

17 October 2013

**Subject: Copy of ComFrame Consultation Tool**

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## **1 Purpose**

The purpose of this document is to provide a copy of the ComFrame Consultation tool in a format that can be shared among multiple staff members of an organisation. This should facilitate the commenting process

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**SPECIFICATIONS OF THE COMFRAME CONSULTATION TOOL****IAIS Consultations**

Your information:

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## IAIS Consultations

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Q-Nr	Reference question	Jump to Section <drop down menu of Sections and questions>
1. General Question		
Q1	General comments on 2013 Draft ComFrame	
<p>The Global Federation of Insurance Associations (GFIA) appreciates the constructive efforts by the IAIS and supervisors to foster a gap-free supervisory system through initiatives such as the development of new Insurance Core Principles (ICPs), the establishment of supervisory colleges, and the ComFrame workstream. We also appreciate the opportunity to offer our comments on the October 17, 2013 consultation draft of ComFrame (October 17 Draft or Draft).</p> <p>As a general matter, GFIA believes that the October 17 Draft is an improved product, focusing on higher-level principles and more accommodating of different regulatory standards and perspectives. Nonetheless, we continue to have concerns with: (1) the level of prescription inherent in certain provisions, (2) the extent to which some of the standards may blur the boundaries between the supervision of systemic risk and group supervision, and (3) the structure of supervisory cooperation in order to ensure that supervisory colleges are robust, effective and efficient. GFIA has organized its comments by Module and Element, providing examples where possible to illustrate our concerns. Individual GFIA members will provide more detailed concerns and examples in their individual submissions.</p> <p>GFIA continues to believe that it is vitally important that ComFrame does not create an additional and prescriptive layer which disregards local regimes. Instead the goal of ComFrame should be to provide a principles based framework which can promote better understanding and ultimately through coordination and cooperation among supervisors facilitate reliance on and recognition of the group supervision conducted by jurisdictions which meet the ComFrame standard.</p> <p>GFIA is pleased to see emphasis in the October 17 Draft on the so-called “Cornerstones” of ComFrame – proportionality, approach to group-wide supervision, operational structures, and allocation of roles – which set forth fundamental principles that are important to the success of ComFrame. Those Cornerstones are consistent with our concerns and, where appropriate, we have cited examples that do not align with one or more of these Cornerstones. GFIA agrees that the specific details of ComFrame – whether embodied in a Standard, Element, Parameter, or Guideline – must ultimately be consistent with the principles set forth in the Cornerstones.</p>		
2. Introductory Remarks		
Q2	General comments on the Introductory Remarks	
<p>In the cover memo accompanying the October 17 Draft, the IAIS requested specific comment on the Group-Wide Supervision Cornerstone. That Cornerstone states: “Group-wide supervision is conducted on an outcomes basis and within ComFrame no preference is given to either a direct or an indirect supervisory approach.” GFIA supports this Cornerstone without modification. For IAIGs and supervisors, group-wide supervision requires a delicate balance among several</p>		

overlapping objectives and interests: regional, national and sub-national regulatory regimes, the objective of maximizing supervisory efficiency, the reality of legal limitations on enforcement authority, and the practical challenges of running an international business in highly competitive markets. The Cornerstone importantly preserves the flexibility necessary to achieve a balance among these potentially incongruent objectives and interests. Indeed, retaining this Cornerstone may be essential to ComFrame’s success during implementation.

3. Module 1

Q3 | General Comments on Module 1 Scope of ComFrame

When supervisory discretion is applied, the criteria for making this determination who qualifies as an IAIG must be clearly stated (as indicated in our comments to M1E1) and fairly and uniformly applied, which means that ComFrame should apply to all insurers that qualify regardless of ownership.

Q4 | Comments on Module 1 Element 1 Identification of internationally active insurance groups

As indicated in our general comments on M1, we believe the Cornerstone principle of proportionality warrants clarification of the specific guidance for exercising supervisory discretion in identifying companies as IAIGs. Although the Consultation Draft provides some examples, the process remains uncertain. M1E1-1-3-2, for example, provides that an involved supervisor should request the group-wide supervisor to consider an insurance group as an IAIG if its business activities in the host jurisdiction are “material,” but there is no explanation or transparency of the basis for making such a determination.

