

International Cooperation in Bank Resolution

Managing financial crises: where do we stand ? Brussels, 5-6 November 2018

Lehman Brothers

- US Decision had Global Ramifications:

“My Monday began with a call from ECB’s Jean-Claude Trichet, who had been so complimentary about our Bear intervention. Now he wanted to know, in a French-accented blend of astonishment and derision, whether we had lost our minds. How could we let Lehman go? Why would we want to create a global panic?” [Tim Geithner *Stress Test* 2014]

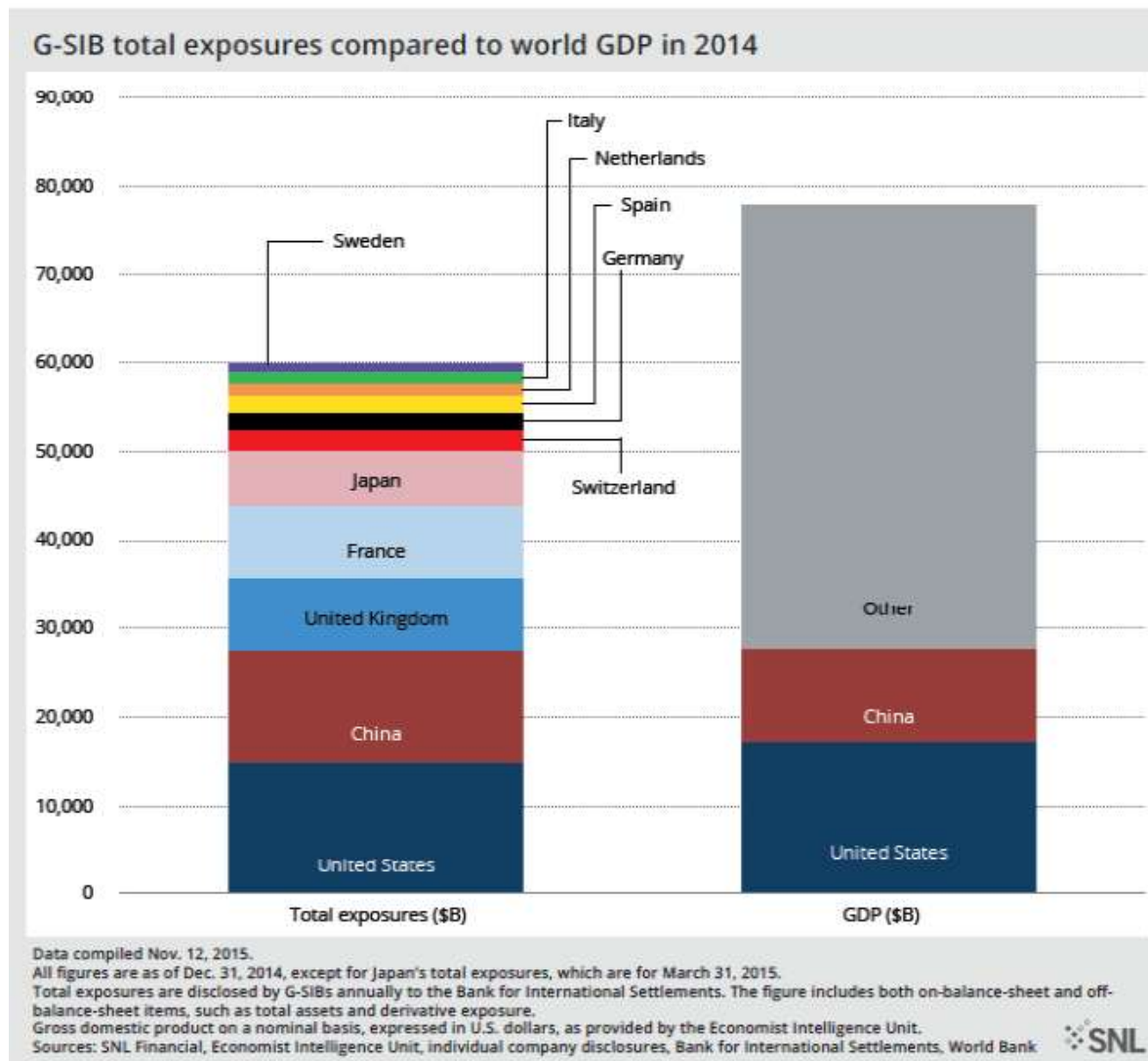
Lehman Brothers

- Ring-Fencing and the Barclays-Lehman failed deal:

“I said that we would not endorse it because basically what you’re asking me to do is to transfer the burden of a bust American bank on to the British taxpayer and there’s no way we can do that.” [Alisdair Darling interview in ThisisMoney.co.uk, 7 September 2013]

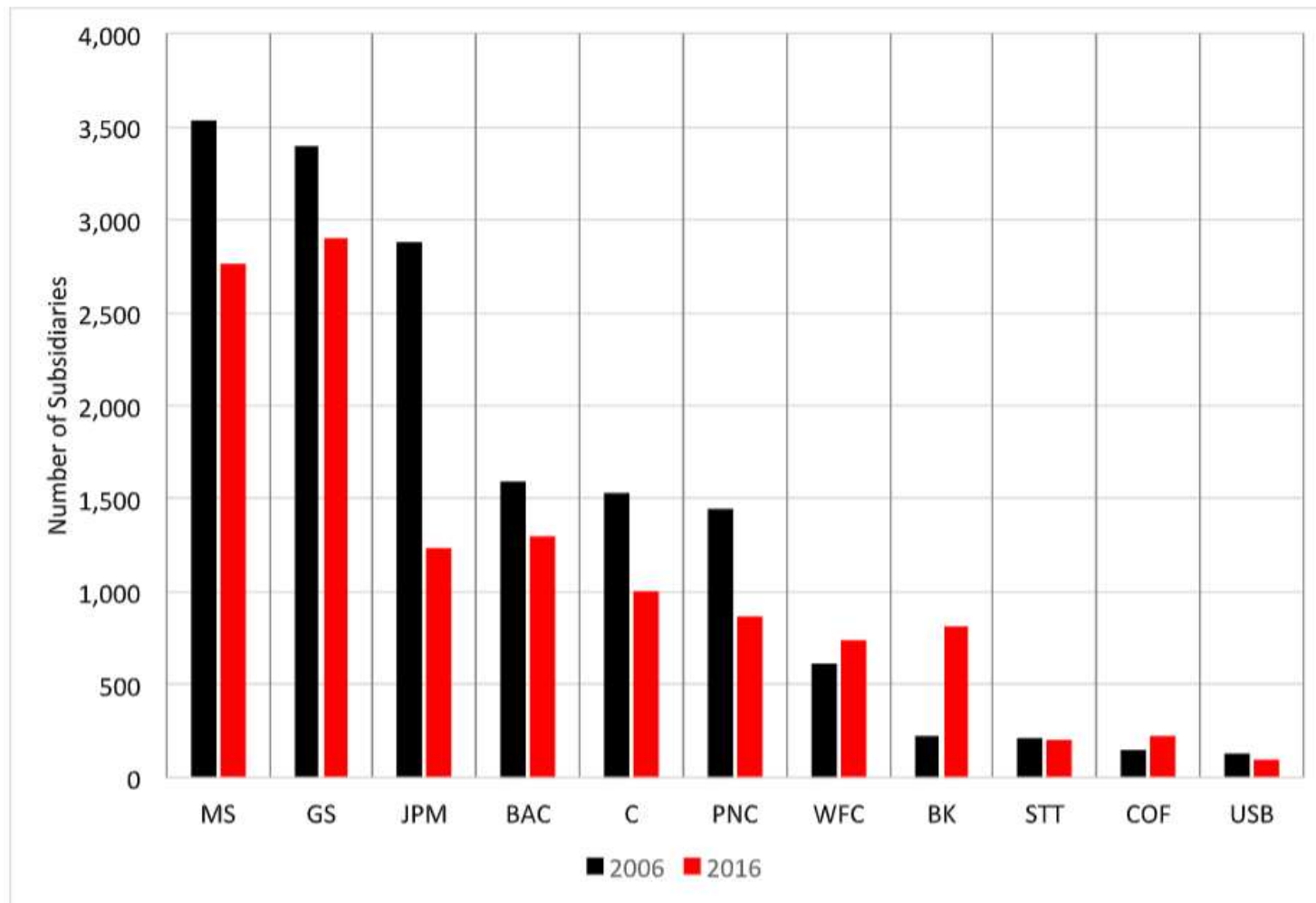
Systemically Important Banks (SIB)

