Getting Ahead of the Regulatory Wave

Investment Management Association of Singapore

February 2014

Response to the GFC

- G-20 Ministers Summit in April 2009 hosted by UK Treasury
  - Engaging concerted action to counter falling demand and fragile confidence (but allowing each country to have own monetary policy)
  - Developing joint actions to prevent further contagion and support vulnerable emerging and developing markets
  - Working together to address the flaws in the financial and supervisory architecture that crisis has exposed
  - Strengthening cross-border co-ordination of financial regulation and international financial institutions like FSF and IMF
  - Agreeing to boost world trade and reject protectionism as a way of moving towards more stable and secure global commodities markets
  - Reaffirming shared commitment to Millennium Development Goals

G20 on Regulation

- Agreement reached to
  - Attempt to bring wider global regulation of hedge funds and credit-rating agencies
  - Common approach to cleaning up bank toxic assets
  - Establish financial stability forum working with IMF to ensure wider global co-operation and provide early warning system for future financial crises
- Established Financial Stability Board
  - National authorities responsible for financial stability in significant international financial centres
  - International financial institutions
  - Sector-specific international groupings of regulators , supervisors and committees of central bank experts

FSB Mandate

- Assess vulnerabilities affecting financial system and identify and oversee action needed to address them
- Promote co-ordination 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 international standard setting bodies to ensure t work is timely, coordinated, focused on priorities, and addressing gaps
- Set guidelines for and support the establishment of supervisory colleges
- Manage contingency planning for cross-border crisis management, particularly with respect to systemically important firms
- Collaborate with IMF to conduct Early Warning Exercises

Membership

Australia	Mexico	Bank for International Settlements
Argentina	Netherlands	European Central Bank
Brazil	Russia	European Commission
Canada	Saudi Arabia	IMF
China	Singapore	OECD
France	South Africa	World Bank
Germany	South Korea	
Hong Kong	Spain	
India	Switzerland	
Indonesia	Turkey	
Italy	United Kingdom	
Japan	United States	

Key Standards

Macroeconomic Policy and Data Transparency		
Monetary and financial policy transparency	Code of Good Practices on Transparency in Monetary and Financial Policies	IMF
Fiscal policy transparency	Code of Good Practices on Fiscal Transparency	IMF
Data dissemination	Special Data Dissemination Standard / General Data Dissemination System	
Financial Regulation and Supervision		
Banking supervision	Core Principles for Effective Banking Supervision	BCBS
Securities regulation	Objectives and Principles of Securities Regulation	IOSCO
Insurance supervision	Insurance Core Principles	IAIS
Institutional and Market Infrastructure		
Crisis resolution and deposit insurance	Core Principles for Effective Deposit Insurance Systems	BCBS/IADI
Insolvency	Insolvency and Creditor Rights [3]	World Bank
Corporate governance	Principles of Corporate Governance	OECD
Accounting and Auditing	International Financial Reporting Standards (IFRS) International Standards on Auditing (ISA)	IASB IAASB
Payment, clearing and settlement	Principles for Financial Market Infrastructures	CPSS/IOSCO

Other Players

- Basel Committee on Banking Supervision
  - Regular co-operation among member countries on banking supervisory matters
  - International standards on capital adequacy
  - Core Principles for Effective Banking Supervision
- Committee on the Global Financial System
  - Major advanced and emerging economy central banks
  - Systematic short-term monitoring of global financial system conditions
  - longer-term analysis of functioning of financial markets, and
- Committee on Payment and Settlement Systems
  - Forum for central banks on issues related to payment, clearing and settlement systems
  - Monitors cross-border and multi-currency arrangements

Other Players

- Financial Action Task Force on Money Laundering (FATF)
- International Association of Deposit Insurers
  - Forum for international cooperation among deposit insurers and central banks
  - Issues related to financial stability, deposit insurance, and resolution
- International Association of Insurance Supervisors
  - Insurance regulators and supervisors of 140 countries
  - Promote effective and globally consistent regulation and supervision of insurance industry
  - Maintain fair, safe and stable insurance markets for benefit and protection of policyholders
  - Common framework for supervision of internationally active insurers

Other Players

- International Accounting Standards Board
  - Convergence in accounting standards globally
  - Approves International Accounting Standards
- International Auditing and Assurance Standards Board
  - Auditing and assurance standards and guidance for use by professional accountants
- International Monetary Fund
  - Surveillance of members' macroeconomic and financial policies
  - Developed international standards for data dissemination and transparency practices in fiscal, monetary and financial policies

Other Players

- International Organisation of Securities Commissions
  - International policy forum for national regulators of securities and futures markets
  - Establish standards for effective surveillance of international securities markets
- Organisation for Economic Cooperation and Development
  - Promote policies to achieve sustained economic growth and employment in its member countries
  - Encourages convergence of policies, laws and regulations covering financial markets and enterprises
- World Bank
  - Helps emerging economies with international standards in areas of direct operational relevance in financial sector development

