Private Sector Taskforce of Regulated Professions and Industries

Final Report to G-20 Deputies

September 2011

Regulatory Convergence in Financial Professions and Industries

Background of the Private Sector Taskforce of Regulated Professions and Industries

The Private Sector Taskforce of Regulated Professions and Industries (PSTF) was established in May 2011 at the request of the Presidency of the G-20.

The Taskforce aims to provide the G-20 an analysis of the development of financial policy and regulation to facilitate economic stability in the world's capital markets. One of the six priorities of the G-20 Presidency for 2011 has been "strengthening financial regulation," which includes ensuring that: rules already decided upon by the G-20 are implemented and financial regulation is strengthened in areas where it is still inadequate. Specifically, the Taskforce has focused on global regulatory convergence, which is a critical issue for capital markets. The private sector has expertise in this area that can assist the G-20 in its objective to achieve a level playing field in relation to regulation, including standards.

Establishment of the PSTF was coordinated by the **International Federation of Accountants (IFAC)**, which to this time has provided administrative and secretariat support for the Taskforce. It comprises representatives from private sector organizations of professions and industries that are subject to regulation and operate within the financial sector.

In addition to IFAC, the membership of the Taskforce is comprised of:

- **CFA Institute (CFA I)**
- **INSOL International**
- **Institute of International Finance (IIF)**
- **International Accounting Standards Board (IASB)**
- **International Actuarial Association (IAA)**
- **International Corporate Governance Network (ICGN)**
- **International Insurance Society (IIS)**
- **International Valuation Standards Council (IVSC)**

Contact details for each of these organizations are included in Section 10 of this report.

The examples and recommendations presented in this report are based on the positions and views of the organizations represented on the Taskforce. These recommendations highlight the most significant issues for further action by the G-20.

Objective of this report

This report aims to present to the G-20 a set of recommendations concerning the manner in which regulatory convergence may be achieved in a number of professions and industries that fall within the financial sector. It elaborates on the interim report issued by the Taskforce in June and includes a detailed discussion of the issues raised in the interim report, including more detailed profession- and industry-specific recommendations for the G-20 to consider.

The final report has followed appropriate due process, or other relevant internal procedures, within the respective participating organizations, and reflects their formal views. It has benefited from analysis by and debate among the organizations represented on the Taskforce, and, for some organizations, reflects extensive debate on relevant topics among their memberships.

The report identifies gaps in regulatory convergence that currently exist in the financial sector. The implications of these gaps in regulatory convergence, as well as impediments that currently exist and have prevented these gaps from being narrowed, are also considered. The report details recommendations for consideration by the G-20.

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1. Executive Summary

The Private Sector Taskforce of Regulated Professions and Industries (PSTF) was established in May 2011 at the request of the Presidency of the G-20 to provide an analysis of, and recommendations relating to, regulatory convergence to facilitate economic stability in the world's capital markets. The PSTF comprises representatives from private sector organizations of professions and industries that are subject to regulation, and operate within the financial sector.

This report focuses on global regulatory convergence, which is a critical issue for capital markets and is a matter on which the private sector has expertise that can provide assistance to the G-20. It identifies high-level issues pertaining to gaps in global regulatory convergence, and how these gaps could be narrowed. A major motivating factor for enhanced regulatory coordination, cooperation, and convergence is to minimize the effects of systemic risk that result from inconsistent and inadequate regulatory arrangements for globally important and increasingly interconnected industries, such as the financial sector. Effective, robust, appropriate, and consistent global regulation facilitates the early detection and timely mitigation of potentially serious systemic risks that readily transfer their effects across borders and are capable of creating a global crisis such as that witnessed in recent years.

Global regulatory convergence is generally advocated as a means by which to: achieve a level playing field for international competition; achieve a leveling of standards to universal "best in class" quality; avoid unwarranted costs to industry and to users of its services and products; provide transparent information to funders and users of services and products; avoid international regulatory arbitrage; reduce compliance and other operational risks; and create greater clarity about the regulatory regime, resulting in greater certainty for market participants around the world.

Nevertheless, the Taskforce recognizes that there are instances where complete convergence of regulatory requirements might not be the best outcome. These situations may arise where national, legal, cultural, or market conditions or behavioral differences—especially in retail markets—make complete uniformity of regulatory practice neither practicable nor desirable; in those cases convergence of outcomes might be a

better aim.[1] Furthermore, the Taskforce recognizes that the effectiveness of externally imposed regulation and supervision will be enhanced through the active participation of those being regulated to ensure that appropriate behavioral changes are encouraged. For example, regulation, by itself, cannot effectively substitute for effective internal risk management, good governance, or market discipline, including strong shareholder involvement and the robust exercise of their rights and responsibilities. The Taskforce emphasizes the important roles that should be played by professional and industry organizations (including the members of this Taskforce) in influencing ethical corporate cultures, and risk management and corporate governance arrangements of their constituents, to the extent possible, so that regulatory reforms can provide greater benefits to the public.

To reduce the gaps in regulatory convergence, the Taskforce encourages the G-20:

Momentum – to continue its momentum and ambition for regulatory reform and convergence in the financial sector that has developed during the global financial crisis. Ongoing commitment to reform is critical to ensuring greater long-term economic and financial stability. Achievements to date in regulatory convergence may not be sufficient to prevent similar problems from arising again.

Recommendation 1: ***G-20 to continue to focus on regulatory convergence in the financial sector, ensuring that G-20 nations work together to identify and narrow gaps in regulatory convergence.***

Recommendation 2: ***G-20 to discourage nations from making unilateral decisions and implementing unilateral national regulatory reforms that are inconsistent with international standards and that widen—rather than narrow—the convergence gap.***

Consultation – to enhance its consultation with the private sector by seeking and considering the views of a broad range of stakeholders—including private sector professional and industry bodies, regulated firms, business leaders, shareholders, issuers, and investors—who must be key participants in developing and maintaining effective regulatory convergence and reform.

Recommendation 3: ***G-20, including the Financial Stability Board (FSB), the International Organization of Securities Commissions (IOSCO), the Basel Committee, and the International Association of Insurance Supervisors (IAIS), to enhance the breadth and depth of consultation on matters of regulatory reform, especially with those groups most impacted by those reforms, including the PSTF.***

Recommendation 4: ***G-20 to recognize and encourage the role played by those consulted on matters of regulatory reform (including the PSTF and the organizations***

1 This is a particular challenge for the restructuring and insolvency profession in light of different laws, and distinct legal regimes and related infrastructure (e.g., the court systems) across jurisdictions. However, jurisdictions can aim to converge by having equally high-quality laws and systems that achieve the same results; for example, encouraging efficient business rescue and meeting legitimate aspirations of stakeholders while requiring responsible behavior of those involved.

represented by Taskforce members), who must act to support convergence and ensure that reforms adopted are supported by concurrent private sector efforts to improve practices and governance, in order for the overall reform program to succeed in benefiting the public.

Standards and Consistency –

- to support, for all regulated professions or industries, the development and adoption of globally accepted, high-quality international standards and requirements across all key aspects of the financial sector, in a form appropriate for each set of standards and requirements. This may be achieved best by recognizing one standard setter with robust governance arrangements that take into account the public interest, for each set of high-quality globally accepted standards and requirements. The Taskforce recognizes that although this is the ideal, the extent to which this is achievable, at least in the shorter term, varies among the professions or industries. However, the Taskforce notes that for financial reporting, the G-20 has previously endorsed the need to achieve a single set of high-quality global accounting standards in a timely manner.

- to promote the need for the consistent adoption, implementation, and enforcement of standards across jurisdictions, as well as for consistency in the interpretation and application of regulation of the financial sector. Such consistency discourages regulatory arbitrage and promotes cross-border recognition and acceptance, as well as facilitates increased reliance by regulators and oversight bodies on their counterparts in other jurisdictions.

- to remove barriers to the consistent adoption, implementation, and enforcement of standards across jurisdictions. Standards are part of a complex system of capital markets and regulations. It is important that the relationships between the regulatory elements do not inhibit the development, implementation, or enforcement of enhanced and global standards.

Recommendation 5: ***G-20 to encourage and support the development, adoption, implementation, and consistent interpretation of globally accepted high-quality international standards, to the greatest extent possible, for each of financial reporting, auditing, valuation, and actuarial services.***

Recommendation 6: ***G-20 to encourage and support the adoption and timely, clear, and consistent implementation of internationally agreed regulatory standards for capital adequacy and liquidity requirements for banks, and capital adequacy requirements for individual insurance companies.***

Recommendation 7: ***G-20 to encourage and support identification of desirable solvency structures for insurance groups, timely international agreement upon and broad implementation of the* IAIS Insurance Core Principles and Common Framework *for supervision of internationally active insurance groups, and continued cooperation between the IAIS, national and regional regulators, and professional and industry groups in further enhancing national and regional supervisory standards.***

Recommendation 8: ***G-20 to encourage a rescue culture for non-financial firm insolvencies by supporting the use of World Bank approved global principles for multi-creditor workouts and encourage and promote universal adoption of modern, effective procedures to deal with the challenges of cross-border insolvency by adoption of the* United Nations Commission on International Trade Law (UNCITRAL) Model Law.**

[Insolvencies of financial firms are addressed under Recommendation 13]

Macroprudential Oversight – to continue to enhance macroprudential oversight measures, including close coordination and cooperation between G-20 nations. For better management of systemic risks, further consideration should be given to defining conditions and establishing arrangements and structures for the timely identification and addressing of problems, to ensure that risk of contagion and other adverse consequences are minimized.

Recommendation 9: ***G-20 to sustain and enhance the mandate of the FSB, or a specialized body operating under the FSB, tasked with promoting macroprudential coordination, identifying emerging international risks to stability, making recommendations for standardization of data, and recommending responses.***

Recommendation 10: ***G-20 to encourage IOSCO toward convergence of capital markets regulation and oversight and to promote cross-border mutual recognition agreements for such regulation and oversight, as well as coordinated and consistent global regulation of over-the-counter (OTC) derivatives.***

Strengthening Regulatory Organizations – to support strengthening the resourcing and governance arrangements of international regulatory organizations (including standard setters) to enable them to achieve their objectives. The G-20 should consider developing a mechanism for approving and endorsing arrangements with appropriate private and public sector participation.

Recommendation 11: ***G-20 to support appropriately structured and resourced international regulatory organizations and national regulatory bodies that have clearly defined expectations and responsibilities.***

Recommendation 12: ***G-20 to encourage the development (initially through the FSB) of a mechanism for approving shared private sector/public sector standard-setting arrangements (structural and resourcing) for standards of importance to the financial sector. Such a mechanism would legitimize standard-setting arrangements through recognition and endorsement of the standards.***

Resolution for Bank-Related Financial Institutions – to affirmatively address the need to create a credible, globally coordinated resolution regime for bank-related financial institutions. The FSB consultative document, *Effective Resolution of Systemically Important Financial Institutions* (July 2011), suggests important

directional guidance on the need for: consistent, strengthened national resolution regimes; cross-border cooperation arrangements; the provision of explicit mandates for national resolution authorities for cross-border cooperation; and fair outcomes for all creditors regardless of nationality. However, the document failed to advocate a multilateral agreement or convention on cross-border resolution—something that the Taskforce considers necessary. Without such agreement or convention, there remains considerable scope for national actions that may yield less than optimal results for creditors of a failing group and for the system as a whole.

Recommendation 13: ***G-20 to establish a globally coordinated resolution regime for bank-related financial institutions.***

Other Parties Involved in the Financial Sector – to examine areas where unregulated, less-regulated, or inconsistently regulated or supervised market participants, or other parties involved in the financial sector, have a major influence on the activities of the financial sector (in particular, credit rating agencies and participants in certain "shadow banking" activities) and—on the basis of appropriate cost-benefit analysis—to consider robust, effective, efficient, and consistent regulation and/or supervision, as appropriate**.**

Recommendation 14: ***The G-20 and the FSB to work with all parties to develop arrangements that achieve the goals of avoiding undue reliance on external ratings while also permitting achievement of internationally workable and consistent standards and supervision of credit rating agencies.***

Recommendation 15: ***The G-20, through the FSB, to continue to strengthen, in a timely and globally consistent manner, the oversight and regulation of certain areas of the "shadow banking" system.***

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By implementing the Taskforce's recommendations, the G-20 will go a considerable way to reducing regulatory fragmentation, especially by focusing on areas where fragmentation would be potentially damaging to ongoing economic or financial stability, where it would create arbitrage opportunities, or where financial centers have an incentive to engage in a "race to the bottom" in regulation.

In addressing these issues, the Taskforce recognizes that the G-20 should consider and address potential impediments to reform, including: the political hurdles required to achieve international agreement; the need to take legislative and regulatory action within jurisdictions; and the costs and impacts of regulatory reforms and how they can be assessed against the longer term benefits of greater economic and financial stability, both nationally and internationally.

The PSTF is pleased to offer its continued assistance to the G-20 in making recommendations and participating in developing and implementing effective, efficient, and robust regulatory reforms that aim to enhance economic and financial stability.

2. Introduction

Although the global financial crisis heightened the focus on regulatory convergence for the financial sector, a significant amount has been achieved in this area beginning well before the crisis. Discussion of the importance of regulatory convergence, as well as a description of some of the work undertaken by the G-20 and the FSB, is provided in Appendix 1.

The move toward regulatory convergence pre-dates the crisis and the G-20 responses to it, and has been initiated within, and by, the professions and industries represented on the Taskforce, as well as regulatory organizations, including standard setters. For example, over the past ten years: global principles for sound liquidity, risk management, and supervision for banks have been introduced; global bank capital adequacy requirements have been enhanced; solvency requirements for the insurance industry have moved from being based locally to having a more international focus; international valuation standards have been renewed; and standards of securities and market regulation have been broadened.

Organizations represented by Taskforce members have been involved in promoting and advancing regulatory convergence for a number of years. For example, the IIF has long been an advocate of consistent implementation of standards for financial institutions, having submitted extensive commentary and suggestions to the G-20, the Financial Accounting Standards Board (FASB), the Basel Committee, IOSCO, and the IASB, as well as organizing public panels and open programs on related topics. The IAA has assisted the IAIS with its efforts toward convergence of solvency regulations and the development of ideas to address systemic risk in the insurance sector, as well as the IASB in its development of standards relating to insurance contracts and pensions and the International Auditing and Assurance Standards Board (IAASB) in its auditing standard with respect to the role of experts. INSOL International has worked actively with the World Bank and others to promote universal adoption of procedures to deal with cross-border insolvencies, to encourage the introduction of high-quality restructuring and insolvency laws, and to assist with capacity building. Notably, they have done this in developing and emerging nations. For valuation standards, the IVSC restructured its standard-setting boards in recent years to enhance the independence and oversight of their activities, as well as widened its brief by developing guidance and technical information to assist practitioners, thereby reducing diversity in the application of its standards. The accounting profession, led by IFAC, has developed high-quality international standards—through independent standard-setting boards—in the areas of auditing, ethics, accounting education, and public sector financial reporting. Additionally, for

several decades IFAC has been a strong supporter of the development of international financial reporting standards.

Also, in recent years, the responsibility for standard setting for financial reporting and auditing has been moving from being primarily the responsibility of national standard-setting boards toward being performed at an international level. In order for international standards to gain legitimacy and acceptance by the international community, IFAC and the IASB have recognized the importance of developing robust governance arrangements for standard setting in auditing and financial reporting. Both recognize that governance arrangements should be structured to address the public interest, and to promote independence, performance, transparency, and accountability. These organizations have also been instrumental in supporting the global adoption and implementation of standards through enhanced governance arrangements, proactive stakeholder engagement, translation programs, and the issuance of support and guidance materials. About 120 countries require or permit the use of International Financial Reporting Standards (IFRSs), while over 70 countries are currently using, or are committed to using, the latest version of the International Standards on Auditing (ISAs).

A great deal has also been achieved in respect of regulatory convergence, coordination, and cooperation through the impetus provided by the work of the G-20 and the FSB. While the crisis has been important for bringing regulatory convergence into greater prominence, it is in the broader public interest, and hence also in the interests of the professions and industries represented by the Taskforce, that progress continues to be made to address systemic risk issues and inefficiencies. However, contrary to the express position of the G-20, constituents of some participant organizations are concerned about what appears to be a trend in some areas toward increasing international regulatory fragmentation, rather than convergence. This can result from nations making unilateral decisions about regulation that lead to inconsistencies between regulatory environments across nations, thereby potentially heightening instability and systemic risks, and adversely impacting entities that operate internationally. It may arise due to the extraterritorial effects of unilateral regulation, such as in proposed US and proposed EU regulation of derivatives, especially regarding margin, clearing, and trading requirements. For derivative markets, where it is common for counterparties based in different parts of the world to transact with each other, extraterritoriality leads to fragmentation of markets, inefficiencies, increasing costs and compliance difficulties, and the promotion of regulatory arbitrage. Thus, it is important for the G-20 to ensure that ongoing efforts to converge derivatives regulation across the major markets be brought to a satisfactory and internationally consistent conclusion.

