's legal status and structure has been prepared by Fund staff in consultation with the Secretariat of the FSB.

[2] See G-20 Leaders, Declaration, Summit on Financial Markets and the World Economy, November 15, 2008 and Declaration on Strengthening the Financial System, London, April 2, 2009.

[3] As noted in paragraph 13, staff of the FSB Secretariat are technically employees of other bodies (primarily the Bank for International Settlements) rather than the FSB itself.

B. Mandate

5. **The Charter specifies the FSB's objectives and tasks.** It states in Article 1 that the FSB acts "in the interest of global financial stability" and coordinates at the international level the work of national financial authorities and international standard setting bodies (SSBs) in order to develop and promote the implementation of effective regulatory, supervisory and other financial sector policies. Further, it provides that the FSB will address vulnerabilities affecting the financial system, "in collaboration with" the IFIs. In this manner the Charter establishes a clear distinction between the member jurisdictions and international standard-setting bodies whose work it "coordinates" and the IFIs with whom it "collaborates" (see Section C below).

6. **The FSB's tasks,** set out in Article 2 of the Charter, are to:

- assess vulnerabilities affecting the global financial system and identify and review on a timely and ongoing basis the regulatory, supervisory and related actions needed to address them, and their outcomes;
- promote coordination and information exchange among authorities responsible for financial stability;
- monitor and advise on market developments and their implications for regulatory policy;
- advise on and monitor best practice in meeting regulatory standards;
- undertake joint strategic reviews of the policy development work of the international standard setting bodies;
- set guidelines for and support the establishment of supervisory colleges;
- support contingency planning for cross-border crisis management, particularly with respect to systemically important firms; and
- collaborate with the Fund to conduct Early Warning Exercises (EWE).

7. **The Charter also incorporates the possibility for the FSB to make recommendations to its members on policy issues and leaves open a more expanded mandate.** Thus, the FSB advises on the implications of market developments for regulatory policy and on best practices and sets guidelines for the establishment of supervisory colleges. Further, Article 2(i) empowers the FSB to "undertake any other tasks agreed by its Members in the course of its activities and within the framework of the Charter."

C. Composition

8. **The FSB Charter lists three categories of members**:

(a) ***Member Jurisdictions,*** comprising national authorities of the G-20 countries, the plus Hong Kong, the Netherlands, Singapore, Spain and Switzerland, the European Central Bank and the European Commission. Membership is open to "national and regional authorities responsible for maintaining financial stability, namely ministries of finance, central banks, supervisory and regulatory authorities." The number of representative authorities per Member jurisdiction varies (from one to three) to reflect the size of the national economy, financial market activity and national financial stability arrangements of the corresponding Member jurisdiction.

(b) ***International Standard-Setting, Regulatory, Supervisory and Central Bank Bodies,*** including the Basel Committee on Banking Supervision (BCBS), the Committee on Payment and Settlement Systems (CPSS), the Committee on the Global Financial System (CGFS), the International Accounting Standards Board (IASB), the International Association of Insurance Supervisors (IAIS), and the International Organization of Securities Commissions (IOSCO).

(c) ***International Financial Institutions***, including the Fund, the World Bank, the BIS, and the OECD.[4]

9. **The Charter assigns different responsibilities to different categories of members.** Only member jurisdictions make specific commitments with respect to their policies. Under Article 5, member jurisdictions commit to "(a) pursue the maintenance of financial stability**;** (b) maintain the openness and transparency of the financial sector; (c) implement international financial standards; and (d) undergo periodic peer reviews." For their part, the standard-setting bodies are to "report to the FSB on their work without prejudice to their existing reporting arrangements or their independence" (Article 5(2)). By contrast, no commitments are specified for the IFIs. The Charter expressly notes that the IFIs participate as members in accordance with their respective legal and policy frameworks (Article 5 (3)). The FSB does not purport to "coordinate" the work of the IFIs but, rather, works in collaboration with them.

10. **The FSB will review periodically the eligibility of Members.** However, the Charter offers no guidance or criteria for the acceptance of new members.

11. **The Charter calls on the FSB to consult widely, including with non-member authorities**. The FSB intends to establish by the end of 2010 regional outreach arrangements to broaden the circle of countries engaged in its work.

[4] Annex A of the Charter subjects the acceptance of membership by the international financial institutions to the approval of their governing bodies.

D. Decision-Making Structure and Procedures

12. **The governing structure of the FSB consists of the Plenary, the Steering Committee, and the Chairperson** (Article 6).

(a) **The Plenary is the only decision-making body.** It takes all decisions in connection with the FSB's work program, FSB membership, the adoption of FSB reports, principles, standards, recommendations and guidance, the appointment of the FSB Chairman, amendments to the Charter, and any other matter governing the business and affairs of the FSB. It comprises all of the members of the FSB.[5] The Plenary meets at least twice a year, and takes decisions by consensus (Article 7); however, the Charter does not specify how consensus is achieved. The Charter only states that all seats have equal rights. The FSB Secretariat has clarified to Fund staff that, in practice, the absence of a clear definition of consensus provides flexibility and facilitates the decision-making process. As a member, the Fund would participate in this process.

(b) **The Steering Committee provides operational guidance** between Plenary meetings to ensure that decisions are carried out (Article 13). It monitors progress in the FSB's work, commissions work from Standing Committees and other working groups,[6] and performs joint strategic reviews. The Plenary decides on the composition of the Steering Committee having regard to a balanced representation of both geographic regions and institutional functions (Article 12). Although not explicitly set out in the Charter, the FSB Secretariat has clarified that the Steering Committee takes decisions by consensus.