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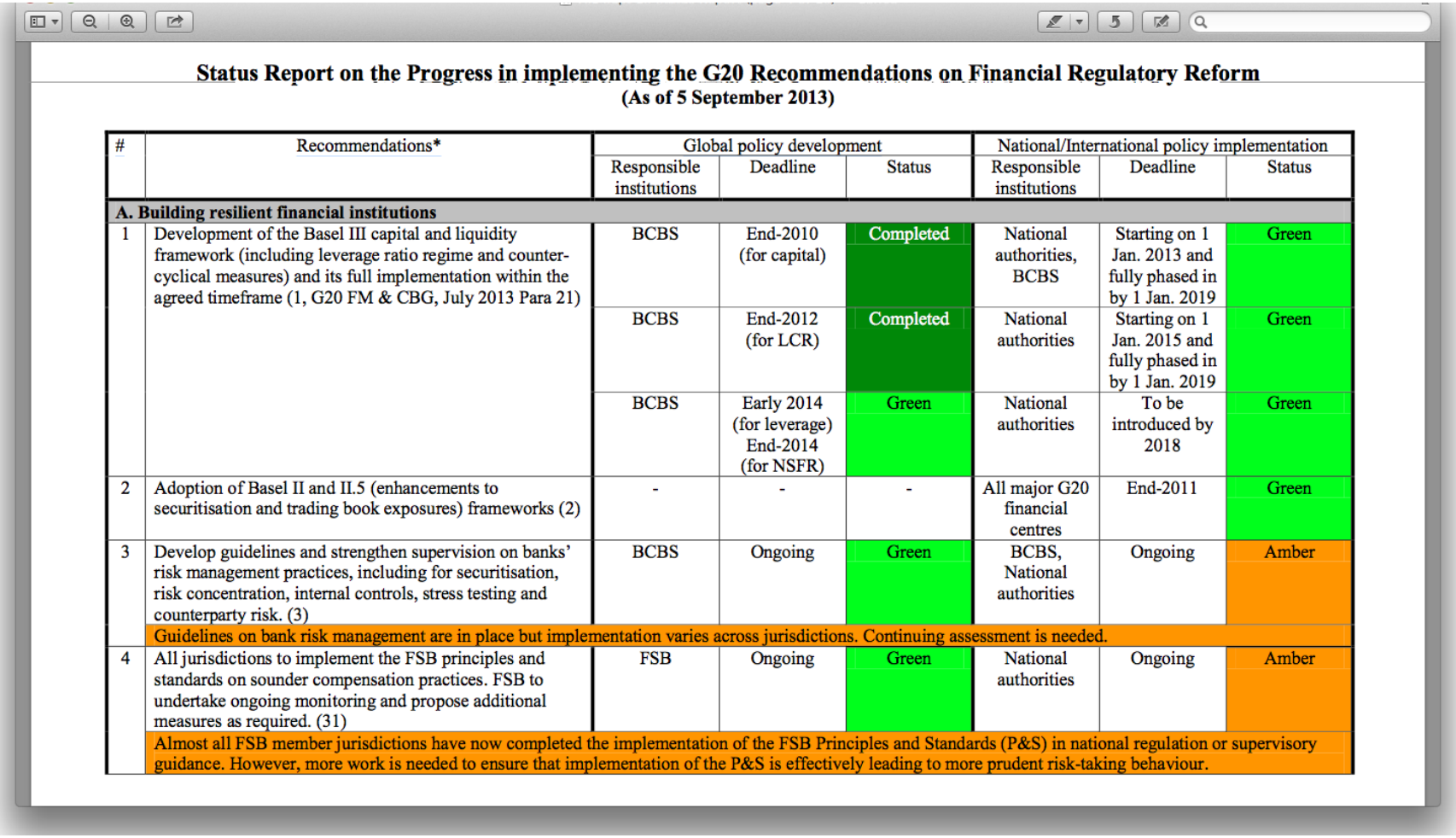

Status Report on the Progress in implementing the G20 Recommendations on Financial Regulatory Reform
(As of 5 September 2013)

#	Recommendations*	Global policy development			National/International policy implementation		
		Responsible institutions	Deadline	Status	Responsible institutions	Deadline	Status
A. Building resilient financial institutions							
1	Development of the Basel III capital and liquidity framework (including leverage ratio regime and counter-cyclical measures) and its full implementation within the agreed timeframe (1, G20 FM & CBG, July 2013 Para 21)	BCBS	End-2010 (for capital)	Completed	National authorities, BCBS	Starting on 1 Jan. 2013 and fully phased in by 1 Jan. 2019	Green
		BCBS	End-2012 (for LCR)	Completed	National authorities	Starting on 1 Jan. 2015 and fully phased in by 1 Jan. 2019	Green
		BCBS	Early 2014 (for leverage) End-2014 (for NSFR)	Green	National authorities	To be introduced by 2018	Green
2	Adoption of Basel II and II.5 (enhancements to securitisation and trading book exposures) frameworks (2)	-	-	-	All major G20 financial centres	End-2011	Green
3	Develop guidelines and strengthen supervision on banks' risk management practices, including for securitisation, risk concentration, internal controls, stress testing and counterparty risk. (3)	BCBS	Ongoing	Green	BCBS, National authorities	Ongoing	Amber
	Guidelines on bank risk management are in place but implementation varies across jurisdictions. Continuing assessment is needed.						
4	All jurisdictions to implement the FSB principles and standards on sounder compensation practices. FSB to undertake ongoing monitoring and propose additional measures as required. (31)	FSB	Ongoing	Green	National authorities	Ongoing	Amber
	Almost all FSB member jurisdictions have now completed the implementation of the FSB Principles and Standards (P&S) in national regulation or supervisory guidance. However, more work is needed to ensure that implementation of the P&S is effectively leading to more prudent risk-taking behaviour.						