Notwithstanding recent efforts to promote regulatory convergence, the Taskforce has identified a number of current gaps in regulatory convergence that contribute to potential systemic risk concerns and inefficiencies, as well as potential impediments to closing these gaps. The Taskforce has also considered the implications of not acting to address these issues. Failure to narrow the gaps in regulatory convergence means that greater than necessary potential systemic risks may continue to exist. This generally occurs where inappropriate or ineffective macroprudential oversight arrangements are in place, where international regulatory organizations are unwilling or unable to satisfy their objectives, where international regulatory standards are not interpreted or implemented consistently, and where a lack of cross-border resolution arrangements for financial institutions creates uncertainty and instability. Furthermore, gaps in regulatory convergence

can create inefficiencies and add greatly to the costs, and lack of transparency, of operations for many organizations.

The Taskforce believes that G-20 leadership is a critical driver to achieve real progress in overcoming the major potential impediments to narrowing the gaps in regulatory convergence. Political obstacles to achieving international agreement, the need to implement constructive national legislative changes, and the costs of regulatory reform are some of the issues to be considered.

In considering regulatory reforms, it is important for governments and regulators to adopt an approach that considers the effects of proposed reforms (costs and benefits) across a broad cross-section of society, including the effects on attaining other policy objectives (e.g., sustainable economic growth and avoidance of social disruption).

Finally, an obstacle to narrowing regulatory gaps in the field of restructuring and insolvency for non-financial firms may be the failure to understand the vital and dynamic role that can be played by rescue-oriented law and practice in effectively and efficiently enabling entrepreneurs to have a second chance or, alternatively, delivering the relevant business—which comprises part of a jurisdiction's capital or wealth—into the hands of new controllers who may run it better. In the related area of resolution for bank-related financial firms, there is a need to reform national legislation to be consistent with the standards proposed by the FSB.

However, even within such constraints, regulatory authorities could enhance the coordination of their actions, such as: making data and other requirements more uniform; making consistent, coherent, and predictable supervisory decisions within the industry-specific international standard-setting bodies, via informal official sector groups such as the Senior Supervisors' Group; and enhancing cooperation among agencies through the firm-specific "colleges of supervisors" that have been mandated by the G-20 but have yet to realize their full potential.

The following sections of the report focus on the financial sector and the need for regulatory convergence as it affects the operations of banks, insurance companies, and capital markets. However, this does not diminish the importance of those entities that operate outside of the capital markets, such as small- and medium-sized entities (SMEs) and public sector organizations exclusively funded by the taxpayer. The diversity of entities means that rarely are regulatory reforms designed on the basis of a "one size fits all" approach. Nevertheless, the Taskforce has aimed to outline key messages and recommendations in this report that deal specifically with the capital markets. Careful consideration needs to be given to avoid the potential negative effects of implementing the recommendations in this report in the same manner for all types of organizations and different fields of operation. At the same time, the Taskforce notes that there will be situations where broad-based regulatory reform can, and should, have general applicability across all entities.

While not treated as part of the main discussion and recommendations included in this report, the Taskforce believes that the following three related and important issues should be considered as a matter of priority by the G-20. They pertain to: (i) the superannuation and pensions industry; (ii) public sector financial reporting, transparency, and accountability; and (iii) the format, type, and relevance of reporting more generally.

(i) Superannuation and pensions industry

While this report does not specifically address the regulation of pensions, their actuarial and other issues are similar to those relating to insurance. In relation to the G-20 agenda dealing with global financial stability and systemic risk and while banks may be characterized as a source of systemic risk and insurance groups as (in some degree) transmitters of systemic risk—pension funds are victims of systemic risk. For this reason the focus in this report is on the financial sector, including banks and insurers, rather than pension funds.

In contrast to banking and insurance, the regulation of pensions has remained primarily a concern of national attention in the areas of taxation and participant protection, although some regulators have shown the same degree of concern regarding cross-border activity and investor and consumer protection standards as in the insurance industry. IAS 19 *Employee Benefits* has been the most visible source for global convergence.

For the G-20 to address pension issues, the following priorities are suggested by the Taskforce.

Short-term

- Although the IASB is considering revising IAS 19, currently the most commonly used cross-border measurement standard in pensions, it is widely viewed that such a review is necessary for global convergence.

Medium-term

- Increase awareness/education of defined benefit pension scheme members of such solvency measures as might be considered as a foundation for international minimum solvency standards.
- Encourage adoption of sound practice governance and management practices, implementing principles already developed by the Organisation for Economic Co-operation and Development (OECD) and the International Organisation of Pensions Supervisors (IOPS) for both defined benefit and defined contribution arrangements.

(ii) Public sector financial reporting, transparency, and accountability

Public sector reporting, transparency, and accountability are of major concern to the private sector. The sovereign debt crisis engulfing several countries around the world is cause for major concern for the G-20 and for other countries. Deficiencies in fiscal management in the public sector appear widespread, and have caused very significant economic loss. Policies chosen to address the global financial crisis may inadvertently have changed the nature of—and amplified—the problem, moving it from the corporate to the government sector.

It is important to note that public sector debt represents a significant proportion of the total value of trades on securities markets and drives a great deal of activity on OTC derivatives markets, as well as cash markets, and therefore has a significant direct or indirect impact on all regulated markets and entities. Given the deficient financial reporting and public financial management by many governments, there is a clear need for convergence of financial reporting by governments to high-quality standards as well as potentially significant institutional reform. The problems highlighted by the sovereign debt crisis include—but go much deeper than—the lack of transparency and accountability of governments, poor public finance management, and public sector financial reporting. It is important that institutions for fiscal management are structured to provide the necessary constraints and incentives for governments to manage their finances in a manner that protects the public interest as well as investors.

The Taskforce is of the view that urgent and fundamental work is required to consider the nature of institutional changes needed to protect the public and investors in government bonds. It encourages the G-20 to initiate such work through the FSB, which should look to institutional arrangements for public finances in jurisdictions in which fiscal positions have been well managed, and to recognize that the problems that need to be addressed are ones in which governments are self-interested parties. Arrangements that might be considered include:

- High-quality and timely accrual-based financial reporting, with audited financial statements released within six months of year end;
- Budgeting, appropriations, and reporting on the same accrual basis;
- Full transparency in fiscal positions ahead of general elections, ensuring that voters are fully informed;
- Independent, and audited, projections of fiscal position to accompany budgets; and
- Limitations on deficit spending, or at least full transparency around the reasons for deficit spending and explanation of how, over an economic cycle, fiscal balance will be restored.

(iii) Format, type, and relevance of reporting and disclosure

The financial crisis has revealed the need for governments and private sector corporations to better understand how their financial and operating decisions affect all areas of society. It has shown that reward systems that focus on short-term risks and rewards can encourage behaviors that lead to inappropriate, indeed disastrous, outcomes. Furthermore, it has highlighted the importance of understanding the longer term considerations of decision making, especially in the capital markets. Attention has also been focused on the importance of market discipline as an essential complement to regulation and supervision, especially of financial sector firms.

With this in mind, the Taskforce recognizes the need to review the objectives, format, type, usefulness, and relevance of reporting and disclosure to the public more generally. A thorough review is required of what information is being provided to different groups for different purposes—whether the recipients of the information are investors, regulators, creditors, or banks, or whether it is for financial reporting or prudential reporting purposes. The Taskforce is of the view that the FSB should consider initiating a review, together with the public sector, of reporting and disclosure arrangements, which aims to propose revisions and reforms that will enhance the usefulness of reported information. Disclosures should be relevant to current market conditions and risks faced by firms.

Such a review should consider all aspects of reporting and disclosure and of information that is made publicly available by companies listed on major capital markets. It should encompass financial and non-financial reporting and all aspects of public disclosure. As part of such a review, the Taskforce encourages the G-20, through the FSB, to consider the merits of rethinking the overall structure of reporting and disclosure designed for different purposes, including the volume and relevance of mandated reporting and disclosure, disclosures made in the context of management's discussion and analysis, and voluntary disclosures, as well as other initiatives such as integrated reporting.[2]

The following sections of this report aim to identify significant gaps in regulatory convergence and to provide clear examples within each of the following seven key issues: (i) maintain momentum for continued regulatory convergence; (ii) enhance consultation with key stakeholders, in particular the private sector

2 Refer to www.theiirc.org/.

professions and industries impacted by regulatory reform; (iii) develop, adopt, and implement high-quality international standards, applied in a consistent manner; (iv) enhance macroprudential oversight; (v) provide adequate support and resourcing of international regulatory organizations; (vi) establish a globally coordinated resolution regime for bank-related financial institutions; and (vii) appropriately regulate or supervise key participants in the financial sector.

Finally, potential impediments to narrowing the gaps are highlighted, as well as the implications of not doing so. While the examples do not represent an exhaustive list for all professions and industries represented on the Taskforce, they do provide a foundation for the recommendations contained in this report. These examples, plus others categorized by profession or industry, are described in more detail in Appendix 2.

3. Momentum

When considering regulatory convergence in the financial sector, the Taskforce recognizes the critical importance of continuing the momentum for reform that is evident in the work of the G-20 and the FSB in the period since the global financial crisis first emerged. The considerable progress that has been made in recent years risks being undermined should the drive toward greater regulatory convergence wane or be derailed by inconsistent or unilateral decision making and implementation of unilateral regulatory reform in G-20 nations, especially where these laws include extraterritorial features. Such reforms would diminish the benefits that accrue from global regulatory convergence.

The Taskforce encourages the G-20 to continue to strive for regulatory convergence that will assist in delivering effective and efficient regulation, which ultimately will lead to enhanced economic and financial stability. Because of the efficiency gains for firms, the effectiveness gains for regulators, and the benefits for the macro economy and ultimately the customers of the financial sector that more consistent international regulation would achieve, the G-20 is encouraged to ensure that the will to continue to improve regulatory arrangements at national, regional, and global levels remains strong. By itself, this will strengthen the resolve of others, such as professional and industry organizations, to promote needed reforms. The ambition and momentum must be maintained beyond the achievements to date in addressing the specific issues emerging from the global financial crisis, when it is no longer at the forefront of governments' and regulators' priorities, and must withstand the political and associated pressures that may arise during the national implementation phase of global standards. Furthermore, it must continue as the immediacy of some of the problems emerging from the global financial crisis in 2008–2009 lessen in respect of their apparent impact on the private sector and as other critical issues emerge in respect of the sovereign debt crisis.

G-20 nations should be encouraged to work together to ensure that gaps in regulatory convergence are identified and narrowed to manage systemic risk more effectively and to reduce the inefficiencies that come with a lack of convergence. The FSB's commitment to peer reviews to oversee implementation of G-20 standards[3] should be reemphasized and reinforced by sufficient resources to make meaningful and critical

3 G-20 standards are those sets of standards identified by the FSB as key for sound financial systems and deserving of timely implementation. They are in 12 policy areas and include financial reporting and auditing standards, principles of corporate governance, prudential-regulatory standards proposed by the Basel Committee, standards issued by IOSCO, and revised insurance core principles issued by the IAIS.

reviews possible. This will demonstrate a level of leadership by the G-20 that in turn can provide an example for the rest of the world to follow.

3.1 Momentum – Recommendations

The Taskforce makes the following general recommendations regarding the importance of the G-20 maintaining its important focus on global regulatory convergence and associated regulatory reforms.

Recommendation 1:	**G-20 to continue to focus on regulatory convergence in the financial sector, ensuring that G-20 nations work together to ensure that gaps in regulatory convergence are identified and narrowed to manage systemic risk more effectively, and reduce the inefficiencies that come with a lack of convergence.**
Recommendation 2:	**G-20 to discourage nations from making unilateral decisions and implementing unilateral national regulatory reforms that are inconsistent with international standards that widen—rather than narrow—the convergence gap or diminish the benefits that accrue from global regulatory convergence including unilateral reforms that are of extraterritorial application.**

4. Consultation

As representatives of private sector organizations of professions and industries subject to regulation, the Taskforce stresses the importance of the G-20, the FSB, and regulatory organizations eliciting the views of a range of key stakeholders when undertaking reforms already proposed and underway, as well as in formulating their future direction and efforts in respect of regulatory convergence. Indeed, broad consultation with key stakeholders, including those impacted by regulation, is a key principle of the development and maintenance of high-quality, relevant regulation. In this regard, the Taskforce believes that the views of professional and industry organizations (such as those represented on the PSTF), other relevant international taskforces and committees (such as the International Chamber of Commerce, the International Banking Federation, the Bankers' Association for Finance and Trade, the World Economic Forum, and the International Integrated Reporting Committee), business leaders, regulated firms, issuers, shareholders, and investors should be seen as part of the solutions and reforms that are considered. Regulatory reforms face a higher likelihood of failure, and disproportionate adverse economic impact on credit and finance in society, where imposed by governments and regulators without adequate consideration of the views and needs of those being regulated and affected.

The corollary to this is that organizations of regulated professions and industries must recognize the important role that they play in achieving global regulatory convergence. That is, while expecting to be consulted on regulatory reforms and hence be seen as part of the reform process and the solutions to the issues being addressed, private sector organizations operating in regulated professions and industries also have a responsibility to support the reform process. This includes such initiatives as: promoting awareness and acceptance of regulatory issues among the private sector; taking an active role in ensuring that effective and efficient regulatory reforms are implemented appropriately (for example, through monitoring arrangements for professional body members and employees); recommending improvement of industry or professional practices; and ensuring that public interest aspects of regulatory reform are considered and balanced, where appropriate, against the needs of private sector organizations.

The Taskforce welcomes the opportunity to be consulted on matters of regulatory convergence and reform that are being considered by the G-20. The G-20 should recognize that to be effective, regulatory reforms must consider the views of those that will be subject to them.

4.1 Consultation – Recommendations

The Taskforce presents the following recommendations in relation to the need for continuing consultation with all key stakeholders during the process of regulatory reform.

Recommendation 3:	**G-20, including the FSB, IOSCO, the Basel Committee, and IAIS, to enhance the breadth and depth of consultation on matters of regulatory reform, especially with those groups most impacted by the reforms, including the PSTF.**
Recommendation 4:	**G-20 to recognize and encourage the role played by those consulted on matters of regulatory reform (including the PSTF and the organizations represented by Taskforce members), who must act to support convergence and ensure that reforms adopted are supported by concurrent private sector efforts to improve practices and governance, in order for the overall reform program to succeed in benefiting the public.**

5. Standards and Consistency

Globally accepted, high-quality international standards and requirements that are developed, adopted, implemented, and interpreted consistently are essential to addressing concerns arising from organizations operating across borders, or where the operations of organizations within one jurisdiction impact those in other jurisdictions. They are also essential for reducing the inefficiencies and costs that come with duplicated or contradictory regulatory requirements and the potential for regulatory arbitrage. There are many situations across the financial sector where the standards and requirements imposed upon organizations operating within an industry vary across jurisdictions and, in some situations, within a jurisdiction. Both situations create problems for those organizations operating internationally. Likewise, inconsistency in adoption and implementation of international standards and requirements means that even where the same standards and requirements are imposed, national interpretations and modifications necessitate duplication or additional reporting and organizational requirements.

Global acceptance of a single set of standards is best achieved by the recognition of one standard setter with robust governance arrangements that take account of the public interest for each set of high-quality, globally accepted standards and requirements across all key aspects of the financial sector. It is important to note that the professions and industries within the financial sector are at different phases of evolution and that such recognition is not a straightforward exercise. Furthermore, these differences in evolution mean that the same approach may not be appropriate for all sets of standards and requirements.

Differences in standards that have the potential to adversely affect the consistency and comparability of reported information, and the manner in which companies undertake their work, still persist in many jurisdictions. These include, but are not limited to: financial reporting and auditing standards, valuation standards, actuarial standards, reporting and capital adequacy standards for insurance companies, capital adequacy and liquidity standards for banks, conduct of business standards for firms active in capital markets, infrastructure and integrity standards for capital markets, restructuring and insolvency laws, cross-border recognition of insolvency laws for non-financial firms, and credible cross-border resolution standards for bank-related financial institutions.