(c) **The Chairperson** chairs both the Plenary and the Steering Committee. The Chairperson is appointed by the Plenary from its members for a term of three years (currently the Governor of Banca d'Italia), and represents the FSB externally.

13. **The FSB has a Secretariat located at the BIS** and a Secretary General appointed by the Plenary. The Secretariat staff are generally seconded from member countries or

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[5] Representation in the Plenary is at the level of central bank governor or immediate deputy; head or immediate deputy of the supervisory/regulatory agency; and deputy finance minister. Plenary representatives also include the chairs of the main standard-setting bodies and committees of central bank experts, and high-level representatives of the IFIs. Although the Fund has not yet accepted membership, Plenary sessions are attended by the Financial Counselor.

[6] Under Article 11 of the Charter, the Plenary may appoint Standing Committees and working groups "to support the FSB's missions." Representation in a Standing Committee of member jurisdictions may be through a member or through a relevant agency that is not a designated FSB Member. The Charter does not specify how member jurisdictions are to decide on representation in the Committees. The Steering Committee may also establish working groups "as needed" which may include representatives of non-FSB members (Article 13). Fund staff is represented in two of the Standing Committees: the Standing Committee on the Assessment of Vulnerabilities (SCAV); and the Standing Committee on Standards Implementation (SCSI). Fund staff also participates in a number of working groups including the Cross-border Crisis Management Working Group, and the Data Gaps and Systemic Linkages Working Group. In addition, the FSB and the Fund are working together in the context of the G-20 on cross-border bank resolution, systemically important financial institutions, deposit insurance and other issues.

organizations; staff on loan from other organizations (currently from the BIS, IMF, and World Bank) continue to be paid by these organizations, whereas those from member countries are temporarily on the BIS payroll. Under Article 15(5) of the Charter, "the Secretary General and the Secretariat Staff, in the discharge of their functions, shall owe their duty entirely to the FSB and to no other authorities or institutions." The Charter is silent on the allocation of resources to support the Secretariat and the internal bodies of the FSB.

E. Legal Status of the FSB and Implications of Fund Membership

14. **As noted above, the legal status of the FSB effectively reflects its Charter and the fact that the FSB is not a legal entity.** The FSB Charter is an informal and non-binding "memorandum of understanding" for cooperation adopted by its "members." Academic literature on similar bodies (like the Basel Committee on Banking Supervision) characterize these bodies as **"**transnational or transgovernmental regulatory networks" (TRNs)—i.e., informal multinational forums that engage in cooperation in regulatory areas at the supranational level (see Box 1).[7] These bodies operate informally and without creating formal legal rights or obligations. Membership in such bodies is also informal and decisions are not legally binding and only enforced through peer pressure, essentially in a form of "soft law."

15. **The regulatory impact of "soft law" should not be underestimated.** By means of its adoption into the domestic framework, "soft law" becomes "hard law" and acquires the same effect as traditional instruments of regulation. The impact of TRNs' soft regulation in the international financial context has long been recognized as illustrated, for example, by the Basel Committee accords. Indeed, the purpose of these bodies is—at least in part—to facilitate peer pressure on their members to align domestic policies with the views of the consensus.

16. **In examining the implications of Fund membership to the FSB** a number of concerns of a legal and policy nature need to be considered.

- ***What are the legal consequences of membership?*** Legally, there would be no formal consequences of membership. The Fund and other IFIs would not be subject to any legal rights as members and would not be bound by any legal obligations as a result of membership. As noted above, the Charter only sets out "commitments" (rather than obligations) and these do not apply to the IFIs.

- ***How can the Fund become a member of something that does not exist as a separate legal entity?*** Membership in the FSB is not the same as membership in an international organization like the Fund, the latter which implies legal rights and obligations. Rather membership in the FSB would effectively involve a non-binding commitment to cooperate towards a common goal with the other "members" in the forum provided by the FSB.

[7] See M. Giovanoli, The Reform of the International Financial Architecture after the Global Crisis, *42 International Law and Politics* (2009), and S. Cassese & M. Savino, The Global Economy, Accountable Governance and Administrative Reform, December 2004.

- ***Is Executive Board approval necessary for membership?*** As it is the "Fund" as an institution that will be identified as the member, Board approval is necessary for membership.[8] A similar approach towards acceptance of membership in the FSB is being taken by the OECD and is under consideration at the World Bank.[9]

- ***Would the Fund and its staff be protected by privileges and immunities?*** To the extent that the Fund and its staff participate in work of the FSB, there may be a risk of potential liability in some cases (e.g., a bank adversely affected by the implementation of an FSB recommendation sues the Fund and the staff that participated in the recommendation). In these cases, there would be no privileges or immunities or other legal protections that the Fund or its staff could claim other than the Fund's own privileges and immunities. However, the Fund's privileges and immunities would apply and would provide the Fund and relevant staff with sufficient legal protection.

[8] Participation in the FSF did not require a Board decision. Instead, participation took place at the level of Fund staff rather than the Fund as an institution. As the "Fund" itself was never asked to become a member of the FSF, Executive Board approval was never required. The FSF had no charter, no permanent bodies, no decision-making procedures and no formal membership. Fund staff collaborated closely with the FSF and Fund staff members participated fully in the FSF's meetings and activities. As noted below, the joint IMF/FSF letter clarified the roles of each body and the scope of the coordination.

[9] In this regard, and as noted in footnote 4, Annex A of the FSB Charter states that "[t]he acceptance of membership by the international financial institutions in the FSB is subject to the approval of their respective governing bodies."

