

## GFIA response to IAIS consultation on draft revisions to supervisory material related to the Holistic Framework

### ICP 12 (Exit from the Market and Resolution)

#### 1 General comments on proposed changes to ICP 12 and related ComFrame standards

GFIA supports ICPs that require supervisors to have processes that manage insurer resolutions and allow supervisors to assess, based on established risk-based criteria and in proportionate manner, when an insurer should be required to contribute to a supervisor's resolution plan or to submit a recovery plan to a supervisor (collectively referred to as "RRPs" or "RRP supervisory requirements").

Given the unique characteristics and existing jurisdictional supervisory approaches, GFIA's view is that RRP supervisory requirements should not be applied mechanically. Only when a process involving an activities-based risk assessment using clear criteria indicates the potential existence of macroprudential risk (that is not mitigated by existing supervisory process and/or an insurer's ERM framework and contingency plans) should a supervisor, using their judgment, require company action on RRP.

When determining when a supervisor should engage with an insurer for either resolution or recovery planning, GFIA agrees that supervisors should leverage existing ERM frameworks, ORSAs, capital and liquidity regimes, and the myriad of other available supervisory tools to perform an activities-based risk assessment.

Given that ICPs are applicable to the supervision of all insurers, GFIA recommends that the defining of criteria for an activities-based risk assessment be addressed in other jurisdictional supervisory guidance (e.g. standards or guidelines). This would also be consistent with many of the other improvements to post-crisis group supervision of insurers (e.g. identifying a lead supervisor and the collaboration among jurisdictional supervisors using comparable supervisory frameworks).

However, GFIA does note agreement with some of the IAIS's proposed general criteria such as:

- complexity, size, activities and its lines of business
- risk profile and risk management mechanisms
- level of substitutability of the insurer's activities or business lines
- complexity of the insurer's structure, including the number of jurisdictions in which it operates
- interconnectedness
- the impact of the insurer's failure
- number of policyholder's impacted
- services or operations are significantly relied upon and cannot be substituted with reasonable time and cost
- causing a systemic disruption or a loss of general confidence in the insurance sector
  - the likelihood of the insurer's failure; and
  - a cost/benefit analysis of a resolution or recovery plan.

It is also important that RRP supervisory requirements are coordinated across jurisdictions and not duplicative or overlapping. Supervisors should also be able to remove RRP supervisory requirements if a subsequent application of the activities-based risk analysis indicates that the need for RRP supervisory requirements has been eliminated.

Where a resolution/recovery plan is included in the ICP and in ComFrame, then the articulation between solo and group becomes vital. A general principle should be that no recovery/resolution plan should be required



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when one exists at group level which considers major legal entities. If essential specificities of a major legal entity for one particular jurisdiction is not sufficiently reflected in the group plan, the local supervisors should be able to ask the group-wide supervisors to require a more granular coverage of those specificities.

Finally, GFIA does not consider that the difference between "plan" and "planning" is adequately explained in the draft, making it difficult for many stakeholders to appropriately distinguish between the two concepts.

**2 Question related to ICP 12.3 and ICP 16.15: The ICPs establish the minimum requirements for effective insurance supervision and are expected to be implemented and applied in a proportionate manner. Do you favour the proposed proportionate application of certain recovery and resolution planning requirements to all insurers? Please explain and provide details of how proportionality should apply and/or where such planning should be deemed necessary. The IAIS may consider this feedback in the final versions of the ICP guidance or in the supporting material (application papers).**

GFIA agrees with the proportionate application of recovery and resolution planning requirements. However, given the relatively low likelihood of systemic risk arising from the insurance sector, planning requirements should not apply generally to all insurers.

A general application is neither necessary from a risk perspective nor is it proportionate to implement, as the effort involved is high even for small insurance companies. A risk-based application and proportional implementation of planning requirements must be taken, considering the insurer's nature, scale, complexity, solvency position and impact of failure.