Even where international standards are being used, differences in their application and use between certain jurisdictions occur where there is a lack of consistency in the manner in which they adopt and implement the standards. These differences result from practices such as changing the wording of standards to accommodate

local preferences, "carving-out" aspects that are considered inappropriate in a jurisdiction, and enforcing interpretations that are inconsistent with the spirit of the standards as written. Inconsistencies in the manner in which regulatory oversight or monitoring is performed can also affect the consistency of adoption, implementation, and enforcement. At the same time, inconsistencies in regulation may increase compliance risks and compliance costs and may impede effective achievement of regulatory goals. For example, where financial institutions are confronted with multiple and inconsistent data definitions and requirements, it makes it more difficult for them to build coherent and consistent group-wide risk information technology arrangements—a significant supervisory goal. Also, it makes it more difficult to generate pertinent and consistent data during crisis situations and impedes timely and effective cross-border action by regulatory organizations.[4]

Regulatory convergence is unattainable without regulatory reforms that result in consistent regulatory arrangements across all jurisdictions. It is important that the G-20 continue to promote the need for consistency in all aspects of regulation of the financial sector. Where practicable, standards and requirements should be adopted and implemented in a manner consistent with the standards and requirements issued by international standard setters. Furthermore, the manner in which regulatory oversight is undertaken—whether it is of banking systems, products, or market participants (e.g., auditors, traders of derivatives)—should be consistent, should discourage regulatory arbitrage, and should promote cross-border recognition and acceptance. This includes enhanced reliance on regulators and oversight bodies in one jurisdiction by regulators and oversight bodies in another, as well as cross-border cooperation more generally between regulators and oversight bodies.

Differences in supervisory practices are evident in the banking industry, where the perception of a lack of consistency in supervisory practices in respect of the Basel standards is being considered by the Basel Standards Implementation Group, and which, if not addressed satisfactorily, would undermine support for international standards. A lack of international coordination in this area not only creates uncertainties and ambiguities, but may also be a source of regulatory arbitrage.[5] Similarly, there is divergence in regulatory supervision arrangements and solvency approaches for insurance groups across jurisdictions, as well as differences across jurisdictions in the principles underlying the manner in which restructurings and insolvencies are undertaken. A lack of consistency is also evident in the registration and reporting requirements for investment managers and financial analysts, registration requirements for external auditors, and with respect to the regulation of valuers and valuation firms.

4 In this connection, the recent work undertaken in constructive collaboration by the private and public sectors on Legal Entity Identifiers is important, and represents a good model for further work toward data standardization. The FSB's support of the project (announced in its press release of July 18, 2011) is important and welcomed: the G-20 should encourage the FSB to undertake parallel efforts to catalyze joint private and public sector efforts on the many technical issues faced in other parts of the G-20 project, for example, on resolution, OTC derivatives infrastructure and standards, and macroprudential oversight.

5 However, the Taskforce notes that the Senior Supervisors Group, at a more informal level, has done pioneering work on creating the basis for enhanced consistency of international supervision of financial institutions (more consistent regulatory requirements, such as those promulgated by the Basel Committee and converging financial reporting standards). International regulators and standard setters now have much more contact and consultation among themselves, in the context of multilateral standard-setting bodies, in firm-specific colleges of supervisors, and in bilateral consultations at both the regulatory and the ministerial levels.

Finally, it is critical that the objectives and purposes of standards are clearly enunciated and that all market participants, especially regulators, are familiar with them. A lack of clarity or a misunderstanding about the objectives of particular standards can result in the blurring of boundaries and uncertainty of purpose for particular requirements, such as is currently exemplified by debates surrounding the objectives of financial reporting. While the standard setter gives priority to financial transparency, prudential regulators aiming to utilize financial reporting numbers adjust these numbers to meet their objectives. The need to make adjustments, due to differences between the objectives of prudential regulators vis-à-vis the financial transparency objective of the IASB, is appropriate. Financial transparency and prudential regulation are both critical for addressing concerns of financial stability. It is important to recognize and acknowledge the inter-relations of the objectives of international regulators and standard setters with financial reporting.

The following are specific examples that demonstrate the gaps that exist in relation to the objective of having one set of high-quality international standards for key aspects of the financial sector, consistently adopted and interpreted across the globe.

Example 1(a): Different financial reporting standards across different jurisdictions

IFRSs are issued by the IASB, which is continually enhancing standards and issuing new standards in accordance with its strategic work plans that are informed through broad public consultation.

Some major economies have yet to commit fully to IFRSs for domestic companies, but have processes underway (e.g., China, India, Japan, US). In India some "carve-outs" from standards are being proposed, which means the IFRSs will not be fully adopted. Japan has deferred its decision on convergence with IFRSs, while the process of convergence between IFRS and US GAAP has been ongoing for several years. The IASB and the FASB have made significant progress toward convergence and have completed most of the projects in their Memorandum of Understanding (MoU). However, the boards will not complete the remaining three projects—including financial instruments—by the end of 2011 as initially anticipated. In addition, the US SEC has yet to confirm its decision on the adoption of IFRS, which in turn may be impacting or delaying convergence plans in some other countries.

Some notable differences remain between the reporting requirements of IFRS and US GAAP. One example that creates considerable concern for financial institutions relates to netting or offsetting arrangements. In 2011, the IASB and the FASB attempted to align the financial reporting requirements relating to the offsetting of financial assets and liabilities. The boards were not successful, partly because the existing differences have been institutionalized in their respective jurisdictions. It would be beneficial to have the offsetting requirements aligned both for financial reporting and prudential reporting purposes.

An example of differences resulting from an existing relationship between financial reporting and regulations relates to taxation. In the US, a particular basis for measuring inventory (called LIFO) is permitted for taxation purposes if an entity also uses that basis for financial reporting purposes. LIFO generally reduces the tax base, which is why entities elect to use this approach. It is permitted in US GAAP but not in IFRSs. There is limited support for LIFO as a financial reporting basis. However, eliminating LIFO from US GAAP would change the tax basis for those companies and create potentially significant tax liabilities for them. This is often perceived as being an impediment to removing LIFO from US GAAP, but one that could be addressed by decoupling or changing the link between the financial reporting and taxation requirements.

In terms of interpreting and applying financial reporting standards, there are several bodies and mechanisms, such as the European Securities and Markets Authority (ESMA) and IOSCO, which work to reduce differences in enforcement. However, notwithstanding their work, avoidable differences do exist. An example occurred when the financial crisis was developing. Some financial institutions did not impair certain financial assets because they argued that the impairment trigger language referring to "significant or prolonged" falls in value should, in effect, be interpreted as "significant and prolonged" falls in value. The matter was resolved by the IASB's interpretations body stating that the standard should be applied as written; that is, that impairment should be recognized where there are significant "or" prolonged falls in value. Given the importance and relative clarity of the standard, under the circumstances of the time this is a matter that could have been resolved more quickly by regulators.

Common enforcement is important; however, having a common set of standards is the starting point. Common standards and common interpretation and enforcement are both necessary for consistency.

Example 1(b): Different auditing standards, and auditor registration, reporting, and inspection requirements, across different jurisdictions

ISAs are issued by the IAASB. The latest set of standards—described as "Clarified ISAs"—is comprised of 37 standards, including the International Standard on Quality Control (ISQC) 1.

All 37 ISAs have currently been adopted for use in five of the 19 G-20 countries (including Australia, Brazil, Canada, China, and South Africa). Two other G-20 countries have adopted all of the standards issued, except for one standard, which conflicts with the nation's legal or professional environment. In the case of India it is the standard dealing with group audits (ISA 600), and in the case of the UK it is the standard on audit reporting (ISA 700). The US does not use ISAs for listed company audits, but uses ISA-based standards for private company audits. The Public Company Accounting Oversight Board (PCAOB) considers ISAs and other auditing standards around the world in the development of auditing standards for listed company audits. The EU does not mandate that member states use ISAs, although 20 member states use the Clarified ISAs, or are committed to using them in the near future. While several countries (e.g., France, Germany, and Italy) are awaiting final direction and approval from the EU regarding the use of ISAs, like Japan they currently use the ISAs, or the principles embodied in them, as the basis for national auditing standards. Most other G-20 nations have plans to adopt ISAs, although they are at different stages in this process. For example, while Mexico has firm plans for adoption, and Argentina and Indonesia are making some progress, Russia is still at a preliminary stage.

Additionally, there are diverse registration and reporting requirements for auditors among and across different jurisdictions. Registration is driven by the audit clients' use of the audit report in a specific jurisdiction. Reporting requirements for auditors are classified broadly into annual reports (e.g., for Canada, the US, and EU Member States) and ad hoc notifications of particular events (e.g., for Japan, the US, and EU Member States). The timing of annual reports and the information required varies, as does the timing of ad hoc notifications, and the events that trigger such notification.

Finally, auditors operating globally are typically subject to inspection by a number of different oversight bodies, sometimes with respect to the same specific audit engagement or component thereof. Significant challenges are encountered where an oversight body in

one jurisdiction does not recognize inspection by oversight bodies in other jurisdictions, or where local laws prohibit the access to working papers by foreign oversight bodies.

Implications of having these gaps

- Increased costs to business in having to prepare multiple versions, and reconciliations, of financial statements—especially for multi-national companies
- Potentially contributes to instability and impedes progress toward effective international oversight of multinational companies and, in particular, systemically important financial institutions (SIFIs)
- Provides potential incentives for regulatory arbitrage in finding the jurisdiction with the least regulatory structure
- Increased costs to business in having financial statements audited—especially for multi-national companies where audit firms need to conduct audits in different countries according to different standards
- Increased costs of audit oversight and regulation—as different standards imply differences in licensing, registration, and reporting requirements for auditors
- Lack of comparability of financial reporting and auditing arrangements across borders fails to recognize the globalization of capital flows/markets
- Impedes efficiency of cross-border flows of accountancy services
- Audit oversight bodies must devote significant time and effort to the development and maintenance of registration and reporting requirements and oversight systems, and to the processing of registration applications and establishment of bilateral agreements
- Audit firms must often undertake time-consuming legal analysis to determine applicable registration requirements, including research to determine what information can and cannot be provided and to satisfy differing, and even conflicting, requirements

Impediments to closing the gaps

- Inability to clarify the role of national standard setters in an environment where international standards are adopted
- National legislation that requires the use of nationally based financial reporting and auditing standards
- Reluctance to pass standard-setting responsibility to an international organization
- Reluctance to move to standards that are "principles-based" and require a different approach to financial reporting and auditing
- Existing differences between jurisdictions have been institutionalized within their respective jurisdictions
- Existing relationships between accounting standards and regulations, including taxation and prudential requirements
- Methods and approaches to adoption that are impacted by the legislative and regulatory environment, including the extent to which auditing standards have the force of law, or are imposed as a professional requirement
- National legislation that imposes specific registration and reporting requirements on oversight bodies
- Reluctance to rely on the registration, reporting, and oversight systems of foreign jurisdictions

- National legislation that imposes specific inspection requirements and impediments on oversight bodies
- Political pressures that compel legislators and regulators to press nationalistic objectives rather than to work cooperatively with foreign authorities
- Although there are no natural regulatory impediments to consistent enforcement, it takes a willingness on the part of enforcement bodies to communicate with their counterparts to identify differences in the application of standards

Example 2: Different valuation standards, or a lack of valuation standards, across different jurisdictions

International Valuation Standards (IVSs) are recognized or adopted by a number of major professional bodies, industry groups, and financial regulators. There has also been some convergence of other valuation standards with IVSs but very few valuation standards produced by other bodies are completely converged with IVSs. The recently revised 2011 edition of the standards is a simplified set of high-level principles that aim to facilitate wider adoption and convergence.

Of the 13 G-20 countries for which information is available, all have standards for real estate valuation. Of these, only the "Australia and New Zealand Valuation and Property Standards" fully adopt the IVSs. Standards have been developed in five countries with no regard to the IVSs; in the remaining seven countries local professional bodies have included extracts from IVSs in their standards or state that they "consider" their standards to be substantially the same or compliant with IVSs.

In five countries—Australia, France, Japan, South Africa, and the UK—there are no standards governing business or intangible asset valuations. Of the eight countries where there are standards in this area, only three have a measure of convergence with IVSs.

Few countries have valuation standards for financial instruments.

Other organizations have aimed to set standards and guidance for individual asset classes. For example: Hedge Fund Standards issued by the Hedge Fund Standards Board (HFSB) contain some provisions seeking to ensure consistency in valuation; ISO 10668:2010 specifies a framework for brand valuation; and International Private Equity and Venture (IPEV) Capital Valuation Guidelines have been issued by the IPEV Board. The IVSC and the IPEV Board are shortly to sign an MoU seeking to promote consistency between the Guidelines and the IVSs to enable the Guidelines to be positioned as providing sector-specific application guidance of the principles in IVSs.

Implications of having these gaps

- The diversity of the groups that provide valuation guidance creates the potential for confusion and inconsistent application of valuation practices
- Inconsistent valuation practice and terminology creates uncertainty for those who rely on valuations and can lead to misunderstandings or inappropriate reliance being placed on valuations
- Inconsistent valuation practice and terminology creates avoidable risks in financial decision making and reporting

Impediments to closing the gaps

- The lack of strong signal by regulators internationally for the adoption of a single set of global valuation standards

- National legislation that requires the use of nationally based standards
- Reluctance to pass standard-setting responsibility to an international organization
- Existing relationships between accounting standards and regulations, including taxation
- Need for further theoretical and methodological development

Example 3: Inconsistent application of international bank regulatory capital and bank liquidity requirements, and existing inconsistent national requirements

In relation to the Basel III international bank regulatory capital requirements, there are: (i) unclear processes for possible changes during the monitoring and implementation period; (ii) uncertainties about a "fundamental review" of trading book rules; (iii) "gold-plating" in some jurisdictions; (iv) suggestions of various deviations for local "specificities"; (v) inconsistent timing of implementation in major markets; (vi) local obstacles to implementation (e.g., Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) prohibition on use of ratings); and (vii) local requirements that may complicate compliance for national and international banks (Collins "floor" in US). Where national options are provided in the Basel Accord, consistent implementation guidelines should be observed.

The EU CRD IV proposal is broadly in line with Basel III, but includes some new items and deviations from Basel III that undermine confidence in global consistency. Also, it permits countries to go ahead of Basel schedule, if they wish. This is criticized by the industry as potentially harming the process of creating consistent international standards. The EU proposal would restrict "gold-plating," which is in line with the industry argument that standards should be consistent, and not just serve as a minimum.

In relation to bank liquidity requirements, there are: (i) unclear processes for possible changes during monitoring and implementation period; (ii) suggestions of various deviations for local "specificities;" and (iii) inconsistent timing of implementation of Basel III in major markets.

The EU CRD IV appropriately allows for future changes of the Liquidity Coverage Ratio, but creates some doubt by leaving the Net Stable Funding Ratio for the future. Both ratios need to be updated, but clear commitment to international consistency is needed. There are inconsistent existing national requirements in this area.

Implications of having these gaps

- Any material deviations from the capital requirements risk the creation of level playing field issues or, possibly, regulatory arbitrage
- Inconsistent timing of implementation is a level playing field issue and, at the least, erodes the credibility of an international accord
- Concerns pertaining to liquidity are, if anything, more acute than those relating to capital, given that liquidity is a new area and the effects of many aspects of the requirements are unknown at this stage
- National requirements (including possible host country focused implementation of Basel III) for bank liquidity, which result in: trapping pools of liquidity in local markets, creating inefficiencies for firms, lowering credit availability, and possibly creating greater international instability as they preclude firms from optimizing liquidity across markets via internal allocation

- Risk of concentration of industry in large national champions
- Risk of fragmentation of the market, if cross-border business is excessively penalized

Example 4: Lack of uniform solvency level applicable to insurance entities, and divergence in regulation of insurance groups

There are no uniform solvency level requirements applicable to insurance entities, in contrast to the Basel Accord of the banking industry. Approaches to quantify the solvency of insurers are diverse, ranging from simple fixed-ratio, risk-based capital to scenario-based, or internal models. Although the types of risks assessed and risk classifications have some similarity, they are not necessarily identical or consistent.

Risk measures and confidence levels applied in determining solvency also differ by jurisdiction. Solvency II in Europe will bring consistency across the European Member States and other states that follow, but not globally.

