



FSB -> IAIS -> European Resolution

AAE Webinar

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Financial Stability Board: Key Attributes(2014) Assessment Methodology for the Insurance Sector

Methodology for Assessing the Implementation of the Key Attributes of Effective Resolution Regimes for Financial Institutions in the Insurance Sector, preconditions:

- A. a well-established framework for financial stability, surveillance and policy formulation;
- B. an effective system of supervision, regulation and oversight of insurers;
- C. effective mechanisms for the protection of policyholders;
- D. a robust accounting, auditing and disclosure regime; and
- E. a well-developed legal framework and judicial system, in particular liquidation/bankruptcy regime

FSB Key Attributes

1. Scope: Any financial institution that could be systemically significant or critical if it fails should be subject to a resolution regime
2. Each jurisdiction should have a designated administrative authority
3. Resolution powers: Resolution should be initiated when a firm is no longer viable or likely to be no longer viable
4. The legal framework governing set-off rights, contractual netting and collateralisation agreements and the segregation of client assets should be clear, transparent and enforceable during a crisis
5. Safeguards: Resolution powers should be exercised in a way that respects the hierarchy of claims while providing flexibility to depart from the general principle of equal (pari passu) treatment of creditors of the same class

FSB Key Attributes continued

6. Funding of firms in resolution: Jurisdictions should have statutory or other policies in place so that authorities are not constrained to rely on public ownership or bail-out funds as a means of resolving firms
7. Cross-border cooperation
8. Crisis Management Groups
9. Institution-specific cross-border cooperation agreements
10. Authorities should regularly undertake assessments that evaluate the feasibility of resolution strategies
11. Jurisdictions should put in place an on-going process for recovery and resolution planning
12. Jurisdictions should ensure that no legal etc. impediments exist that hinder the appropriate exchange of information

IAIS Core Principles, updated Nov 2019

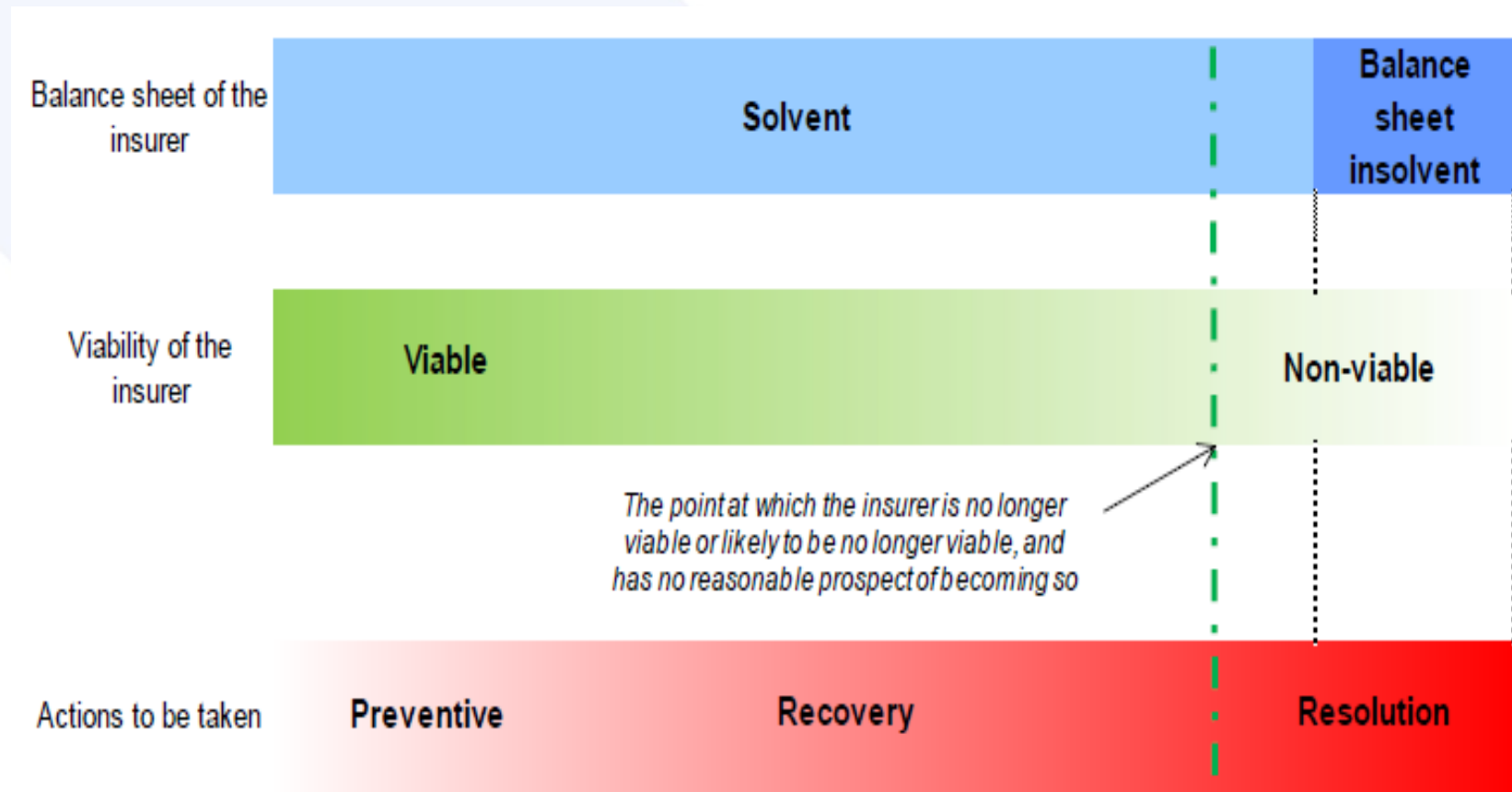
ICP 12, Exit from the Market and Resolution

