



IAIS

INTERNATIONAL ASSOCIATION OF
INSURANCE SUPERVISORS

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Ref: 13/121

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c/o Bank for International Settlements
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Via email

Re: IAIS response to the FSB Consultative Document: Assessment Methodology for Key Attributes of Effective Resolution Regimes for Financial Institutions

Dear Svein,

The IAIS appreciates the considerable progress the FSB has made on resolution, including the development of the draft Assessment Methodology for Key Attributes of Effective Resolution Regimes for Financial Institutions. Also, the IAIS is pleased to have an opportunity to respond to the consultative document.

Our attached response comprises: (i) general comments; (ii) responses to the questions; and (iii) other specific comments. We wish to highlight one particular concern of the relationship among the Key Attributes, the sector-specific Annex to the KAs, and the Essential Criteria and Explanatory Notes in the KAs Assessment Methodology. The relationship is not clear enough and therefore it needs to be clarified.

Yours sincerely,

Peter Braumüller

Chair of the Executive Committee

IAIS response to the draft Assessment Methodology for Key Attributes of Effective Resolution Regimes for Financial Institutions

1. General comments

- The IAIS requests the FSB to clarify the relationship among the Key Attributes (KAs), the sector-specific Annex to the KAs (KA Annex), and the Essential Criteria (EC) and Explanatory Notes (EN) in the KAs Assessment Methodology (KAAM). In particular, the following need to be addressed.
 - The status of the EC as well as the relationship between the KAs and the EC should be clarified, including in so far as this applies to the Annexes. The IAIS understands that the KAs are an overarching international standard for resolution as was expressed in the press release on 4 November 2011 and that the KAAM is being developed to “*guide the assessment of a jurisdiction’s compliance with the Key Attributes and also to serve as guidance to jurisdictions that are adopting or amending national resolution regimes to implement the Key Attributes*” and thus does not itself provide any standards. However, the definition of the EC, “[T]he EC set out minimum requirements for effective resolution regimes...” (page 9 of the draft KAAM), appears to be inconsistent with this position and seems to imply compliance is expected with not only the KAs but also the EC. This inconsistency in the status of the EC needs to be clarified.
 - The KA Annex should not be referred to in the EC if the EC are still expected to provide minimum requirements despite the comment above. The status of the KA Annex is not necessarily clear in the current draft. It is clearly stated in the KAAM (page 1) that “*The Annexes to the Key Attributes do not form part of the standard that is subject to assessment under this methodology.*” However, other parts of the KAAM appear to be inconsistent with this statement, as the KA Annex is referred to in some EC (such as EC 2.3.1, 2.3.2, 10.1.1, 10.2.3, and 11.6.1) that “*set out minimum requirements*” as noted above.
- The methodology should retain sufficient flexibility in the way implementation of the KAs is assessed. Specifically, there should be allowances made for the resolution regime to take account of jurisdictional-specific features in the organisation and business models of financial institutions. Where relevant, the assessment should address practical implementation of the requirements of the KAs to establish whether it achieves the intended effect or outcome of the relevant specific KA. As noted in the previous version of the draft methodology (but then omitted from the consultation document itself), there

may also be cases where a jurisdiction can demonstrate that compliance with a KA has been achieved through laws, rules or practices separate from the resolution regime(s) under assessment.

2. Responses to the questions

Question	IAIS response
1	<ul style="list-style-type: none"> The IAIS considers that there is no need to have further specific additions to the EC. If outcomes from pilot assessments are that further sector-specific guidance is needed, the IAIS will look into developing such guidance.
2	<ul style="list-style-type: none"> See response to Q1.
4	<ul style="list-style-type: none"> All assessors are expected to have expertise in resolution and financial regulation and therefore no additional guidance is considered necessary. Regarding (a), the IAIS believes that assessors should not be allowed to make any determination as to which firms are systemic in a jurisdiction. It is apparent that G-SIIs are identified based on the IAIS Assessment Methodology, “Global Systemically Important Insurers: Initial Assessment Methodology,” published in July 2013. With respect to D-SIIs, if any, they should be identified in an objective and transparent methodology which will be developed by national authorities (in consideration of guidance which may be developed by the IAIS as necessary). Therefore, there should be no discretion given to assessors to make determination in isolation as this could cause conflict with the above mentioned identification processes. Regarding (b), the IAIS is of the view that Key Attributes that are addressed to G-SIFIs should be applied only to G-SIFIs for the assessment purpose. National authorities may think of applying KAs that are designed for G-SIFIs to non-G-SIFI firms on a voluntary basis, but the scope of the assessment should not be broadened.
5	<ul style="list-style-type: none"> The IAIS considers the preconditions to be appropriate.
6	<ul style="list-style-type: none"> With regard to the 1st question, until the status of the EC and EN, the annexes and the extent of their applicability is made clearer, it is not clear if the assessment methodology is acceptable. With regard to the 2nd and 3rd questions, if the intention of the 3rd question is whether proportionality needs to be taken into account in the assessment of a jurisdiction as home or key host jurisdictions of G-SIFIs, the response is “yes.” The IAIS is of the view that proportionality should be taken into account within the assessment.