Although there are many insurance groups that are active in conducting business around the world, the regulations affecting insurance groups and individual legal insurance entities operating in different jurisdictions are divergent. There are jurisdictions where provision for group supervision does not exist. In most cases, existing regulation focuses on a solo legal entity and may not identify risks that are caused by being a member of the group.

Implications of having these gaps

- Solvency regimes lack comparability and consistency between jurisdictions. Thus, there exists the potential for regulatory arbitrage by means of transfer of risks to "cheaper" capital cost jurisdictions. Insurers can select the jurisdiction to which to transfer the risks where solvency requirements are least onerous
- Divergence in group supervision may contribute to a lack of consistency in practice
- Addressing differing local regulatory requirements in the head office location and locations of subsidiaries and branches increases the cost of doing business if there is no consistent group supervision and regulation
- Risks may be posed by non-insurance entities within an insurance group

Impediments to closing the gaps

- Lack of consensus and reluctance to change existing solvency regimes
- Differences in risk tolerance between supervisors/regulators
- Failure to coordinate the process of managing regulatory oversight of groups

Example 5: Lack of cross-border recognition of insolvency procedures for non-financial firms and low international take-up of global principles for multi-creditor workouts

Massive gaps exist internationally in respect to cross-border recognition of insolvency procedures (refer also to Section 8 of this report discussing resolution for bank-related financial institutions). This is one of the weakest areas of international legal cooperation. There has been limited adoption of the *United Nations Commission on International Trade Law (UNCITRAL) Model Law on Cross-Border Insolvency* (the Model Law) and some countries have required reciprocation in their adoption of it.

There is also a low international take-up of guidelines that encourage a strong rescue and informal workout culture. Most financial difficulties are resolved by private workouts, where that is possible, against the backdrop of insolvency laws. Guidelines promoting such a culture are embodied in the World Bank approved *INSOL International Statement of Principles for a Global Approach to Multi-Creditor Workouts*.

Formal insolvency is, virtually inevitably, destructive of value. It can destabilize and even destroy a business. Customers, suppliers, and key employees may want to have nothing more to do with the company and there is habitually a stigma effect—all of which invariably leads to material damage to creditors' recoveries. Good insolvency laws and practitioners ensure that there is the best possibility of a company (or at least its business) surviving its financial crisis. That is, if insolvency proves unavoidable.

Such laws are also important as the backdrop against which negotiations for a consensual restructuring between a borrower and its creditors are played out. In a society with a strong culture that supports consensual restructurings, the position might be likened to an iceberg. The small piece above the water can be viewed as the values in play in formal insolvencies, while the vast bulk of the iceberg under the water represents the values at stake in consensual restructurings.

Principles or guidelines that encourage a strong rescue and informal workout culture seek to avoid knee-jerk responses to a borrower's difficulties by its creditors and to encourage debtors to seek to (re)gain the trust of their creditors by an openness of approach to the provision of relevant financial information to these creditors.

Implications of having these gaps

- High (duplicative) costs, delays, and unpredictability which potentially jeopardize business rescue and lead to reduced returns to creditors
- Multiplicity of insolvencies leading to lack of cohesion
- Competing insolvencies with no ground rules for priority or cooperation
- Damage to value of the entity subject to restructuring or insolvency procedures
- Other knock-on economic effects
- Possibility of hostile creditor action leading to dismemberment of the business subject to insolvency
- Absence of accepted understandings by major creditors and the official sector can significantly impede a successful resolution and lead to resorting to expensive and time consuming court procedures
- Absence of a strong rescue and informal workout culture may lead to the breakup of businesses capable of being saved

5.1 Standards and Consistency – Recommendations

In relation to the important need for the development, adoption, implementation, and consistent interpretation of high-quality globally accepted standards, the Taskforce makes the following recommendations.

Recommendation 5:	**G-20 to encourage and support the development, adoption, implementation, and consistent interpretation of globally accepted high-quality international standards, to the greatest extent possible, for:** • **financial reporting;** • **auditing—including auditor registration, reporting, and inspection/ oversight arrangements;** • **valuation; and** • **actuarial services.**
Recommendation 6:	**G-20 to encourage and support the adoption and timely, clear, and consistent implementation of internationally agreed regulatory standards for:** • **capital adequacy and liquidity requirements for banks, and** • **capital adequacy requirements for individual insurance companies.**
Recommendation 7:	**G-20 to encourage and support:** • **as a priority, identification of desirable solvency structures for insurance groups;** • **timely international agreement upon and broad implementation of the *IAIS Insurance Core Principles and Common Framework* for supervision of internationally active insurance groups; and** • **continued cooperation between the IAIS, national and regional regulators, and professional and industry groups in further enhancing national and regional supervisory standards.**
Recommendation 8:	**G-20 to encourage:** • **a rescue culture for non-financial firm insolvencies by supporting the use of World Bank approved global principles for multi-creditor workouts—the *INSOL International Statement of Principles for a Global Approach to Multi-Creditor Workouts*—for companies other than financial institutions, and** • **and promote universal adoption of modern, effective procedures to deal with the challenges of cross-border insolvency for non-financial firms by the adoption of the *UNCITRAL Model Law on Cross-Border Insolvency.***

6. Macroprudential Oversight

The effectiveness of systemic risk management is negatively impacted by as-yet-developed macroprudential and global systemic risk oversight. Gaps in oversight arrangements can result in problems that are not always detected and addressed in a sufficiently timely manner to permit a minimization of contagion and systemic risk concerns. The need for international cooperation and coordination is most apparent in the oversight of the financial services sector. A major challenge in achieving effective macroprudential oversight relates to the need for international coordination of approaches and tools used in different jurisdictions, while at the same time facilitating nations to more effectively consider the impacts on their monetary and fiscal policies. The primary objective of macroprudential oversight is to pursue the level of financial stability necessary to support sustainable economic growth.

To better manage systemic risks, the G-20 should continue to enhance macroprudential oversight measures that involve close coordination and cooperation between G-20 nations. Consideration should be given to defining conditions and establishing arrangements and structures for the timely identification and addressing of problems, in order to ensure that contagion and flow-on effects are minimized. This applies to problems identified in interconnected global securities markets, as well as the more obvious interconnected global financial and banking sectors. Ideally, systemic risks are best managed when early identification leads to the prevention of more serious outcomes and provides for timely and appropriate communication with the right parties. This includes communication with industry to allow it to take appropriate risk management actions, and regulatory organizations that have authority to act.

The importance of systemic risk management and macroprudential oversight is evidenced in the following examples.

Example 6: Gaps in global regulatory tracking and response capabilities for systemic risk

The global financial crisis revealed major gaps in global regulatory tracking and response capabilities for systemic risk. The FSB has made important progress in defining information gaps and examining strategies for improving macroprudential oversight. However, tools and approaches to macroprudential oversight are still in development. A comprehensive global systemic risk management framework is impossible without meaningful implementation of

risk detection and mitigation mechanisms at the national level. Coordination with traditional monetary and fiscal policy needs to be worked out, while preserving an independent role for a financial stability focus. Furthermore, the cooperation of the private sector is essential in ensuring that tracking and response capabilities are enhanced.

At the EU level, the European Systemic Risk Board (ESRB) has been in operation since the start of 2011, tasked not only with macroprudential oversight but also with ensuring the smooth functioning of markets and their contribution to economic growth in the EU (which can be at odds with the objective of systemic risk management). The ESRB serves in an advisory capacity with limited ability to mandate action. It is not yet clear how the ESRB will synchronize with national systemic risk boards in Europe. In the US, the Financial Services Oversight Council (FSOC) mandated by the Dodd-Frank Act is in operation, but has had limited achievements to date (identification of ongoing risks from tripartite repo transactions) and has so far failed to fully staff its investigative arm (the Office of Financial Research).

The nascent systemic risk oversight efforts in Europe and the US have hitherto tended to focus particularly on the banking sector. The discussion of insurance in systemic risk contexts is ongoing, but the issues and arguments that insurance businesses are not subject to the same systemic risks are well developed.

Also, as IOSCO recognizes, more attention needs to be given to market oversight. IOSCO should be encouraged to work with the industry to continue to develop thinking in this area, as has been done recently in its work with the Committee on Payment and Settlement Systems (CPSS) on Financial Markets Infrastructure.

Implications of having these gaps

- The lack of adequate systemic risk oversight frameworks has implications for continued slow recovery and, more importantly, emergence of a new crisis
- Without an effective early warning system and an efficient global response mechanism for addressing systemic risk, the potential for global financial and economic instability and contagion risk flow-on effects are heightened
- Gaps in post-crisis regulations may create opportunities for regulatory arbitrage
- If jurisdictions start using different toolkits, data, analytical approaches, etc., in an uncoordinated way (e.g., the Basel Countercyclical Capital buffer may be applied in very different ways by national discretion, which could result in economic and competitive disparities), the benefits of global macroprudential oversight will be diluted or negated

Example 7: Gaps in the regulation of OTC derivatives

Despite the G-20 and the FSB consensus on the direction of regulation of OTC derivatives, regulatory gaps remain to be closed. Issues include: the degree of permissible OTC trading of derivatives, exchange trading, central clearing, exemptions for certain instruments or participants, and margin and collateral requirements for both centrally and bilaterally cleared contracts.

Moves to regulate this area in a consistent manner on an international basis would be frustrated if current differences in the manner in which derivatives and end-users are to be treated under proposed US law vis-à-vis proposed EU rules are not corrected. Inconsistent end-user exemptions would also frustrate the objective expressed by the G-20 in 2009 of requiring most derivatives contracts to be standardized, exchange-traded, and centrally cleared.

Some differences have been noted, such as requirements for central counterparty clearinghouses (CCPs) as set forth in European Market Infrastructure Regulation (EMIR), and those proposed in the CPSS-IOSCO Principles for Financial Market Infrastructures. It is essential that CCP rules at the least not be contradictory between global financial centers, including the US and Europe. Differences of regulatory approach should not be allowed to fragment the markets; neither should jurisdictions succumb to the temptation to compete for business in a way that would overshadow coordinated global regulation.

Implications of having these gaps

- The notional size and global exposures in these markets now exceed 2007–08 levels without completion of the intended structures for coordination, additional oversight, and more transparent information about exposures
- Potentially greater systemic risks exist the longer there is a period of uncertainty surrounding regulation, and differing requirements arising from different implementation timetables between jurisdictions
- There is clear potential for jurisdictional differences that will inspire regulatory arbitrage, as well as potential unintended risks for banks and other parties to clearing

6.1 Macroprudential Oversight – Recommendations

The Taskforce makes the following recommendations regarding the need for enhanced macroprudential oversight.

Recommendation 9:	**G-20 to sustain and enhance the mandate of the FSB, or a specialized body operating under the FSB, tasked with:** • **promoting macroprudential coordination;** • **identifying emerging international risks to stability;** • **making recommendations for standardization of data; and** • **recommending responses.** **In undertaking these tasks, the FSB to facilitate:** • **faster development of global capability by maintaining the momentum of its earlier efforts to draw international regulators together to confront important challenges, including: filling information gaps, standardizing data and agreeing on confidentiality standards, and considering contingency planning for a variety of standardized scenarios; and** • **integration for a more global perspective by drawing upon existing or newly formed private sector oversight groups, which may serve a useful "shadow" function to evaluate the pace and substance of systemic risk management capabilities globally, as well as identifying potential gaps in risk assessment.**

Recommendation 10:	**G-20 to encourage IOSCO toward convergence of capital markets regulation and oversight, and to promote cross-border mutual recognition agreements for such regulation and oversight. This includes coordinated and consistent global regulation of OTC derivatives, and completion and implementation of the CPSS-IOSCO standards for financial markets infrastructure currently under discussion.**

7. Strengthening Regulatory Organizations

Gaps in regulatory convergence may result from situations where international regulators and standard setters are not adequately equipped (e.g., in terms of resourcing, expertise, and having suitable and robust governance and accountability arrangements) to deliver the outcomes expected of them. Additionally, the effectiveness of regulation and standard setting may be impaired where there is a lack of clear objectives, or potential overlaps in responsibilities.

The G-20 should ensure that international regulatory organizations[6] are appropriately structured and resourced and have clearly defined expectations and responsibilities in order to deliver consistent and effective outcomes, follow appropriate due process, and achieve the objectives for which they are established. Although this does not necessarily imply that the authority or powers of regulatory organizations should be increased beyond those that already exist, it is recognized that in some situations this may be needed. However, it is important for the G-20 to encourage the removal of impediments to successful performance of the roles of international regulatory organizations.

When examining international regulatory organizations, several key issues are relevant to consider, including: (i) the impact of strengthened regulatory arrangements on other key stakeholders, (ii) the importance of shared private sector/public sector arrangements, and (iii) the role of national regulators.

An understandable reaction by politicians and regulators to the financial crisis was to be concerned about the seeming lack of effectiveness of financial regulation in certain areas, the non-existence of visibly active responsible shareowners, and the lack of market discipline by debt-holders. Governments' responses to the crisis have included massive taxpayer-financed bail-outs in numerous countries, and a considerable number of regulatory initiatives by the G-20, coordinated by the FSB and carried out by IOSCO, central banks, the Basel Committee, and domestic regulators. In relation to the corporate governance of banks, IOSCO, the FSB, the Bank for International Settlements (BIS), and the Basel Committee have developed mandatory corporate governance requirements covering, for example, remuneration and nomination approvals. Supervisors are now more able and willing to review and approve or disapprove corporate governance processes in banks. Recovery and resolution planning, although laudable in many ways, may dilute control

6 For example, international bodies representing securities, banking, and insurance regulators, as well as public and private sector standard setters,

by boards of directors of firms' strategy and structure. A consequence of these reforms is that some people consider that the rights of shareowners, as owners, now appear to have been reduced, and as a result they are often discouraged from exercising their responsible ownership role—assuming that the regulators will take over such responsibility when they decide it is needed. This viewpoint considers that this will potentially further widen the gap between shareholders and boards of banks and other financial institutions, leading to the potential for renewed systematic failures in the financial sector. Although it is noted that the regulatory intent has been to increase the responsibilities of boards of directors for the strategy, risk appetite, and risk management of financial firms, the concern remains that the effect of the overall program of regulatory and supervisory requirements for governance may in fact be to lessen overall control by the owners of firms.

An important aspect of international regulation and standard setting is the structural arrangements for standard setting. Several sets of international standards that are critical for ongoing economic and financial stability are developed and issued through shared private sector/public sector arrangements (e.g., IFRSs and ISAs). These arrangements have benefited from the application of requisite practical experience and expertise in standard setting—as well as considered involvement of, and consultation with—from those most impacted by the standards. Additionally, they ensure that public interest is served through highly developed governance arrangements, including public oversight and external public accountability. It is important for the G-20 to continue to support such standard setters by developing appropriate mechanisms for the approval and legitimization of these arrangements. This involves recognition and endorsement of standards issued under these shared private sector/public sector arrangements.

Finally, national regulators, who play a critical role given their responsibilities for the constituents being regulated, should be given explicit mandates to move toward international convergence and coordination, recognizing that traditional domestic mandates may be interpreted in such a way as to impede—rather than facilitate—international consistency.

The regulation of financial institutions and the valuation profession provide examples of the need to strengthen international regulatory organizations.

Example 8: Gaps that exist between jurisdictions in respect to enforcement capabilities and resources in the field of financial institutions

Gaps in the enforcement capabilities of many jurisdictions exist in the regulation/supervision of financial institutions; virtually all enforcement bodies are significantly resource constrained. Failure to enforce existing rules and regulations contributed in part to the global financial crisis. In the context of prudential regulation, supervision is as important as regulation; effective supervisory interaction with firms is essential to good overall outcomes.

As noted in the FSB's report on *Intensity and Effectiveness of Systemically Important Financial Institution (SIFI) Supervision* in 2010, supervisory bodies must have access to the quality and quantity of resources required to be effective. Enforcement agencies globally need resources not only to conduct investigations and pursue civil and criminal remedies to wrongdoing, but also to invest in the staff, systems, and education necessary to adequately prepare themselves to deal effectively with private actors with access to "best in class" resources.

In the US, both the Securities and Exchange Commission (SEC) and Commodities and Futures Trading Commission (CFTC) are subject to legislative budget allocations that have been flat, despite the heightened pace and quantity of rulemaking demanded by Dodd-Frank. In Europe, common standards (primarily defined by the Market Abuse Directive and the Transparency Directive) are subject to different enforcement regimes among EU member nations, creating disparities in treatment of similar behavior, and confusion among investors—threatening the integrity of capital markets.

