

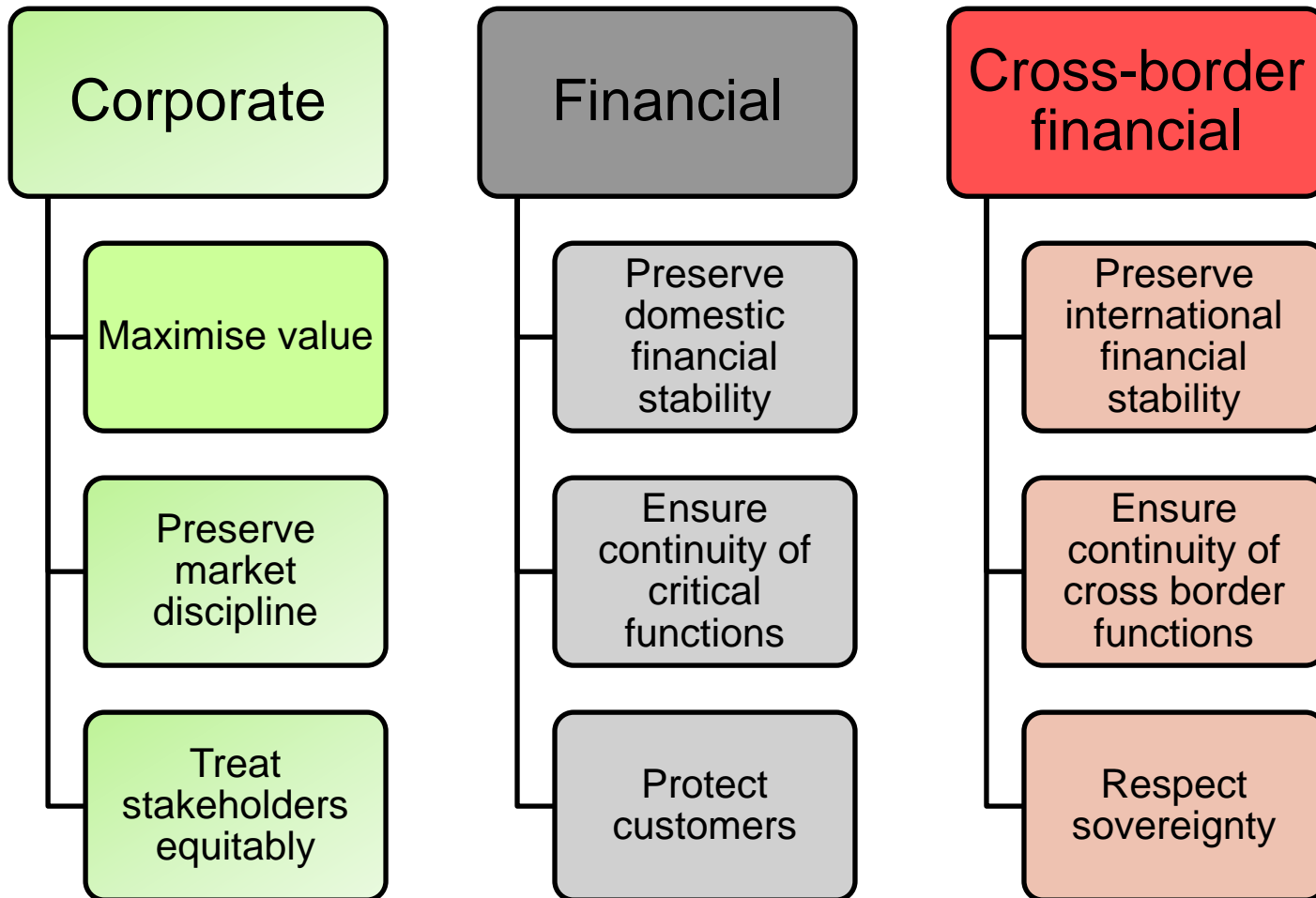
# The last frontier: protecting critical functions across borders