- Voluntary exit of insurers from the market, and
- Resolution of insurers that are no longer viable or are likely to be no longer viable, and have no reasonable prospect of returning to viability

Legislation provides a framework for resolving insurers which:

- protects policyholders; and
- provides for the absorption of losses in a manner that respects the liquidation claims hierarchy

Relationship between solvency, viability and actions to be taken



Criteria

- The legislation should support the objective of protecting policyholders. This however does not mean that policyholders will be fully protected under all circumstances and does not exclude the possibility that losses be absorbed by policyholders
- The legislation should provide a scheme for prioritising the payment of claims of policyholders and other creditors in liquidation (liquidation claims hierarchy). Resolution powers should be exercised in a way that respects the hierarchy of creditors' claims in liquidation. In a resolution action other than a liquidation, creditors should be entitled to compensation if they receive less than they would have received if the insurer was liquidated
- Resolution should seek to minimise reliance on public funding
- the framework ... should also include as an objective the contribution to financial stability

EC proposal of September, 2021

- Scope: addresses crisis management (preventive powers, pre-emptive recovery planning and resolution) in relation to all insurance and reinsurance undertakings established in the EU that are subject to the Solvency II framework
- requires Member States to set up insurance resolution authorities, equipped with a minimum harmonised set of powers to undertake all the relevant preparatory and resolution actions
- 70% of undertakings per Member State should be subject to resolution planning
- Neither pre-emptive recovery nor resolution plans should rely on any extraordinary public financial assistance or expose taxpayers to the risk of loss
- common parameter for triggering the application of resolution tools. An insurance or reinsurance undertaking should be placed in resolution when it is failing or likely to fail and there is no prospect that private sector alternatives or supervisory measures can avert failure

Resolution tools and powers

- write-down or conversion of capital instruments, debt instruments and other eligible liabilities in particular to facilitate the exercise of other resolution tools such as the solvent run-off or the transfer tools
- solvent run-off: the authorisation of an undertaking under resolution to conclude new insurance or reinsurance contracts is withdrawn
- all or part of an undertaking's business can be sold on commercial terms
- all or part of an undertaking's business can be transferred to a publicly controlled entity
- asset and liability separation: impaired or problem assets and/or liabilities can be transferred to a management vehicle to allow them to be managed and worked out over time

Resolution and possible guarantee schemes

- Where available, insurance guarantee schemes could contribute to funding the resolution process by absorbing losses to the extent of the net losses that those schemes would have had to suffer after protecting policy holders in normal insolvency proceedings.
- In those cases, the application of the write-down or conversion tool would ensure that eligible policy holders are protected up to at least the coverage level which is the main reason why such insurance guarantee schemes have been established under national law

Summary

- EC proposal to a large extent fulfils the guidelines of the FSB and the IAIS when it comes to resolution
- Resolution aims at policyholder protection and into avoiding the need to use public money, with a lower emphasis on financial stability
- Probably more study will be needed at least in the following areas:
 - as insurers typically have, compared to banks, less bail-inable assets in their balance sheets it is unclear how much a resolution regime brings something in addition to normal bankruptcy procedures
 - The use of insurance guarantee schemes might be problematic especially in cross-border cases