Regulators need to be able to invest in the human and technical resources to monitor and challenge the most innovative private sector products and processes.

Enhanced global cooperation between investigative and enforcement agencies is essential to prevent inefficiencies, duplications, conflicts of law, and inconsistent incentives that result from extraterritoriality; for example, international agreements to facilitate audit, investigation, or other fact-finding required by local law should be pursued so that all participants in a given market are subject to the same rules, regulations, and enforcement protocols no matter their domicile.

Implications of having these gaps

- A lack of consistent, credible enforcement mechanisms fails to offer effective deterrents to future badly behaved market participants
- Regulatory reform without commensurate enforcement capability is "toothless" and destined to fail
- Without strong supervision, incentives for good regulatory compliance and risk-sensitive internal management may be lost

Example 9: Fragmented regulatory and professional landscape for the valuation profession

Valuation is used as a basis for investment and other transactions, as well as for measuring performance throughout the global financial system. Valuation is an important component of IFRSs; it is also used for managing solvency ratios, supporting lending decisions, and pricing units in collective investment schemes.

There is a lack of recognition of the importance of valuation, which has resulted in a fragmented professional and regulatory landscape when viewed from a global perspective.

Most of the professional infrastructure that exists for valuation has been built up around real estate. This is true also for national regulation, where the collapse of real estate bubbles over the past 50 years triggered government intervention. Only three countries in the G-20 have professional bodies focused on business and intangible asset valuation. However, in some significant sectors, e.g., financial instrument valuation, little or no professional infrastructure exists. There are major differences between countries in the extent and detail of regulations on who may value different assets for different purposes. Within some countries there is also a multiplicity of different accreditations for valuers dealing with similar asset classes, with different degrees of regulation working to different professional standards.

Regulation is necessary to ensure that appropriate quality is provided in the market for valuation services and to provide comfort to users that: an expert valuation provider has the necessary qualifications, will meet appropriate professional standards in his or her work, and that the valuation has been prepared in an environment that maximizes objectivity and minimizes bias.

Implications of having these gaps

- Inconsistent stipulations as to who may value certain assets for certain purposes, lack of mutual recognition of equivalent qualifications, and excessive fragmentation of the organized profession act to limit competition, restrict the development of consistent high-quality practices across borders, and create complexity and unnecessary expense for entities with assets that require valuation in different countries
- A lack of any professional infrastructure—whether self-regulated or based on statutory requirements—creates a significant risk for those who rely on valuations for financial decisions, with consequences for wider financial stability

Impediments to closing the gaps

- Government restrictions on who may value certain assets for certain purposes that no longer reflect the needs of markets and/or that encourage fragmentation of professional groups
- Excessive fragmentation of professional bodies based on geography or sector that limit the development of a strong profession

7.1 Strengthening Regulatory Organizations – Recommendations

The Taskforce recognizes the importance of strengthening international regulatory organizations and therefore makes the following recommendations.

Recommendation 11:	**G-20 to support appropriately structured and resourced:** • **international regulatory organizations that have clearly defined expectations and responsibilities. This includes international bodies representing securities, banking and insurance regulators, and private sector and public sector standard setters; and** • **national regulatory bodies that have clearly defined expectations and responsibilities, and that ensure that international regulatory practices are consistently applied.**
Recommendation 12:	**G-20 to encourage the development (initially through the FSB) of a mechanism for approving shared private sector/public sector standard-setting arrangements (structural and resourcing) for standards of importance to the financial sector. Such a mechanism would legitimize standard-setting arrangements through recognition and endorsement of the standards.**

8. Resolution for Bank-Related Financial Institutions

One critical matter specific to the financial services sector, where gaps in regulatory convergence are evident, is the need for cross-border resolution arrangements for bank-related financial institutions. This issue is of importance to the restructuring and insolvency profession. Differences in resolution and insolvency laws for dealing specifically with deposit-taking institutions and other bank-related financial institutions create ambiguities and potential conflicts for financial institutions operating internationally and, more importantly, make much less credible the ability to resolve a failing firm without resort to public funds.

It is exceptionally important for the G-20 to improve the coordination of cross-border resolution issues for bank-related financial institutions, ensuring that adequate safeguards and provisions are established and operating effectively. The G-20 should put a high priority on promoting the establishment of a globally coordinated resolution regime, which will assist in reducing uncertainties and potentially serious conflicts for financial institutions with international operations. Ambiguities and conflicts raise the prospect of greater instability, contagion effects, and moral hazard concerns.

The FSB consultative document, *Effective Resolution of Systemically Important Financial Institutions* (July 2011), suggests (subject to needed amendment on the basis of the pending consultation) important directional guidance on the need for: consistent, strengthened national resolution regimes; cross-border cooperation arrangements; the provision of explicit mandates for national resolution authorities for cross-border cooperation; and fair outcomes for all creditors regardless of nationality. However, the document failed to advocate a multilateral agreement or convention on cross-border resolution on the grounds that there is no "immediate prospect" for such an agreement. Such agreement is something which the Taskforce considers necessary. As the FSB report and the parallel Basel Committee report on *Resolution Policies and Frameworks* (July 2011) document, there is therefore still considerable scope for national actions that may yield less than optimal results for creditors of a failing group and for the system as a whole.

More detailed discussion of this issue is included in the following example.

Example 10: Differences across jurisdictions in terms of insolvency laws for dealing specifically with bank-related financial institutions

It has been recognized by the FSB and other observers that the failure of certain types of financial business cannot be resolved efficiently or without serious secondary effects through normal statutory bankruptcy or insolvency processes. Such firms depend in large part on the confidence of counterparties and, as the Lehman Brothers bankruptcy demonstrated, traditional liquidation causes huge destruction of value for creditors and other claimants and market disruption. This is especially true of banks and similar financial institutions, which can collapse overnight in conditions of loss of confidence, with consequent destruction of value for claimants on such institutions and widespread market instability.

Insurance companies pose different issues in insolvency. While they are generally subject to specialized winding-up legislation, such legislation is narrowly focused on individual jurisdictions, without recognizing cross-border or group issues, and varies considerably across jurisdictions (refer to Example 4, which discusses solvency levels and regulation of insurance groups).

Recovery and resolution planning for banking groups are now being devised under the auspices of the G-20 and the FSB and implemented by national authorities. The recovery phase of such plans (intended to be implemented before the point of non-viability and without recourse to extraordinary state aid) should help restructure weakening firms into viable going concerns. However, much needs to be done to assure cross-border consistency of such processes, which may be considered akin to recapitalization and reorganization of non-financial firms in solvency difficulties but in advance of failure. In particular, the international status of "contingent capital" instruments remains unclear, pending further pronouncements from the Basel Committee, as well as national authorities. In addition, clear international standards are required for recovery planning requirements, which must be consistent to avoid distortions of the level playing field.

When financial services firms are at the point of non-viability, it becomes important to have effective, efficient, and internationally coordinated resolution provisions that allow highly rapid ("over the weekend") solutions, to avoid unnecessary destruction of value and market disruption. Even where legislative provisions for resolution of (bank-type) financial institutions have been updated to allow for rapid intervention in the event of the failure of such a firm (as is the case in the US and UK), there remain serious ambiguities and gaps in the critical cross-border dimension. Sure legal foundations are needed to ensure cross-border resolution solutions that are impartially fair to claimants in all countries and also minimize systemic risks on a cross-border basis. Important gaps in provisions for cross-border resolution still exist, as a recent Basel Committee study has shown.

The FSB proposal for resolution of systemically significant cross-border financial institutions, issued on July 19, 2011, is headed in the right direction and contains many positive features for recovery and resolution processes—such as mandates for international cooperation. However, it does not go far enough. It should include G-20 mandates for: (i) jurisdictions to remedy the regulatory and legislative shortcomings that stand in the way of a fully credible, effective, internationally coordinated resolution regime for such institutions; and (ii) jurisdictions to work toward a multilateral concordat or international agreement to establish a sound basis for consistent, predictable resolution of failing financial firms that is fair to claimants in all jurisdictions, without discrimination and on a basis of respect for creditor hierarchies. The UNCITRAL convention for cross-border recognition of insolvencies of non-financial firms shows, mutatis mutandis, that international agreement in this area should be possible.

Furthermore, the FSB proposal is excessively vague on many points. With respect to "pre-crisis" measures for going concerns, it needs more development in relation to: the assessment of a firm's resolvability, recovery and resolution planning, the measures that might be taken to improve resolvability, and the appropriate treatment of intergroup exposures. With respect to "in-crisis" provisions, it needs further work on: the respect of creditor hierarchies, stays and termination rights, and cooperation among authorities. Industry groups have provided extensive comments to the FSB on all these matters and hope to work with the FSB to develop a clear, workable, and internationally consistent cross-border recovery and resolution regime that will: permit consistent assessments of resolvability and measures to improve resolvability; provide for prompt and sure resolution of firms at the point of non-viability; preclude any future need for state financing of resolutions by assuring that shareholders and creditors absorb losses (while respecting established creditor hierarchies); treat claimants in all countries equitably; avoid systemic disruption or interruption of vital financial functions; and conserve as much value as possible in event of a failure, avoiding the problems that arose from the Lehman Brothers failure.

Implications of having these gaps

- Lack of clarity as to whether prompt, fair, and certain resolution of banks with international operations would be possible without systemic disruption or recourse to the public purse
- Greater reliance on ring-fencing assets for the benefit of national claimants on a failing firm may create unfair outcomes for creditors of a firm (or group) as a whole
- Lack of assured credible, rapid resolution on a coherent basis of a cross-border concern contributes to instability, moral hazard, and pressure for otherwise counterproductive capital surcharges and other matters
- Methodological vagueness regarding resolution leads to a lack of predictability, and questions about consistency of application across jurisdictions

Impediments to closing the gaps

- Need for concerted focus on overcoming obstacles, including adopting amendments of national legislation as recommended by the FSB/G-20 resolution to proceed toward multilateral agreement on resolution

8.1 Resolution for Bank-Related Financial Institutions – Recommendation

In relation to the need for a globally coordinated resolution regime for bank-related financial institutions, the Taskforce recommends the following.

Recommendation 13: **G-20 to establish a globally coordinated resolution regime for bank-related financial institutions. In particular, the G-20 is urged:**

- **to act as quickly as possible on the recommendations of the recent FSB report on *Resolution Policies and Frameworks* (July 2011) intended to maximize international cooperation among resolution authorities (including legislation as needed) and to encourage the completion of the further work needing to be done on aspects of the FSB proposals; and**
- **to take advantage of the current focus on resolution issues to proceed expeditiously toward a formal multilateral agreement.**

9. Other Parties Involved in the Financial Sector

Gaps in regulatory arrangements for financial institutions and key market participants in the financial sector mean that some critical aspects of the operations of the financial sector remain unregulated, unsupervised (or at the least are not subject to any meaningful oversight), or inconsistently regulated across jurisdictions. As a result, regulatory arbitrage opportunities exist, potentially resulting in instability and inefficiency concerns. Examples of such parties include credit rating agencies and those involved in "shadow banking" activities.

It is important that the G-20 review the regulatory arrangements for all critical market participants in the financial sector. Robust, effective, and efficient regulation, supervision, and/or oversight should be maintained and consistently adopted and implemented over all key aspects of the market to ensure greater financial and economic stability. Overall, the G-20 should actively seek to reduce regulatory arbitrage for financial institutions, where it is potentially damaging to ongoing economic or financial stability.

Credit Rating Agencies

Example 11: Lack of consistency of treatment of ratings

Although the US, EU, and other major jurisdictions are proceeding toward enhanced regulation of credit rating agencies, issues of international consistency are especially important, given the need for globally understood and respected external ratings. It is important for all parties to aim toward avoiding undue reliance on external ratings while also permitting achievement of internationally workable and consistent standards.

A serious issue for the ability to achieve consistent banking regulation has been thrown up by the inconsistency between US, EU, Basel, and other provisions for reducing undue reliance on ratings provided by credit rating agencies. Whereas Basel and the EU appropriately create incentives for the reduction of firms' reliance on external ratings, they permit ratings to be used in connection with overall internal risk management processes—subject to accepted standards and official supervision. In contrast, the US has made a unilateral decision to prohibit use of external ratings in regulations. This is an example of regulatory decisions that are not well coordinated between different jurisdictions.

The Taskforce makes the following recommendation with respect to regulatory arrangements pertaining to the treatment of ratings for banking supervision purposes.

Recommendation 14:	**The G-20 and the FSB to work with all parties to develop arrangements that achieve the goals of avoiding undue reliance on external ratings, while also permitting achievement of internationally workable and consistent standards and supervision of credit rating agencies.**

"Shadow banking" activities

"Shadow banking" activity represents a huge and vastly complex area; in effect it is an asset-based wholesale funding system for banks and non-bank financial firms that do not have access to a deposit funding base. Participants in this area typically act as financial intermediaries, playing an important role in the provision of credit across the global financial system. "Shadow banking" activity presents major difficulties for government and regulators in respect of supervision and oversight arrangements, vis-à-vis the traditional banking system. The Taskforce is encouraged that the FSB has approved initial recommendations for strengthening the oversight and regulation of the "shadow banking" system, and supports initiatives aimed at implementing effective and robust oversight arrangements, in a timely manner.

Recommendation 15:	**The G-20—through the FSB—to continue to strengthen, in a timely and globally consistent manner, the oversight and regulation of certain areas of the "shadow banking" system.**

To promote economic and financial stability, it is clear that global leaders must continue to aim for coordinated and consistent solutions and responses to the issues raised by the global financial crisis. A failure to deal with the need to implement important reforms—such as global regulatory convergence in the financial sector—heightens the risk of further instability and a recurrence of global financial crises.

It is with this in mind that the Taskforce strongly encourages the G-20 to consider and adopt the 15 recommendations outlined in this report as a matter of urgency. Additionally, addressing these recommendations would go a long way toward minimizing regulatory arbitrage. Inconsistency in any internationally material aspect of regulation or supervision may, for example, create conditions for "a race to the bottom" in which potentially less stringent regulatory requirements are imposed upon financial institutions in different jurisdictions or upon similar products offered by different types of financial institutions. Conversely, any serious deviation from the international level playing field may produce competitive distortions that are unfair to the firms involved or may produce perverse incentives that run contrary to the goals of the international standards. Even if jurisdictions avoid the temptation to dilute regulation in the name of competitiveness, fragmentation makes regulation much less efficient for firms and also for regulators, which tends to undermine its effectiveness.

However, this does not suggest that a "one size fits all" approach should be taken for all regulatory reform, as differences in business models, operations, and objectives among different financial institutions must be recognized (e.g., the differences that exists between banks and insurance companies) and market participants.

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Appendix 1: Regulatory Convergence — Why it is Important

The G-20 report issued following the Heads of Government Summit in Washington in 2008 noted that one of the root causes of the financial crisis was inconsistent and insufficiently coordinated macroeconomic policies and inadequate structural reforms, which led to unsustainable global macroeconomic outcomes. A number of actions were identified to address these issues under broad headings such as creating common principles for the reform of financial markets, strengthening transparency and accountability, and enhancing sound regulation and regulatory regimes. Each of these topic areas involves aspects of enhanced regulatory cooperation, coordination, and convergence. A priority for the G-20 for 2011 is "strengthening financial regulation," which implies the need to move toward greater global regulatory convergence. In discussing this priority, the Presidency of the G-20 noted that in order to strengthen financial sector oversight for the longer term, it was important to ensure that "rules decided upon by the G-20 are put in place." Also, it recognized the importance of working to strengthen financial regulation in areas where it is still inadequate, such as with respect to "shadow banking" and financial market integrity and transparency.

A major motivating factor for enhanced regulatory coordination, cooperation, and convergence is to minimize systemic risk issues that result from inconsistent and inadequate regulatory arrangements for globally important and interconnected industries, such as the financial sector. Effective, robust, appropriate, and consistent global regulation assists in the early detection and mitigation of potentially serious systemic risks that readily transfer their effects across borders and create global crises such as those witnessed in recent years.

Other reasons to promote regulatory convergence—particularly important for this Taskforce—include the economic costs and inefficiencies that result from differences in regulation between jurisdictions that promote regulatory arbitrage. It is recognized that: (i) there may be advantages (i.e., regulatory and economic efficiencies) that result from competition among regulatory regimes to improve the efficiency and relevance as well as effective implementation of regulation; (ii) regulatory reform, as currently proposed, may bring economic costs that could be higher than in an environment of optimal, appropriately calibrated regulation; and (iii) regulatory uncertainty and inconsistency are themselves sources of costs to the financial sector and less-than-optimal provision of financing to the global economy. The need to create greater certainty

and minimize the potential for a regulatory "race to the bottom," unfair competition, and cross-border and contagion risks is critically important.