**3 Question related to CF 12.4.a: Recovery plans are required for all IAIGs. Resolution plans are required to be in place, at a minimum, for any insurer assessed to be systemically important or critical if it fails (regardless of their status as an IAIG). Due to their nature, scale and complexity, arguably there could be a presumption that all IAIGs should be subject to the requirement to have a resolution plan in place (unless deemed unnecessary by the supervisor or resolution authority), even if not assessed as systemically important. Are you in favour or against the possible introduction of a requirement, or presumption, that resolution plans are also required to be in place for all IAIGs? Please explain your opinions.**

GFIA does not support the introduction of a requirement, or presumption, that resolution plans should be required for all IAIGs.

As mentioned in the general comments and responses to other questions, requirements for insurers to join supervisors in preparing a resolution plan should (1) consider the unique characteristics of insurers; (2) recognise existing jurisdictional supervisory approaches; and (3) only occur when an activities-based risk assessment, using clear criteria, indicates the need for a resolution plan. Please see Q1 for GFIA comments on what constitutes appropriate criteria.

GFIA members consider that the main purpose of the development of a resolution plan is to prepare for failure of an insurer to mitigate the potential emergence of systemic risk. Imposing a uniform requirement to develop a resolution plan on insurers that, even if they were to fail, would have only a limited impact on financial stability, is clearly a measure that goes beyond the policy objective.

As such, the criteria (as highlighted in Q1 response) should not be, "*whether or not the insurer is an IAIG*", but rather, "*the degree of impact of the insurer's failure to the financial stability*". In addition, the scope of the IAIS requirement should be limited to requiring jurisdictional authorities to have a process that considers the impact of each insurer's failure. From this perspective, it is not appropriate for the IAIS to uniformly prescribe requirements for policy measures of the development of resolution plan for all IAIGs.

#### **4 Comments on proposed changes to ICP 12.3**

GFIA supports the new wording which makes the resolution authority responsible for the preparation of the resolution planning rather than each individual insurer.

#### **5 Comments on proposed changes to ICP guidance 12.3.1**

In light of the need to minimise the burden on firms, the last sentence should include a reference to the proportionality principle and specify that in return the company is informed of the resolution strategy, “*The supervisor and/or resolution authority should involve the insurer, as appropriate and in a proportionate manner, and communicate to the insurer the main elements of the resolution strategy contained in the resolution plan*”.

In addition, the authorities should primarily use information that is already available to them as part of the regular reporting system of the insurance companies.

#### **6 Comments on proposed changes to ICP guidance 12.3.2**

As this section relates to the preparation for resolution, the language around the resolution options being considered should be clearer.

GFIA therefore suggests making the following change:

“The options ~~used~~ *being considered in resolution planning* may vary based on the insurer’s activities,.....”

#### **7 Comments on proposed changes to ICP guidance 12.3.3**

GFIA would propose deleting 12.3.3.

Resolution authorities should be very cautious about requiring companies to take actions to mitigate potential risks in a hypothetical scenario which could cause actual harm on a going concern basis on the company’s operations, business, customers and investors relationships, etc.

In addition, the wording on specific risks to each insurer is vague and is duplicative of other requirements in the ICP (e.g. data requirements are included in 12.4.6).

#### **14 Comments on proposed changes to ICP 12.4**

GFIA suggests replacing the top three bullets with the following two bullets:

The supervisor and/or resolution authority:

- has a process that involves an activities-based risk assessment that uses established criteria, defined by standards or guidelines developed by the supervisor and/or resolution authority, to regularly assess if an insurer should be required to collaborate with a supervisor or resolution authority on a resolution plan; and
- ensures that such resolution plans are in place if required, which are regularly reviewed and where necessary updated, and resolvability assessments are regularly undertaken.

#### **15 Comments on proposed changes to ICP guidance 12.4.1**

GFIA suggests deleting this entire section since RRP supervisory requirements for an insurer would be better placed in jurisdictional supervisory standards or guidance instead of in ICPs.