FSB Sept 13 Report

#	Recommendations*	Global policy development			National/International policy implementation		
		Responsible institutions	Deadline	Status	Responsible institutions	Deadline	Status
B. Ending "Too-Big-To-Fail"							
5	FSB to develop measures for global SIFIs (G-SIFIs), including a resolution framework, higher loss absorbency capacity, more intensive supervisory oversight, robust core financial market infrastructure and other supplementary prudential requirements. (4)	FSB, BCBS, IAIS, CPSS, IOSCO	Ongoing	Green	FSB, National authorities	Resolution plans: June 2013 for G-SIBs and end-2014 for G-SIIs, Higher loss absorbency: 2016-2019 for G-SIBs and by 2019 for G-SIIs.	Amber
	National authorities are in the process of developing and implementing measures for G-SIFIs. Challenges in establishing effective resolution plans remain.						
6	FSB, in consultation with the BCBS, to work on the modalities to extend expeditiously the G-SIFI framework to domestic systemically important banks. (5)	FSB, BCBS	November 2012	Completed	National authorities	January 2016	Not yet applicable
7	FSB in consultation with IOSCO to prepare methodologies to identify systemically important non-bank financial entities. (6)	FSB, IOSCO	End-2013	Green	-	-	-
8	FSB to develop key attributes of effective resolution regimes, including an international framework for cross-border resolution arrangements. Countries to establish a legal framework for crisis intervention, recovery and resolution plans, and crisis management groups for major cross-border firms. (7)	FSB	November 2011	Completed	National authorities, FSB	Ongoing	Red
	Although substantive progress has been made, many home and host jurisdictions of G-SIFIs need to take further legislative measures to implement the Key Attributes fully in substance and scope – in particular, the adoption of bail-in powers, powers for cross-border cooperation and the recognition of foreign resolution actions.						

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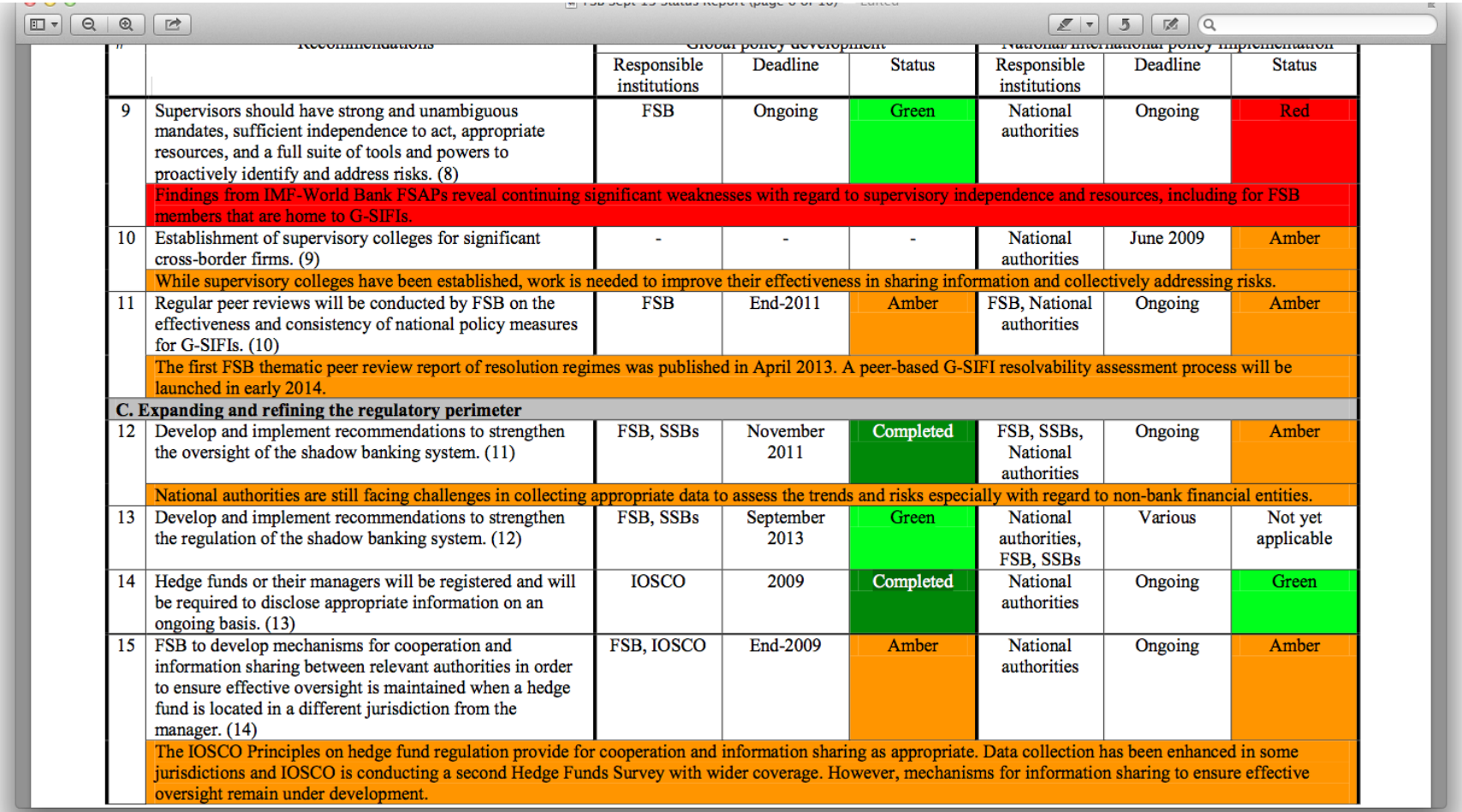