Global Footprint



Systemically Important Bank (SIB) Resolution

Organizational Complexity



SIB Resolution and Qualified Financial Contracts

- Qualified Financial Contracts (QFCs):
Derivatives, Swaps and Repos
- The QFC carve-out:
 - No automatic stay
 - Netting, collateral, and closeout rights
 - No claw-back of eve-of-bankruptcy payments
- Harvey Miller (2009): “*This caused a massive destruction of value [for Lehman]*”

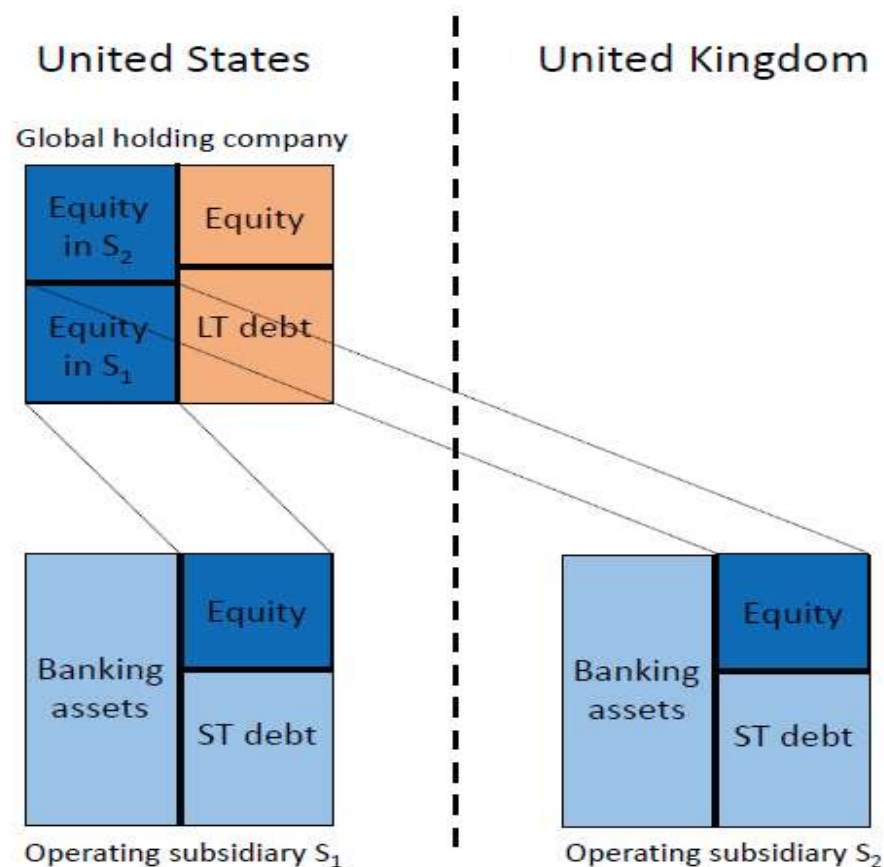
How has the SIB resolution problem been addressed?

- **NEW IDEA:** Keep affiliates untouched and only resolve the Bank Holding Company
- That's what is referred to as **Single point of Entry** (SPOE)

