

**COMMENTS OF THE PROPERTY CASUALTY INSURERS ASSOCIATION OF AMERICA (PCI)
ON THE
FINANCIAL STABILITY BOARD (FSB) CONSULTATIVE DOCUMENT
ON
KEY ATTRIBUTES ASSESSMENT METHODOLOGY FOR THE INSURANCE SECTOR**

February 28, 2018

The Property Casualty Insurers Association of America (PCI) is pleased to comment on the Financial Stability Board's Consultative Document, *Key Attributes Assessment Methodology for the Insurance Sector*. PCI is composed of nearly 1,000 member companies, representing the broadest cross section of insurers of any national trade association. PCI members write \$220 billion in annual premium, 37 percent of the nation's property casualty insurance. Member companies write 44 percent of the U.S. automobile insurance market, 30 percent of the homeowners market, 35 percent of the commercial property and liability market and 37 percent of the private workers compensation market.

Overview and General Comments

PCI finds the consultative document to be thoughtful in many ways. We particularly applaud language in Section III (Conduct of compliance assessment) suggesting that assessments should be outcomes-based and should recognize that any resolution regime should be "proportionate to the complexity and systemic importance of the insurers to which it applies." We agree completely with the statement that this principle should underpin the assessment of all Key Attributes (KA), even when not expressly stated in an Essential Criteria (EC). While many of the KAs read much like prescriptive standards, this language in Section III suggests to us the FSB's intent to apply KAs with flexibility and to recognize strong resolution regimes that currently exist in many countries, including the United States. We encourage the FSB to not lose sight of this guiding principle.

We also note that the KAs must align well with the Insurance Core Principles (ICPs) and ComFrame provisions, all of which should have an outcomes-based focus and be flexible, not overly prescriptive, and reflective of principles of proportionate regulation and cost-benefit analysis.

Finally, PCI generally endorses the joint comments filed by the National Conference of Insurance Guaranty Funds (NCIGF) and the National Organization of Life & Health Insurance Guaranty Associations (NOHLGA). We note in particular that any resolution regime must have policyholder protection as a primary goal and that there can be considerable benefit in the early involvement of policyholder protection schemes (PPS) in any resolution, including in crisis management groups, where, for example, the collective practical experience of U.S. guaranty fund managers can be particularly useful and relevant.

Scope

PCI continues to reiterate the concern we have expressed in past comments to the FSB regarding the scope of FSB proposals in this area, specifically the applicability to any financial institution that “could be systemically significant or critical if it fails.” Although the FSB has offered some helpful clarifications to this language over time, we continue to find it overly broad and vague. The phrase “could be” suggests a subjective analysis that could be applied to financial institutions that no regulator has identified as systemically important while the term “critical if it fails” also seems targeted at institutions that have not been designated.

PCI supports activities-based assessments of systemic risk. Rather than seeking further refinements in the terminology noted above, it may be more useful for the FSB to refocus its attention on firms that engage in systemically risky activities on a material scale, meaning activities that pose threats to the stability of the global insurance markets and/or global economy. In this regard, we recommend that the FSB consider carefully the work (and public comments thereon) being conducted at the International Association of Insurance Supervisors (IAIS).

Comments on Specific Questions and KAs

Question 2: Should the draft methodology provide any specific guidance on how to conduct an assessment for financial conglomerates that combine insurance business with banking and/or other non-insurance financial business? If so, what guidance should be provided?

The consultative document appropriately acknowledges that multiple authorities may be involved in the resolution of an insurer that is affiliated with other non-insurance businesses. Where a strong framework exists for the resolution of such non-insurance entities (such as the U.S. bankruptcy system in the United States), such entities need not be subject to any insurance resolution regime.

Question 4: *Do the preconditions set out in Section V cover the relevant elements that are necessary for resolution regimes for insurers to operate effectively?*

PCI agrees with the NCIGF and NOHLGA that it would be helpful for Precondition C to expressly state that early PPS involvement in resolution is critical.

Resolution Powers - KA 3, EN 3(s): PCI has consistently argued to the FSB that a focus on policyholder protection requires that insurance liabilities not be written down except where necessary for purposes of fostering financial stability. Writing down liabilities or terminating contracts in a way that deprives policyholders of the protection of a PPS is particularly troublesome and should be avoided.

Safeguards - KA 5: PCI is concerned that that KA 5 suggests a departure from the *pari passu* principle. PCI does not believe that policyholders should be treated differently or divided into subclasses except in extreme circumstances where it is necessary to protect financial stability. Indeed, this would be inconsistent with some state insurance laws in the U.S. We note also that the concept of “bail-in” as defined in the consultative document should generally not be applicable to most insurance resolutions. The concept is more familiar in the banking context, but is less appropriate for insurers where there is generally not the same danger of a “run on the bank” scenario that can destabilize an institution or market.

Recovery and Resolution Planning - KA 11: PCI has previously noted to the FSB that the National Association of Insurance Commissioners (NAIC) has considered the question of whether non-systemically important insurers should be required to develop resolution plans. Public response was overwhelmingly against it, and the NAIC did not pursue that matter further. KA 11 gives rise to the concern we have expressed in the Scope section above, i.e., that it is overly broad and could require a wide range of firms to develop resolution and recovery plans. Again, it may be useful for any required recovery/resolution planning to be focused on insurers that engage in systemically relevant activities, with full consideration of the relevant costs and benefits.

Where plans are required, there should not be a rigid requirement that they be reviewed annually. As noted in Section III, proportionality should be an overriding principle, and this suggests that resolution authorities should have flexibility to determine both the content and timing of review of such plans.