



Cross-Border Resolution, Too Fragmented to Fail?

2 October 2015

Passion to Perform

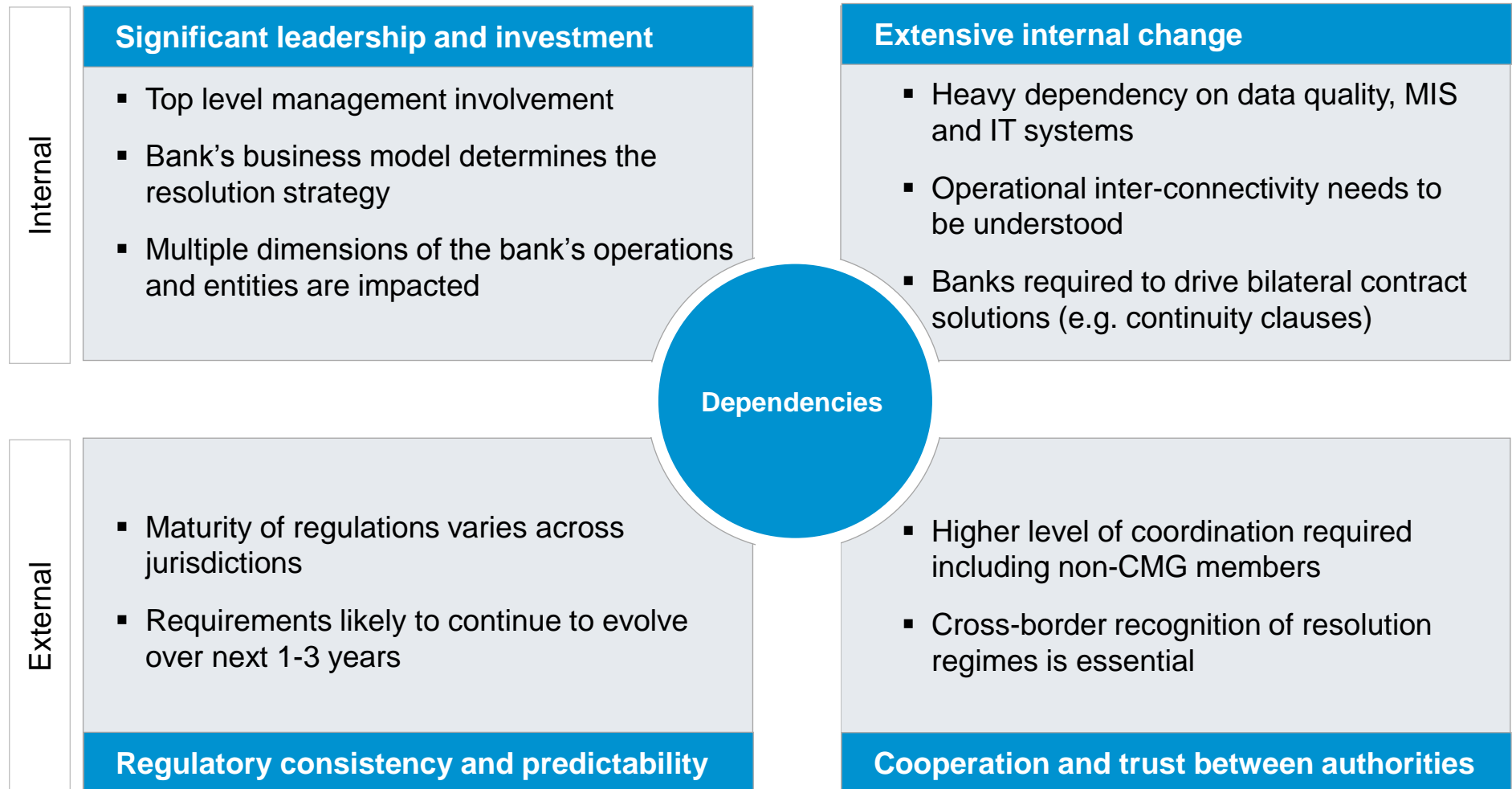
Daniel Trinder,
Global Head of Regulatory Policy



Key dependencies for cross-border resolution	2
Identifying and achieving the resolution strategy	4
Regulatory framework and cooperation among authorities	8
Conclusion	13

Resolution of a global bank

Several key dependencies and challenges exist to execute and develop effective resolution plans





Key elements for a cross-border resolution	2
Identifying and achieving the resolution strategy	4
Regulatory framework and cooperation among authorities	8
Conclusion	13

SPE or MPE?