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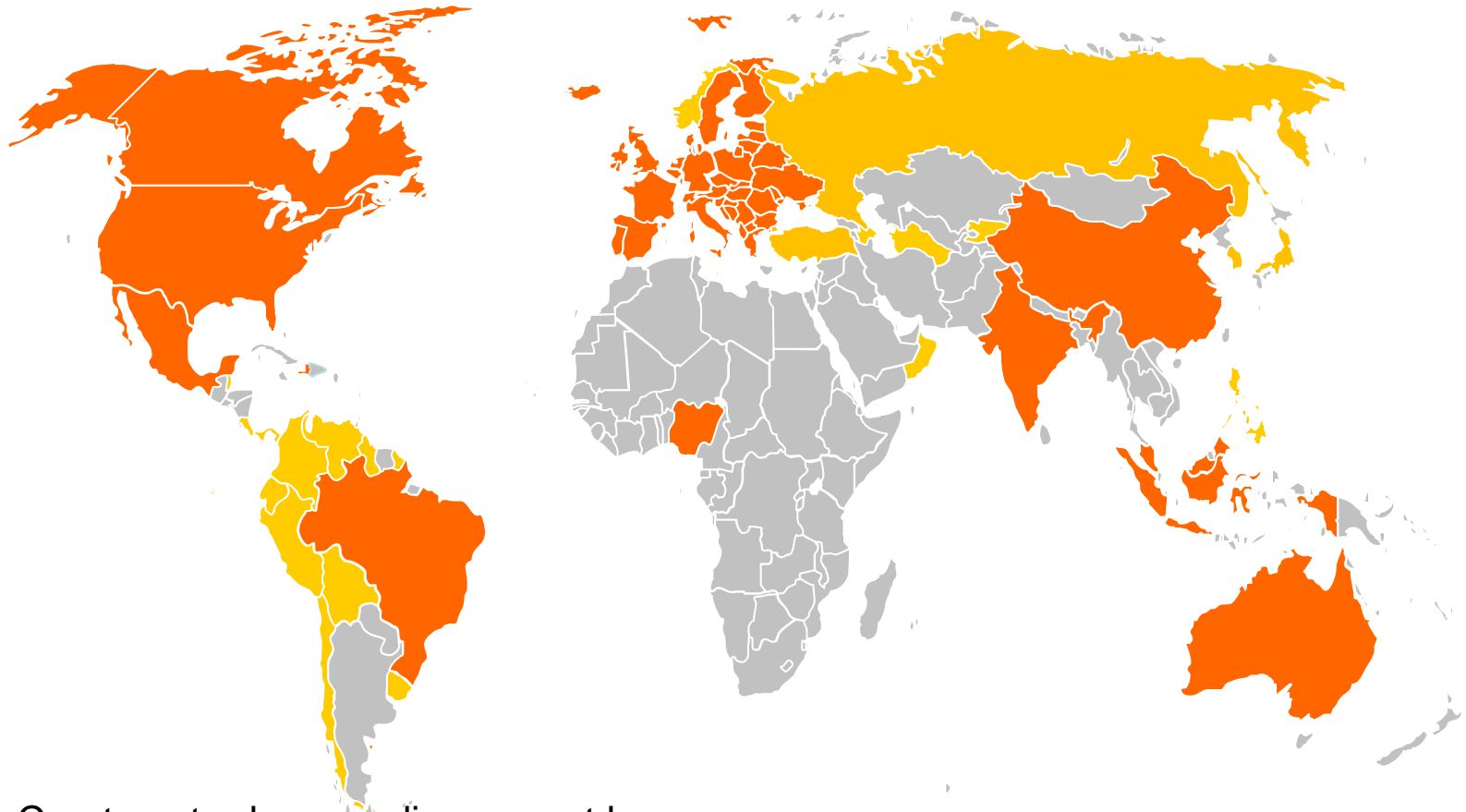
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# Disclaimer

# Resolution Objectives



# Trend towards special resolution



-  Court-centred proceedings or not known
-  Special resolution regimes (based on World Bank data base on bank regulation and supervision 2008)
-  Recent (2009/2010) and planned reforms in financial resolution

# Achievements to date

- Recent or immanent reforms of national resolution regimes:
  - Canada (2009)
  - Germany (2010)
  - Switzerland (2004/2010)
  - UK (2009)
  - US (2010)
  - European Union (2010)
  - ...

# Protect functions, not institutions

- Resolution tools to safeguard critical functions
  - Bridge bank
  - Full / partial transfer powers *uno actu*
  - Power to override creditors' rights (e.g., consent, early termination) subject to safeguards

# Challenges

- Resolution powers
  - Are entity-centric, but functions span multiple entities
  - Are national in reach, but firms are global scope
  - Could trigger contagion

# Addressing the challenges

Three steps:

- (1) Align firms' structures with functional operations
- (2) Recognize cross-border measures that ensure continuity of functions and protect stakeholders („functional universality“)
- (3) Remove impediments to private sector work-outs



# Streamline structure

- Identify essential business lines and functions
- Make (legal) form follow function
- Address fiscal, legal and regulatory incentives that lead firms to set up separate entities

# Resolution of global LCFI

„functional universality“

## Critical Cross-Border Functions

Home resolution authority assumes temporary control (e.g., transfer to bridge)

Ensures full protection of all (home/host) counterparties

Host refrains from protective measures, closure, contract termination, etc.

Continuity  
(eventual sale or orderly wind down)

## Other Operations

Domestic resolution authorities assume control

Protection of local counterparties according to local rules

Cross-border cooperation based on comity

Liquidation

# In the further quest for continuity

- ....place responsibility for preserving functions back on the firm
- ...encourage governance reforms that permit and promote early action
- ...reduce corporate law impediments to resolution through private law devices