#	Recommendations	Global policy development: Responsible institutions	Deadline	Status	National/international policy implementation: Responsible institutions	Deadline	Status
9	Supervisors should have strong and unambiguous mandates, sufficient independence to act, appropriate resources, and a full suite of tools and powers to proactively identify and address risks. (8)	FSB	Ongoing	Green	National authorities	Ongoing	Red
	Findings from IMF-World Bank FSAPs reveal continuing significant weaknesses with regard to supervisory independence and resources, including for FSB members that are home to G-SIFIs.						
10	Establishment of supervisory colleges for significant cross-border firms. (9)	-	-	-	National authorities	June 2009	Amber
	While supervisory colleges have been established, work is needed to improve their effectiveness in sharing information and collectively addressing risks.						
11	Regular peer reviews will be conducted by FSB on the effectiveness and consistency of national policy measures for G-SIFIs. (10)	FSB	End-2011	Amber	FSB, National authorities	Ongoing	Amber
	The first FSB thematic peer review report of resolution regimes was published in April 2013. A peer-based G-SIFI resolvability assessment process will be launched in early 2014.						
C. Expanding and refining the regulatory perimeter							
12	Develop and implement recommendations to strengthen the oversight of the shadow banking system. (11)	FSB, SSBs	November 2011	Completed	FSB, SSBs, National authorities	Ongoing	Amber
	National authorities are still facing challenges in collecting appropriate data to assess the trends and risks especially with regard to non-bank financial entities.						
13	Develop and implement recommendations to strengthen the regulation of the shadow banking system. (12)	FSB, SSBs	September 2013	Green	National authorities, FSB, SSBs	Various	Not yet applicable
14	Hedge funds or their managers will be registered and will be required to disclose appropriate information on an ongoing basis. (13)	IOSCO	2009	Completed	National authorities	Ongoing	Green
15	FSB to develop mechanisms for cooperation and information sharing between relevant authorities in order to ensure effective oversight is maintained when a hedge fund is located in a different jurisdiction from the manager. (14)	FSB, IOSCO	End-2009	Amber	National authorities	Ongoing	Amber
	The IOSCO Principles on hedge fund regulation provide for cooperation and information sharing as appropriate. Data collection has been enhanced in some jurisdictions and IOSCO is conducting a second Hedge Funds Survey with wider coverage. However, mechanisms for information sharing to ensure effective oversight remain under development.						

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#	Recommendations*	Global policy development			National/International policy implementation		
		Responsible institutions	Deadline	Status	Responsible institutions	Deadline	Status
16	Securitisation sponsors or originators should retain a part of the risk of the underlying assets. (15)	IOSCO, BCBS, Joint Forum	2010	Completed	National authorities	Ongoing	Amber
	IOSCO has reviewed the current status of national policies as part of the FSB shadow banking work, has highlighted the absence of retention requirements in certain jurisdictions and differences between national approaches when they exist, and has issued recommendations to promote global harmonisation of national approaches in aligning incentives of investors and securitisers.						
D. Creating continuous markets - OTC derivatives reforms							
17	All standardised OTC derivative contracts should be traded on exchanges or electronic trading platforms, where appropriate, and cleared through CCPs. All derivatives should be reported to trade repositories. Non-centrally cleared contracts should be subject to higher capital requirements. (16)	CPSS, IOSCO, BCBS	End-2012	Green	Relevant authorities	End-2012	Amber
	Although the end-2012 deadline was not met, progress has been made by many jurisdictions and by international standard-setting bodies. However, considerable work is needed in many jurisdictions to fully meet the G20 objectives. While progress has been made by the OTC Derivatives Regulators Group, further close cooperation across major markets is needed to address cross-border issues.						
18	Development of standards on margining for non-centrally cleared derivatives (17)	BCBS, IOSCO, Relevant authorities	September 2013	Green	Not yet applicable	Not yet applicable	Not yet applicable
19	IOSCO to assess the functioning of credit default swaps (CDS) markets and the role of those markets in price formation of underlying assets. (18)	IOSCO	December 2014	Green	-	-	-
20	Improvement of regulation, functioning and transparency of commodity derivative markets. (19)	IOSCO, FSB, Relevant authorities	Ongoing	Green	IOSCO, Relevant authorities	Ongoing (Nov.-2012 for report)	Amber
	Most jurisdictions are broadly compliant with the *Principles for the Regulation and Supervision of Commodity Derivatives Markets*. However, delays and challenges in implementing overall OTC derivatives reforms affect commodity derivatives just as they do other asset classes.						

