



October 31, 2013

Financial Stability Board
c/o Bank of International Settlements
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The American Council of Life Insurers (“ACLI”)¹ appreciates this opportunity to comment on the Financial Stability Board’s *Assessment Methodology for the Key Attributes of Effective Resolution Regimes for Financial Institutions* Consultative Document dated August 28, 2013 (“Assessment Methodology document”).

As we stated in our October 15, 2013 comment letter in response to the *Application of the Key Attributes of Effective Resolution Regimes to Non-Bank Financial Institutions* Consultative Document dated August 12, 2013 (“Application of the Key Attributes document”), the United States has a well-established, effective, state-based regulatory system in place to address insurer resolutions. All fifty states, the District of Columbia and Puerto Rico have receivership laws that govern how rehabilitations and liquidations are initiated and operated, including matters relating to proceedings, powers and duties of the receiver, court-approved rehabilitation and liquidation plans, asset recovery, claims and priority of distributions. All of these jurisdictions also have guaranty associations and related laws that address the powers and duties of the association, its board of directors, assessments on member insurers, covered products and the amount of coverage provided to policyholders and contract holders. In addition, the National Association of Insurance Commissioners (“NAIC”) has adopted model laws that address receiverships and guaranty associations, as well as state accreditation standards that relate to each of them.

On the very first page of the Assessment Methodology document, it states “The purpose of the methodology is to guide the assessment of a jurisdiction’s compliance with the Key Attributes (“KA”) and also to serve as guidance to jurisdictions that are adopting or amending national resolution regimes to implement the Key Attributes.” It also states “The methodology proposes a set of essential criteria (EC) for each KA that should be used to assess compliance with the relevant KAs. In addition, the methodology includes explanatory notes (EN) that provide examples of how jurisdictions implement a specific KA, explanations, cross-references to other relevant KAs and specific definitions.”

The document also recognizes the importance of sector-specific considerations, including those relating to insurers. For example, on page 15, it states “However, not all resolution powers and attributes of resolution regimes set out in the Key Attributes are suitable or

¹ The ACLI is the primary trade association of the life insurance industry in the United States, representing more than 300 legal reserve life insurer and fraternal benefit society member companies that account for over 90% of the assets and premiums of the U.S. life insurance and annuity industry.

relevant for all sectors. Different types of financial firms – even within a particular sector – have distinctive features that need to be reflected in regimes for the resolution of such entities.” With regard to insurers, it states “The Key Attributes recognize that two particular resolution tools – portfolio transfer and ‘run-off’ – are likely to be particularly relevant for the resolution of an insurer”.

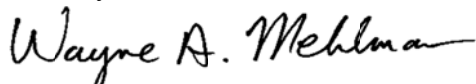
The Assessment Methodology document, including its essential criteria and explanatory notes, obviously builds on and incorporates the principles and elements of the original *Key Attributes of Effective Resolution Regimes for Financial Institutions* document dated October 2011, as well as the Application of the Key Attributes document and its Annex on the Resolution of Insurers (Appendix II).

As a result, the concerns that we conveyed in our October 15, 2013 comment letter with regard to the Application of the Key Attributes document also apply to the Assessment Methodology document. These concerns are:

- (1) KA 1.1, via 2.1 of Appendix II of the Application of the Key Attributes document, has the Key Attributes apply not only to all of those insurers who are designated as Global Systemically Important Insurers (“G-SIIs”), but also to “any insurer that could be systemically significant or critical if it fails”. We suggest that the words “that could be” be replaced with “that is determined to be”.
- (2) KA 3.2 (vii) and KA 3.4, via 4.3 of Appendix II of the Application of the Key Attributes document, would give a resolution authority the power to create and use a bridge institution in order to obtain and hold the viable assets of an insolvent insurer. We suggest that specific language be added to state that a resolution authority would not be required to create and/or use bridge institutions in insurer insolvencies.
- (3) KA 3.2 (iii), via 4.4 of Appendix II of the Application of the Key Attributes document, would give a resolution authority the unilateral power to restructure or limit policy liabilities, including insurance and reinsurance liabilities. We suggest that specific language be added to state that a resolution authority would not be required to have this power when it conflicts with other laws.
- (4) KA 5.1, via 5.2 of Appendix II of the Application of the Key Attributes document, would give a resolution authority the power to create separate sub-classes of policyholders and treat them differently. We suggest that specific language be added to state that a resolution authority would not be required to have this power when it conflicts with other laws.

Thank you again for the opportunity to comment on the Assessment Methodology document. If you have any questions, please feel free to contact me at 00-1-202-624-2135.

Sincerely,



Wayne Mehlman
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