If the IAIS retains 12.4.1, the text ought to reflect greater flexibility for jurisdictional supervisors. As such, the language introducing the factors should be changed from, “the criteria should consider factors” to, “*the criteria may consider factors*” and additional factors should be added, such as, “*the insurer’s likelihood of failure*” and, “*a cost/benefit analysis of a resolution plan*”.

When determining when a supervisor should engage with an insurer for either resolution or recovery planning, GFIA agrees that supervisor(s) can leverage existing ERM frameworks, ORSAs, capital and liquidity regimes, and the myriad of other available supervisory tools to perform an activities-based risk assessment. GFIA also agrees that some of the criteria in the assessment should be specific to an insurer’s circumstances and with the use of the following general criteria such as:

- complexity, size, activities and its lines of business
- risk profile and risk management mechanisms
- level of substitutability of the insurer’s activities or business lines
- complexity of the insurer’s structure, including the number of jurisdictions in which it operates
- interconnectedness
- the impact of the insurer’s failure
- number of policyholder’s impacted
- services or operations are significantly relied upon and cannot be substituted with reasonable time and cost
- causing a systemic disruption or a loss of general confidence in the insurance sector
  - the likelihood of the insurer’s failure; and
  - a cost/benefit analysis of a resolution or recovery plan.

GFIA also strongly opposes the introduction of the wording for the requirement of a minimum market share. No justification for this proposal is provided. Furthermore, it is in contradiction to the approach outlined in 12.4 (i.e. to assess the requirement for resolution plans using risk-based criteria). Requiring resolution plans from (large) proportions of each market will create unnecessary burdens for resolution authorities and insurers without commensurate benefits.

#### **16 Comments on proposed changes to ICP guidance 12.4.2**

Consistent with previous comments in 12.4.1, GFIA suggests deleting this section.

#### **17 Comments on proposed changes to ICP guidance 12.4.3**

Consistent with previous comments in 12.4, GFIA suggests deleting this section.

#### **18 Comments on proposed changes to ICP guidance 12.4.4**

Consistent with previous comments in 12.4, GFIA suggests deleting this section.

#### **20 Comments on proposed changes to ICP guidance 12.4.6**

This requirement is duplicative as it is already required in the new wording in 12.4 (third bullet point) and should therefore be deleted.

## 21 Comments on proposed changes to ICP guidance 12.4.9

The wording should be changed to say that the insurer “should” and not “may” be given the opportunity to address barriers to effective resolution.

GFIA does not support the new wording suggesting the supervisor can require the removal of barriers to resolution. The powers of resolution authorities are discussed in section 12.8, where they are better described.

## 22 Comments on proposed changes to CF 12.4.a

GFIA suggests the following revisions:

The group-wide supervisor and/or resolution authority conducts an activities-based risk assessment of each IAIG within its jurisdiction that uses established criteria, defined by standards or guidelines developed by the supervisor and/or resolution authority, to determine whether a resolution plan is needed, in consultation with the crisis management group of the IAIG (IAIG CMG).

## 23 Comments on proposed changes to CF 12.4.a.1

Consistent with comments on 12.4.1, GFIA suggests deleting this section.

If the IAIS retains 12.4.1, the text ought to reflect greater flexibility for jurisdictional supervisors. As such, the language introducing the factors should be changed from, “*the criteria should consider factors*” to, “*the criteria may consider factors*” and additional factors should be added, such as, “*the insurer’s likelihood of failure*” and, “*a cost/benefit analysis of a resolution plan*”.

Please see Q1 or Q15 for GFIA comments on what constitutes appropriate criteria.

GFIA also considers that the following text CF12.4.a.3 will cause inconsistency between plans as noted by the IAIS itself and render the situation even more complex, “*Other involved supervisors and/or resolution authorities may deem it appropriate to have their own resolution plan for the IAIG’s insurance legal entity in their jurisdictions when, for instance*”.

ComFrame should continue to be true to itself and maintain the cap of group supervision and preparation to resolution. In addition, it is business as usual that the parent entity provides the affiliated risk-carriers with parental guarantees that will be invoked by the failing entity’s (re)insured clients if their (re)insurance related claims are not paid, therefore reducing the likelihood of a public interest of resolution at affiliate level. Furthermore, new language in Cf.12.4.b requires the group plan to consider all material entities.

