



ABI response

FSB - Key Attributes Assessment Methodology for the Insurance Sector

The UK Insurance Industry

The UK insurance and long-term savings industry is the fourth largest in the world. It helps Britain thrive in its global role, adding £40 billion a year to the UK economy, managing investments of over £1.7 trillion, and paying nearly £12bn in taxes to the Government. It employs over 300,000 individuals right across the UK, of which around a third are employed directly by providers with the remainder in auxiliary services such as broking.

Insurance helps individuals and businesses protect themselves against the everyday risks they face, enabling people to own homes, travel overseas, provide for a financially secure future and run businesses. Insurance underpins a healthy and prosperous society, enabling businesses and individuals to thrive, safe in the knowledge that problems can be handled and risks carefully managed.

The ABI

The Association of British Insurers is the voice of the UK's world leading insurance and long-term savings industry. A productive, inclusive and thriving sector, we are an industry that provides peace of mind to households and businesses across the UK and powers the growth of local and regional economies by enabling trade, risk taking, investment and innovation.

Founded in 1985, the ABI represents around 250 member companies, including most household names and specialist providers. The ABI's role is to:

- get the right people together to help inform public policy debates, engaging with politicians, policymakers and regulators at home and abroad.
- be the public voice of the sector, promoting the value of its products and highlighting its importance to the wider economy.
- help encourage consumer understanding of the sector's products and practices.
- support a competitive insurance industry, in the UK and overseas.

We welcome the opportunity to comment on the FSB's consultation on Key Attributes Assessment Methodology for the Insurance Sector.

General comments

The Association of British Insurers (ABI) welcomes the opportunity to further contribute to the FSB's development of a framework for effective resolution regimes. We welcome the FSB's recognition of the differences between financial institutions in the development of its framework, and the work done to create sector-specific guidance.

The Assessment Methodology definitions recognise that a resolution authority may be an authority that acts on its own or together with other authorities (see definition of 'resolution authority'), and also that some resolution powers may be exercisable by the courts. We consider it is appropriate to recognise that the exercise of some resolution powers requires court involvement.

Our concerns relate to how the prescriptiveness of the essential criteria and explanatory notes. We have the following general comments:

- Precondition D is that there is a 'robust accounting, auditing, and disclosure regime.' We consider that the focus should instead be on a prudential framework with an adequate ladder of supervisory intervention.
 - The essential criteria and explanatory notes are overly-prescriptive. These should be more outcome focused, allowing flexibility for jurisdictions in how the outcomes are met. In particular, while the definitions within the paper acknowledge that a 'resolution authority' may be a public authority that acts alone or together with other authorities, the essential criteria and explanatory notes seem to be written from the perspective that one authority has overall responsibility, rather than responsibility being shared. For example –
 - EC2.1 introduces the identification of a lead authority for coordinating resolution. We consider that it would be more appropriate to require coordination between authorities so that responsibilities are clear, rather than introducing the concept of a lead authority.
 - EN3 (f) (ii) recognises that resolution powers may be provided by a court order, but also notes that an appointed administrator should be subject to oversight by the resolution authority. Where, for example, an administrator is appointed by a court, it is not clear under the FSB's methodology whether the court or another body would be deemed to be a resolution authority, and therefore who would be overseeing who, if oversight is required. It is important that the methodology appropriately recognises the role and function of court-led processes. In this respect, a court-appointed administrator should be regarded as a resolution authority and the definition of resolution authority should be amended to reflect this.
 - EC2.2 may be impractical to apply to resolution powers exercised by administrators or liquidators appointed by a court, as they will not necessarily be focused on financial stability as required by KA2.3. However, KA2.3 (iv) (the requirement to consider the potential impact of resolution actions on the financial stability of other jurisdictions) may be met through supervisory dialogue prior to resolution being triggered. In this respect it is necessary to reflect that different authorities may exercise different powers at different stages of a firm's entry into resolution.
 - The requirement that a resolution authority has unimpeded access to the premises for insurers for the purposes of resolution planning (EC 2.7). We think this should be restricted to the preparation and implementation of resolution measures.
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- The view taken that court proceedings must not be allowed to impede rapid intervention (see for example EN 3(i)(iv)). As in the example of a court-appointed administrator, we consider that they should be regarded as a resolution authority, as that is effectively the role they have been given by the court. While we agree that rapid intervention may sometimes be necessary, this should not be at the expense of the ability to have access to the courts. This seems to contradict other places in the document – for example EN 2(j) says that the right to seek access to premises may be subject to, inter alia, legal remedies or due process requirements.
 - EN 3(i) indicates that the resolution authority should also have the power to replace or dismiss the administrator, or to recommend the removal of the administrator to the court if the administrator fails to pursue the statutory objectives of resolution.
 - We also are concerned about the watering-down of accountability in EN 2(g). We consider that, the requirement for procedures for reviewing and evaluating actions that the resolution authority takes should not be able to be satisfied by procedures for internal review by management. However, we welcome the recognition in EN 2(i) that protection from liability for the resolution authority should not prevent judicial review of its actions.

The paper also does not address how certain resolution powers would work/be needed in an insurance context. In particular, and as has been noted in the past, we have questions around the practical implementation of the powers to replace management, create bridge institutions, and claw back executive remuneration that have not been addressed in this consultation.