SIB Resolution: Single Point of Entry

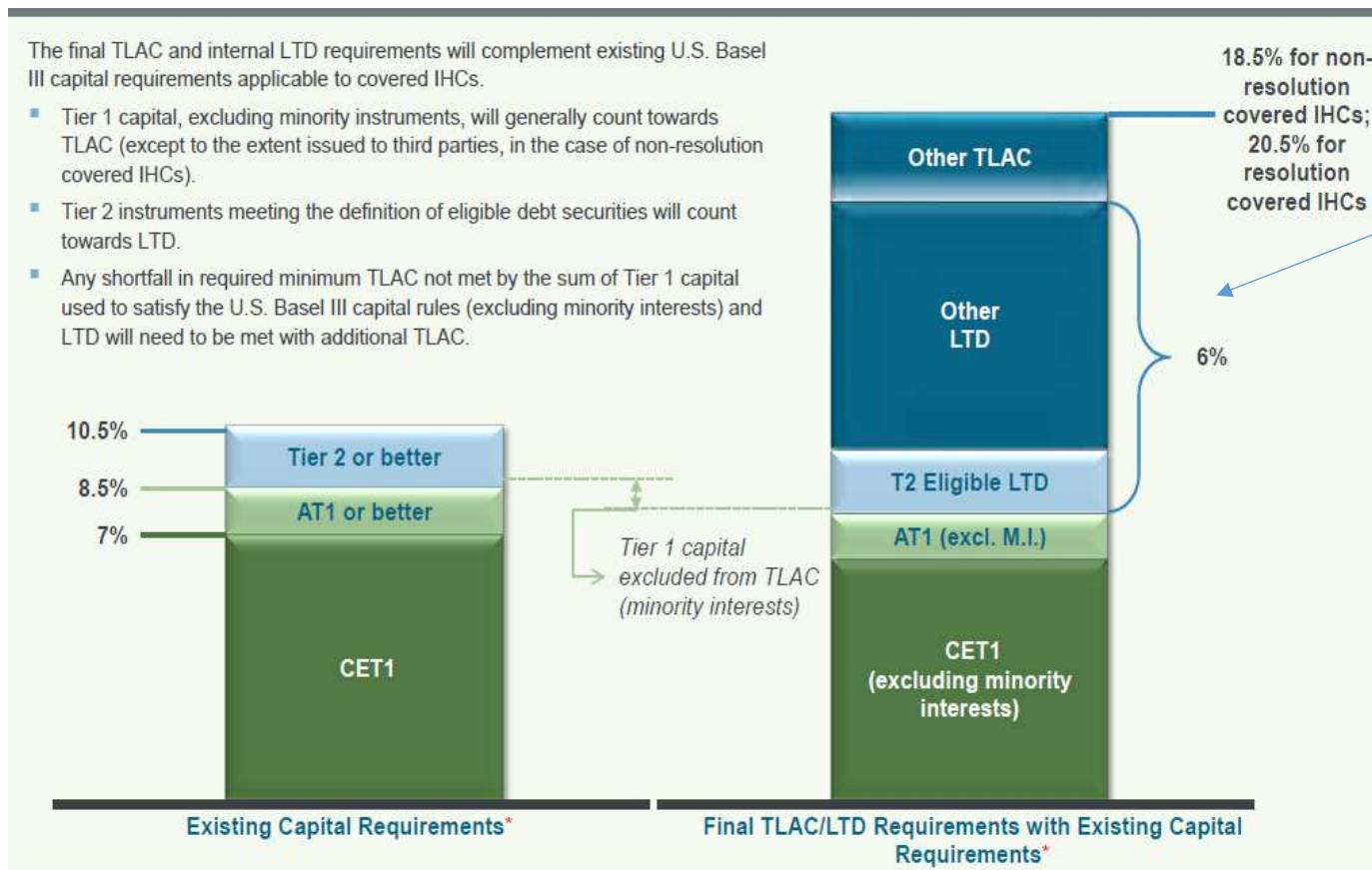
Single point of entry (SPOE):

Loss-absorbing capital shared



SIB Resolution and Loss absorbtion

- Total loss absorbtion capacity (TLAC) :