- In light of this, GFIA requests to amend the text as follows, “*Other involved supervisors and/or resolution authorities may deem it appropriate to have their own resolution plan for the IAIG’s insurance legal entity in their jurisdictions when ~~for instance the~~ **all of the following conditions are met:***
  - **no plan exists at the level of the group-wide supervisor and/or resolution authority;**
  - the insurance legal entity’s presence in the jurisdiction is large in scope and/or scale;
  - the insurance legal entity **met *substantially each of the criteria set out in Standard 12.4 and in particular the public interest test despite any potential group support guarantees;*** ~~provides critical and/or nonsubstitutable insurance coverages; and/or its resolution may impact that jurisdiction’s policyholders, financial stability and/or real economy.~~
  - Host *jurisdiction resolution plans should be established in cooperation with the group-wide supervisor and/or resolution authority to ensure that the plan is as consistent as possible with the group-wide resolution plan for the IAIG*”.

#### **26 Comments on proposed changes to ICP guidance 12.8.1**

The value of adding the new wording in 12.8.1 is unclear. This is background information which is covered in the previous and subsequent paragraphs (i.e., 12.8 and 12.8.2) and should be deleted to avoid confusion and for brevity.

#### **30 Comments on proposed changes to ICP guidance 12.8.6**

Under restructuring mechanisms, the power to restructure, limit or write down insurance liabilities should only be deployed under extremely limited circumstances and only if permitted under a jurisdiction's legal framework (e.g. court approval). In addition, any such actions should not deprive policyholders or contract holders of any of the protections afforded to them under a jurisdiction's policyholder protection scheme (e.g. guaranty association).

Similarly, under transfer or sell assets or liabilities, the power to terminate insurance contracts should only be deployed in extremely limited circumstances and only if permitted under a jurisdiction's legal framework (e.g. court approval). In addition, any such actions should not deprive policyholders or contract holders of any of the protections afforded to them under a jurisdiction's policyholder protection scheme (e.g. guaranty association).

#### **34 Comments on proposed changes to CF 12.8.d**

The power to restructure, limit or write down insurance liabilities should only be deployed under extremely limited circumstances and only if permitted under a jurisdiction's legal framework (e.g. court approval). In addition, any such actions should not deprive policyholders or contract holders of any of the protections afforded to them under a jurisdiction's policyholder protection scheme (e.g. guaranty association).

#### **37 Comments on proposed changes to CF 12.8.d.3**

The power to restructure insurance liabilities or terminate insurance contracts (or amend their terms) should only be deployed in extremely limited circumstances and only if permitted under a jurisdiction's legal framework (e.g. court approval). In addition, any such actions should not deprive policyholders or contract holders of any of the protections afforded to them under a jurisdiction's policyholder protection scheme (e.g. guaranty association).

#### **39 Comments on proposed changes to CF 12.8.f**

The power to terminate insurance contracts should only be deployed in extremely limited circumstances and only if permitted under a jurisdiction's legal framework (e.g. court approval). In addition, any such actions should not deprive policyholders or contract holders of any of the protections afforded to them under a jurisdiction's policyholder protection scheme (e.g. guaranty association).

### **ICP 16 (Enterprise Risk Management for Solvency Purposes)**

#### **47 General comments on proposed changes to ICPs 16.6 and 16.9 and related ComFrame standards**

As noted in 16.16.1, the recovery plan is pre-emptive in nature (i.e. not a prediction of what would happen during an actual distressed situation). Recovery plans provide an overview of potential recovery options and highlight their potential impact in a given recovery scenario. This list should not be seen as exhaustive and

considering these measures as possible in a recovery situation neither commits the insurers to implementing them should such a situation occur, nor prevent the insurers from implementing them in another context.

