

IAIS Consultations

Print view of your comments on "ComFrame in ICPs 9, 10, 25" - Date: 30.10.2018, Time: 16:56

Organisation	Global Federation of Insurance Associations
Jurisdiction	Global
Role	Other (not IAIS Member)
Email	secretariat@gfiainsurance.org
Phone	003228943081
Treat my comments as confidential	No

Question	
	Q1 General Comment on ComFrame in ICP 9
Answer	<p>As a general matter, GFIA strongly recommends that the ComFrame materials relating to ICP 9 serve as illustrative guidance, rather than prescriptive standards. Allowing for flexible and proportionate application would avoid unnecessary changes to time-tested supervisory regimes and the potential disruption of well-developed insurance markets without commensurate benefits to global financial stability. Moreover, the ICPs and ComFrame should focus on desired outcomes and broad objectives, not strict compliance with defined requirements, and must be sufficiently adaptable to accommodate multiple jurisdictions' supervisory frameworks.</p>
	Q2 Comment on ComFrame Standard CF9.0.a
Answer	<p>GFIA supports the proposed revisions. However, clarification is requested regarding the phrase "relevant legislation and supervisory requirements," as this phrase is very broad. Additionally, there should be an element of materiality or a risk-based measure embedded in this Standard to better reflect the overarching concept of proportionality.</p>
	Q3 Comment on ComFrame Guidance CF9.0.a.1
Answer	<p>GFIA welcomes the reference to the supervisory college in this Guidance. However, GFIA considers that the review should be undertaken as part of the supervisory college, as this provides the best forum within which to explore this assessment and receive feedback from the other supervisors. It also allows the IAIG to discuss the plan with all its regulators in one setting, which is the most efficient process for all parties. A separate process could place further unquantifiable burdens and expense on the IAIG and its companies.</p>
	Q4 Comment on ComFrame Standard CF9.2.a
Answer	<p>Consistent with a flexible and risk-based approach to supervisory review and reporting, GFIA suggests that the frequency of the group-wide assessment be within the supervisory judgment and discretion of the group-wide supervisor based on discussions with IAIG management and with other involved supervisors in the college. GFIA therefore recommends that the phrase "at least annually" be changed to "periodically as deemed necessary by the group-wide supervisor."</p>
	Q5 Comment on ComFrame Guidance CF9.2.a.1

Answer

Q6 Comment on ComFrame Guidance CF9.2.a.2

Answer

Q7 Comment on ComFrame Guidance CF9.2.a.3

Answer

Q8 Comment on ComFrame Guidance CF9.2.a.4

Answer

This provision appears to suggest that the group-wide supervisor should consult with other relevant supervisors with jurisdiction over matters such as macro-prudential analysis, anti-money laundering or combatting the financing of terrorism. If so, this intent is not entirely clear as currently drafted. To clarify, GFIA suggests inserting the following underlined phrase: “The group-wide supervisor should consider inputs from other relevant supervisors not involved in the direct supervision of the IAIG, to the extent such supervisors have jurisdiction over those matters, such as...”.

In addition, GFIA recommends that the phrase “macro-prudential analysis” be replaced with “macro-economic analysis”.

Most importantly, any information sharing between the group-wide and other relevant supervisors should be subject to confidentiality requirements, and this Guidance should make that clear. Inputs should only be used for the proper purpose of supervision by the group-wide supervisor.

Q9 Comment on ComFrame Guidance CF9.2.a.5

Answer

GFIA appreciates the consideration that has gone into amending this Guidance to recognise the risks of peer-group analysis, in particular the recognition of competitive concerns, and the direction to use publicly-available information. That said, there remains serious concerns with the Guidance in CF 9.2.a.5-7.