Box 1. Transnational Regulatory Networks (TRNs)

Academic interest in so-called **transnational regulatory networks (TRNs)** started in the 1990s with the emergence of groups engaged in regulatory reform, such as the Basel Committee and the conclusion of its successful accord on bank capital adequacy in 1988. The terminology originated in studies on "*transgovernmentalism*" in which individual elements of the state interact directly with counterparts abroad creating "a dense web or relations that constitutes a new, transgovernmental order" (Slaughter, 1997). These groupings were referred to as transnational or transgovernmental regulatory networks, government networks or horizontal networks. The term "**TRNs**" is one that seems to have gained acceptance of late.

Although there is no single definition of a TRN, the following definition provides a general sense: "informal multilateral forums that bring together representatives from national regulatory agencies or departments to facilitate multilateral cooperation on issues of mutual interest with the authority of the participants." [1] According to this definition, TRNs would exclude: (a) treaty-based international organizations such as the IMF and the World Bank; (b) vertical networks such as EU regulatory committees; (c) mutual recognition and cooperation agreements; (d) high level networks of heads of state of government such as the G-20. The academic research tends to identify the following common elements as common to TRNs: [2]

(1) ***Sub-state actors***. Members of TRNs do not represent national governments.
(2) ***Informal creation***. Because TRN member bodies "don't exist in the eyes of the law … they cannot possibly create institutions that do."[3]
(3) ***Flexible internal organization***. Including the absence of constitutive documents.
(4) ***Decentralization***. Small bureaucracies and small budgets.
(5) ***Ambiguous legal force***. TRNs have no regulatory capacity and cannot promulgate laws. TRNs usually claim not to create rights and obligations in their members.
(6) ***Strong institutional and logistical links to other organizations***.
(7) ***Decision-making by consensus*** is also a typical element of a TRN.

1/ H. Verdier, "Transnational Regulatory Networks and Their Limits," 34 *Yale Journal of International Law* (2009).
2/ See: K. Raustiala, "The Architecture of International Cooperation: Transgovernmental Networks and the Future of International Law," 43 *Virginia Journal of International Law*1 (2002); and D. Zaring, "International Law by Other Means: The Twilight Existence of International Financial Regulatory Organizations" 33 *Texas International Law Journal* (1998).
3/ A. M. Slaughter, A New World Order, Princeton (2004).

II. IMF AND FSB RESPECTIVE RESPONSIBILITIES AND COOPERATION

A. IMF and FSB Current Roles and Competences

17. **A joint letter by the Fund's Managing Director and the Chairman of the FSF in November 2008 clarified the key responsibilities and roles of the two bodies.** This letter has continued to govern the division of responsibilities since the FSF was transformed into the FSB. The joint letter recognizes the complementary and, in some cases, overlapping mandates and programs of the two bodies. It notes that the Fund is responsible for surveillance of the global financial system and the macroeconomic policies of its members, while the principal task of the FSF is the elaboration of international financial standards and policies and the coordination of standard-setting bodies, to which the Fund contributes. The two cooperate on the EWE, and the Fund assesses implementation of national policies through FSAPs, ROSCs, and Article IV consultations.

- ***The Fund and FSB have sought to build a working relationship that is based on the division of responsibilities outlined in the joint letter and that builds on each body's comparative advantages*****.** The Fund and FSB have jointly developed the EWE, aimed at improving the analysis of systemic risks, including through linkages between the financial sector and the real economy, and cross-border spillovers. The Fund generally takes the lead on economic, macro-financial, and sovereign risk analysis, while the FSB tends to lead on regulatory and supervisory issues.

- ***The Fund and FSB are working closely to fill data and information gaps exposed by the recent financial crisis*****.** The two bodies are collaborating to build on existing reporting frameworks, and coordinate efforts both nationally and internationally. They last jointly reported on progress to the G-20 Finance Ministers and Governors in October 2009[10].

- ***The recently-launched FSB peer reviews represent an opportunity to further leverage the Fund's financial sector surveillance.*** The peer reviews are based on the G-20 countries' commitment to undertake FSAP assessments roughly every five years. The reviews are supposed to take place in-between FSAP assessments, draw on their findings, and monitor progress in implementing their recommendations. The first peer review (Mexico) was concluded in mid-2010 and built on the 2006 FSAP assessment, in consultation with Fund staff to minimize overlap and maximize synergies between the two operations.

- ***Similarly, there is scope for complementarity between the FSB's thematic reviews and the Fund's own multilateral and bilateral surveillance.*** The first thematic review covered the implementation of the FSB Principles for Sound Compensation Practices and their Implementation Standards, and assessed adherence within member

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[10] The Financial Crisis and Information Gaps, Report to the G-20 Finance Ministers and Central Bank Governors prepared by the IMF Staff and the FSB Secretariat, October 29, 2009.

jurisdictions to the FSB's Principles and Standards. The second review will focus on risk disclosures by market participants, and the third on mortgage origination practices. Other topics being considered by the FSB include resolution frameworks, deposit insurance, and securitization, all of which have also been priorities for the Fund.

