



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

## Response to Consultation

### National Association of Insurance Commissioners

#### *In general*

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 Are the Draft Guidance and comments on the Draft Guidance clear?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

Sections 3 and 3.1 appear to provide redundant information and therefore it may not be necessary to include both.

The abbreviations for FSB, RRP and Key Attributes should be spelled out in the body of the document, as they are only spelled out on page iii where the consultation questions reside.

#### *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 How well-suited are the criteria in the Draft Guidance (nature, scale, complexity, substitutability, cross-border activities, interconnectedness) to determining which insurers should be subject to RRP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?**
- 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 What other criteria, if any, should be in the Draft Guidance for determining which insurers should be subject to RRP requirements?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.**
- 4. What other indicators could be provided as examples of ways that authorities could assess the criteria in the Draft Guidance?**
- 5. How could the comments to the Draft Guidance better explain the difference between any of the six criteria?**

For Section 3.3, recommend adding an explanation that the jurisdictions listed in the “Example” sections do not represent a full list of jurisdictions that utilize those criteria. For example, while the US is only listed for two criteria, all six criteria are included within related US state insurance regulatory guidance.

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 How could the comments on the Draft Guidance be made clearer to explain how the six criteria should be applied, while still allowing authorities the flexibility to consider the criteria in a manner that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?

*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 Should RRP requirements apply in the two sets of circumstances identified in paragraph 4 of the Draft Guidance, notwithstanding any other facts or circumstances?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 US state insurance regulatory guidance already considers if insurers have a material impact on the financial system and economy in its criteria for determining if a recovery and resolution plans should be required. The language, “notwithstanding any evaluation of the criteria in paragraph 3...” implies insurers that are critical or provide a critical function on the financial system or real economy is criteria considered separately from all other criteria. Recommend more clearly stating that this separate criteria is also evaluated and based on the determination of the regulatory authority of the jurisdiction.

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

Jurisdictions should have the flexibility to determine if any thresholds should be set since there are differences not only between each jurisdiction's insurance industry, financial system and economy, but also between each insurance group.

*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”?

Recommend retaining “and” in this sentence as changing the conjunction to “or” would materially broaden the scope of what can be designated as a critical function for policyholder and real economy protection resulting in non trivial costs in terms of focus, proportionality, and cross sector consistency. FSB work is focused on identifying risks to the global financial system. Mid sized insurers that are critical for a particular class in one jurisdiction, but not systemically important, could broaden the scope, increasing resolution planning burdens and potentially stretching supervisory resources. Instead of changing the conjunction,

perhaps there could be a clarification in the text that a material impact on the financial system may arise through severe disruption to the real economy or to essential insurance services.

Recommend the terms “financial system” and “real economy” be defined in this document. To the extent definitions are available in the Key Attributes or the IAIS Insurance Core Principles or Glossary, those could be carried over to this section. Also, since the financial system is a part of the real economy, it would be helpful if the document gave examples of macro-economic risks that fall into this category or referenced examples that exist in other guidance.

Additionally, sections 2.0, 3.4 and 4.0 inconsistently refer to “material impact” vs. “impact” for insurers that are critical or provide a critical function. Recommend consistently referring to “material impacts.” “Impacts” could be viewed as too broad.

**Additional NAIC comments to FSB consultation “Scope of Insurers Subject to the Recovery and Resolution Planning Requirements the FSB Key Attributes”**

**Pg. 5, final sentence of last paragraph.** Suggest revising as it may be appropriate to use the same information to evaluate more than one criteria.

This approach ensures that each of the six criteria are meaningfully and independently assessed.

**Pg. 8, section 3.3.2.** Recommend deleting or modifying the sentence as it is difficult to compare the assets of a life insurer with the assets of a non-life insurer.

Total assets may be considered when relevant, for example, for insurers with both life and non-life activities.

**Pg. 10, final sentence of first paragraph.** Elsewhere in the paper this is referenced as “prior to the determination (i.e., *ex ante*).” Recommend this is changed for consistency.

RRP requirements are appropriate in these circumstances to help address these challenges **prior to stress or failure**, and to facilitate cooperation and coordination among authorities from different jurisdictions.

**Pg. 12, first full sentence of first paragraph.** Suggest adding “material,” otherwise, this could apply to most insurers.

For example, engaging in material transactions (e.g., loans, derivatives, or reinsurance agreements) with financial system counterparties, providing services to other financial institutions, or using financial system infrastructure relied on by other financial institutions can increase interconnectedness.