GFIA strongly takes the view that non-public information should not be used for the purpose of peer-group analysis, as there is a significant potential that use in this manner would jeopardize confidentiality. For example, communication to a particular IAIG of a supervisor’s risk assessment based in part on a peer-group analysis would very possibly reveal some information regarding the “peer” IAIG(s), including material, non-public information. Anonymization of information may not adequately conceal the source, given the likely small number of IAIGs in any way comparable to a particular IAIG. Directing supervisors to use non-public information of one IAIG to assess another IAIG, therefore, creates a serious risk of inadvertent disclosure by a supervisor of material, non-public information, potentially violating or otherwise undermining securities laws designed to regulate the disclosure of such information.

Further, these sections are fraught with the risk of false comparisons of one IAIG to another IAIG. It may be tempting to view one IAIG as having a substantially similar risk profile as another IAIG because both are similar in size or do business in certain common jurisdictions. However, the actual size and mix of businesses in which IAIGs are engaged is highly unlikely to match up in a meaningful way in many instances. By definition, IAIGs are among the very largest insurance groups, and very likely among the most complex; it is very unlikely that meaningful peer comparisons can be made among groups that are thus inherently unique and which comprise a very small population of groups globally. As a result, peer-group analysis may lead supervisors to impose uniform risk assessments and business models that are unwarranted, which is particularly undesirable in an industry that depends on diversification.

Most significantly, since supervisors develop an understanding of best practices based on their general regulatory experience and use this understanding when assessing group-wide risk, GFIA takes the view that peer-group analysis to be an unnecessary, as well as a risky, practice.

For these reasons, and because peer-group analysis based only on information in the public domain would likely be of little value, GFIA suggests that the Guidance in CF 9.2.a.5-7 be deleted.

Q10 Comment on ComFrame Guidance CF9.2.a.6

Answer

See response to CF 9.2.a.5 in Q9.

Q11 Comment on ComFrame Guidance CF9.2.a.7

Answer

See response to CF 9.2.a.5 in Q9.

Q12 Comment on ComFrame Standard CF9.2.b

Answer

GFIA welcomes the amendments to this Standard, which provide a more precise focus for the group-wide risk assessment.

However, GFIA is of the view that the three items listed as minimum components of a group-wide supervisor's evaluation of its group-wide risk assessment of an IAIG should be optional, not prescriptive. Accordingly, the beginning of the sentence, which currently reads "The group-wide supervisor includes in its group-wide risk assessment of an IAIG, at least, an evaluation of the following:" should be replaced with "The group-wide supervisor's group-wide risk assessment of an IAIG may include an evaluation of the following:".

Q13 Comment on ComFrame Guidance CF9.2.b.1

Answer

In the second bullet, in order to provide clarification that the proposals being considered are those of the IAIG and that the specific areas of risks relate only to material risks, GFIA suggests that the current language, which reads "the IAIG's approach to its legal and regulatory obligations, its product distribution model and its proposals for dealing with specific areas of risk;" be replaced with "the IAIG's approach to its legal and regulatory obligations, its product distribution model and the IAIG's proposals for dealing with specific areas of material risk;".

The third bullet point should be amended to indicate that the risk assessment should focus on material entities within the IAIG.

GFIA welcomes the clarification given around the idea previously expressed as the "macroprudential environment" in bullet point five. This point can be further clarified, however, by replacing the term "macro environment" with "macro-economic environment".

The inclusion of "the potential impact that the IAIG's failure would have" in the final bullet point duplicates the assessment undertaken in relation to resolution planning, and is out of place in the context of the going-concern group-wide risk assessment. GFIA therefore suggests this bullet point be deleted.

Q14 Comment on ComFrame Guidance CF9.2.b.2

Answer

GFIA welcomes the removal of the statement suggesting that where operations span different financial sectors they will have a complex operating structure.

Additionally, in the third bullet, the phrase "or result in a circumvention of sectoral regulatory requirements" should be deleted.