- ***Fund staff and the FSB are also cooperating in the context of the FSB's initiative to promote compliance with regulatory and supervisory international standards related to international cooperation and information-sharing, also known as the "Non-Cooperative Jurisdictions" (NCJ) process.*** Unlike the FSB members' peer reviews, the NCJ process has a global reach, and aims to encourage adherence by all countries to a subset of principles in the three main financial sector standards pertaining to cooperation and information sharing.[11] The FSB's Standing Committee on Standards Implementation (SCSI) has identified "jurisdictions for further evaluation" based on their systemic importance and non-compliance with those principles, and has contacted these jurisdictions to encourage them to undergo assessments and/or improve compliance. Like the peer reviews, this exercise relies on the results of Fund (or Fund-Bank) assessments of compliance with these principles undertaken in the context of FSAPs or stand-alone ROSCs. Although this process is at an early stage, positive incentives are envisaged to encourage adherence, including technical assistance by FSB members. Negative incentives are also envisaged for jurisdictions that refuse to cooperate with the FSB, or where progress in improving compliance with these standards is deemed to be insufficient, including the possibility of public listing as "non-cooperative" by the FSB or sanctions by FSB members.

- ***In other areas, the FSB's reviews and the Fund's surveillance activities could be complementary.*** For example, the FSB has established an Implementation Monitoring Network (IMN), which reports to the SCSI and comprises experts and international bodies, including the Fund. It gathers information on national implementation of G-20/FSB recommendations relating to the current financial crisis, including those not related to international standards. The FSB will use the information to identify cross-country differences and any need for policy actions to address them. The IMN has provided useful inputs into the G-20 mutual assessment process, which the Fund has helped implement, but could also represent a resource for Article IV consultations.

- ***Fund staff and the FSB collaborate on an ongoing basis on a range of policy-related issues, often in response to requests by the G-20.*** Examples include the joint Fund/FSB/BIS paper on systemically important markets and institutions and the recent paper on financial sector taxation.[12] Fund staff is working with the FSB on

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[11] These principles include a subset of the Core Principles for Effective Banking Supervision (BCBS), the Insurance Core Principles (IAIS), and the Objectives and Principles for Securities Regulation (or the IOSCO Core Principles).

[12] See "Guidance to Assess the Systemic Importance of Financial Institutions, Markets and Instruments: Initial Considerations," http://www.imf.org/external/np/g20/pdf/100109.pdf and "Capital and liquidity surcharges and

(continued…)

benchmarking the macroeconomic impact of regulatory reform, and the G-20 recently requested the FSB, in consultation with the Fund, to develop recommendations to strengthen financial sector oversight and supervision for delivery to G-20 ministers by October 2010.

B. Fund/FSB Collaboration Going Forward

18. **Care will be needed to ensure effective cooperation and the avoidance of duplication between the Fund and FSB.** Notwithstanding the division of labor outlined in the joint letter, the mandates of the two bodies do result in overlapping responsibilities. As discussed above, Fund membership in the FSB should help identify these at an early stage, to avoid frictions, and to ensure that IMF/FSB work is mutually complementary. Close working relations between Fund staff and the FSB Secretariat will assist in this regard, and at the same time closer coordination between Fund Executive Directors and representatives of members present in the FSB plenary in the FSB could also help in achieving this consistency.

19. **The Fund approaches cooperation with the FSB in a pragmatic and flexible manner, based on the 2008 joint letter.** This approach has thus far provided a solid foundation for effective collaboration. Given the diverse areas in which the two bodies cooperate, there is no single solution for effective cooperation with the FSB. Each work stream may require a different approach. Regardless of whether the Fund formally accepts membership in the FSB, staff would propose that the following broad principles continue to guide collaboration going forward.

- ***Under the Articles of Agreement, the Fund is required to engage in certain activities (e.g., surveillance), regardless whether other bodies like the FSB perform similar functions.*** It cannot delegate that work to another body or decline to engage in the work simply because that other body is doing similar work.

- ***Collaboration based on a division of labor where each body generally takes the lead in its own area of comparative advantage.*** The Fund would continue to take the lead on surveillance over the international monetary system and analysis of macro-financial stability issues. However, because overlaps are inevitable, the collaboration will aim to ensure that, in areas of shared responsibility, there is close coordination between the work of the FSB and that of the Fund.