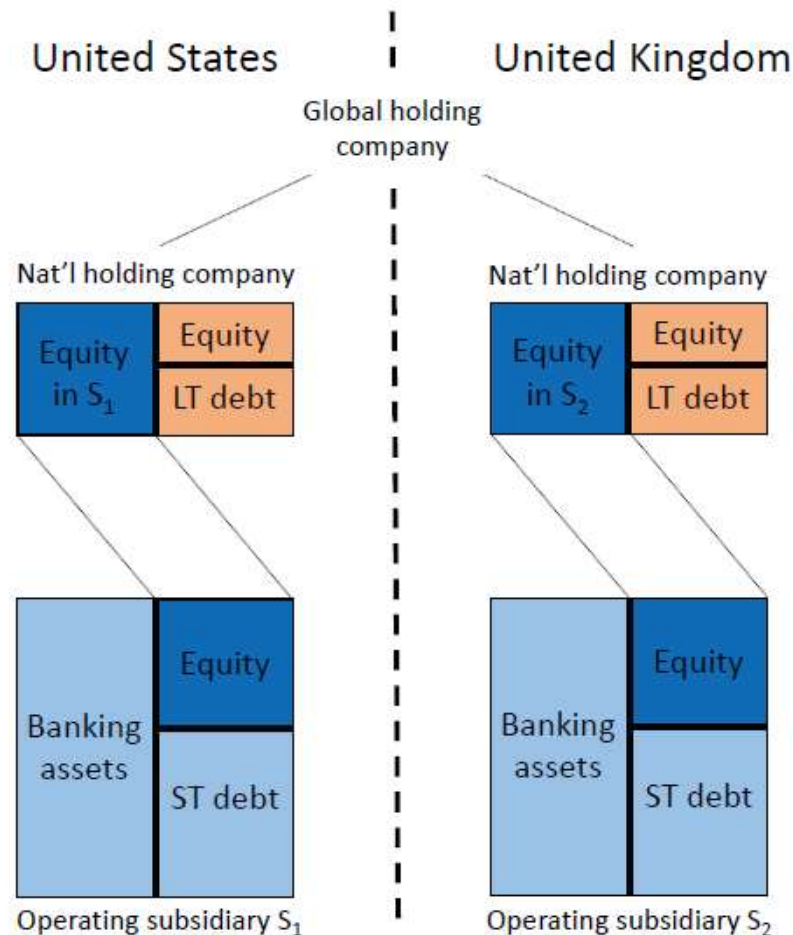
Source: Davis Polk 2015

SIB Resolution: International Cooperation

Single vs Multiple Point of Entry

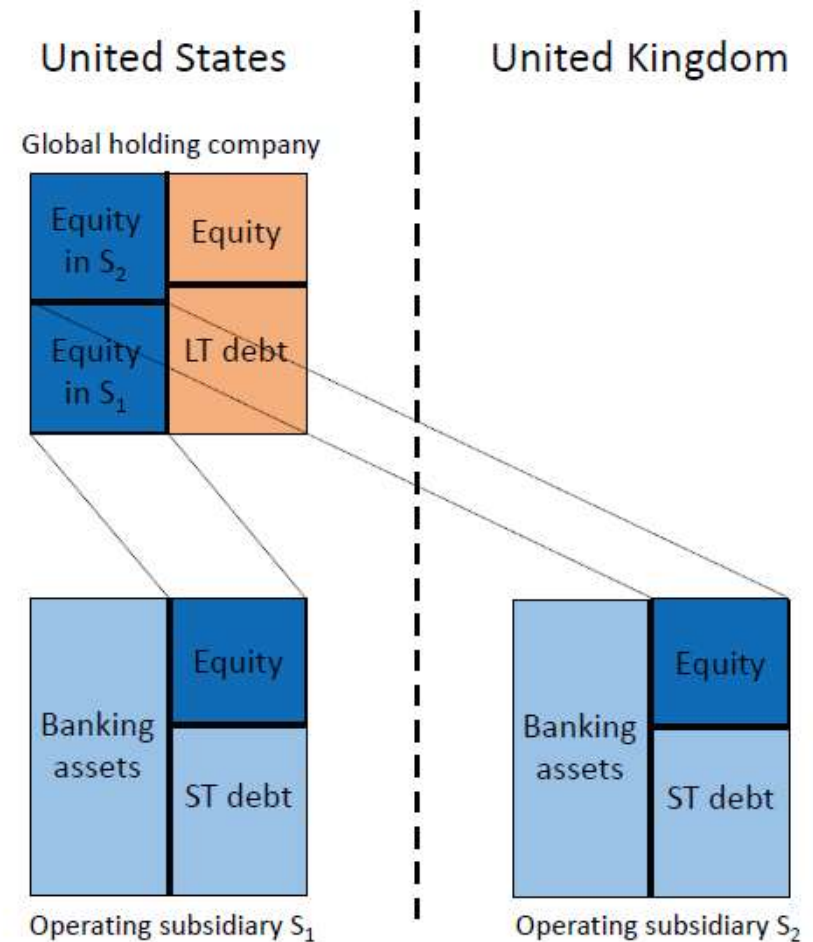
Multiple point of entry (MPOE):