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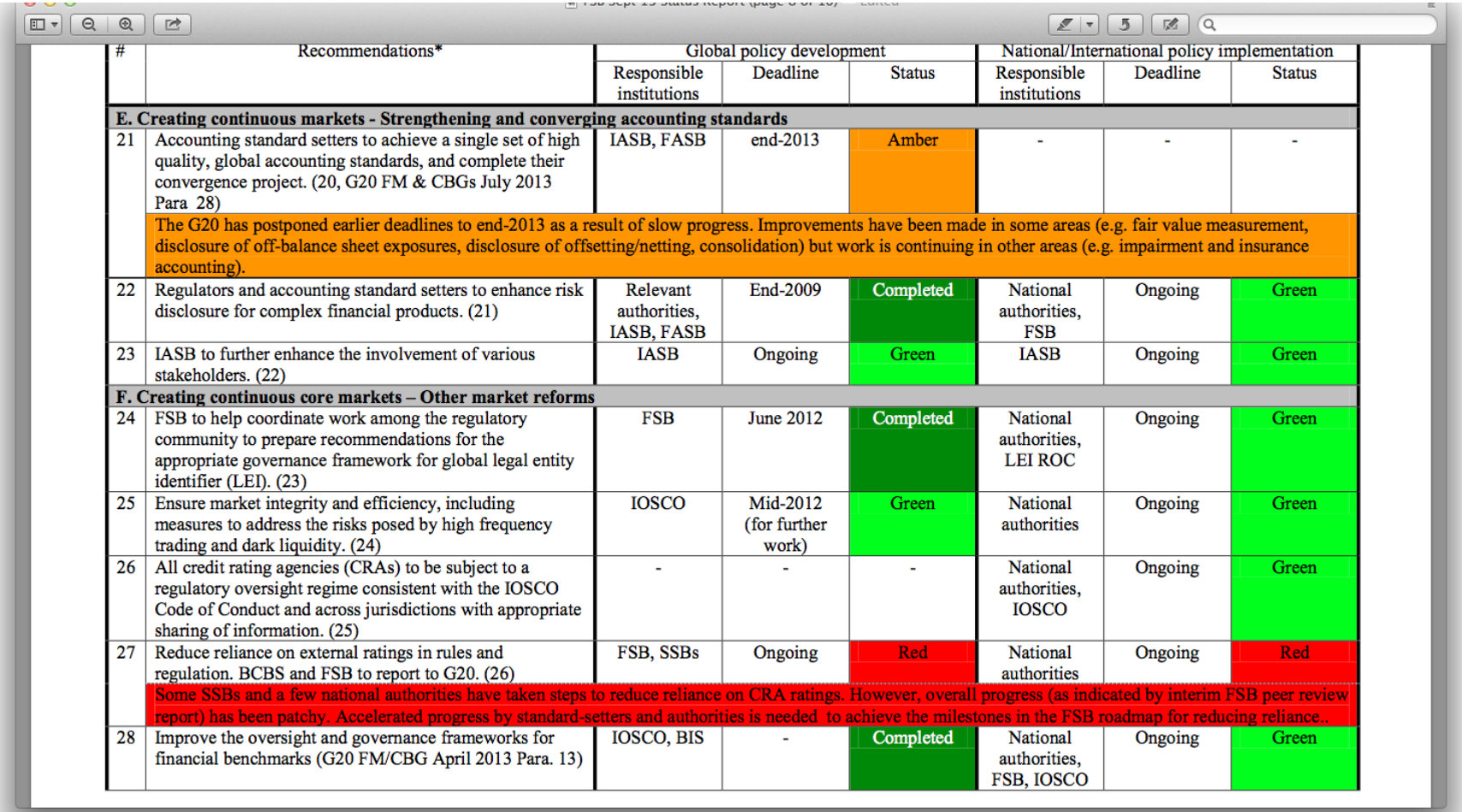

#	Recommendations*	Global policy development			National/International policy implementation		
		Responsible institutions	Deadline	Status	Responsible institutions	Deadline	Status
E. Creating continuous markets - Strengthening and converging accounting standards							
21	Accounting standard setters to achieve a single set of high quality, global accounting standards, and complete their convergence project. (20, G20 FM & CBGs July 2013 Para 28)	IASB, FASB	end-2013	Amber	-	-	-
	The G20 has postponed earlier deadlines to end-2013 as a result of slow progress. Improvements have been made in some areas (e.g. fair value measurement, disclosure of off-balance sheet exposures, disclosure of offsetting/netting, consolidation) but work is continuing in other areas (e.g. impairment and insurance accounting).						
22	Regulators and accounting standard setters to enhance risk disclosure for complex financial products. (21)	Relevant authorities, IASB, FASB	End-2009	Completed	National authorities, FSB	Ongoing	Green
23	IASB to further enhance the involvement of various stakeholders. (22)	IASB	Ongoing	Green	IASB	Ongoing	Green
F. Creating continuous core markets – Other market reforms							
24	FSB to help coordinate work among the regulatory community to prepare recommendations for the appropriate governance framework for global legal entity identifier (LEI). (23)	FSB	June 2012	Completed	National authorities, LEI ROC	Ongoing	Green
25	Ensure market integrity and efficiency, including measures to address the risks posed by high frequency trading and dark liquidity. (24)	IOSCO	Mid-2012 (for further work)	Green	National authorities	Ongoing	Green
26	All credit rating agencies (CRAs) to be subject to a regulatory oversight regime consistent with the IOSCO Code of Conduct and across jurisdictions with appropriate sharing of information. (25)	-	-	-	National authorities, IOSCO	Ongoing	Green
27	Reduce reliance on external ratings in rules and regulation. BCBS and FSB to report to G20. (26)	FSB, SSBs	Ongoing	Red	National authorities	Ongoing	Red
	Some SSBs and a few national authorities have taken steps to reduce reliance on CRA ratings. However, overall progress (as indicated by interim FSB peer review report) has been patchy. Accelerated progress by standard-setters and authorities is needed to achieve the milestones in the FSB roadmap for reducing reliance..						
28	Improve the oversight and governance frameworks for financial benchmarks (G20 FM/CBG April 2013 Para. 13)	IOSCO, BIS	-	Completed	National authorities, FSB, IOSCO	Ongoing	Green