Q5 | Comments on Module 1 Element 2 Process of identifying internationally active insurance groups

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Q6 | Comments on Module 1 Element 3 Scope of ComFrame supervision

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Q7 | Comments on Module 1 Element 4 Identification of group-wide supervisor

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4. Module 2		
Q8	General Comments on Module 2 The IAIG	
<p>Overall, although much of ComFrame has been improved and has become more principles-based, as we note in our comments under the various elements below, more work still needs to be done to ensure ComFrame meets its objective of ‘not being rules based’ and allows for different operating structures.</p> <p>One of the areas where this is most apparent is with respect to capital resources. Currently, developments on capital resources should not be too detailed and too prescriptive since agreement has not been reached on the valuation element of Comframe (it is to be tested during the field testing in 2014) and ComFrame itself states (M2E5-3-1-1) ‘capital resources should be assessed based on the valuation methodology used’.</p> <p>In addition, it is important that consideration be given to the relationship between entities; thus, subordination to the parent’s policies and strategies is only possible to enforce where the parent undertaking has control over the related undertaking. Where the parent undertaking does not have control over a related undertaking, it should be acceptable for a firm to demonstrate that it can use its influence to put in place an effective system of governance.</p> <p>Furthermore, Module 2 proposes a number of duplicative, reporting requirements. IAIGs should be allowed to make reference to existing reports compiled or disclosures made for regulatory purposes.</p>		
Q9	Comments on Module 2 Element 1 IAIG’s legal and management structures	
<p>With respect to the extension of resolution/contingency plan measures to IAIGs, we urge IAIS to recognize the distinction between business continuity plans and so-called “living wills.” The former is an appropriate subject for ComFrame; the latter is not. Generally, inclusion of a contingency plan standard in Module 2 raises a broader concern about the interaction between Modules 2 and 3. We believe that it is premature to include provisions relating to crisis management in Module 2 when the IAIS has yet to determine whether such provisions will be included in Module 3 and the FSB has not concluded its work on the application of the Key Attributes or on the related methodology.</p>		
Q10	Comments on Module 2 Element 2 Governance	
<p>Module 2 Element 2 has generally become less prescriptive and respects the Cornerstones of proportionality and operational structures. Nevertheless, ComFrame still contains several examples of governance standards that run afoul of these Cornerstones, including the following:</p> <p>M2-E2-12: While GFIA acknowledges that most IAIGs will have a group internal audit function, both M2E2-12-1-3 and M2E2-12-2-1 contain very detailed requirements for an IAIG’s internal audit function. We recommend including language that permits operational structure flexibility, depending on determinations made solely by the IAIG.</p> <p>M2-E2-13: We recommend that ComFrame not prescribe the required steps and reviews that must occur within the IAIG with regard to oversight of outsourced activities. Such</p>		

requirements fail to satisfy the operational structures Cornerstone. Alternatively, GFIA recommends that Parameter M2E2-13-2 be revised as follows: “The IAIG’s policy and processes are designed to ensure that outsourcing arrangements do not diminish the IAIG’s or the individual insurance entities’ ability to fulfill their respective legal and regulatory obligations.”

With respect to reporting and disclosure requirements, in order to limit overlapping and duplication on reporting for IAIGs,, IAIGs should be allowed to refer to existing reports compiled for regulatory purposes that contain the required information. In addition, insurers should be permitted to make use of or refer to public disclosures made under other legal or regulatory requirements.

Q11	Comments on Module 2 Element 3 Enterprise Risk Management (ERM)
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Elements 3 and 4 of Module 2 outline an IAIG’s critical enterprise risk management (ERM) functions and policies. GFIA believes that these provisions may be most essential to ComFrame, as they underscore an IAIG’s ability to manage all relevant and material risks that impact the group and each legal entity within that group, as well as form the basis for the development and use of internal economic capital models. For supervisors, evaluating an IAIG’s ERM structure constitutes a core qualitative assessment function of group-wide supervision. To the extent that these elements of the October 17 Draft have evolved to allow the IAIG flexibility to manage its risks, the Draft reflects an improvement over prior versions. However, there are a number of remaining concerns with the level of specific detail contained in some provisions of Elements 3 and 4(for example, the prescriptive requirement to have an independent review of the ERM process every three years even if the circumstances of the IAIG has not changed). On that count, more flexibility should be granted for groups in identifying and analyzing a comprehensive view of material risks to which they are exposed.

