



# IAIS

INTERNATIONAL ASSOCIATION OF  
INSURANCE SUPERVISORS

Svein Andresen  
Financial Stability Board  
c/o Bank for International Settlements  
CH-4002 Basel

October 18<sup>th</sup> 2013

Ref: 93/100

**Via e-mail**

**Re: IAIS response to the FSB consultation: Application of the Key Attributes of Effective Resolution Regimes to Non-Bank Financial Institutions**

Dear Svein:

On 12 August 2013 the *Application of the Key Attributes of Effective Resolution Regimes to Non-Bank Financial Institutions* was released for a two-month consultation. As previously advised the IAIS delayed its response as the deadline coincided with our Annual General Meeting.

In our response the IAIS has focussed on two areas of the consultation paper: the table of questions in the cover note, and the Annex for Insurers.

In respect to the paper we wish to highlight the following observations from the IAIS:

- *Vital Economic Functions*: Risk transfer, risk pooling and pooling of savings may not represent vital economic functions in the case of insurers. We recommend the deletion of this text from the Annex.
- *Guidance*: The current level of guidance, in particular in respect to NTNI activities, and transfer of liabilities, is sufficient and no further guidance is required.

A table outlining our full response is included in the attached Annex.

Yours sincerely,

Peter Braumüller

## IAIS response to the Application of the Key Attributes of Effective Resolution Regimes to Non-Bank Financial Institutions

1. Response to the specific questions raised by the FSB in the cover note to the consultation.

Questions	IAIS response
Q22.	The IAIS considers the general resolution powers as specified in KA 3.2 and KA 3.7 are sufficient and no further additional powers are required.
Q23.	The IAIS considers the draft guidance adequately address the specific considerations in the application to insurers of the resolution powers as stated and no further guidance is required.
Q24.	The IAIS considers the statutory objectives for the resolution of an insurer to be appropriate.
Q25.	The IAIS considers the scope of application is appropriately defined and agrees that resolution tools are likely to be required less frequently for insurers than other kinds of financial institutions.
Q26.	The IAIS considers the draft guidance adequately addresses the specific considerations in the application to insurers of the resolutions powers set out in KA 3.2 and no further powers are required. A member has cited that special treatment is required for the treatment of reinsurance, because a reinsurance contract may cover more than the portfolio of liabilities being transferred
Q27.	The IAIS considers the draft guidance adequately address the specific considerations in the application to insurers of the resolution powers as stated and no further guidance is required.
Q28.	The IAIS considers the draft guidance adequately address the specific considerations in the application to insurers of the resolution powers as stated and no further guidance is required.
Q29.	Special treatment is required for the treatment of reinsurance because a reinsurance contract may cover more than the portfolio of liabilities being transferred.
Q30.	The IAIS considers that no additional factors or considerations are needed in the Annex for the resolvability of insurers that carry out particular kinds of business. The IAIS can develop further guidance if found necessary.
Q31.	The IAIS considers that there are no additional matters to be covered by recovery plans or resolution plans for insurers that carry out particular kinds of business in the Annex. The IAIS can develop further guidance if found necessary.
Q32.	The IAIS considers there is no need for additional classes of information for insurers to produce for the purposes of planning, preparing for or carrying out resolution to be included in the Annex. The IAIS can develop further guidance if found necessary.
Q33.	The IAIS considers there are no further issues in relation to the resolution of insurers to be included in the Annex that would be helpful for the FSB to clarify further guidance. However the IAIS can develop its own guidance if found necessary.

## 2. Comments on the contents of the draft Annex and proposed drafting solutions

Paragraphs	IAIS comments
Overall	<i>The term “policyholder” should be defined. The IAIS ICPs states “policyholders, beneficiaries and claimants (collectively referred to as policyholders) and therefore the same should be done in the Annex as well as the Key Attributes.</i>
1.1	<p><i>The last part of the last sentence of paragraph 1.1 “especially retail policyholders who are dependent on insurance benefit payments” needs to be deleted as it also applies to other policyholders.</i></p> <p>1.1 A resolution regime for insurers should meet the general objectives set out in the Key Attributes (Preamble and KA 2.3). It should make it feasible to resolve an insurer without severe systemic disruption or exposing taxpayers to loss, while protecting vital economic functions through mechanisms which make it possible for shareholders and unsecured creditors to absorb losses in a manner that respects the hierarchy of claims in liquidation. Additionally the resolution regime should have as a statutory objective the protection of insurance policyholders, <del>especially retail policyholders who are dependent on insurance benefit payments.</del></p>
1.2	Functions provided by insurers <del>that</del> may constitute vital economic functions <del>include risk transfer, risk pooling and the pooling of savings.</del> The protection of these functions should include securing appropriate continuity of the insurance coverage and payments.
4.1	<p><i>(v) should be deleted as it is of a different nature compared to (i) to (iv).</i></p> <p>4.1 <del>(v) the resolution objectives (see Section 1) cannot be achieved through ordinary insolvency, run-off or portfolio transfer procedures alone.</del></p>
4.5	<p><i>4.5 refers to only “conversion or commutation,” which are part of restructuring of liabilities, while restructuring of liabilities in 4.4 covers broader. To ensure consistency between the two, 4.5 should be modified as follows.</i></p> <p>4.5 The resolution authority should be able to exercise powers <u>regarding</u> <del>of</del> restructuring of liabilities <del>conversion or commutation</del>, subject to the safeguards set out in KA 5, without being required to identify every creditor or potential creditor or to provide notice to each one.</p>
6.1	<p><i>The term “beneficiaries” should be deleted. See the overall comment above.</i></p> <p>6.1 (ii) compensating policyholders <del>or beneficiaries</del> for their losses in the event of a wind-up or liquidation.</p>
9.3	<p><i>References to transfer should be kept – it may not be sold – so the assessment is more likely to be “can we transfer this in short order to maintain continuity” than in trying to attract “buyers”.</i></p> <p>9.3 The assessment of the feasibility of the resolution strategy should cover as appropriate:</p> <p>(i) the likely availability of a transferee<sub>1</sub> or purchaser<sub>1</sub> for any insurance business that is to be <u>transferred</u> <del>sold</del> as part of the resolution strategy, taking into consideration the ability to use a bridge institution to operate the business on a temporary basis;</p>

	(ii) the time needed to evaluate policyholder liabilities and the assets supporting, backing or to be transferred as consideration for assuming the liabilities, and for a potential <u>transferee</u> <del>buyer</del> to carry out due diligence;
10.2	<p><i>Add before the listing of potential types of business the insurer engages in "e.g." as the subsequent list is in our understanding not meant to be exhaustive.</i></p> <p>10.2 Recovery and resolution plans (RRPs) need to be tailored to the specific risks and systemic implications that each insurer may be exposed to or create and take into account the types of business the insurer engages in, <u>e.g.</u> its derivatives booking, intercompany guarantees, inter-affiliate support arrangements, risk pooling, shared services and risk management model and the nature of its assets and liabilities.</p>
10.10	<p><i>Suggest adding "are."</i></p> <p>10.10 (i) identification of policyholders that <u>are</u> protected by a policyholder protection scheme and policyholders that are not eligible for benefits from such schemes;</p>
10.10	<p><i>It may be worth clarifying the highlighted wording, as it is not entirely clear what is purpose of the text.</i></p> <p>10.10 (vii) details on the allocation of ceded reinsurance among <u>the different insurers in the group (as appropriate)</u> <del>various legal entities</del> and impact on the recovery levels;</p>