Loss-absorbing capital in each jurisdiction



Single point of entry (SPOE):

Loss-absorbing capital shared



Resolution and Liquidity Support

- DIP or OLF financing?
- Proscribe public liquidity provision?
 - DFA § 1101:
 - Fed can lend only through general credit facilities;
 - It cannot lend to insolvent banks
- Conditional Public liquidity

Are there any gaps?

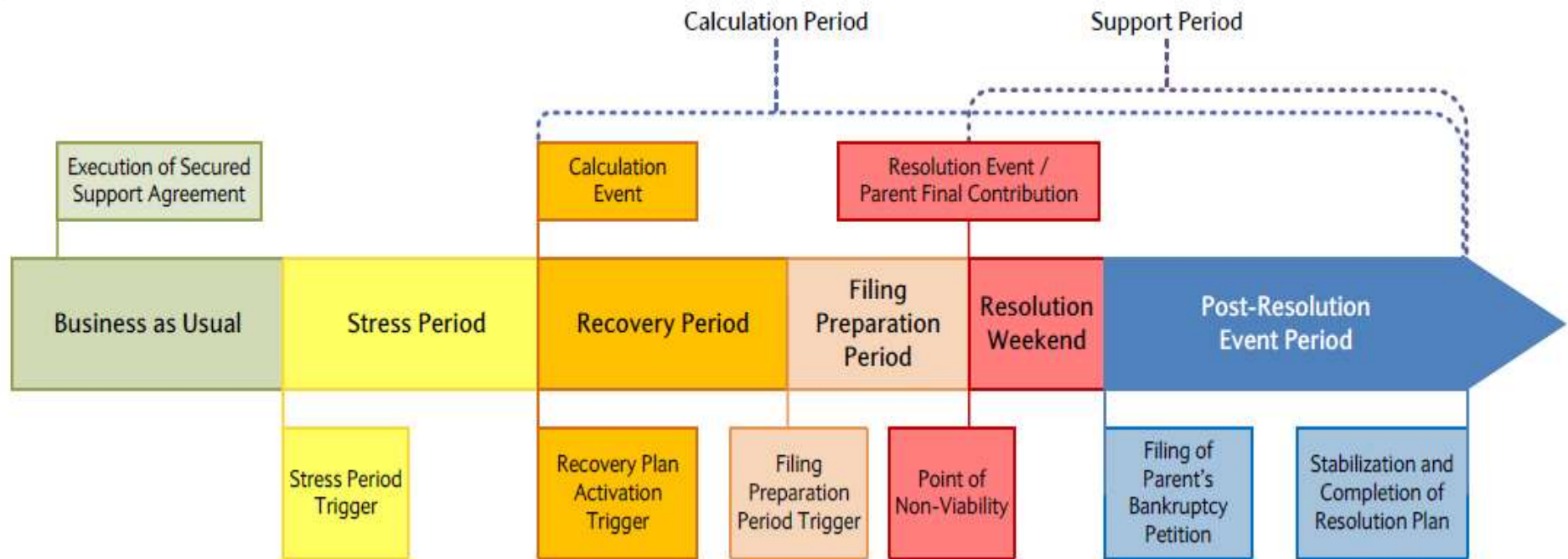
- The risk of delaying Resolution
- Shortfall in TLAC
- Creditor challenges to subsidiary recapitalizations invoking *preferential treatment*

Are there any gaps? 2

- QFC counterparties exercising *cross-default* provisions → New ISDA stay protocol
- Lack of coordination in liquidity provision
- Risk of contagion