#### **58 General comments on proposed changes to ICPs 16.15 and 16.16 and related ComFrame standards**

GFIA does not support the changes to section 16.16 which significantly increases the expectations on supervisors to require pre-emptive recovery plan from insurers. The existing wording is sufficient to set the scope of insurers which needs to be developed and it is not clear why the proposed changes are necessary.

As previously mentioned, given the unique characteristics and existing jurisdictional supervisory approaches, GFIA's view is that RRP supervisory requirements should not be applied mechanically. Only when a process, that involves an activities-based risk assessment using clear criteria, indicates the existence of a macro-prudential risk that is not mitigated by existing supervisory processes and/or an insurer's ERM framework and contingency plans) should a supervisor, using his/her judgment including input from a CMG where applicable, require company action on RRPs.

In addition, it is vital that any requirement for subsidiary level plans can be satisfied via a group level plan (i.e. there should be no subsidiary-level, pre-emptive recovery and resolution plan requirements), if a group plan exists.

Given the purpose of ICPs to be applicable to the supervision of all insurers, GFIA recommends that the defining criteria for an activities-based risk assessment be addressed in other jurisdictional supervisory guidance (e.g. standards or guidelines). This would also be consistent with many of the other improvements to post-crisis group supervision of insurers (e.g. identifying a lead supervisor and collaboration among jurisdictional supervisors using comparable supervisory frameworks).

Please see Q1 or Q15 for GFIA comments on what constitutes appropriate criteria.

#### **61 Comments on proposed changes to ICP 16.16**

GFIA suggests replacing the top three bullets with the following:

The supervisor:

- has a process that involves an activities-based risk assessment that uses established criteria, defined by standards or guidelines developed by the supervisor, to regularly assess if an insurer should be required to have a recovery plan ~~to regularly assess which insurers are required to have a recovery plan, based on established criteria that consider the nature, scale and complexity of the insurer;~~

#### **62 Comments on proposed changes to ICP guidance 16.16.1**

GFIA suggests deleting the 2nd and 3rd sentences and replacing them with, "A recovery plan should be developed during business as usual, in advance of any severe stress, and the result of an activities-based risk assessment".

#### **63 Comments on proposed changes to ICP guidance 16.16.2**

GFIA suggests deleting this entire section since RRP supervisory requirements for an insurer would be better placed in jurisdictional supervisory standards or guidance instead of in ICPs.



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No justification for this proposal is provided. Furthermore, it is in contradiction to the approach outlined in 16.16 (i.e. to assess the requirement for recovery plans using risk-based criteria).

Requiring recovery plans from (large) proportions of each market will create unnecessary burdens for insurers (and supervisors) without any commensurate benefits.

If the IAIS retains 16.16.2, the text ought to reflect greater flexibility for jurisdictional supervisors. As such, the language introducing the factors should be changed from, “the criteria should consider factors” to, “*the criteria may consider factors*” and additional factors should be added, such as, “*the insurer’s likelihood of failure*” and “*a cost/benefit analysis of a recovery plan*”.

Please see Q1 or Q15 for GFIA comments on what constitutes appropriate criteria.

#### **64 Comments on proposed changes to ICP guidance 16.16.3**

Consistent with previous comments in 16.16, GFIA suggests deleting this section.

#### **65 Comments on proposed changes to ICP guidance 16.16.4**

Consistent with comments in 16.16.2, GFIA suggests deleting this section.

#### **69 Comments on proposed changes to CF 16.16.a**

GFIA suggests the following revisions:

*“The group-wide supervisor requires the Head of the IAIG to:*

- *conduct an activities-based risk assessment of each IAIG within its jurisdiction that uses established criteria, defined by standards or guidelines developed by the supervisor, to determine whether a recovery plan is needed, in consultation with the crisis management group of the IAIG (IAIG CMG); ~~develop a recovery plan that identifies in advance options to restore the financial position and viability of the IAIG if it comes under severe stress;~~*
- *review and update the recovery plan on a regular basis, or when there are material changes; and*
- *take actions for recovery if the IAIG comes under severe stress”.*

Please see Q1 or Q15 for GFIA comments on what constitutes appropriate criteria.

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#### **About GFIA**

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