A bank's business model determines the resolution strategy

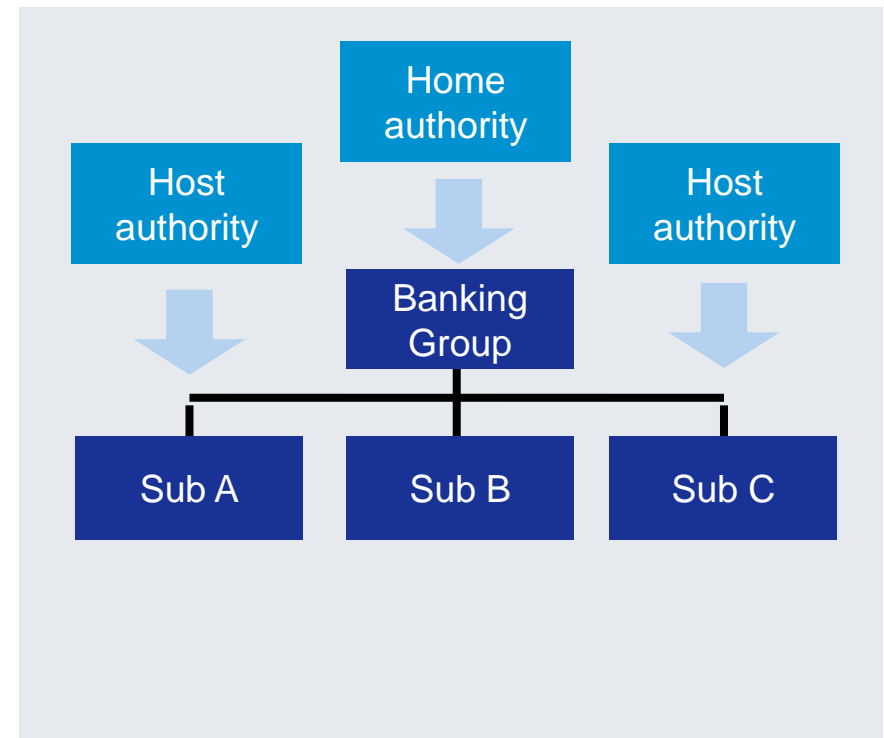
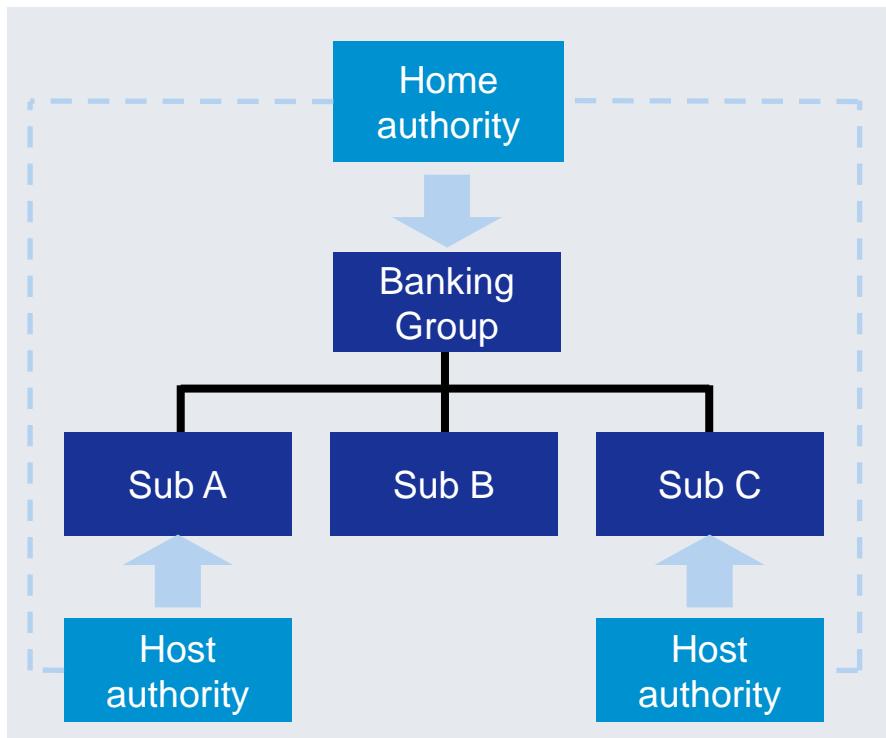