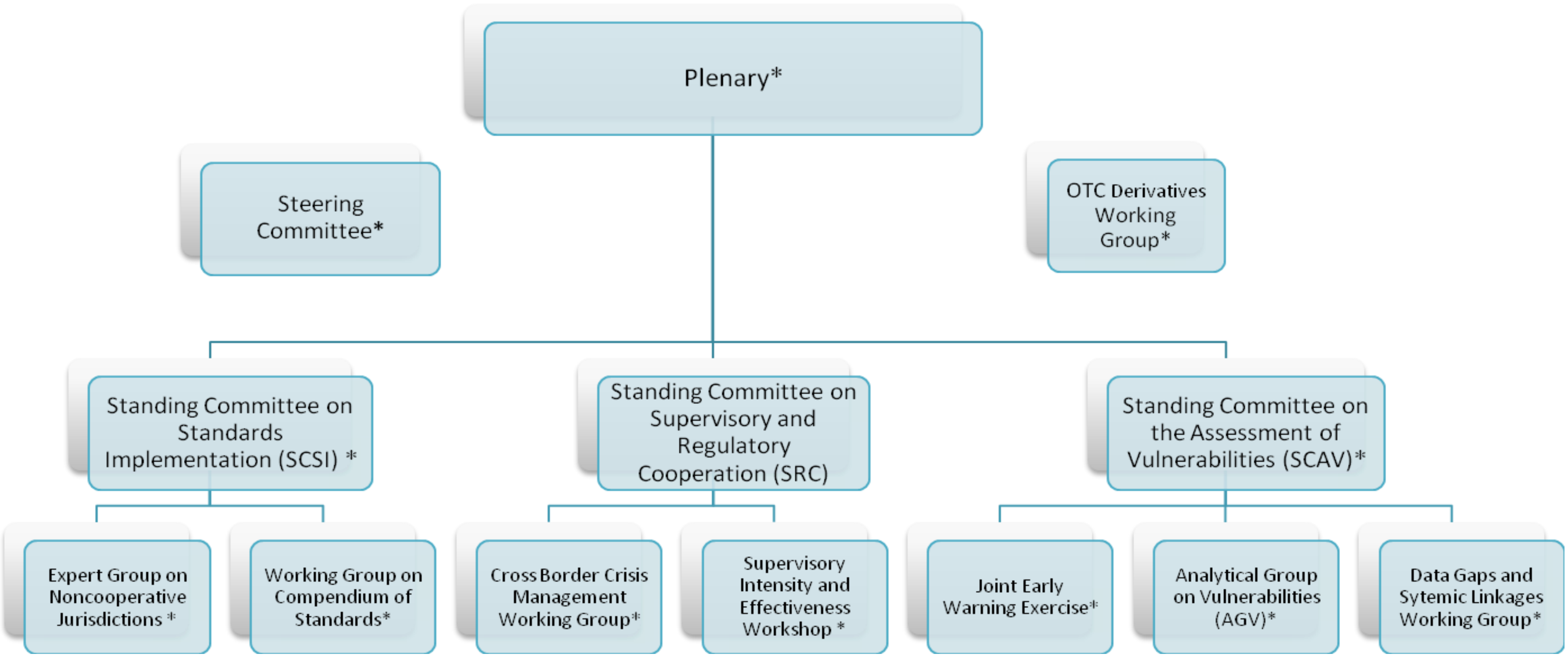
- ***Wherever possible, clear delineation of the content and scope of the various programs of the two bodies will be desirable in order to minimize duplication.*** In the case of country peer reviews, for instance, whose focus overlaps significantly with the FSAPs (on which they are based), it would be important to time these reviews to avoid displacing FSAP assessments, to define their scope precisely so as to maximize synergies, and to avoid overburdening the country authorities. This is consistent with

financial levies and taxes: Coherence and consistency," http://www.financialstabilityboard.org/publications/l_100423.pdf.

the FSB’s expectation that member jurisdictions should undergo a country peer reviews about two years after the completion of an FSAP or ROSC.

- ***An important consideration moving forward will be the preservation of the Fund’s independence and accountability to its entire membership.*** Even if not legally bound, the Fund will be “politically” bound by decisions of the FSB. Given its near universal membership, the Fund must maintain a careful balance between its FSB activity, which relates to a subset of its members, and safeguarding the interests of the full membership, preserving its independence, and ensuring that, even at the political level, it is not bound to support decisions that are inconsistent with its own legal or policy framework. These arrangements will be of particular importance with respect to the FSB’s NCJ process, which has a coercive element. The Fund will need to make clear that it cannot participate in or bound by decisions that are inconsistent with its legal and policy framework.

Figure 1. IMF Participation in FSB Committees and Other Activities ***(IMF Participation Denoted by Asterisk)***



III. Fund Participation in the FSB—Options

20. **The Executive Board needs to consider the appropriate mode for the Fund's participation in the FSB.** As noted above, the FSB Charter lists the Fund as one of its members qualified by the caveat that "the acceptance of membership by the international financial institutions in the FSB is subject to the approval of their respective governing bodies." Among the other IFIs listed as members of the FSB are the World Bank and the OECD. The secretariat of the OECD is in the process of seeking approval from its governing body for the acceptance of membership while a similar approach is under discussion in the World Bank.[13]

21. **Staff is of the view that membership in the FSB would be the most effective mechanism for cooperation between the Fund and the FSB.** Under this option the Fund would fully participate as a member in the FSB in accordance with the Fund's mandate and policies. This approach would allow for the full involvement of the Fund in the activities of the FSB, would enable the Fund to bring to bear the interests of its broader membership, and is consistent with the Fund's emphasis on multilateral cooperation.

22. **This approach would appear to be preferable to the alternatives.** It is conceivable that the Fund could decide not to become a member and, rather, cooperate with the FSB through less formal means—for example, through a memorandum of understanding or observership in the FSB whereby Fund staff would participate in the FSB's activities but not in its decision-making.[14] However, the FSB Charter does not presently contemplate participation in its activities as an "observer" or cooperation in any form other than formal membership. Moreover, these approaches would risk diminishing the Fund's voice in building the FSB consensus on particular issues and could undermine the Fund's ability to partner with the FSB on joint work.

23. **In approving Fund membership in the FSB, the Executive Board would need to clarify certain understandings that would be communicated to the FSB.** Similar to the approach that the Secretariat of the OECD and the staff of the World Bank are taking in respect to membership to the FSB, the Board would clarify:

- The acceptance of membership in the FSB will not give rise to any legal rights or obligations for the Fund.

[13] To date, there are only two precedents for Fund membership to other bodies: the Joint Vienna Institute and the African Capacity Building Foundation. In both cases, IMF membership was associated with the Fund making financial contributions to the operations of the bodies concerned. The Fund is no longer participating in the ACBF as a member, but rather, the relationship between the Fund and ACBF is governed by a memorandum of understanding on cooperation. In relation to other bodies, such as the Basel Committee, IOSCO, and the FATF, the Fund staff participates in the capacity as "observers" and as such, do not actively participate in decision-making or deliberations affecting membership of those bodies.

[14] Depending on its specific features, it may be possible for Fund management to engage in less formal modalities of cooperation without the need of Executive Board approval.