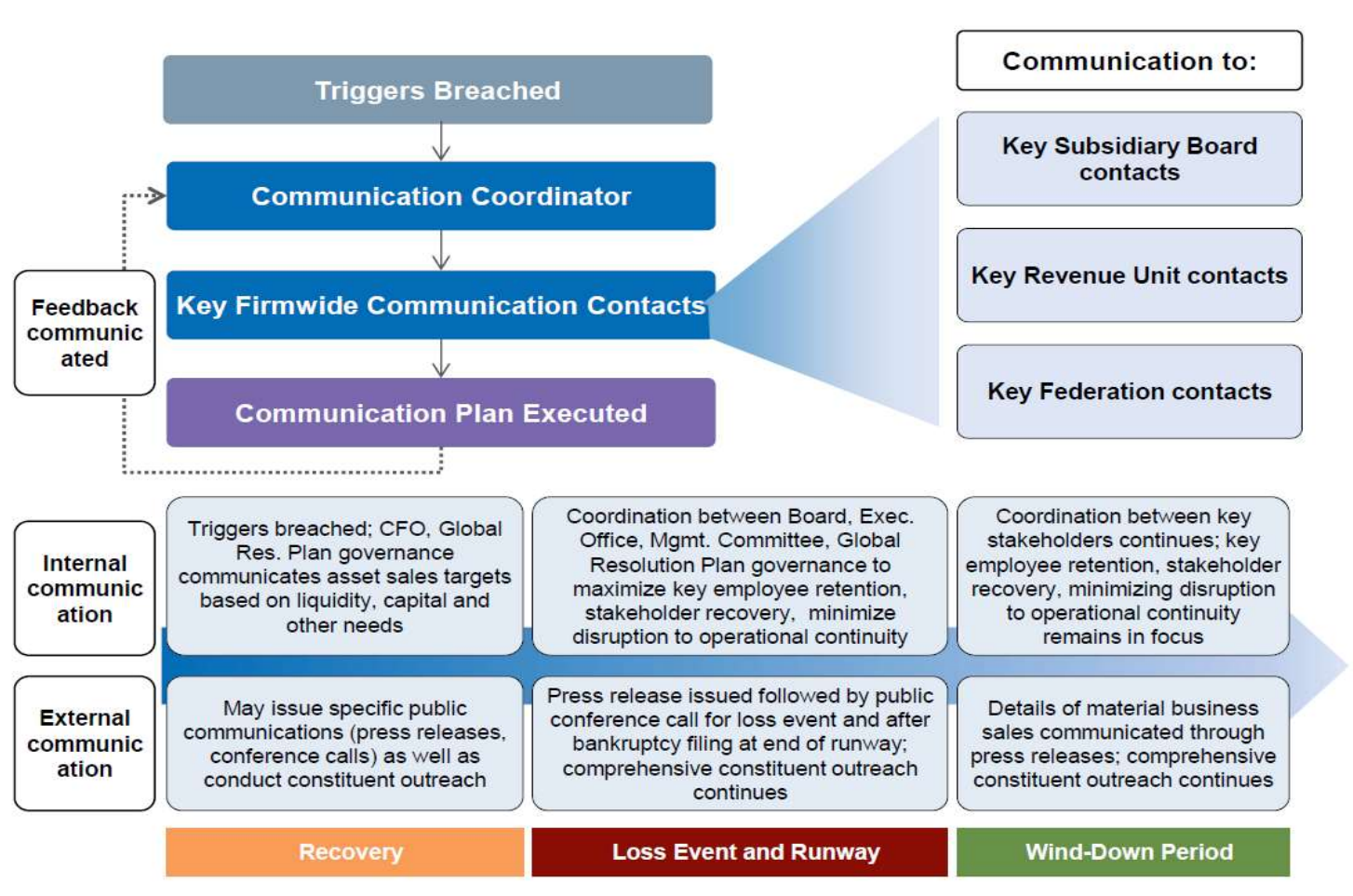
SIB Resolution and Resolution Plans

- US SIBs are prepared: JPMC



SIB Resolution and Resolution Plans

- US SIBs are prepared: GS



Taking Stock

- US SIBs have never been more prepared
- Will resolution work as intended?
- Origins of the next crisis could be outside the banking sector and spread to banks
- New restrictions of LOLR could undermine confidence in resolution