

# Scope of Insurers Subject to the Recovery and Resolution Planning Requirements in the FSB Key Attributes: Consultation report

## Response to Consultation

### The Geneva Association

#### *In general*

##### **1. Are the Draft Guidance and comments on the Draft Guidance clear? Where would commenters seek further discussion?**

- The structure of the Draft Guidance is broadly clear, but several elements would benefit from further clarification and stronger safeguards to avoid inconsistent or overly expansive or list-driven application. Specifically, the requirement in paragraph 2 that authorities use “established criteria” is insufficient without a clear definition of what constitutes “established”. The Guidance should clarify that “established criteria” refers to transparent, publicly available frameworks – subject to consultation – that allow insurers to self-assess their status *ex ante*, rather than internal, non-public methodologies.
- Institutional lead and insurance calibration: Beyond drafting clarity, we would welcome further discussion on the appropriate division of responsibilities between the FSB and the IAIS for insurance-specific guidance. In our view, the IAIS should take the lead in developing and maintaining this guidance (to ensure appropriate insurance calibration), with the FSB looking at cross-sectoral issues and providing coordination. Clear governance for how this guidance will be updated over time alongside related IAIS and FSB materials would also help minimise duplication and avoid misalignment in future revisions.
- Different triggers for recovery vs resolution planning: The guidance would benefit from clearer differentiation between recovery planning and resolution planning requirements. In practice, an authority could decide that an insurer should be subject to recovery planning (to strengthen preparedness and avoid failure) without necessarily concluding that resolution planning is warranted to the same extent. This distinction is reflected in IAIS ICP expectations, where recovery planning is generally more broadly applicable than resolution planning. Clarifying that the scope assessment may lead to different outcomes for recovery and for resolution planning would improve precision and avoid any overly ‘all-or-nothing’ interpretation of RRP requirements.
- Clarify Interaction and Weighting: The draft Guidance currently fails to articulate how the six criteria interact. Without clarity on whether the “Scale” is a prerequisite, an insurer could

theoretically be designated solely based on “Complexity” or “Nature”, regardless of how small its footprint is.

- Evidentiary Standard: Clarify the key considerations and the level of substantiation authorities should apply when concluding that an insurer could be systemically significant or critical upon failure (or otherwise subjected to resolution planning), or could have an impact on financial stability, including how mitigating factors are considered (for example, availability of portfolio transfer, and credible run-off options). This should not result in prescriptive thresholds or automatic triggers.
- Transparency: Strengthen transparency and due process expectations in a proportionate way: where an insurer is captured, authorities should be able to explain the main drivers of the determination, allow for meaningful engagement, and periodically review whether RRP remains warranted. In practice, firms do not always receive a clear rationale for why they are captured, which can undermine confidence in the framework.
- Implementation Status: Make explicit that the Draft Guidance is implementation guidance and does not broaden the Key Attributes, create new binding expectations, or establish any de facto list of firms subject to RRP requirements. Any published list of insurers subject to resolution planning standards should not be interpreted as a reinstatement of a G-SII-style designation, but as an implementation-related outcome under the Key Attributes framework.
- Holistic Framework alignment and purpose of the annual insurer list: We welcome the FSB’s shift away from the former G-SII identification process and its reliance on IAIS Holistic Framework assessments, reflecting important differences in business models and systemic risk transmission channels between banks and insurers. In light of that shift, the Guidance should more clearly explain the purpose and governance of the FSB’s annual publication of the list of insurers reported as subject to resolution planning standards. Communication should make clear that it does not constitute a systemic importance designation or a reintroduction of the discontinued G-SII approach.
- Public Communication: Clarify expectations around public communication. To avoid recreating a list-based approach in practice, the guidance should discourage publication of firm names or any implied ‘FSB list’. Where authorities do publish firm names, communication should clarify that inclusion does not constitute a systemic designation, and encourage careful, proportionate messaging.
- Interaction with Other Frameworks: Further clarify how the Draft Guidance interacts with existing IAIS standards and national frameworks, particularly where resolution regimes are court-led or involve multiple authorities, and how recovery planning and resolution planning expectations can be calibrated separately where appropriate.

### *Paragraph 3: Assessment criteria*

2. **How well-suited are the criteria in the Draft Guidance (nature, scale, complexity, substitutability, cross-border activities, interconnectedness) to determining which insurers should be subject to RRP requirements?**

Systemic risk focus and need for additional resolution planning: The Key Attributes were developed in the context of the post-crisis “too-big-to-fail” agenda. In that context, it is reasonable to question the need for incremental resolution planning requirements for insurers absent a clear financial stability rationale. This is particularly relevant given that the FSB has discontinued the annual identification of global systemically important insurers (G-SIIs), and therefore there is no current G-SII designation framework for insurers.