Single Point of Entry (SPE)

- Home authority coordinates the resolution process
- Absorption of losses by top parent entity
- Appropriate for banks highly integrated and centralised

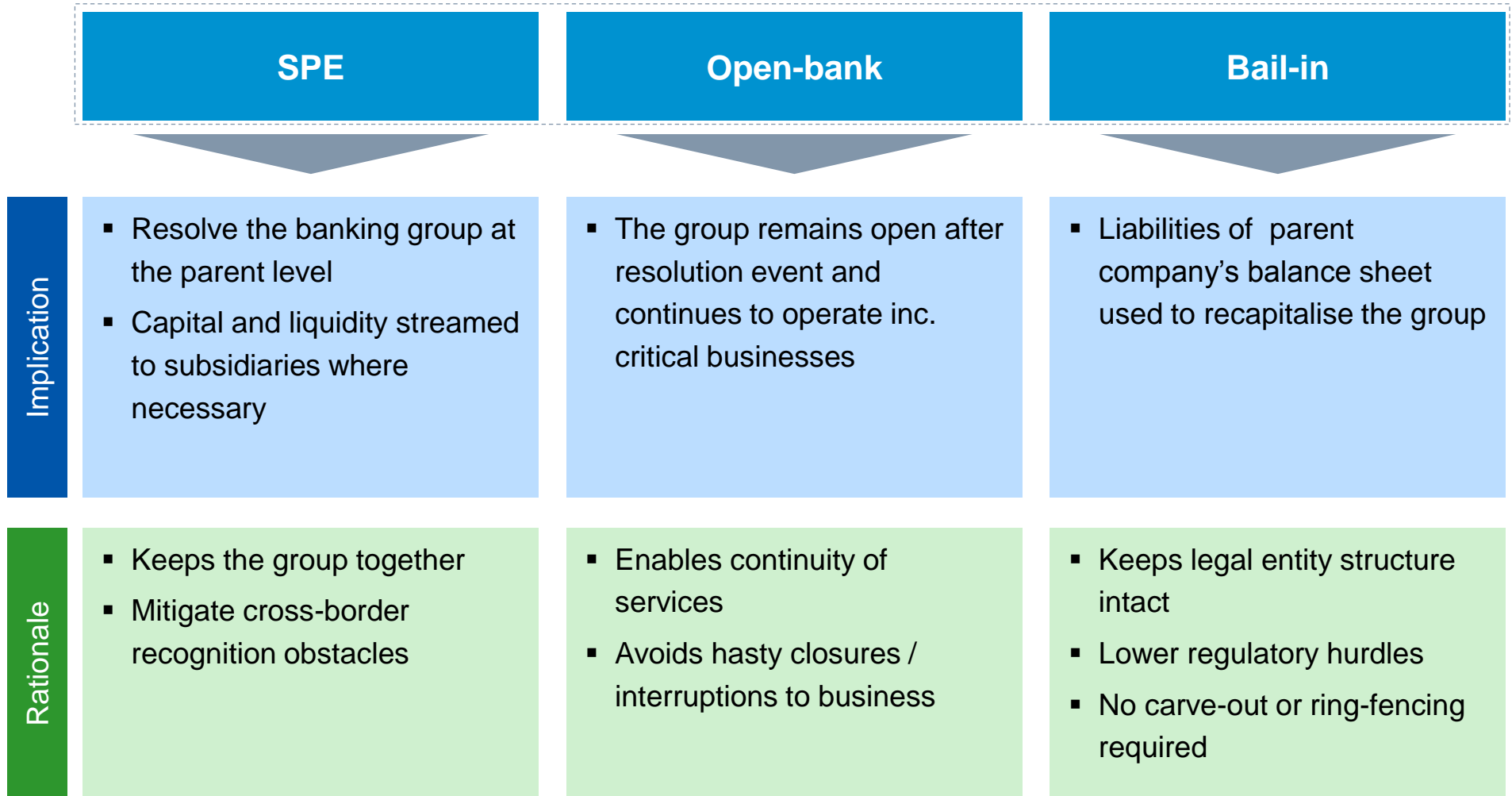
Multiple Point of Entry (MPE)