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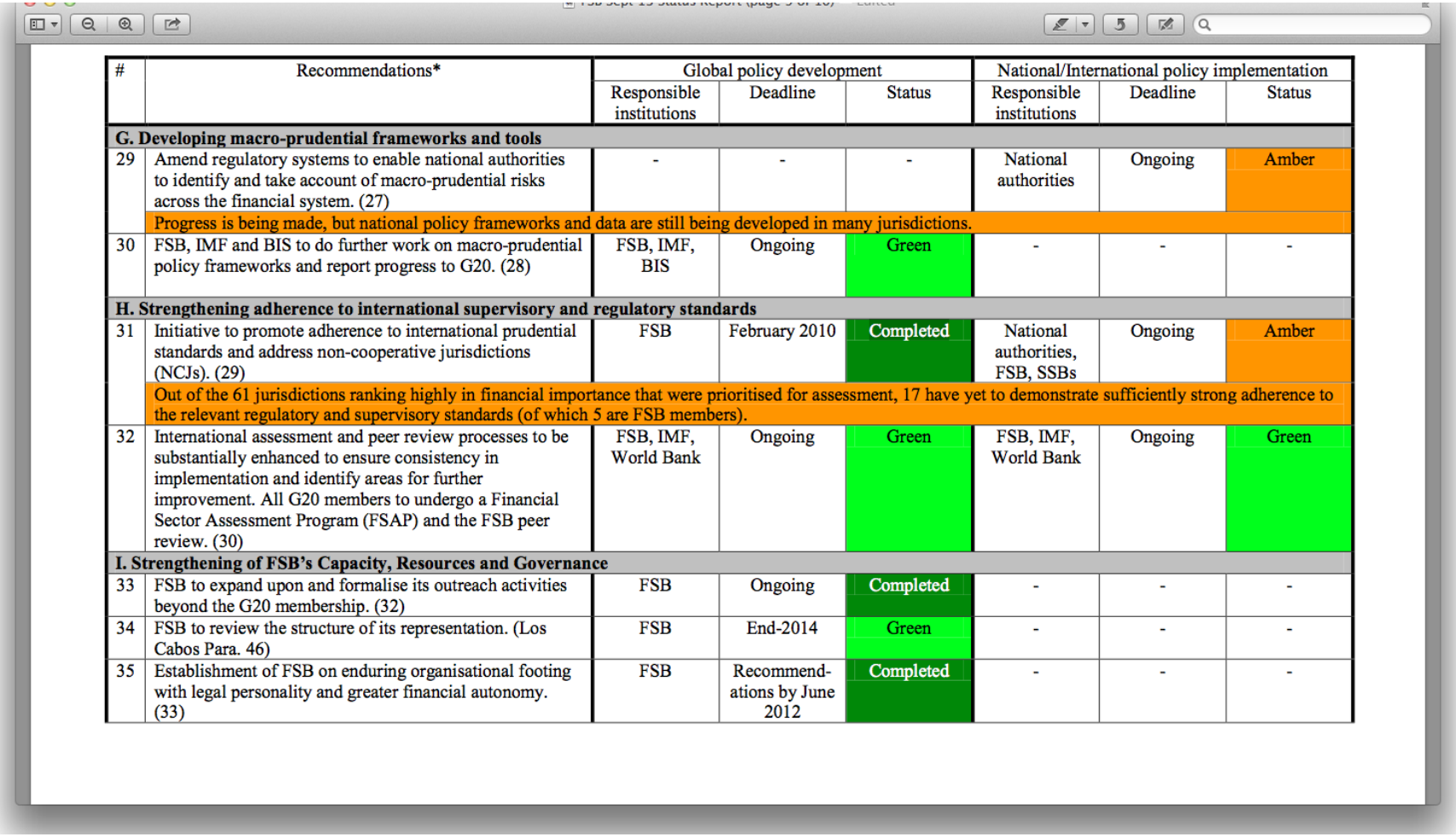