Q12	Comments on Module 2 Element 4 Enterprise Risk Management (ERM) policies
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As noted above, it is important that the requirements on what needs to be included in the various ERM policies in ComFrame remain principles based; otherwise the ability of undertakings to adapt their ERM policies in line with emerging best risk practices will be compromised as well as the flexibility for individual undertakings to adapt their policies as most appropriate to their operating structure. GFIA believes the current draft is still far in prescribing what certain policies should include. For example:

M2E4-1 requires the IAIG to have a group-wide investment policy, including a guideline (M2E4-1-1-2) encouraging asset-liability matching. While the guideline does indicate that “strict one for one asset to liability matching” is not required, GFIA requests that the IAIS consider whether such a guideline allows IAIGs enough flexibility to manage their investments as most appropriate for their risk profile.

M2E4-8-2 also provides that the actuarial opinion must be “forward looking.” GFIA is concerned that the scope of this parameter may be inconsistent with current best-practice. Indeed, use of the term “opinion” may prove difficult in jurisdictions where that word is a term of art. Given the breadth and scope of the standard, GFIA would recommend that the IAIS use the term “report” in order to provide maximum flexibility for IAIGs to meet this standard and comply with local requirements.

Q13	Comments on Module 2 Element 5 Capital adequacy assessment. Please provide comments on this Element in the context of the future development of a global quantitative capital standard.
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Module 2 Element 5 generally permits an IAIG to continue to use the accounting regime it currently uses (e.g. Generally Accepted Accounting Principles, International Financial Reporting Standards, or Statutory Accounting Principles) without prescribing the use of one particular regime. However, certain components of Module 2, Element 5 implicitly assume a single valuation approach (e.g., definition of Qualifying Capital Resources) which may or may not be consistent with the final accounting or capital standards in different regulatory environments. ComFrame drafters should resist any urge to introduce a more prescriptive tone regarding the use of a particular accounting regime given that convergence of international accounting standards is already occurring via other channels under the auspices of the Financial Accounting Standards Board and the International Accounting Standards Board. This convergence will occur over time, and trying to develop such standards in the context of ComFrame will only further complicate an already complex convergence schedule. GFIA urges ComFrame drafters to maintain this deference to existing accounting regimes while the IAIS develops the so-called “best estimate” approach to liabilities. The development of this approach should not create a new regulatory layer but rather build upon existing jurisdictional approaches without favoring one approach over another.

M2E5-3 should not contain specific definitions as to which capital resources qualify in the context of the capital adequacy assessment. Rather, principles should be articulated that permit the flexibility needed for the various accounting regimes. Without this flexibility, the cornerstone of “proportionality” fails to exist and all IAIGs become treated similarly regardless of size or complexity. GFIA agrees that capital resources should be assessed on the basis of the valuation methodology used by the IAIG.

M2E5-4: In evaluating whether an IAIG is adequately capitalized from a regulatory perspective, the regulator’s capital objective must be clear. In the context of an insurance capital or minimum regulatory capital standard, GFIA believes that the focus should be to protect policyholders in the event of insolvency. From this perspective, any financial instrument that is available over the forecast horizon, not subject to guarantees or security arrangements and explicitly subordinated (e.g., by security design) or subordinated by structure (e.g., holding company debt) or by law (e.g., jurisdictions where policyholders rank before debt holders by law) can be viewed as loss absorbing capital in protecting policyholders.

In this context, any bifurcation between “core” and “additional” capital only serves to create an arbitrary limit on the percentage that can be derived from one form of capital. It is not clear that ComFrame needs to stipulate this bifurcation in order to achieve regulatory equivalence. However, if ComFrame does stipulate a split between “core” and “additional” capital, the definition of loss absorbing “additional” capital needs to be broadened to reflect a regulatory capital objective of protecting policyholders (see M2E5-5).

M2E5-11-5-1: Guideline explicitly recognizes diversification benefits for groups. As such, both the emphasis and the wording seem to put inadequate relevance on the issue. We would therefore propose to delete the guideline and include reference to diversification effects in Parameter M2E5-11-1 as follows:

"The Group capital benchmark is based on the potential adverse changes in capital resources resulting from unexpected changes in material risks **under due consideration of group wide diversification effects**"