- Like other IFIs, the Fund will participate in the FSB in accordance with its legal framework and policies, under Article 5(3) of the FSB Charter.

- Accordingly, the Fund will reserve the right in specific circumstances not to take part in the decision-making of the FSB where such participation would not be consistent with its legal or policy framework.

- In the event that the FSB reaches a decision by consensus that its members would be expected to implement, the Fund will only be prepared to do so to the extent that, and for so long as, it is consistent with its legal and policy framework.

These understandings could be set out in the summing up of the Board discussion approving membership and communicated to the FSB after the meeting.

24. **If the Executive Board takes a decision that the Fund is to become an FSB member, the modalities of Fund staff participation would need to be determined and** in particular: the extent of the authority of the Fund representatives in the FSB Plenary; arrangements for regular reporting to the Executive Board on FSB activities; and clarification of the circumstances in which certain decisions of the FSB would need to be brought to the attention of the Executive Board. Following the approach taken with respect to the FSF, it is proposed that management would continue to guide Fund participation in the FSB's activities and would report periodically to the Executive Board on the Fund's work in the FSB.

25. **Regardless of the form of participation of the Fund in the FSB, the resource costs of continued collaboration between the Fund and the FSB will be borne under the existing envelope.** Such costs reflect primarily: (i) senior staff participation in FSB meetings (plenary, committees, working groups), including travel; and (ii) the preparation of briefings and other substantive contributions to FSB meetings. Moreover, there are costs associated with the Fund staff seconded to the FSB—an arrangement that has been in place since the establishment of the FSF. Travel costs (including both headquarter- and Basel-based Fund staff) amounted to about $200,000 in FY 2010. Resources related to the Fund's contribution to the activities of the FSB are more difficult to quantify but have been significant – estimates of staff costs for FY 2010 are approximately 1.6 FTEs (of which one is on account of the Basel-based staff), for a dollar amount of around $600,000[15]. This cost has been managed in the past within the existing resource envelope. It will need to be borne in mind that involving the Fund more fully into the FSB's activities would imply intensified preparatory work and carry additional costs.[16]

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[15] This estimate includes staff time allocated to attendance to FSB meetings, conference calls, and meeting preparations. It does not include time devoted to specific joint projects such as the EWE.

[16] The FSB/G-20 countries' commitment to undertake an initial assessment under the FSAP (with updates every five years), and the NCJ process may have resource implications for the Fund, if they lead to an increase in requests for the Fund to engage in FSAPs or ROSCs. However, these costs would not be affected by the Fund's membership in the FSB.

IV. PROPOSED DECISION *

* Subsequent to the issuance of this paper, the proposed decision was revised. The final text of the decision adopted by the IMF's Executive Board has also been published, see: http://www.imf.org/external/np/pp/eng/2010/081010a.pdf

The following draft decision, which may be adopted by a majority of the votes cast, is proposed for adoption by the Executive Board:

The Fund's acceptance of membership in the Financial Stability Board is approved.

FINANCIAL STABILITY BOARD—CHARTER

Having regard to:

(1) the initial mandate given to the Financial Stability Forum by the Finance Ministers and Central Bank Governors of the Group of Seven (20 February 1999);

(2) the broadened mandate given by the Heads of State and Government of the Group of Twenty (London Summit, 2 April 2009, "Declaration on Strengthening the Financial System");

(3) the call of the Heads of State and Government of the Group of Twenty to re-establish the Financial Stability Board "with a stronger institutional basis and enhanced capacity" (London Summit, 2 April 2009, "Declaration on Strengthening the Financial System"); and

Recognising the need to promote financial stability by developing strong regulatory, supervisory and other policies and fostering a level playing field through coherent implementation across sectors and jurisdictions.

We, the Members of the Financial Stability Board, have set forth the following Charter:

I. General provisions

Article 1. Objectives of the Financial Stability Board

The Financial Stability Board (FSB) is established to coordinate at the international level the work of national financial authorities and international standard setting bodies (SSBs) in order to develop and promote the implementation of effective regulatory, supervisory and other financial sector policies. In collaboration with the international financial institutions, the FSB will address vulnerabilities affecting financial systems in the interest of global financial stability.

Article 2. Mandate and tasks of the FSB

(1) As part of its mandate, the FSB will:

> (a) assess vulnerabilities affecting the global financial system and identify and review on a timely and ongoing basis the regulatory, supervisory and related actions needed to address them, and their outcomes;
>
> (b) promote coordination and information exchange among authorities responsible for financial stability;
>
> (c) monitor and advise on market developments and their implications for regulatory policy;
>
> (d) advise on and monitor best practice in meeting regulatory standards;

(e) undertake joint strategic reviews of the policy development work of the international standard setting bodies to ensure their work is timely, coordinated, focused on priorities and addressing gaps;

(f) set guidelines for and support the establishment of supervisory colleges;

(g) support contingency planning for cross-border crisis management, particularly with respect to systemically important firms;

(h) collaborate with the International Monetary Fund (IMF) to conduct Early Warning Exercises; and

(i) undertake any other tasks agreed by its Members in the course of its activities and within the framework of this Charter.

(2) The FSB will promote and help coordinate the alignment of the activities of the SSBs to address any overlaps or gaps and clarify demarcations in light of changes in national and regional regulatory structures relating to prudential and systemic risk, market integrity and investor and consumer protection, infrastructure, as well as accounting and auditing.

Article 3. Consultation

In the development of the FSB's medium- and long-term strategic plans, principles, standards and guidance, the FSB will consult widely amongst its Members and with other stakeholders including private sector and non-member authorities. The consultation process will include regional outreach activities to broaden the circle of countries engaged in the work to promote international financial stability.