- Home and host authorities resolve different entities simultaneously
- Appropriate for banks with decentralised structure
- Requires heightened coordination



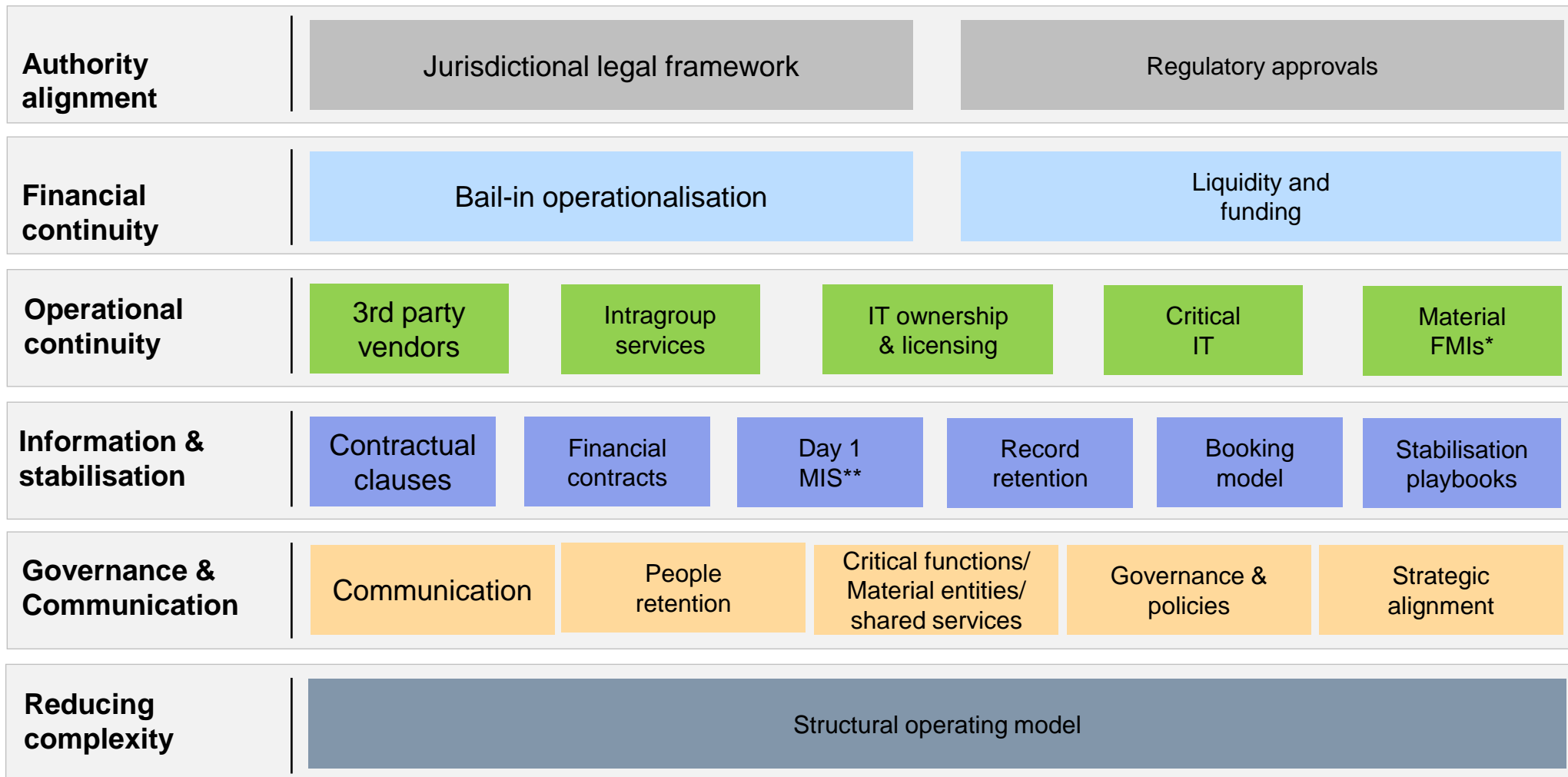
Example of SPE resolution strategy

Three pillars: Single Point of Entry, open-bank, bail-in



Achieving the resolution strategy

Multiple dimensions of the bank's operations are impacted





Key elements for a cross-border resolution	2
Identifying and achieving the resolution strategy	4
Regulatory framework and cooperation among authorities	8
Conclusion	13

Cross-border resolution in practice

Three elements financial institutions need from authorities



1. Regulatory consistency and predictability







2. Cross-border recognition of resolution regimes

3. Cooperation and trust among authorities

Regulatory framework

Effective resolution planning relies on regulatory consistency and predictability



	Main legislation	Key features
 EU	Bank Recovery & Resolution Directive (2014)	Broad statutory bail-in regime, supported by ex-ante financed resolution fund
 Switzerland	Federal Banking Act (2012)	Powers to ensure SIFI resolvability plus CoCo requirements
 USA	Dodd-Frank Act (2010)	Living Wills, supported by Orderly Liquidation Authority and Fund
 Japan	Deposit Insurance Act (2013)	Contractual bail-in and contribution from deposit insurance fund in resolution
 Hong Kong	Hong Kong Monetary Authority (TBC)	Powers for deposit insurance fund in resolution and to bail-in instruments
 Singapore	Monetary Authority of Singapore Act (TBC)	Powers for deposit insurance fund in resolution and to bail-in instruments

Cross-border recognition

Recognition of foreign resolution regimes is key for the strategy to work in practice



Multilateral convention

- Ideal option
- Will take a long time to adopt