It is important to recognize that achieving regulatory convergence should not be viewed as being synonymous with imposing greater regulatory requirements (and in some cases, burdens) on those parties subject to regulation. It is also not synonymous with simple acceptance of the lowest common denominator of regulatory oversight. Greater financial and economic stability can be facilitated through appropriate regulatory reforms and practices that are both efficient and effective in achieving their aims. Although current regulatory reforms are being considered in reaction to the global financial crisis, it is important that governments and regulators aim to adhere to the principles of high-quality regulation, especially economic impact assessment, as far as is possible in the circumstances.

Principles of good regulation have been issued by various international organizations, such as IOSCO, the Basel Committee, and the OECD.

In 1998 in its publication *Objectives and Principles of Securities Regulation*, IOSCO identified 30 core principles for securities regulations based upon three objectives of securities regulation, namely: (i) the protection of investors; (ii) ensuring markets are fair, efficient, and transparent; and (iii) the reduction of systemic risk. The 30 core principles give practical effect to the three objectives, and aim "to give guidance to regulators and serve as a yardstick against which to measure progress toward effective regulation."[7] These principles cover a broad range of topics, including matters relevant to regulators, self-regulatory organizations, cooperation in regulation, and principles for issuers and the secondary market.

The Basel Committee issued a version of its *Core Principles for Effective Banking Supervision* in 2006, superseding the version issued in 1997.[8] The 25 principles issued by the Basel Committee—which are considered to be essential for a supervisory system to be effective—are categorized under seven broad headings: (i) objectives, independence, powers, transparency, and cooperation; (ii) licensing and structure; (iii) prudential regulation and requirements; (iv) methods of ongoing banking supervision; (v) accounting and disclosure; (vi) corrective and remedial powers of supervisors; and (vii) consolidated and cross-border banking supervision.

Commencing in the 1990s, the OECD has considered what constitutes principles of high-quality regulation. Principles issued in 1997 were later refined—drawing on the lessons of experience in the use of these principles across several nations—into the *OECD Guiding Principles for Regulatory Quality and Performance* (2005).[9] These seven guiding principles—which aim to ensure that regulatory structures and processes are relevant, robust, transparent, accountable, and forward-looking—include the need: (i) to define clear objectives for regulation and establish frameworks for implementation; (ii) to assess impacts and review systematically to ensure that intended objectives are being met efficiently and effectively; (iii) for transparent and non-discriminatory regulations, regulatory processes, and regulatory institutions; and (iv) to identify

7 Refer to www.iosco.org.

8 Refer to www.bis.org/publ/bcbs129.pdf.

9 Refer to www.oecd.org/dataoecd/24/6/34976533.pdf . In 2011, the OECD released a consultation document that aims to refine and revise these principles.

important linkages with other policy objectives and develop policies to achieve objectives in ways that support regulatory reform.

Efforts to converge should consider the adverse effects that duplication of regulatory requirements in a number of jurisdictions and differences in regulatory arrangements across different jurisdictions, including the lack of globally accepted standards, have on promoting the G-20 objectives.

The models of regulation used across the market segments represented by the Taskforce vary from highly government regulated to largely self-regulated arrangements. When examining potential regulatory reforms, it is important to consider alternative models for regulation that may be most appropriate in the circumstances. In many cases, the preferred model of regulation represents one with an appropriate balance of government regulation and self-regulation. Similarly, the most appropriate level and type of convergence may differ. For example, when considering the issue of global standards, it is possible that in certain areas the aim should be to require equivalent standards and rules across countries, while for other areas the focus may be to obtain broadly comparable outcomes. In determining regulatory arrangements across the financial sector as a whole it is appropriate to adopt a principles-based approach focused on achieving well-understood and agreed outcomes based on effective, efficient, and internationally consistent regulation.

It should be noted that regulatory organizations may include standard setters, international and national regulators, and international bodies that are comprised of, or represent, national and industry regulators. While there are specific issues pertaining to these alternative organizational structures that may need to be examined differently, for the purposes of this report the organizations are referred to as one group.

Of course, it is a major challenge to ensure that regulatory reform is completed and implemented in an internationally consistent and coherent manner. However, with agreement at the G-20 level on key regulatory convergence issues and on maintaining the priority of international convergence as a goal, tremendous impetus for the possibility of achieving truly global convergence in a reasonable timescale is provided.

Efforts toward global regulatory convergence in the financial sector pre-date calls made by the G-20 in response to the global financial crisis. However, pronouncements and action plans issued at recent G-20 meetings have provided renewed emphasis on the topic. For example, reports from recent G-20 meetings have identified the importance of regulatory convergence and coordination. These include:

- Washington Summit 2008, Common Principles for Reform of Financial Markets, Point 8 – "*intensified international cooperation among regulators and strengthening of international standards, where necessary, and their consistent implementation is necessary to protect against adverse cross-border, regional and global developments affecting international financial stability;*"

- Washington Summit 2008, Common Principles for Reform of Financial Markets, Point 9 – "*…national and regional regulators to formulate their regulations and other measures in a consistent manner. Regulators should enhance their coordination and cooperation across all segments of financial markets, including with respect to cross-border capital flows;*"

- London Summit 2009, Strengthening financial supervision and regulation, Point 14 – "*agree to establish the much greater consistency and systematic cooperation between countries, and the framework of internationally agreed high standards, that a global financial system requires;*" and
- Toronto Summit 2010, Financial market infrastructure and scope of regulation, Point 24 – "*global action is important to minimize regulatory arbitrage, promote a level playing field, and foster the widespread application of the principles of propriety, integrity and transparency.*"

Furthermore, G-20 pronouncements have also included specific references to standards and arrangements within the financial sector, highlighting the need for convergence of the IASB and the FASB financial reporting standards in order to achieve one set of high-quality globally accepted financial reporting standards. The same need exists in relation to other sets of standards identified by the FSB as key for sound financial systems and deserving of timely implementation. These standards, in 12 policy areas, include auditing standards and principles of corporate governance, as well as the prudential-regulatory standards proposed by the Basel Committee, standards issued by IOSCO, and revised insurance core principles issued by IAIS. There is also a need for standards to be developed and endorsed globally in other areas, such as valuation and actuarial matters (the latter has significant impact on the insurance sector as well as pension and superannuation plans across all sectors, although in this case the development of these standards is at a different phase of evolution than others and has responded up until now to nationally based financial reporting and regulatory reporting standards).

Over the past few years the Taskforce organizations have individually prepared submissions for G-20 meetings. These organizations have made various public comments on the topic of regulatory convergence and have also made numerous statements to the FSB and relevant standard setters on related issues.

Appendix 2: Gaps in Regulatory Convergence and Implications and Impediments to Closing These Gaps — by Profession or Industry

The tables presented in the following pages describe a range of regulatory convergence gaps identified by Taskforce members, as well as the implications of having such gaps, and impediments to closing the gaps. Many of the key issues identified in these tables have been discussed in the main body of the report—some in more detail—and are considered in the recommendations presented in Sections 3 to 9. Furthermore, many key issues are identified by several different professions and industries, highlighting the critical nature of particular issues that permeate the financial sector.

Tables are presented as follows:

Table 1: Accounting Profession – Financial Reporting

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
Financial Reporting Standards: Some major economies have yet to commit fully to IFRSs for domestic companies, but have processes underway (e.g., China, India, Japan, US). In India some "carve-outs" from standards are being proposed, which means the IFRSs will not be fully adopted. Japan has deferred its decision on convergence with IFRSs, while the process of convergence between IFRS and US GAAP has been ongoing for several years. The IASB and the FASB have made significant progress toward convergence and have completed most of the projects on their Memorandum of Understanding (MoU). However, the boards will not complete the remaining three projects, including financial instruments, by the end of 2011 as initially anticipated. In addition, the US SEC has yet to confirm its decision on the adoption of IFRS, which in turn may be impacting or delaying convergence plans in some other countries. Some notable differences remain between the reporting requirements of IFRS and US GAAP. One example that creates considerable concern for financial institutions relates to netting or offsetting arrangements. In 2011 the IASB and the FASB attempted to align the financial reporting requirements relating to the offsetting of financial assets and liabilities. The boards were not successful, partly because the existing differences have been institutionalized in their respective jurisdictions.	Increased costs for business: preparation and auditing of financial statements. Lack of comparability. Failure of financial reporting to reflect globalization of capital flows and markets. Impedes cross-border flow of accountancy services. Makes establishing a common global regulatory framework more difficult and creates opportunities for regulatory arbitrage. The failure to have common financial reporting standards is also an impediment to developing a common regulatory framework for the financial and insurance sectors. Accounting information is often used as a primary input to regulatory models. If jurisdictions use different accounting requirements as the starting point, it is inevitable that achieving common regulatory capital requirements, for example, will also require jurisdictional-specific supervisory rules, reflecting the different adjustments that would be necessary to reach a common end. Clearly, it is better to have a common starting point.

Table 1: Accounting Profession – Financial Reporting (cont'd)

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
It would be beneficial to have the offsetting requirements aligned both for financial reporting and prudential reporting purposes. An example of differences resulting from an existing relationship between financial reporting and regulations relates to taxation. In the US a particular basis for measuring inventory (called LIFO) is permitted for taxation purposes if an entity also uses that basis for financial reporting purposes. LIFO generally reduces the tax base, which is why entities elect to use this approach. LIFO is permitted in US GAAP but not in IFRSs. There is limited support for LIFO as a financial reporting basis. However, eliminating LIFO from US GAAP would change the tax basis for those companies and create potentially significant tax liabilities for them. This is widely perceived to be an impediment to removing LIFO from US GAAP. It is an impediment that could be removed easily, by decoupling or changing the link between the financial reporting and taxation requirements.	Impediments to common financial reporting requirements include the existing relationships between accounting standards and regulations, including taxation.
Consistent Approaches to Enforcement of Standards: There are several bodies and mechanisms—such as ESMA and IOSCO—that work to reduce differences in enforcement. However, notwithstanding their good work, avoidable differences do exist. An example occurred when the financial crisis was developing. Some financial institutions did not impair certain financial assets because they argued that the impairment trigger language referring to "significant or prolonged" falls in value should in effect be interpreted as "significant and prolonged" falls in value. The matter was resolved by the IASB's interpretations body stating that the standard should be applied as written; that is, that impairment should be recognized where there are significant "or" prolonged falls in value. Given the importance and relative clarity of the standard, under the circumstances of the time this is a matter that could have been resolved more quickly by regulators.	The lack of coordination of enforcement creates both real and perceived differences in convergence. Different accounting requirements harm comparability and can increase uncertainty in markets. Opponents of international standards cite inconsistent enforcement of accounting standards as a reason for not having international standards. Common enforcement is important; however, having a common set of standards is the starting point. Common standards and common enforcement are both necessary for consistency. There are no natural regulatory impediments to consistent enforcement; it takes a willingness on the part of enforcement bodies to communicate with their counterparts to identify differences in the application of standards. In some circumstances those differences will need to be remedied by having the standard setter interpret or change the standard. But in other cases the regulators can, and should, resolve those differences.
Clarifying Boundaries Between, and Objectives of, Different Regulatory Requirements: A primary objective of financial reporting is to enhance transparency so that the risks investors believe they are taking when they invest in an entity are consistent with the actual risks they are taking. Financial reporting is an important input for prudential regulators.	Without clear objectives it is difficult to resolve issues. An example is impairment of financial assets. The IASB and the FASB are developing requirements that ensure that users of financial statements have information that helps them assess the likely cash flow collection or conversion of financial assets.

Table 1: Accounting Profession – Financial Reporting (cont'd)

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
However, it is important that the standard setter gives priority to financial transparency because that is its objective. Prudential regulators adjust the accounting numbers for their own purposes—such as measuring leverage—and such adjustments are appropriate to help those regulators meet their objectives. The need to make adjustments is appropriate. The objective of transparency is consistent with financial stability because it reduces informational uncertainty and the risks associated with that uncertainty. It is important that the IASB and regulators are aware of how their processes interrelate, and recognize the need to communicate so that regulators are aware of possible changes to accounting requirements and have the opportunity to adapt adjustment mechanisms where appropriate.	Such an objective typically reflects expected losses. A prudential regulator interested in financial stability might prefer to ensure that the financial system can tolerate unexpected losses and so provide for more (or less) than the financial reporting standards. These measures of "impairment" (or the provision for losses) meet different objectives. Both are valid.

Table 2: Accounting Profession – Auditing and Public Sector Accounting

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
Auditing Standards: International Standards on Auditing (ISAs) are issued by the International Auditing and Assurance Standards Board (IAASB). The latest set of standards—described as "Clarified ISAs"—is comprised of 37 standards, including the International Standard on Quality Control (ISQC) 1. All 37 ISAs have currently been adopted for use in five of the 19 G-20 countries, including Australia, Brazil, Canada, China, and South Africa. Two other G-20 countries have adopted all of the standards issued, except for one standard, which conflicts with the nation's legal or professional environment—in the case of India, it is the standard dealing with group audits (ISA 600), and in the case of the UK, it is the standard on audit reporting (ISA 700). The US does not use ISAs for listed company audits, but uses ISA-based standards for private company audits. The Public Company Accounting Oversight Board (PCAOB) considers ISAs and other auditing standards around the world in the development of auditing standards for listed company audits. The EU does not mandate that member states use ISAs, although 20 member states use clarified ISAs, or are committed to using them in the near future. While several countries (e.g., France, Germany, and Italy) are awaiting final direction and approval from the EU regarding the use of	Increased costs to business in having financial statements auditing—especially for multi-national companies where audit firms need to conduct audits in different countries according to different standards—in particular where statutory audits are required. Lack of comparability of financial reporting and auditing arrangements across borders fails to recognize the globalization of capital flows/markets. Impedes cross-border flows of accountancy services. Increased costs of audit oversight and regulation – as different standards imply differences in licensing, registration, and reporting for auditors. Inability to clarify the role of national standard setters in an environment where international standards are adopted. National legislation that requires the use of nationally based auditing standards. Reluctance to pass standard-setting responsibility to an international organization. Reluctance to move to standards that are "principles-based" and that require a different approach to auditing. Methods and approaches to adoption, which are impacted by the legislative and regulatory environment, including the extent to which auditing standards have

Table 2: Accounting Profession – Auditing and Public Sector Accounting (cont'd)

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
ISAs, like Japan they currently use the ISAs, or the principles embodied in them, as the basis for national auditing standards. Most other G-20 nations have plans to adopt ISAs, although they are at different stages of development. For example, while Mexico has firm plans for adoption, and Argentina and Indonesia are making some progress, Russia is still at a preliminary stage.	the force of law, or are imposed as a professional requirement.
Audit Independence: Many countries impose specific independence requirements on auditors that differ from, or are more stringent than, those in the *Code of Ethics for Professional Accountants*. Differences in independence requirements exist between jurisdictions.	Failure of reporting and auditing arrangements to reflect existence of multi-national entities, and the globalization of capital flows and markets. Impedes cross-border flows of accountancy services. Widely differing independence requirements means that financial statement readers are not in a position to assess the reliability of the information, unless they are in a position to understand the impact on reliability of the different independence requirements. This can have a significant impact on the confidence that investors can have in financial statements.
Auditor Registration: The requirement for an audit firm to register in a jurisdiction is in all cases triggered by audit clients' use of the firm's audit reports there. For most audit firms only a very small number of clients have overseas listings, but those clients frequently have such listings in multiple markets. Each jurisdiction has different triggers for determining whether a foreign audit firm must be registered; these triggers refer to the status of a firm's audit clients. Within the EU, there are different levels of registration (depending on the "standard" of the system of auditor oversight in each jurisdiction) that result in different levels of regulatory obligations. Whilst decisions on the standard of the system in each jurisdiction (known as Equivalence Decisions) are made centrally by the European Commission, it is up to each Member State to implement the decisions into local legislation and this has led to some differences in application.	Audit firms must monitor all clients to determine whether they have overseas filing requirements, whether registration requirements are triggered, and what those requirements are. Audit firms must often undertake time-consuming legal analysis to determine what information can and cannot be provided to satisfy requirements for legal opinions. Oversight bodies must devote significant time and effort to the development and maintenance of registration requirements and oversight systems, to the processing of registration applications, and to the establishment of bilateral agreements. National legislation that imposes specific registration requirements on oversight bodies and reluctance to rely on the registration systems of foreign jurisdictions.
Auditor Reporting: Each cross-border audit regulator imposes reporting requirements on registered audit firms; these can be classified broadly as annual updates and confirmations and ad hoc notifications of particular events. The precise matters covered by these returns, and their timing, differ across the regulators. For example Canada requires only an annual return, Japan	Audit firms must monitor all clients and clients' undertakings to determine whether they have overseas filing requirements, and what reporting requirements are. Firms must monitor requirements for reporting firm- and individual-specific matters in all countries in which it is registered, as well as have mechanisms for capturing and reporting the necessary information.