#	Recommendations*	Global policy development			National/International policy implementation		
		Responsible institutions	Deadline	Status	Responsible institutions	Deadline	Status
G. Developing macro-prudential frameworks and tools							
29	Amend regulatory systems to enable national authorities to identify and take account of macro-prudential risks across the financial system. (27)	-	-	-	National authorities	Ongoing	Amber
	Progress is being made, but national policy frameworks and data are still being developed in many jurisdictions.						
30	FSB, IMF and BIS to do further work on macro-prudential policy frameworks and report progress to G20. (28)	FSB, IMF, BIS	Ongoing	Green	-	-	-
H. Strengthening adherence to international supervisory and regulatory standards							
31	Initiative to promote adherence to international prudential standards and address non-cooperative jurisdictions (NCJs). (29)	FSB	February 2010	Completed	National authorities, FSB, SSBs	Ongoing	Amber
	Out of the 61 jurisdictions ranking highly in financial importance that were prioritised for assessment, 17 have yet to demonstrate sufficiently strong adherence to the relevant regulatory and supervisory standards (of which 5 are FSB members).						
32	International assessment and peer review processes to be substantially enhanced to ensure consistency in implementation and identify areas for further improvement. All G20 members to undergo a Financial Sector Assessment Program (FSAP) and the FSB peer review. (30)	FSB, IMF, World Bank	Ongoing	Green	FSB, IMF, World Bank	Ongoing	Green
I. Strengthening of FSB's Capacity, Resources and Governance							
33	FSB to expand upon and formalise its outreach activities beyond the G20 membership. (32)	FSB	Ongoing	Completed	-	-	-
34	FSB to review the structure of its representation. (Los Cabos Para. 46)	FSB	End-2014	Green	-	-	-
35	Establishment of FSB on enduring organisational footing with legal personality and greater financial autonomy. (33)	FSB	Recommend-ations by June 2012	Completed	-	-	-

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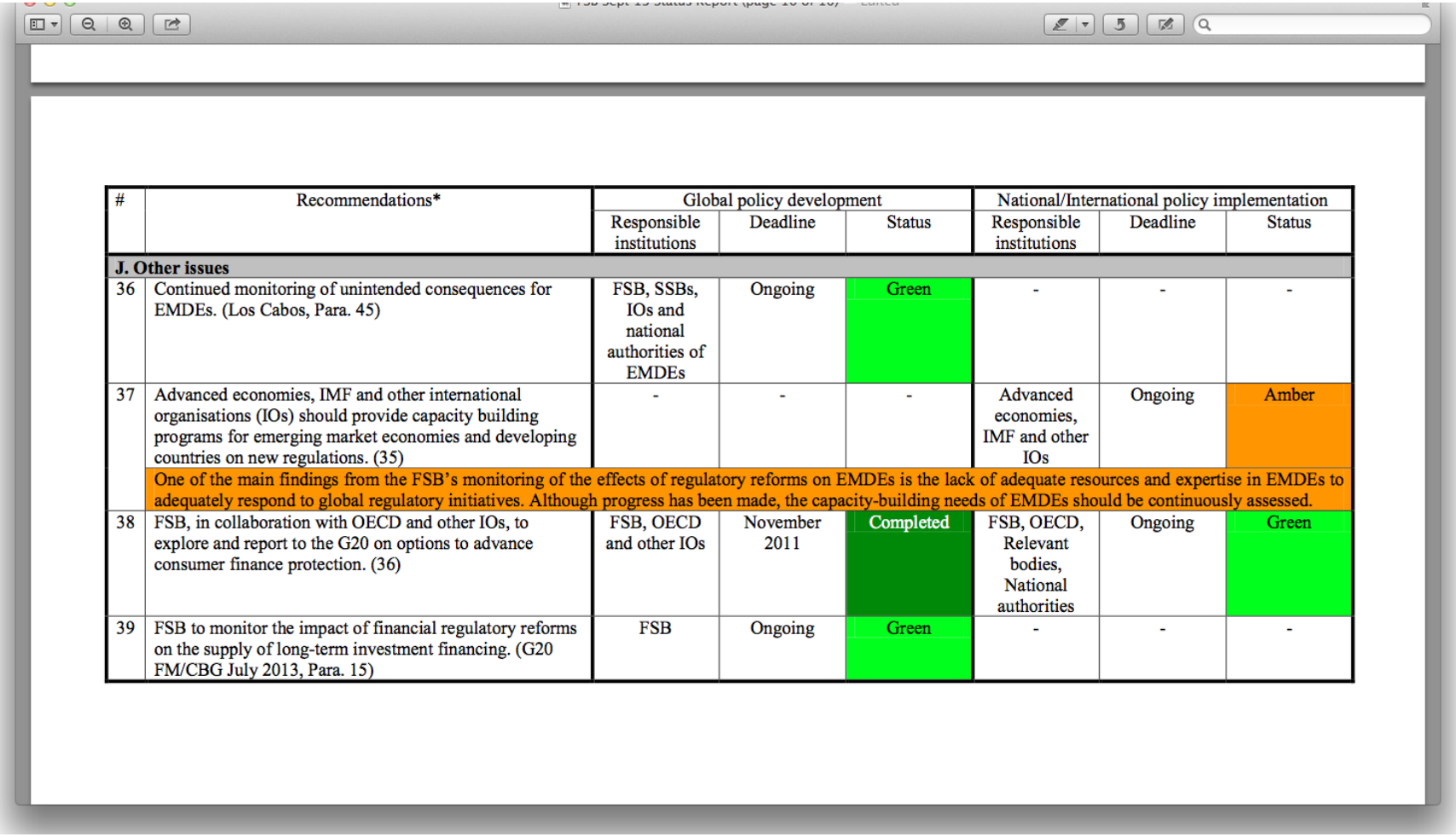