Risk of Mechanistic Application: The six criteria are broadly relevant, but there is a material risk that they will be applied mechanistically, turning RRP into a size-based or cross-border based requirement rather than a targeted financial stability tool. In particular, the Guidance should avoid treating cross-border activity as an automatic trigger: authorities should assess the materiality and nature of cross-border exposures and operational dependencies and calibrate requirements accordingly. The Guidance would also benefit from clearer differentiation between recovery planning and resolution planning outcomes, as an insurer may warrant recovery planning without necessarily requiring the same degree of resolution planning, depending on plausible transmission channels and feasibility of resolution strategies.

- Scale as a Prerequisite: ‘Scale’ should not merely be considered as one of six equal factors: it should be a prerequisite ‘gating’ criterion. An insurer that lacks significant scale cannot practically cause “severe systemic disruption” regardless of its complexity.
- Nature (Differentiation of Derivatives): The ‘nature’ criterion should explicitly differentiate traditional insurance activities from non-traditional and non-insurance activities. Specifically, it should distinguish between derivatives used for hedging (risk reduction) versus speculation (risk creation). Standard asset-liability management (ALM) practices – such as using derivatives to hedge long-duration liabilities – should not be mischaracterized as a ‘risky nature’.
- Substitutability: Substitutability should be assessed at the level of specific products or services and relevant customer segments, not at the level of the insurer as a whole. Many mass-market insurance products are substitutable over time even where near-term switching costs exist.
- Interconnectedness (Reinsurance): Interconnectedness indicators should distinguish routine, well-collateralised exposures from concentrated, opaque or procyclical exposures that could credibly transmit stress to other financial institutions or markets. The guidance should clarify that standard reinsurance arrangements are a fundamental tool for risk dispersion, not necessarily a vector for systemic contagion. Penalising insurers for reinsurance could perversely discourage risk transfer.
- Complexity: Complexity is often a byproduct of regulatory compliance or legal entities serving to ring-fence risk. A large number of legal entities is a poor indicator of systemic risk unless linked by toxic interconnectedness or critical functions.

**3. What other criteria, if any, should be in the Draft Guidance for determining which insurers should be subject to RRP requirements? Discuss why any additional criteria should be added and the advantages and disadvantages of doing so.**

- Exclusionary Criteria: While we caution against adding more inclusionary criteria, we recommend adding specific exclusionary criteria to ensure proportionality and recognize the unique safety nets of the sector.
- Availability of Policyholder Protection Schemes (PPS): The guidance should recognise the existence and capacity of local PPS as a relevant factor for resolution planning. For resolution planning, where a PPS is in place, the plan should be explicitly tailored to reflect how the PPS would operate in practice, including (as relevant) roles and responsibilities of the resolution authority and supervisor, triggers for PPS involvement, governance and decision making, and the operational steps to ensure continuity of policyholder claims and critical functions.
- Liability Risk Profile: We propose a criterion assessing the 'Liability Risk Profile' specifically distinguishing between general account liabilities and separate account (unit-linked) business. Assets held in unit-linked accounts, where investment risk is borne by the policyholder, should be excluded from 'scale' and 'complexity' assessments.

**4. What other indicators could be provided as examples of ways that authorities could assess the criteria in the Draft Guidance?**

- High-level approach and flexibility: Any additional indicators should be presented as non-exhaustive, illustrative examples and should not be framed as a checklist. This would preserve supervisory flexibility and allow authorities to tailor their assessments to local market structures and legal frameworks.
- Leverage existing IAIS information (including the GME): Rather than introducing a new set of detailed metrics, the Guidance could explicitly reference the use of existing data and indicators already available through the IAIS holistic framework, including the Global Monitoring Exercise (GME), where relevant and subject to appropriate confidentiality and use constraints. This would promote consistency, avoid duplication, and support alignment across international bodies.
- Illustrative examples: if the Guidance includes examples, they could focus on the type of consideration rather than prescribing specific ratios, for instance: (i) distinguishing gross size from risk-bearing capacity and resilience, (ii) differentiating exposures where policyholders bear investment risk from those borne by the insurers; (iii) considering the purpose and risk profile of derivatives usage (e.g., hedging versus risk-taking), and (iv) assessing interconnectedness with attention to risk mitigants such as collateralisation and counterparty concentration versus diversification.

**5. How could the comments to the Draft Guidance better explain the difference between any of the six criteria?**

- Avoid 'Double Jeopardy': The comments explicitly delineate boundaries to prevent a single business characteristic from counting against an insurer multiple times.
- Nature vs. Complexity: Clarify that 'Nature' refers to the source of the liability (e.g., volatility of underwritten risk), while 'Complexity' refers to the organizational friction

preventing resolution (e.g., commingled assets across entities). A standard hedging program should not strike an insurer twice under both Nature and Complexity.

- Scale vs. Substitutability; Explicitly state that ‘Scale’ (absolute size) does not imply low ‘substitutability’ (market dominance). Large insurers often operate in highly commoditized markets.

- Cross-Border vs. Complexity: Clarify that ‘Cross-Border’ is a geographic metric, while ‘complexity’ is a legal/operational metric. A multinational group with fully ring-fenced subsidiaries may be cross-border but not complex for resolution purposes.

