

Comments of the KNF - Polish Financial Supervision Authority to the Consultative Document *Assessment Methodology for the Key Attributes of Effective Resolution Regimes for Financial Institutions*, issued for comments by 31 October 2013.

Polish Financial Supervision Authority is pleased to be given an opportunity to provide its comments to the *Assessment Methodology for the Key Attributes of Effective Resolution Regimes for Financial Institutions* issued for consultations by the Financial Stability Board.

Answers to specific questions:

1. Do the Essential Criteria (EC) proposed in the draft methodology focus on relevant and assessable features of resolution regimes that need to be in place to comply with the Key Attributes? What, if any, additional features of resolution regimes, in particular in relation to their sector-specific aspects, should be covered in EC?

In our opinion Criteria proposed will, in general, constitute a good guidance for the members of the assessment team.

2. Do any Key Attributes or relating EC require further explanation or interpretation to promote a consistent assessment and implementation of the Key Attributes across jurisdictions?

The criterion 2.6.1. is a repetition of the KA 2.6. Some more explanation could be given especially in regard of the “good faith” condition.

[See also answers to other questions in this document]

3. Does KA 4 regarding set-off, netting, collateralisation and the segregation of assets require additional explanation or interpretation? What should be the appropriate length of the temporary stay of early termination rights provided for in KA 4.3? Should authorities have the power to extend the temporary stay? If so, what additional conditions or safeguards should apply?

In our opinion the temporary stay of early termination rights should in general be applied for a very short period of time, therefore any such possibility should be assessed as being compliant with this KA (no minimum length). Conditions for the use of these rights should be clearly stated in the law. It should be possible for the authority to extend this temporary stay if necessary.

4. Is additional guidance needed to help assessors evaluate the relative strengths and weaknesses of resolution regimes in light of the structure of the financial system?

a) Should assessors be required to make a determination as to which firms in a jurisdiction may be systemic in failure prior to carrying out an assessment of the resolution regimes that apply to those firms?

b) Should the presence of a G-SIFI require assessors to give greater weight to compliance with the Key Attributes of the resolution regimes that applies to that G-SIFI?

The assessors should be aware of the business standing and of the significance of the particular institutions in the country the regime of which is being assessed. If there are more than one regime in a country, more weight should certainly be given to the one that applies to the significant entities, especially G-SIFIs.

5. Do the 'preconditions' set out in Section VI of the Introduction cover the relevant elements of a jurisdiction's legal and institutional framework that are necessary for resolution regimes to operate effectively?

The role of the preconditions set out in Section VI is still a bit unclear. The assessors are not expected to make any assessments of these by themselves but nonetheless the assessment of the preconditions is to be included in the final document. The reason is to give a reader an overview of the environment in which the resolution regime is placed. In our opinion more appropriate is to give an overview of the whole financial system, with the special consideration of the features that could have impact on the way the assessment is made. For example a structure of the financial sector should be described if the structure makes some criteria irrelevant for that sector. At the same time, only those preconditions should be described in the final report, that were found to have some material influence on the assessment's results.

6. Is the methodology suitable for use in assessments of countries with financial markets at different stages of development? Does the methodology provide sufficient guidance on how it should be applied in a proportionate manner in different country circumstances? Should the methodology apply a higher standard to home or key host jurisdictions of G-SIFIs?

As a general rule, the methodology and the criteria used for the assessments carried out in different jurisdictions should be the same. All jurisdictions deserve to have the frameworks that meet the high standards set by the Key Attributes. Nonetheless all the Attributes shall be perceived through their purpose, and if the compliance with some Attribute is clearly not necessary for the resolution regime to be effective, the jurisdiction should not be deemed non-compliant with the KAs if such Attribute is found as not implemented.

7. Are there any additional elements that should be covered or elaborated in more detail in the methodology?

Some more focus should be put on the process of the appeal against the decision of the resolution authority. It should be clear as to how the appeal may be made and which of the authorities or courts are responsible for the oversight of the resolution authority's actions. This could be assessed under the KA 2 or KA 5.