7	<ul style="list-style-type: none"> The IAIS does not see the necessity of further elaboration at this stage. However, after the pilot assessments planned may result in a reconsideration of the need for further elaboration but this should only be considered after the pilots.
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3. Other specific comments

Section/paragraph	Comment
III. A. Essential criteria (EC)	<ul style="list-style-type: none"> The following paragraph should be deleted as they contradict the purpose of the KA Assessment Methodology (KAAM) stated in Section II on page 8 (“<i>[T]he purpose of the methodology is to guide the assessment of a jurisdiction’s compliance with the Key Attributes.</i>”). <p>The EC set out minimum requirements for effective resolution regimes which apply to all jurisdictions as regards their resolution regimes for financial institutions that could be systemically significant or critical in the event of failure (unless it is explicitly indicated that particular EC apply only to jurisdictions that are home or key host to a G-SIFI).</p>
III. C. Four-grade assessment scale	<ul style="list-style-type: none"> The 2nd sentence of the 4th paragraph on page 11 should be modified as follows. <p>For instance, in a jurisdiction with separate resolution regimes for <u>G-SIFIs</u> banks and insurers, when assessing the implementation of KA 3 (resolution powers), an assessor will first have to assess whether each regime provides a resolution authority with the resolution tools specified in KA 3 that are relevant for the sector in question.</p> <ul style="list-style-type: none"> With regard to grading, while recognising that many of the KA are related, it is a concern that the cross referencing of grading throughout the document may unnecessarily complicate the grading or result in double jeopardy issues, whereby one weakness in a jurisdiction’s regime results in multiple downgradings. Eg: EN 12.1 (a) Consistency with Relation to KA 7.6 and KA 9.1 - A jurisdiction can only be graded as compliant with KA 12.1 if its grading of KA 7.6 and 7.7 – KA 9.1 is at least ‘largely compliant’.
III. F. Recommended actions (“Action	<ul style="list-style-type: none"> The IAIS agrees that the KAs need to be implemented in an effective and consistent manner across jurisdictions as stated in the KAs (i.e. the “Foreword” section). However, it should not be a role of assessors to develop a formal action plan (noting that it is not

<p>Plan”)</p>	<p>clear what a “formal” plan means). Each jurisdiction should be able to develop action plans and these might be subsequently modified as a result of recommendations by assessors. Therefore the 1st paragraph should be amended as follows.</p> <p><u>As a result</u> On the basis of each assessment, assessors should <u>be able to make recommendations</u> develop a formal ‘Action Plan’ for the jurisdiction <u>assessed</u> in question. It is the jurisdiction’s responsibility to develop an action plan which should include For each KA, the Action Plan will recommend specific actions and measures to improve the resolution regime (see Appendix). Where appropriate, the <u>recommendations</u> Action Plan should also contain sector-specific recommendations or recommendations focused only on the elements of the regime relating to G-SIFs.</p>
<p>IV. Assessment of policy measures for G-SIFs</p>	<ul style="list-style-type: none"> • The 2nd paragraph states that “[T]he FSB is developing a separate review process (Resolvability Assessment Process RAP) that will focus specifically and exclusively on how the requirements specific to or targeted at G-SIFs are implemented by home and, as relevant, host authorities.” The IAIS believes that there should not be any overlaps between the KAAM and outcomes from the RAP workstream.