Table 2: Accounting Profession – Auditing and Public Sector Accounting (cont'd)

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
only ad hoc reporting (within 14 days of the event), and the US, EU Member States, and Jersey require both. There is significant variation in the type of information that must be reported. For example, the US requires reporting of legal proceedings against certain individuals in the firm, and Japan requires reporting changes in the company's principal location and changes to the firm's stated capital.	National legislation that imposes specific reporting requirements on oversight bodies and reluctance to rely on reporting requirements of foreign jurisdictions.
Auditor Inspections and Oversight: The laws in some countries governing inspection of foreign audit firms by audit oversight bodies place those oversight bodies in conflict with one another. In some countries, laws governing inspection of foreign audit firms limit the ability of audit regulators to consider factors such as cost/benefit considerations and the existence of home country oversight in determining whether and how frequently to inspect foreign audit firms. US law requires the PCAOB to conduct inspections of foreign firms that perform audit work for "issuers" or their subsidiaries. Where a home country's oversight system has been deemed equivalent, there is reciprocal treatment by the home country, and there are working arrangements in place between the two regulators, EU regulators may choose not to subject a firm to their system of oversight including inspections. Where it is not the case, the firm will be subject to inspection even when that firm only audits a trivial proportion of the EU country's stock market capitalization. The Japanese FSA has the power to subject registered firms to inspection but will not do so providing: (i) it has deemed a firm's home regulator has an oversight system equivalent to that in Japan, (ii) arrangements are in place to exchange information, and (iii) the home regulator reciprocates such an approach. A number of regulators seek to inspect the audit working papers of foreign subsidiaries of companies listed in their jurisdiction but have no right of access to those working papers or are prevented from seeing them by privacy and data protection laws in the foreign jurisdictions.	Regulators who wish to adjust their inspection plans for firms in foreign countries (for example, because those firms audit companies that have a de minimis level of share ownership in the regulator's country or to take account of the capability of the home country regulator) have limited ability to do so. There are significant obstacles to the implementation of joint inspection approaches that could lead to greater confidence in the capability of home country regulators. Regulators' time and attention is devoted to attempting to clear legal and procedural obstacles instead of to inspections of audit firms. Registered audit firms can be subjected to duplicate inspection requirements, which add cost and resource burdens with little or no improvement in audit quality or confidence on the part of financial statement users. The inspection of a group audit may be restricted to companies located in the home country of the parent company. If regulators were to rely on each other, such inspections could extend across a whole group. National legislation that imposes specific inspection requirements and impediments on oversight bodies. Political pressures that compel legislators and regulators to press nationalistic objectives rather than to work cooperatively with foreign authorities. Reluctance by regulators to rely on each other's inspections.

Table 2: Accounting Profession – Auditing and Public Sector Accounting (cont'd)

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
Public Sector Reporting: Widely divergent reporting by governments (including for GFS) is a major concern to the private sector, especially in light of the sovereign debt crisis engulfing several countries. Public sector debt represents a significant proportion of the total value of trades on securities markets. The problems highlighted by the sovereign debt crisis include—but go much deeper than—the transparency and accountability of governments, and poor public finance management and public sector financial reporting. It is important that institutions for fiscal management are structured to provide the necessary constraints and incentives for governments to manage their finances in a manner that protects the public interest as well as investors.	Failure to use modern accounting standards and lack of transparency and accountability by governments—heightened by sovereign debt problems (incl. fraudulent reporting). Growing demand by investors/government borrowers for better financial information.

Table 3: Actuarial Profession and Insurance Industry

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
Issues Impacting the Actuarial Profession and Insurance Industry	
Solvency Regulation for Insurance: There are no uniform solvency level requirements applicable to insurance entities, in contrast to the Basel Accord of the banking industry. Approaches to assess the solvency of insurers are diverse, ranging from simple fixed-ratio, risk-based capital to scenario-based, or internal models. Although the types of risks assessed and their risk classifications have some similarity, they are not consistent. Risk measures and confidence levels are also diverse from jurisdiction to jurisdiction. Although Solvency II in Europe will bring consistency across the European Member States and other states that follow it, this consistency will not be global in scope.	Solvency regimes lack comparability and consistency between jurisdictions. As a result, there is potential for regulatory arbitrage by means of transfer of risks to entities in "cheaper" capital cost jurisdictions. In many cases insurers can select the jurisdiction to which to transfer the risks where solvency requirement is least onerous. Lack of consensus and reluctance to change existing solvency regimes. Differences across supervisors in risk tolerance.
Insurance Group Supervision: There are many insurance groups that are active in doing their business around the world while the regulations affecting insurance groups are divergent. In fact there are jurisdictions where no group supervision exists at all. In most cases, existing regulation focuses on the solo legal entity and may not identify risks that may result from being a member of the group.	Divergence in group supervision causes lack of consistency. Addressing differing local regulatory requirements in a head office location and locations of subsidiaries and branches can increase the cost of doing business with inconsistent group supervision and regulation, with limited enhancement of value for the investor, policyholder, or public. Risks may be posed by non-insurance entities within the insurance group. Failure to coordinate the process of managing regulatory oversight of groups.

Table 3: Actuarial Profession and Insurance Industry (cont'd)

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
Financial Reporting: Historically there has been limited need for a single set of international actuarial standards as the application of actuarial work has generally been local in nature to the individual legal entity or plan, as the application of that work has generally related to national reporting requirements. For insurance, this is generally the result of a lack of meaningful international financial reporting standards or supervisory reporting requirements for insurance contracts or entities. Once the revisions of IFRS 4 *Insurance Contracts* and updates to IAIS guidance are complete, more attention is needed to consistent actuarial reporting on an international basis.	National/regional actuarial standards remain appropriate as long as national regulatory reporting standards retain their different requirements. However, to the extent that such reporting standards converge, it will be appropriate that corresponding actuarial standards become more consistent. In practice, standards of practice for consolidated groups generally follow the requirements of the country in which the group is headquartered. However, inconsistent financial reporting standards between countries have increased costs due to multiple financial reporting and regulatory reporting requirements. These have impeded consistency and comparability of results across entities for which actuaries provide expert advice. The long delay in the IASB's development of meaningful international financial reporting standards for insurance contracts and revisions to the measurement of pension obligations. Even once the IASB's work is complete, possible lack of convergence between IFRS and US GAAP will result in a lack of a level playing field. Lack of actuarial standards for use in certain, primarily smaller, countries.
Auditing: No international standards or protocols are in place specifically addressing the relationship between actuaries and auditors, although examples exist in certain jurisdictions.	The lack of existence of specific international standards results in possibly inconsistent assessment of regulatory reports and auditing conclusions, potentially reducing the reliability of entities' financial statements. However, this is not currently seen as representing a high-priority concern.
Issues of the Actuarial Profession	
Professional Conduct: Almost no large countries are left uncovered by minimum ethical conduct standards for actuaries.	Limited implications for major financial institutions or jurisdictions. However, there is a lack of strong actuarial infrastructure in certain smaller developing countries.
Other Standards: International actuarial standards for general practice are needed (these are currently under development by the IAA). Historically the lack of such standards relating to financial and regulatory financial reporting have not been seen as significant, as most regulation and financial reporting standards have been set at a national level. However, over the next several years, as more such standards are established at a regional and international level (e.g., revisions to IFRS 4), the lack of a set of international standards will become more important in many jurisdictions.	Failure to address certain areas of actuarial practice could result in reduced ability to rely on actuarial work products in the future. Adequate resources at national level. No means currently to ensure that international standards as they are developed are adopted or implemented in a consistent manner in local jurisdictions (either as written or through equivalence/modification of existing local standards).

Table 3: Actuarial Profession and Insurance Industry (cont'd)

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
Actuarial Opinions: Limited consistency across jurisdictions as to approaches or documentation taken, in part due to differing national regulatory requirements.	Lack of comparability. In multi-national groups inconsistency may result in additional costs of aggregating actuarial conclusions regarding adequacy of financial condition or funding of programs. This is largely the result of inconsistent national regulatory standards.
Cross-Border Discipline Process: Although agreements exist in several regions, cross-border discipline agreements have not yet been agreed globally.	Risk that actuaries who have been disciplined in one jurisdiction might continue to operate in another. Privacy and confidentiality concerns. Fear of lawsuits.

Table 4: Corporate Governance

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
Financial Reporting/Auditing: Major gap—US does not use IFRS/ISA.	Increased cost for investors and businesses. Lack of comparability.
Shareholder Responsibilities: Initiatives in UK, the Netherlands, and South Africa promoting shareholders' responsibilities (e.g., the issue of a Stewardship Code in the UK) not yet undertaken in other parts of the world.	Shareholders and investors are not taking the appropriate level of responsibility or being part of the solution, including for governance of banks and other financial institutions.
Shareholder Rights: Major gaps—possibility to nominate board members and to vote on executive compensation.	Higher risks for minority investors and their beneficiaries if shareholders do not have the possibility to nominate board members or to vote on executive compensation.

Table 5: Financial Services Industry

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
Bank Regulatory Capital Requirements: Unclear process for possible changes during monitoring and implementation period; uncertainties about "fundamental review" of trading book rules; "gold plating" in some jurisdictions; suggestions of various deviations for local "specificities"; inconsistent timing of implementation in major markets; local obstacles to implementation (e.g., Dodd-Frank prohibition on use of ratings); and local requirements may complicate compliance for national and international banks (Collins "floor" in US). Where national options are provided in Basel Accord, consistent implementation guidelines should be observed. Suggestions of inconsistent interpretations, e.g., of RWAs, are being looked at by Basel Committee.	Basel II and III are intended to be the foundation of the new global financial stability regime mandated by the G-20. Any material deviations risk creation of level playing field issues or, possibly, regulatory arbitrage. The Basel Committee has established an implementation schedule, but different countries are either anticipating implementation or have fallen behind in various ways. Inconsistent timing of implementation is a level playing field issue and, at the least, saps the credibility of an international accord. Although the Basel Accords have traditionally been considered minima, topping up of the much-augmented international capital requirements in specific jurisdictions is problematic.

Table 5: Financial Services Industry (cont'd)

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
EU CRD IV proposal is broadly in line with Basel III, but does include some new items, some deviations from Basel III that undermine confidence in global consistency; EU allows countries to go ahead of Basel schedule: this is criticized by the industry as potentially harming process of creating consistent international standards. EC proposal would restrict "gold-plating": this is consistent with industry argument that standards should be consistent, not just minima. US notice of proposed rulemaking is not yet available.	Lack of internationally consistent implementation and interpretation of the Basel rules could undermine the purposes of a global accord. Substantive issues or unanticipated consequences that arise from Basel solutions during the implementation process should be resolved through international fora, not through unilateral action.
Bank Liquidity Requirements: Unclear process for possible changes during monitoring and implementation period; suggestions of various deviations for local "specificities"; where national options are provided in Basel Accord, consistent implementation guidelines should be observed; inconsistent timing of implementation of Basel III in major markets. EU CRD IV appropriately allows for future changes of Liquidity Coverage Ratio, but sows doubt by leaving Net Stable Funding Ratio for the future. Both need revisions, but clear commitment to international consistency is needed. EU allows countries to go ahead of Basel schedule: this is criticized by the industry as potentially harming process of creating consistent international standards. US notice of proposed rulemaking is not yet available Inconsistent existing national requirements.	Same as for capital; however the issues for liquidity are if anything more acute, given that liquidity is a new area, and the effects of many aspects of the requirements are unknown at this stage. National requirements (including possible host country focused implementation of Basel III) trapping pools of liquidity in local markets creates inefficiencies for firms, will lower credit availability, and may create greater international instability as they preclude firms from optimizing liquidity across markets via internal allocation. Danger of concentration of industry in large national champions, fragmentation of market, if cross-border business is excessively penalized.
SIFI (Systemically Important Financial Institutions) Requirements: The Basel Committee proposal for methodology to identify, apply surcharges to "global SIFIS" issued with unrealistically short consultation period necessary for wide buy-in, assurance of consistency. Proposal will result in inconsistent treatment of "global" and "local" SIFIs at least for a time; unclear if national requirements for local SIFIs will be conformed to the FSB norms (and need for debate as to the extent to which this should be required). Lack of international consensus on extension of SIFI concept to certain non-bank firms, especially insurance firms. See also "Resolution" on page 55.	SIFI capital surcharges are seen as the wrong solution to an issue that should be addressed through other means (resolution, supervision). In any case, any national surcharges should be conformed to global norms as developed. Proposed methodology requires much discussion as to technical details, whether activities focused are the right ones, etc., to ensure consistent outcomes; may undermine consistent, rigorous supervisory judgment. Inconsistencies between global and local SIFIs, and national charges in excess of the global minima will create competitive distortion. Non-bank firms should be included only if clearly required by systemic risk of business models. Danger of concentration of financial industry in large national champions, fragmentation of market if cross-border business is excessively penalized.

Table 5: Financial Services Industry (cont'd)

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
CoCo Conditional Capital: Lack of consistency or uncertainty of rules on design of CoCos, or whether CoCos are required, tolerated, or not allowed for capital purposes; tax inconsistencies. CoCos will not be allowed for SIFI surcharges; permitted for national top-ups (e.g., Swiss finish) but much ambiguity remains; Basel still studying issues.	Ideally the market would decide the best features, triggers, etc., for CoCos, while meeting regulatory minimum requirements, but it is not clear that base requirements will be consistent. Uncertainty obstructs possible development of market. Tax regimes that effectively prohibit some firms from using the instrument if they so choose will create gross distortions.
Business Limitations: Local rules imposed without international coordination.	Level playing field issues for affected firms; possible competitive distortions and limitation of investment choice because of extraterritorial effects of national legislation.
Securitization: EU and US regulations appear likely to differ.	The new capital requirements will put a premium on raising more capital through non-bank channels, but the securitization markets have been slow to revive, in part because of regulatory uncertainty; differences between US and EU (and others) likely to burden recovery of the market, restrict size of deals, lessen credit availability. Joint Forum recommendations need more attention, debate.
Ratings Regulation: EU and US regulations differ. US flat prohibition conflicts with Basel II and III; not consistent with use of ratings among other indicators of credit quality.	EU recognition regime may make it impracticable for EU entities to invest in securities with non-EU ratings, which could have very substantial, unnecessary capital implications for banks and insurance companies. Delay of equivalence analysis of US agencies causing uncertainty. Serious problem for consistent implementation of Basel II and III.
Compensation: EU has hard-wired the FSB suggested parameters; US has taken more principles-based approach.	Inconsistency makes development of risk-based compensation policies within firms in line with the FSB principles more difficult, creates conflicts. The FSB principles focus on compensation policies, rather than specific parameters of compensation.
Resolution: Existing national legislation is country specific; generally does not include sufficient provisions for coordination of resolution of a cross-border group. The FSB proposal of July 19 is positive in many ways, including mandates for international cooperation, but highly complex; inadequate time was allowed for stakeholder consultation. Despite international cooperation features, it arguably does not go far enough to create a true international regime (as exists with the UNCITRAL Model Law on non-financial insolvency) and does not clearly call for G-20 imperative for identified legislative and regulatory changes.	Greater reliance on ring-fencing assets for benefit of national claimants on a failing firm may create unfair outcomes for creditors of the firm (or group) as a whole; Lehman bankruptcy illustrates numerous pitfalls. Lack of assured credible, rapid resolution on a coherent basis of a cross-border concern contributes to instability, moral hazard, and pressure for otherwise counterproductive capital surcharges and other matters. The FSB proposal would be a major step forward, but needs a great deal more work to be credible, and to ensure internationally consistent application.