Q14	Comments on Module 2 Element 6 Public disclosure and group reporting
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5. Module 3		
Q15	General Comments on Module 3 The Supervisor	
<p>Efficient and effective supervisory cooperation supported by robust supervisory colleges are key to the success of ComFrame, and in this respect GFIA would like to see the current text strengthened with mechanisms added to ensure the colleges prove effective and robust in both going concern and stress scenarios. In particular, we believe that colleges should have a robust decision making process, and there should be a post-hoc cost-benefit analysis of the colleges.</p>		
Q16	Comments on Module 3 Element 1 Group-wide supervisory process	
<p>One of the main benefits for IAIGs of ComFrame is the potential streamlining of group supervision and, in particular, supervisory requests for information as relates to the group as a whole. Parameter M3E1-1-4 notes that when additional information is needed the “group-wide supervisor in cooperation with other involved supervisors” requires the IAIG to provide the necessary information. This provides little clarity on who is responsible for communicating with which parts of the group. Therefore, to avoid multiple uncoordinated information requests, we suggest language be added to clarify that the group supervisor is responsible for contacting the Head of the IAIG to obtain additional information as relates to the group as a whole; and where additional information is required with respect to individual group entities, which cannot be obtained from the Head of the IAIG, their local supervisory authority is responsible for contacting the entity in their jurisdiction and then transmitting the information to the group-wide supervisor and where relevant to the college of supervisors. Information requests should be limited to material information or material changes that impact the group or the relevant supervised entity.</p>		
Q17	Comments on Module 3 Element 2 Supervisory colleges, cooperation and coordination	
<p>While M3E2-1-4 directs the group-wide supervisor to convene a supervisory college meeting at least annually, we believe the timing of any meeting should be within the supervisor’s discretion and not be directed by ComFrame. The method of meeting (e.g., by telephone or remote video link) should be a matter of supervisory discretion.</p> <p>We welcome the inclusion of a discussion on the ‘coordination arrangements’ at the initial supervisory college meeting (M3E2-1-2-2). We believe this coordination agreement should clarify who has the ultimate view on the different subjects. Furthermore, in order to assure that all the supervisors’ concerns are properly addressed and aiming as far as possible to have agreement in the college, an implementation process should be established.”</p> <p>Furthermore, while M3E2-2 recommends confidentiality within the supervisory college, it should remain the responsibility of the group-wide supervisor to verify the reliability and binding nature of each supervisor’s confidentiality obligations, and that responsibility should be reflected in Element 2.</p>		

While the work done to date on Module 3 Element 3 is not included in this consultation, in

order to assist the IAIS with this work going forward, some questions have been included. For questions 18 and 19, you will need to refer to FSB documents. These can be found at:

- For the *Key Attributes of Effective Resolution Regimes for Financial Institutions* (FSB Key Attributes):  
[http://www.financialstabilityboard.org/publications/r\\_111104cc.pdf](http://www.financialstabilityboard.org/publications/r_111104cc.pdf)
- For the *Application of the Key Attributes of Effective Resolution Regimes to Non-Bank Financial Institutions* (FSB consultative document):  
[http://www.financialstabilityboard.org/publications/r\\_130812a.pdf](http://www.financialstabilityboard.org/publications/r_130812a.pdf)

Q18	A question for supervisors: What plans do you currently have underway to implement the FSB Key Attributes in your jurisdiction with respect to IAIGs?
<p>Regarding crisis management and resolution, M3E3 warrants that the IAIS plans to “consider carefully whether and to what extent the FSB Key Attributes are appropriate for IAIGs.” While we are hopeful that a contrary response is not a foregone conclusion, Q. 18 raises the troubling possibility that supervisors might be planning to act preemptively in this critical area, which would seriously undermine the value of ComFrame as a coordinated and cooperative effort among all supervisors.</p>	
Q19	<p>Referring to the FSB Key Attributes (and Appendix II of the FSB consultative document), please explain whether you believe there should be any difference in the application of the FSB Key Attributes between IAIGs and G-SIIs.</p> <ul style="list-style-type: none"> <li>• If you believe they should be treated the same way, please provide reasons for your view.</li> <li>• If you believe there should be a difference between IAIGs and G-SIIs please explain that difference and your reasons.</li> <li>• If you believe that some of the FSB Key Attributes should be applicable to IAIGs in certain circumstances, please state the relevant key attribute, the circumstances and your reasons.</li> </ul>
<p>GFIA agrees that it is legitimate to consider the question of resolution of insurers in the context of business continuity plans, but would emphasise that any solutions devised in response need to be proportionate to supervisory objectives and based on the unique characteristics of the insurance business model. Our associations have commented on the FSB consultative documents, and we hope that our concerns and suggestions will be incorporated.</p> <p>As regards the possibility to apply some elements of the FSB Key Attributes to IAIGs, we would point out that supervisory powers and tools would need to be considered and assessed for their suitability on a case-by-case basis. In many cases existing regimes are already in place at the local level and have proven to be adequate for the resolution of insurers in the past. An alignment of existing insolvency regimes with FSB guidance would raise a number of complex legal issues and constitutional constraints at national level, as this would require extensive legislative change across jurisdictions.</p>	

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