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Financial Stability Board  
email: [fsb@bis.org](mailto:fsb@bis.org)

**Re: Consultative Document on Funding in Resolution: Guiding principles on the temporary funding needed to support the orderly resolution of a global systemically important bank (“G-SIB”)**

Ladies and Gentlemen:

CLS Bank International (“CLS”) appreciates the opportunity to submit these comments regarding the Financial Stability Board’s “Guiding principles on the temporary funding needed to support the orderly resolution of a global systemically important bank,” dated 3 November 2015 (the “Consultative Document”). CLS would like to express its broad support for the objectives and principles expressed in the Consultative Document. As a systemically important financial market infrastructure (“FMI”), CLS fully understands the need to ensure continuity of access to FMIs for a G-SIB in resolution and seeks to cooperate with, and assist, resolution authorities. Accordingly, CLS supports the Financial Stability Board’s proposal that relevant resolution and other authorities should develop and integrate into the resolution plan a section on temporary funding that, as deemed appropriate and feasible by the relevant authorities, “(ix) Describes the general conditions that material operating entities would need to satisfy in order to obtain direct or indirect access to payment and settlement systems....” As described in greater detail below, CLS suggests that, in order to make the plan as useful as possible, the Financial Stability Board should include guidance with respect to correspondent banking (or nostro-related) issues, which will impact directly on the ability of a G-SIB in resolution to participate in payment and settlement systems.

#### **I. Background**

CLS is the operator of an FMI that is the predominant settlement system (the “CLS System”) for foreign exchange transactions. The CLS System is the world’s largest multicurrency cash settlement system, providing payment-versus-payment settlement in 18 currencies directly to 64 Settlement Members (“Members”) and indirectly to their 18,000 clients. CLS is an Edge Act corporation regulated and supervised by the Federal Reserve, and has been designated a systemically important financial market utility by the United States Financial Stability Oversight Council. In addition, the central banks whose



currencies are settled in the CLS System have established a cooperative oversight arrangement, the CLS Oversight Committee ("OC"), organized and administered by the Federal Reserve.<sup>1</sup>

The CLS System provides a mechanism for the final settlement of payment instructions (relating to underlying FX transactions) across the books of CLS. In order for these payment instructions to settle, Members must satisfy their payment obligations (or "funding obligations") to CLS in 18 currencies, as applicable.<sup>2</sup> All of CLS's Members rely on one or more correspondent banking relationships across these currencies to meet their CLS-related funding obligations on a daily basis. When determining whether or not to allow a Member in resolution to continue to participate in the CLS System, CLS will seek to determine prior to the next settlement session, in coordination with the resolution authority, whether that Member will be able to comply in a timely manner with its funding obligations in all relevant currencies (i.e., does it have sufficient liquidity and will its nostro agents in these currencies continue to act on behalf of that Member).<sup>3</sup> This is a critical determination, since the failure of a Member to comply with its funding obligations may result in unsettled payment instructions and the suspension of the Member from the CLS System and could also trigger CLS's failure management procedures. Depending upon the nature, scope, and severity of the Member's failure to meet its funding obligations to CLS, there could be adverse consequences for CLS and other Members (e.g., CLS may need to draw down on its committed liquidity facilities or make payments to non-defaulting Members in alternative currencies) that have the potential to significantly impact the broader financial markets. CLS notes that the failure of a Member in resolution to meet its obligations to a systemically important payment system in a timely manner may likewise result in a lack of market confidence at a critical time, which will negatively impact upon the viability of the resolution.

## II. Funding considerations/ nostro agents

In order to maximize the likelihood that nostro agents will continue to act on behalf of a G-SIB in resolution (and that a Member in resolution will therefore be able to demonstrate its ability to comply with its funding obligations to payment and settlement systems), CLS proposes the following:

- A communication strategy that includes nostro agents. CLS agrees with the Consultative Document that "Despite successful recapitalization of the firm, private market participants may stand back from providing liquidity - and existing creditors may be motivated to run – if there is a lack of confidence stemming from uncertainty concerning the G-SIB's ability to meet its increased liquidity needs while in resolution." As suggested in Section 1 of the Consultative Document, a communication strategy that describes how material operating entities will be effectively recapitalized and supplied with funding is important; to the extent that nostro agents

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<sup>1</sup> The OC Protocol is available at: [http://www.federalreserve.gov/paymentsystems/cls\\_protocol.htm](http://www.federalreserve.gov/paymentsystems/cls_protocol.htm)

<sup>2</sup> Settlement and funding in the CLS System are separate processes, but are linked and run in parallel operationally. In contrast to settlement, which is reflected on a gross basis across the Member's account on CLS's books, funding obligations are calculated on a multilaterally netted basis, taking into consideration all the Members' payment instructions scheduled for settlement in the relevant settlement session for each eligible currency on the relevant settlement date.

<sup>3</sup> Members are expected to meet their CLS-related funding requirements in each relevant currency within specified times in all circumstances. Under CLS Bank Rule 2.1.1(e)(iii), each Member must have adequate contingency plans in the event of its inability, or any of its nostro agents' inability, to satisfy the funding requirements.



understand and are comfortable with the nature of the resolution, they may be more likely to continue to act on behalf of the G-SIB in resolution.

- Advance coordination with nostro agents. CLS suggests that regulatory authorities engage with nostro agents in relevant jurisdictions to understand the requirements that these nostro agents will impose in a resolution scenario, and that regulatory authorities prepare to meet those requirements (including collateral or guarantees). If these requirements are not carefully considered in advance, they may be challenging to address in a stressed market scenario, including a resolution weekend.
- Cross-border cooperation. CLS supports Section 6 of the Consultative Document, which emphasizes the need for cross-border cooperation between home and host authorities to support funding plans. CLS suggests that the Financial Stability Board also consider the need for cross-border cooperation with regulatory authorities in jurisdictions where relevant nostro agents are located (in addition to regulatory authorities in home and host jurisdictions), to consider potential nostro-related challenges in a resolution scenario where payments are required in multiple currencies.

Please do not hesitate to contact us if you have any questions regarding this submission.

Sincerely,

A handwritten signature in blue ink that reads "Dino Kos". The signature is fluid and cursive, with a horizontal line underneath.

Dino Kos

cc: Alan Marquard, Group General Counsel  
Lauren Alter-Baumann, Managing Director, Legal and Regulatory Strategic Affairs  
Irene Mustich, Associate Director, Regulatory Affairs