#	Recommendations*	Global policy development			National/International policy implementation		
		Responsible institutions	Deadline	Status	Responsible institutions	Deadline	Status
J. Other issues							
36	Continued monitoring of unintended consequences for EMDEs. (Los Cabos, Para. 45)	FSB, SSBs, IOs and national authorities of EMDEs	Ongoing	Green	-	-	-
37	Advanced economies, IMF and other international organisations (IOs) should provide capacity building programs for emerging market economies and developing countries on new regulations. (35)	-	-	-	Advanced economies, IMF and other IOs	Ongoing	Amber
	One of the main findings from the FSB's monitoring of the effects of regulatory reforms on EMDEs is the lack of adequate resources and expertise in EMDEs to adequately respond to global regulatory initiatives. Although progress has been made, the capacity-building needs of EMDEs should be continuously assessed.						
38	FSB, in collaboration with OECD and other IOs, to explore and report to the G20 on options to advance consumer finance protection. (36)	FSB, OECD and other IOs	November 2011	Completed	FSB, OECD, Relevant bodies, National authorities	Ongoing	Green
39	FSB to monitor the impact of financial regulatory reforms on the supply of long-term investment financing. (G20 FM/CBG July 2013, Para. 15)	FSB	Ongoing	Green	-	-	-

Global Financial Markets Association

Systemic risk	Compensation	Systemically important FIs
Crisis management and recovery & resolution planning	Securitisation	Short sales
OTC derivatives	Credit rating agencies	Commodities
Capital requirements	Hedge funds	
Liquidity	Legal entity identifier	
Accounting standards	Foreign exchange	
Taxes (including financial transactions taxes)	Shadow banking	

Global Need to Knows

- Registration with US
  - ERA vs RIA
  - CTA vs CPO
- FATCA
  - Status of IGAs
- Alternative Investment Fund Managers Directive
  - All non UCITS funds
  - No firm timetable for non EU managers with non EU funds
- MiFID II in 2016
  - Scope extended to third country firms

MiFID II

- Coverage
  - Sufficiently liquid derivatives eligible for clearing to be traded on eligible platforms
  - Organised Trading Facilities (OTFs)
- Transparency and transaction reporting
  - Trade reports through Approved Publication Arrangement
- Third country firms
  - Equivalence decision by EC before firms can request to provide services
  - Third country firms dealing with retail market establish branches
- Investor protection & Inducements
  - Receipt of monetary inducements by portfolio managers and firms giving independent investment advice banned

MiFID II II

- Definitions
  - Definition of non-complex instruments updated to remove “structured UCITS”
  - Prevent these funds being sold on an “execution-only” basis
- Product intervention
  - National regulators have powers to permanently ban products
  - ESMA able to temporarily ban products
- Position limits for commodity derivatives
  - Powers for regulators to require existing positions to be reduced

Asian Need to Knows

- PRC Pilot Programmes
  - QDLP programme
  - RQFII vs QFII
  - Shanghai Free Trade Zone
  - Cross border mutual fund recognition with Hong Kong
  - Anti corruption measures
- Hong Kong vs Singapore positioning
- Asian fund passporting proposals
- Japan
  - Insider dealing rules
  - Inspection of all investment advisors
  - Enforcement against illegal distribution activities
  - Anti corruption and entertainment rules

Current Problems

- Inconsistent implementation between Europe and EU
  - Regulatory arbitrage
- Politicalization of finance
  - Remuneration and bonuses
  - Protectionism
  - AML and sanctions
- Regulators capacity and funding shortfalls
- Impact on Asia and emerging economies not considered
  - Basel III and government debt haircuts
  - Shadow banking in PRC
  - Infrastructure funding shortfall in Asia Pacific
- Regulating for old problems
  - Diverting attention from actual investor protection

Outcomes

- Regulatory information overload
  - Dangers of over and under-reporting
- Inadvertent vs justifiable non-compliance
- Impact on pension funding in aging populations
- Impact on SME financing and real economy
- Impact on cost of banking and financial services
- Increased regulation moves speculative retail money into unregulated higher risk products
  - Property
  - Metals / precious stones / real commodities
  - Cross border products sold via web
- Global FATCAs

Outcomes

- Shadow banking / virtual payment systems
  - Bitcoin
  - PRC money market funds
  - Alipay / Paypal etc
- Driver for Asia
  - Full convertibility of RMB / PRC managers / project finance
  - Japan's new engagement
  - Joint Asian regulatory voice
  - Asia as trade booking centre

Upcoming Consultations

- FSB
  - Foreign exchange benchmarks
  - Supervisory interaction on risk culture – FSB Principles on Risk Appetite Framework
  - Approaches to aggregating OTC derivatives trade repository data
  - Assessment methodologies for identifying non bank non insurer global systemically important financial institutions
- FCA
  - Use of Trade Commissions
  - Ongoing RDR reviews

Upcoming Consultations

- IOSCO
  - Code of Conduct Fundamentals for Credit Rating Agencies
  - Report on Risk and Benefits of Financial Return Crowd Funding
  - Recommendations on Protection of Client Assets
  - Report on Regulation of Retail Structured Products
  - Assessment Methodology for Oversight Expectations Applicable to Critical Service Providers
  - Report on Impact of Trading Fee Models on Trading Behaviour
  - Disclosure Requirements for Islamic Capital Markets Products

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