II. Members

Article 4. Members

(1) The following bodies are eligible to be a Member:

(a) National and regional authorities responsible for maintaining financial stability, namely ministries of finance, central banks, supervisory and regulatory authorities;

(b) International financial institutions; and

(c) International standard setting, regulatory, supervisory and central bank bodies.

The eligibility of Members will be reviewed periodically by the Plenary in the light of the FSB objectives.

(2) Current Members of the FSB are listed in Annex A.

Article 5. Commitments of Members

(1) Member jurisdictions commit to:

(a) pursue the maintenance of financial stability;

(b) maintain the openness and transparency of the financial sector;

(c) implement international financial standards; and

(d) undergo periodic peer reviews, using among other evidence IMF/World Bank public Financial Sector Assessment Program reports.

The FSB will report on these commitments and the evaluation process.

(2) In support of the mission laid down in Article 2, (1) (e), the standard setting bodies will report to the FSB on their work without prejudice to their existing reporting arrangements or their independence. This process should not undermine the independence of the standard setting process but strengthen support for strong standard setting by providing a broader accountability framework.

(3) The international financial institutions will participate as Members in the FSB in accordance with their respective legal frameworks and policies.

III. Organisation

Article 6. Structure of the FSB

The FSB consists of the following internal structures:

(a) the Plenary;

(b) the Steering Committee;

(c) the Chairperson; and

(d) the Secretariat.

The Plenary

Article 7. Responsibilities of the Plenary

(1) The Plenary is the decision-making body of the FSB.

(2) Decisions by the Plenary shall be taken by consensus.

(3) The Plenary:

(a) decides on the manner in which the Plenary conducts its affairs;

(b) approves the work programme of the FSB;

(c) adopts reports, principles, standards, recommendations and guidance

developed by the FSB;

(d) decides on Membership of the FSB;

(e) appoints the Chairperson;

(f) decides to amend this Charter; and

(g) decides on any other matter governing the business and affairs of the FSB.

Article 8. Representation and attendance

(1) Representation at the Plenary shall be at the level of central bank governor or immediate deputy; head or immediate deputy of the main supervisory/regulatory agency; and deputy finance minister or deputy head of finance ministry. Plenary representatives also include the chairs of the main SSBs and committees of central bank experts, and high-level representatives of the IMF, the World Bank, the Bank for International Settlements (BIS) and the Organisation for Economic Co-operation and Development.

(2) All Members shall be entitled to attend the Plenary Meetings. The Chair shall preside over the Plenary Meetings.

(3) The Chair can extend, after consultation with Members, ad-hoc invitations to representatives of non-FSB Members to attend the whole or part of the Plenary Meetings. In the context of specific sessions of the Plenary, the Chair can also invite, after consultation with Members, representatives of the private sector.

Article 9. Convocation

(1) The Chair shall convene at least two Plenary Meetings every calendar year, normally in March and in September.

(2) Additional extraordinary meetings may be held as circumstances arise, at such time and place as the Chair may designate, following consultation with Members.

(3) Regional Meetings of the FSB may also be held, as appropriate.

Article 10. Seat assignments

(1) The number of seats in the Plenary assigned to Member jurisdictions reflects the size of the national economy, financial market activity and national financial stability arrangements of the corresponding Member jurisdiction.

(2) Delegations with more than one seat have one representative seated at the back. Representatives sitting at the back have the rights of the table. Representation at the table can be changed according to the topic discussed.

Article 11. Standing Committees and working groups

(1) To support the FSB's missions, the Plenary may establish Standing Committees and working groups as necessary and mandate them.

(2) The chairs of Standing Committees are selected from and appointed by the Plenary at the Chair's recommendation. They report to the Plenary on their work programs. The chairs of working groups are appointed by the Plenary at the Chair's recommendation.

(3) Membership in Standing Committees and working groups is decided by the respective chairs in consultation with the Chair with due regard to the effectiveness, balanced representation and the mandate of the respective Standing Committee or working group. Membership is normally drawn from the Members of the Plenary.

(4) A Member jurisdiction can, in consultation with the Chair, decide whether its representation in a Standing Committee is through a Member or through a relevant agency of the Member jurisdiction that is not a designated FSB Member.

(5) The chairs of Standing Committees and working groups can extend ad-hoc invitations to non-members to attend the whole or part of their meetings.

(6) The FSB Secretariat supports the work of Standing Committees and working groups.

(7) Current Standing Committees and working groups of the FSB are listed in Annex B of the Charter.

Steering Committee

Article 12. Composition and appointment

(1) The composition of the Steering Committee is decided by the Plenary at the proposal of the Chair in a manner that ensures maximum effectiveness in taking forward the FSB's work while having regard to balanced representation in terms of geographic regions and institutional functions.

(2) The composition of the Steering Committee shall be reviewed periodically in accordance with the criteria set out in the previous section.

Article 13. Responsibilities and authorities of the Steering Committee

(1) The Steering Committee shall provide operational guidance between the Plenary Meetings to carry forward the directions of the FSB.

(2) The Chair shall convene at least four Steering Committee Meetings every calendar year at such time and place as the Chair may designate.

(3) The Steering Committee may establish working groups as needed which may include representatives of non-FSB members.

(4) The duties of the Steering Committee include the following:

(a) to monitor and guide the progress of FSB's ongoing work;

(b) to promote coordination across and commission work from the Standing Committees and other working groups;

(c) to ensure effective information flow to all Members;

(d) to conduct for the consideration of the Plenary joint strategic reviews of the policy development work of the international SSBs; and

(e) to take forward, in consultation with the Plenary, directly any other work necessary for the FSB to fulfil its mandate.