Table 5: Financial Services Industry (cont'd)

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
Excessively vague on many points, especially assessment of resolvability, improving resolvability, inter-group exposures. Raises serious issues of creditor hierarchy, depositor preference, automatic stays, and contract termination rights that require much more study to avoid their being locked in as obstacles to cross-border solutions. Although general outlines are very positive, several issues that are new at the international level come up: time for study, consultation, debate required to achieve credible, workable results on certain issues (e.g., whether harmonization of creditor hierarchies; depositor preference is required; temporary stays; treatment of intercompany guarantees and cross-defaults).	In particular, a clear G-20 mandate for needed legislative and regulatory changes is needed (but not provided) to ensure that credible resolution can be achieved. Methodological vagueness leads to lack of predictability, questions about consistency of application across jurisdictions. Lack of ambition to go to an international convention and focus on obstacles may lead to more—not less—local ring-fencing. A serious plan for stakeholder consultation on many serious open issues is needed.
Recovery and Resolution Plans: Stand-alone national approaches create ambiguities, potentially serious conflicts for cross-border firms. Regulators may require restructuring or other radical measures if unsatisfied with plans. The FSB proposal is exceedingly vague but authorities could take dramatic action on the basis thereof to require business model and structural changes. Such changes should not be required if obstacles to resolution are exogenous to the firm (i.e., require legislative or regulatory changes).	Incoherent, overlapping, or conflicting national requirements for recovery and resolution plans may be difficult to manage and increase costs. Lack of coordination on remedial requirements could put firms in an unmanageable situation. Certain supervisors appear eager to force subsidiarization of cross-border firms, resulting in inefficiencies for firms and for markets. Lack of sufficient methodological definition, guidance in the FSB proposal makes the process unpredictable by firms, likely to result in inconsistent application across jurisdictions, creating level playing field issues; inconsistent treatment of entities within same group could undermine the intended benefits of an international regime. Danger of concentration of industry in large national champions if cross-border business is excessively penalized.
Special Bank Taxes, Levies: Very different rates, bases of calculation, purposes of taxes or levies in different countries.	Significant competitiveness implications where costs or levies are based on different approaches, creating uneven burdens. Possible double taxation issues if not carefully resolved. "Robin Hood" taxes in some countries may seriously affect ability or willingness to offer banking services in such countries. Taxes, levies are likely to burden credit creation.
Financial Instruments Accounting; Audit: Despite G-20 mandate, it is not clear that convergence will be achieved on basic financial standards such as impairment and provisioning, netting, insurance, etc. However, it is noted that the IASB and the FASB are currently working jointly on the development of an impairment model. Roles of the IASB, local accounting bodies, and other authorities remain unsettled.	Lack of convergence on a single set of high-quality standards will be a burden for issuers and markets, possibly contributing to procyclicality and instability. Continuation of national deviations from international standards possible from EU provisions, US SEC adoption proposal under consideration. If deviations from IFRS as adopted by the IASB are to be allowed, some standards for how local variations

Table 5: Financial Services Industry (cont'd)

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
The IASB governance continues to be questioned. Relationship of the IASB to securities regulators is relatively clear; role of prudential regulators and macroprudential oversight bodies needs to be clarified. The board has acknowledged, through its review of the interpretation function, that more attention should be given to ensuring that standards are capable of consistent application, interpretation, and implementation internationally. Consistent implementation and application of IFRSs remain a concern.	should be managed (disclosure, audit) are in order. Enhanced partnerships between international and regional/national standard setters will enable greater convergence of standard setting and standards. Clear means of consultation and good cooperation between prudential regulators and macroprudential oversight bodies would be helpful to ensuring quality of standards, making clear the appropriate level of consideration of regulatory and financial-stability issues.
Securities Regulation: Many different rules, e.g., on suitability, client classification, access to markets, cross-border use of exchanges, that could be converged have not been.	Divergent rules increase costs, put burdens on competition, and make compliance more difficult. Need to return to regulatory focus on achieving broader mutual recognition (or equivalent).
Derivatives Regulation: US and EU proposed regulations appear to be diverging; significant extraterritorial effects of US regulations, especially regarding margin, clearing, and trading requirements; possible localization requirements for clearing, trade repository information.	Extraterritorial requirements cause conflicts, inefficiencies; inconsistent requirements fragment market, increase costs and compliance difficulties; forced use of local CCPs fragments, distorts market, may dilute benefits of clearing; inconsistent margin requirements and requirements for end users could lead to regulatory arbitrage, migration of business to financial centers for regulatory rather than economic reasons; inconsistencies of requirements to use CCPs or of regulation of CCPs could increase systemic risk.
Insurance Regulation: Substantial inconsistencies across major markets, including on critical issues such as risk weights for assets.	Level playing field and competitive disparities; distortions of market as incentives for insurance companies as investors are affected. Inconsistencies will increase difficulties of achieving regulatory objectives in other sectors (e.g., conditions under which insurers can invest in bank obligations). Risk of protectionism in debates over local collateral or deposit requirements. Continued efforts by the IAIS, particularly with respect to their current ComFrame efforts, are encouraged to better coordinate efforts regarding internationally important insurance groups.
Short-Selling; Market Restrictions: Inconsistent rules adopted.	Inconsistency results in fragmentation of markets and inefficiencies.
Coordination of Regulations: Certain aspects of post-crisis reforms are inconsistent, or may work against each other: this is more a matter of coordinating across sectoral or functional streams of regulation than of	Bank liquidity rules will force banks to fund longer, at the same time that Solvency II and Money Market Mutual Fund rules are requiring them to go shorter. Banks will have incentives to issue term deposits, but consumer

Table 5: Financial Services Industry (cont'd)

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
international consistency, but failure to achieve international consistency in each stream would compound problems.	regulations may interfere with this if proposals for ready transferability are interpreted rigidly. Prudential regulations discouraging banks from buying paper of other banks in the name of reducing interconnectedness or putting much higher capital requirements on trading activities. Market effects of prudential rules on short-term markets, equity markets, and bond markets are unclear.
Supervision: Supervisory coordination is only beginning to get attention. Industry perception is that colleges need to work much better to achieve consistency, reduce duplication, establish common data requirements, etc.	Lack of consistency in supervision can greatly affect the actual effectiveness of regulations, even if they are consistent de jure. Potential level playing field issues. Serious efficiency, cost issues within firms resulting from inconsistent or conflicting supervision.
Macroprudential Oversight: Approaches and tools are still in development. Not clear how well the various national agencies will coordinate amongst themselves. Coordination with traditional monetary and fiscal policy needs to be worked out, while preserving independent roles for financial-stability focus.	Macroprudential oversight is a good idea, but needs practical and methodological development; there is a real risk that the benefits will be diluted or negated if jurisdictions start using different tool kits, data, analytical approaches, etc., in an uncoordinated way. For example, the Basel Countercyclical Capital buffer may be applied in very different ways in national discretion; this could result in economic and competitive disparities.
Reporting and Disclosure Requirements (regulatory and accounting): Despite some convergence (e.g., Pillar 3), multiplication of supervisory reporting and public reporting requirements, often without coordination or convergence. Convergence of data standards is beginning (XBRL, progress on Legal Entity Identifiers) but needs more impetus. The FSB peer review is a good first step, but much more needs to be done on consistency of different types of reporting; evaluating needs for and usefulness of different strands of reporting; managing volume of reporting to avoid information overload; deleting superannuated requirements, etc.	Differences of supervisory reporting requirements (regular and ad hoc) cause inefficiencies both internally and internationally; firms' efforts to come to common data definitions and data models for internal purposes (contributes to regulatory as well as risk-management and business goals) may be impeded by inconsistent supervisory demands in various countries. Macroprudential data gathering by new agencies for financial stability purposes may increase data demands. Inconsistent disclosure requirements make it hard to arrive at an overview of groups and undermine the effectiveness of disclosure standards and supervision.

Table 6: Investment Management and Analysis Profession

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
Systemic Risk Oversight: The crisis revealed major gaps in global regulatory tracking and resolution capabilities for systemic risk.	This issue, the lack of adequate systemic risk oversight frameworks, has implications for continued slow recovery and, more importantly, a repeat of the 2008-2009 situation. Regulators in Europe and the US have been working to create better infrastructure for systemic oversight. New financial stability boards in each region have been created with only slow progress on building out the infrastructure. Key needs include an effective early warning system and an efficient global response mechanism for building systemic risk.
OTC Derivatives: US and EU proposed regulations appear to be diverging; significant extraterritorial effects of US regulations, especially regarding the degree of permissible OTC trading of derivatives, margin and collateral requirements for both centrally and bilaterally cleared contracts, clearing, and trading requirements; possible localization requirements for clearing, trade repository information.	Extraterritorial requirements cause conflicts, inefficiencies; inconsistent requirements fragment market, increase costs and compliance difficulties; forced use of local CCPs fragments, distorts market, may dilute benefits of clearing; inconsistent margin requirements and requirements for end users could lead to regulatory arbitrage, migration of business to financial centers for regulatory rather than economic reasons; inconsistencies of requirements to use CCPs or of regulation of CCPs could increase systemic risk.
Enforcement Capabilities and Resources in the Field of Financial Institutions: Gaps between jurisdictions remain, and virtually all enforcement bodies are significantly resource-constrained.	Failure to enforce existing rules and regulations contributed in part to the global financial crisis, and lack of consistent, credible enforcement mechanisms does not offer effective deterrents to future badly behaved market participants. Regulators need to be able to invest in the human and technical resources to be able to monitor and challenge the most innovative private sector products and processes. Regulatory reform without commensurate enforcement capability is toothless and destined to failure.

Table 7: Restructuring and Insolvency Profession

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
Cross-Border Recognition of Insolvency Procedures: Massive gaps internationally, one of the weakest areas of international legal cooperation. For example, there has been limited adoption of the UNCITRAL Model Law and some countries have required reciprocation in their adoption of it.	High (duplicative) costs, delays, and unpredictability, jeopardizing business rescue, damage to value, and other knock-on economic effects.

Table 7: Restructuring and Insolvency Profession (cont'd)

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
Jurisdictions having modern, effective business rescue and trading insolvency laws: Mainly emerging countries. However, there are still gaps in the laws of developed economies and quality of court services varies widely.	Destruction of value. Cost, delay, and unpredictability.
Jurisdictions having modern, effective creditor compromise laws (schemes, arrangements, plans, enabling majority creditors to "cram down"/eliminate out of the money stakeholders): Significant differences in detail and often weaknesses in cram-downs and in binding hold-out creditors and out of the money stakeholders.	Cost, delay, and inefficiency. Creditors leveraging ransom positions to detriment of stakeholders with priority and potentially jeopardizing a rescue.
Jurisdictions having modern, effective insolvency laws including universal acceptance of creditor claims (no unwarranted priority for domestic creditors): Substantial fragmentation on insolvency laws, bankruptcy ladder of priorities, international comity, and other matters. Ring-fencing approaches have intensified somewhat, especially in field of bank bankruptcies.	Some viable businesses not saved. Value and employment destruction. International inefficiencies in a globalized world. National sovereignty considerations can still result in discriminatory treatment of globalized creditors.
Jurisdictions having balanced laws governing directors' conduct in the twilight zone of financial difficulty (requiring responsible conduct but not inhibiting entrepreneurial activity): Intensification of differences in policy between imposing personal liability for deepening insolvency and protection of business judgment of directors. Considerable differences in whether or not management should have duties to petition for insolvency at trigger points.	Harsh laws damage rescue culture. Lax laws risk moral hazard. Risks for directors of globalized groups where approaches differ.
Jurisdictions having modern, effective, and efficient court systems (including an independent, resourced, specialist judiciary): An enormously wide spectrum of efficiencies worldwide. This spectrum tends to be correlated with GDP per capita but this is not always the case. Some jurisdictions have invested a material portion of their intellectual capital in their judiciary. Others have a different culture.	Markets have to measure two major aspects, i.e., what the law says (the black-letter law) and then also how it is applied, if at all. The result is a very significant increase in unpredictability and uncertainty, giving rise to a significant economic cost. The best laws are close to worthless if not capable of efficient enforcement. Justice delayed is justice denied. Damage to rescue culture and degradation of value.
Jurisdictions having a professional, properly regulated cadre of insolvency practitioners: Varied approaches still: some state regulation (but often underfunded); some court supervision (but often outdated selection procedures); some self-regulation; some places still a free-for-all.	Rogues or incompetents obtain appointments in some places. Drivers for conduct are often not conducive to a rescue culture. Results are increased costs, failure to realize value, and a sometimes disrespected profession.

Table 7: Restructuring and Insolvency Profession (cont'd)

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
Jurisdictions having a strong rescue and informal workout culture based on the *INSOL Global Principles for Multi-creditor Workouts*: Low international take-up of such guidelines.	Most financial difficulties are resolved by private workouts if possible against the backdrop of insolvency laws. The absence of accepted understandings by major creditors and the official sector can significantly impede a successful resolution and can lead to resorting to expensive and time-consuming court procedures. Break up of business capable of being saved may result.
Jurisdictions having modern, effective rescue and insolvency laws for dealing specifically with deposit-taking and other financial institutions: Resolution laws are relatively unusual outside Europe and the United States.	Major problems in achieving resolution of banks with international operations. Contagion effects.
Financial laws providing for effective set off and netting, the creation of collateral security interests and the creation of trust/custodianship arrangements: There is an overall global splintering on these three issues.	Absence of international level playing field for respective treatment of creditors and debtors. Amounts involved are extremely large, a many times multiple of world GDP, leading to excessive and unexpected risks in the international legal regime.
Insolvency laws (i) enabling the super-priority provision of new lending to insolvent entities and (ii) providing for rescue-friendly prohibitions on termination of executory contracts on insolvency while also providing adequate safe harbors for financial and capital markets structures and documents (swaps, derivatives, etc): Many fundamental disagreements on these issues world-wide.	Considerable fragmentation of procedures for dealing with international insolvencies that impact both foreign operations and especially group companies. Potential for failure of viable businesses through lack of new money and/or as a result of actions of selfish counterparties.

Table 8: Valuation Profession

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
Valuation Standards Generally: Major Gap—very few valuation standards produced by national standard-setting bodies for valuations are completely converged with IVS. The recent revision to the standards has produced a simplified set of high-level principles that should facilitate wider adoption and convergence.	Valuation is used as a basis for investment and other transactions and for measuring performance throughout the global financial system. Valuation is an important component of the IFRS; it is also used for managing solvency ratios, supporting lending decisions, and pricing units in collective investment schemes. Inconsistent valuation practice and terminology creates uncertainty for those who rely on valuations and can lead to misunderstandings or inappropriate reliance being placed on valuations.
Tangible Assets: As above	
Businesses and Intangibles: As above	
Financial Instruments: No known standards produced by national standard-setting bodies for valuations with which emerging IVS projects consider convergence.	

Table 8: Valuation Profession (cont'd)

Gaps in Regulatory Convergence	Implications and Impediments to Closing the Gaps
	These in turn create avoidable risks in financial decision making and reporting. The lack of globally recognized valuation standards also creates inconsistencies in the way in which auditors review valuations appearing in financial statements.
Ethical Conduct: Minor gaps between proposed IVSC Code and codes of individual self-regulating professional bodies. Major gap where valuations are provided by individuals or firms with no professional memberships or effective regulation.	Confidence in valuations depends on users also being confident that they have been prepared in an environment that maximizes objectivity and minimizes bias. Inconsistencies in ethical codes may be exploited to influence valuation result. Valuations produced outside a framework of ethical principles that can be effectively enforced cannot achieve the necessary level of trust in their impartiality.
Regulation of Valuers or Valuation Firms: Major differences between different states in extent and detail of regulations on who may value different assets for different purposes. Within some states there are also a multiplicity of different accreditations for valuers dealing with similar asset classes, with different degrees of regulation, and each working to different professional standards. A major gap exists between states and/or sectors that have either statutory or self-regulation of valuation and those with no effective regulation at all.	Inconsistent stipulations as to who may value certain assets for certain purposes, lack of mutual recognition of equivalent qualifications, and excessive fragmentation of the organized profession all act to limit competition and the development of consistent high-quality practices across borders. They also create complexity and unnecessary expense for entities with assets that require valuation in different countries. A lack of any professional infrastructure, whether self-regulated or based on statutory requirements, creates a significant risk for those who rely on valuations for financial decisions, with consequences for wider financial stability.
Regulatory Oversight: Very little formal independent oversight of either self-regulating professional bodies or valuation firms.	No consistency across borders in the way in which self-regulatory bodies or valuation providers are reviewed.

Private Sector Taskforce of Regulated Professions and Industries