Statutory recognition

- Bilateral agreements between jurisdictions
- Requires regimes to be broadly aligned

Contractual clauses

- Interim solution
- Difficult to implement and potential for legal challenge
- e.g. Stay Protocol; bail-in clauses

Cross-border recognition

In the absence of statutory recognition, contractual clauses are necessary but present important challenges



	Stays in contracts	Bail-in
Objective	<ul style="list-style-type: none">▪ Avoiding mass terminations and cross-defaults	<ul style="list-style-type: none">▪ Ensuring liabilities can absorb losses, even when governed by foreign law
Proposals	<ul style="list-style-type: none">▪ ISDA protocol for derivative contracts between G-SIBs▪ Expansion to other contracts and counterparties	<ul style="list-style-type: none">▪ FSB recommends clauses for debt instruments▪ EU BRRD requires it for all liabilities in scope for bail-in
Challenges	<ul style="list-style-type: none">▪ Secure buy-side adoption▪ Concerns where firms are acting as agent or have a fiduciary duty▪ Problematic for non-standard contracts	<ul style="list-style-type: none">▪ Requires negotiation for client approval▪ Overly burdensome when applied to operational liabilities unlikely to be bailed-in

Home and host authorities

Focus should be on building cooperation and trust



- Cooperation is key, both for SPE and MPE strategies
- Positive developments in the past few years: Crisis Management Groups (CMGs), EU resolution colleges and Banking Union
- Remaining obstacles:
 - Moving away from a ring-fenced approach to resolution
 - Communication with non-CMG authorities
 - Building trust among authorities



Key elements for a cross-border resolution	2
Identifying and achieving the resolution strategy	4
Regulatory framework and cooperation among authorities	9
Conclusion	13