Chairperson

Article 14. Appointment and Responsibilities

(1) The Chair is appointed by the Plenary from Members for a term of three years renewable once.

(2) The Chair shall have recognised expertise and standing in the international financial policy arena.

(3) The Chair convenes and chairs the meetings of the Plenary and of the Steering Committee. The Chair oversees the Secretariat.

(4) The Chair is the principal spokesperson for the FSB and represents the FSB externally. The Chair shall be informed of all significant matters that concern the FSB. More generally, the Chair shall take all decisions and act as necessary to achieve the objectives of the FSB in accordance with the directions given by the Plenary.

(5) The Chair, in the discharge of the functions as the Chair, shall owe the duty entirely to the FSB and to no other authorities or institutions.

Secretariat

Article 15. Secretariat

(1) The Secretariat shall be directed by the Secretary General.

(2) The Secretary General shall be appointed by the Plenary at the proposal of the Chair.

(3) The Secretary General shall be under the responsibility, and shall act in accordance with the instructions, of the Chair. The Chair is responsible for providing general direction to the Secretary General, in accordance with any directions given by the Plenary.

(4) In appointing the Secretariat staff, the Secretary General shall, subject to the importance of securing the highest standards of efficiency and of technical competence, pay due regard to the importance of a balanced composition in terms of geographic regions and institutional functions.

(5) The Secretary General and the Secretariat staff, in the discharge of their functions, shall owe their duty entirely to the FSB and to no other authorities or institutions.

(6) The main responsibilities of the Secretariat shall be the following:

> (a) to support the activities of the FSB, including its Standing Committees and working groups;
>
> (b) to facilitate cooperation between Members and between the FSB and other institutions;
>
> (c) to ensure efficient communication to Members and others;
>
> (d) to manage the financial, material and human resources allocated to the FSB (including the appointment of staff who may be seconded by Members);
>
> (e) to maintain the records, administer the website and deal with the correspondence of the FSB; and
>
> (f) to carry out all other functions that are assigned by the Chair or the Plenary.

(7) The Secretariat shall be located in Basel at the BIS.

IV. Final provisions

Article 16. Legal Effect

This Charter is not intended to create any legal rights or obligations.

Article 17. Effective date

This Charter shall come into effect on 25 September 2009.

Annex A

List of FSB Members

A. Member Jurisdictions

Argentina

- Central Bank of Argentina

Australia

- Department of the Treasury
- Reserve Bank of Australia

Brazil

- Ministry of Finance
- Central Bank of Brazil
- Securities and Exchange Commission of Brazil

Canada

- Department of Finance
- Bank of Canada
- Office of the Superintendent of Financial Institutions (OSFI)

China

- Ministry of Finance
- People’s Bank of China
- China Banking Regulatory Commission

France

- Ministry of Economy, Industry and Employment
- Bank of France
- Autorité des Marchés Financiers (AMF)

Germany

- Ministry of Finance
- Deutsche Bundesbank
- Bundesanstalt für Finanzdienstleistungsaufsicht (Bafin)

Hong Kong SAR

- Hong Kong Monetary Authority

India

- Ministry of Finance
- Reserve Bank of India
- Securities and Exchange Board of India

Indonesia

- Bank Indonesia

Italy

- Ministry of the Economy and Finance
- Bank of Italy
- Commissione Nazionale per le Società e la Borsa (CONSOB)

Japan

- Ministry of Finance
- Bank of Japan
- Financial Services Agency

Korea

- Bank of Korea
- Financial Services Commission

Mexico

- Ministry of Finance and Public Credit
- Bank of Mexico

Netherlands

- Ministry of Finance
- Netherlands Bank

Russia

- Ministry of Finance
- Central Bank of the Russian Federation
- Federal Financial Markets Service

Saudi Arabia

- Saudi Arabian Monetary Agency

Singapore

- Monetary Authority of Singapore

South Africa

- Ministry of Finance

Spain

- Ministry of Economy and Finance
- Bank of Spain

Switzerland

- Swiss Federal Department of Finance
- Swiss National Bank

Turkey

- Central Bank of the Republic of Turkey

United Kingdom

- HM Treasury
- Bank of England
- Financial Services Authority

United States

- Department of the Treasury
- Board of Governors of the Federal Reserve System
- Securities and Exchange Commission

European Central Bank

European Commission

B. International Financial Institutions[17]

- Bank for International Settlements (BIS)
- International Monetary Fund (IMF)
- Organisation for Economic Co-operation and Development (OECD)
- World Bank

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[17] The acceptance of membership by the international financial institutions in the FSB is subject to the approval of their respective governing bodies.

C. International Standard-Setting, Regulatory, Supervisory and Central Bank

Bodies

- Basel Committee on Banking Supervision (BCBS)
- Committee on Payment and Settlement Systems (CPSS)
- Committee on the Global Financial System (CGFS)
- International Accounting Standards Board (IASB)
- International Association of Insurance Supervisors (IAIS)
- International Organization of Securities Commissions (IOSCO)

Annex B

List of Standing Committees and ad-hoc working groups

Standing Committees (3)

- Standing Committee on Assessment of Vulnerabilities
- Standing Committee for Supervisory and Regulatory Cooperation
- Standing Committee for Standards Implementation

Ad-hoc working groups (3)

- Cross-border Crisis Management Working Group
- Expert Group on Non-cooperative Jurisdictions
- Working Group on Compensation