**6. How could the comments on the Draft Guidance be made clearer to explain how the six criteria should be applied, while still allowing authorities the flexibility to consider the criteria in a manner that aligns with the specific characteristics of their jurisdictions?**

- Scale as a Gate: Establish ‘scale’ as a gating filter. If an insurer does not meet a locally defined quantitative threshold for size, qualitative analysis of other criteria should not be required.
- Offsetting Factors: Formalize the concept that criteria can offset each other. The comments should explicitly state that a low rating in one criterion (e.g., high substitutability) can serve as a mitigant against designation, even if another criterion is higher.
- Weighting: Empower authorities to weigh indicators based on their market structure (e.g., weighting interconnectedness higher in jurisdictions with a banking-insurance nexus).

*Paragraph 4: Specific circumstances that should necessitate RRP requirements*

**7. Should RRP requirements apply in the two sets of circumstances identified in paragraph 4 of the Draft Guidance, notwithstanding any other facts or circumstances?**

The current drafting of paragraph 4 is too broad and risks capturing insurers for which resolution planning would be a matter of contingency preparedness rather than an indicator of systemic importance, since their failure would not credibly threaten financial stability.

- Rejection of ‘Automatic’ application: We do not support the “automatic” application of RRP requirements based on the “notwithstanding” clause, as it creates a strict liability standard that strips authorities of supervisory discretion.
- Consideration of Mitigants: The current drafting of paragraph 4 is too broad and risks capturing insurers for which resolution planning would be a matter of contingency preparedness rather than an indicator of systemic importance, since their failure would not credibly threaten financial stability. It does not sufficiently account for jurisdiction-specific mitigants that can materially shape both the likelihood and the impact of failure and therefore should inform the scope assessment. Where a Policy Holder Protection Scheme (PPS) exists, resolution plans should be tailored to how the PPS would operate in practice and

whether it would be effective in a resolution scenario. At the same time, recovery planning remains focused on avoiding failure and should not hinge on the presence of a PPS.

- Critical functions: support focusing on functions whose sudden discontinuation could cause severe systemic disruption. However, the definition should be applied narrowly and with clear evidence. ‘Critical Function’ designation should be a disputable presumption, not an automatic mandate.
- Large number of policyholders: Materially affecting a large number of policyholders is not, by itself, a financial stability criterion. This should be reframed as a substitutability-focused consideration.
- Loss of Confidence: The concept of “loss of general confidence” is inherently subjective and can be self-fulfilling. It should not operate as an automatic trigger without clear, objective indicators.
- Recommendation: We recommend amending paragraph 4 to state that these circumstances create a ‘presumption’ of RRP application, which insurers can rebut by demonstrating that existing mitigants are sufficient.

**8. What other circumstances should call for the application of RRP requirements to an insurer, notwithstanding any other facts or circumstances?**

- No Additional Automatic Triggers: We do not support adding further ‘automatic’ triggers. The existing definitions effectively capture the universe of legitimate systemic risk scenarios (utility and contagion).
- Supervision vs. Resolution: Other potential circumstances, such as cyber risk or rapid growth, are valid supervisory concerns but not valid automatic triggers for RRP. These should be addressed through the holistic assessment under paragraph 3.

**9. What are possible quantitative or qualitative thresholds concerning the six criteria or some combination of the six criteria that should necessitate RRP requirements, notwithstanding any other facts or circumstances? For example, should the Draft Guidance call for RRP requirements whenever the cross-border activities of an insurer exceed a certain threshold?**

We do not support introducing quantitative thresholds or automatic triggers for inclusion in the Draft Guidance.

- Thresholds risk turning a judgment-based financial stability assessment into a mechanistic process.
- Cross-border activities is a poor proxy for systemic risk if of subsidiaries are ring fenced.
- Support for Exclusionary Floors: However, we advocate for a “scale-based floor” (e.g., total assets or GWP) below which RRP requirements cannot be applied. An insurer that lacks significant scale cannot practically cause severe systemic disruption.

*Proposed revision to FSB guidance on critical functions*

**10. What are the advantages and disadvantages of revising the FSB's guidance on the definition of a critical function for insurers by changing the phrase "the sudden failure to provide the function would be likely to have a material impact on the financial system *and* the real economy" to "the sudden failure to provide the function would be likely to have a material impact on the financial system *or* the real economy"?**

- Concern with Lowered Threshold: We are concerned that changing 'and' to 'or' would lower the threshold and materially expand the range of functions labelled critical.
- Disadvantages: without strong guardrails, the change could capture functions with broad real-economy relevance that do not plausibly threaten financial stability.
- Financial Stability Mandate: The FSB's core mandate is financial stability. Allowing designation based solely on real economy impact, without financial contagion, drifts into traditional prudential supervision
- Alignment Risks: While the FSB argues this aligns with banking standards, banks are inherently interconnected in ways that insurers are not. Alignment for alignment's sake is imprudent when business models differ.