Q15 Comment on ComFrame Guidance CF9.2.b.3

Answer

Q16 Comment on ComFrame Guidance CF9.2.b.4

Answer

Q17 Comment on ComFrame Guidance CF9.2.b.5

Answer

Q18 Comment on ComFrame Guidance CF9.2.b.6

Answer

The first bullet point should be amended to ensure that a proportionate approach is taken that focuses on understanding any dependencies between regulated and non-regulated entities.

Further, GFIA recommends amending the third bullet point to remove the reference to assessing capital of non-regulated entities by proxy. GFIA suggests replacing the second sentence in this bullet point with “Non-regulated entities should be assessed for the potential impact on the capital adequacy of the group, considering the effectiveness of their legal separation and potential contagion within the group”.

The fourth bullet point should be amended to recognise materiality, i.e. this should only be where significant risk has been transferred. The focus of supervisors should be on understanding the dependencies. Therefore, GFIA suggests the fourth bullet point be amended as follows:

“where significant risk has been transferred from regulated to non-regulated legal entities within the IAIG, the group-wide supervisor in cooperation with supervisors of the regulated entities should look to understand the dependencies of the regulated entities with the unregulated entities. The risk assessment should address third party participations and minority interests.”

Q19 Comment on ComFrame Guidance CF9.2.b.7

Answer

This Guidance assumes that a group-wide stress test is required, which is not necessarily the case. GFIA suggests amending this Guidance as follows: “...group-wide stress tests that the IAIG performed, if required.”

Q20 Comment on ComFrame Guidance CF9.2.b.8

Answer

The discussion on macro-prudential analysis in this paragraph introduces a very broad concept, creating uncertainty as to what factors will be considered as relevant for the group-wide risk assessment. GFIA suggests replacing the phrase “macro-prudential analysis” with “macro-economic analysis” in both the title and the second sentence.

Q21 Comment on ComFrame Standard CF9.4.a

Answer

GFIA takes the view that the use of the term “requires” in this standard is inappropriate. While GFIA understands the IAIS expects its members to request IAIG’s to report ICS 2.0 results on a confidential basis during the 2020-2024 monitoring period, it is up to the group-wide or lead supervisor of any IAIG to determine the appropriateness of any such reporting and to decide in accordance with and in the context of their respective legal jurisdictional frameworks whether reporting can be required as opposed to encouraged. In addition, a capital standard other than ICS 2.0 may apply in certain jurisdictions.

Therefore, GFIA would suggest the following language instead: “All group-wide and lead supervisors are expected to engage with Heads of IAIGs in their jurisdiction to encourage reporting the reference ICS, or the calculation of the appropriate jurisdictional standard and the capital to meet such capital standard, and at the option of the group-wide or lead supervisor, any additional reporting.”

Secondly, it should be made more clear that the reporting referred to is that requested by the IAIS during the 2020-2024 monitoring period.

Furthermore, while GFIA acknowledges that the IAIS is only requesting comments on the ComFrame portion of text, given that ComFrame Guidance must be read in the context of the underlying ICPs, GFIA would like to respectfully express the following concerns with regard to ICP 9.4.9:

There is no generally applicable legal or regulatory requirement in the U.S. for external auditors to report directly to regulators. Therefore, GFIA suggests that the exchange of information between external auditor and supervisors referenced in several areas throughout the ICPs and related ComFrame provisions (e.g., ICPs 7.8.5 and 9.4.9) needs review and revision in line with current general practice. In many instances it would be

inappropriate, if not a conflict of interest, for an external auditor engaged by the insurer to engage directly with the supervisor and/or for the group-wide supervisor to access work of an external auditor engaged by an insurer. External auditors' findings may be consulted during insurer examination but always in accordance with established protocols that may include insurer consent.

The group-wide supervisor may not have authority over the external auditor. Instead of requiring the auditor to report to the group-wide supervisor if it suspects fraud or regulatory breaches, the external auditor should be required to report such findings to the IAIG's Board or Audit Committee, and the IAIG should be required to provide that report to the group-wide supervisor.

Q22 Comment on ComFrame Guidance CF9.4.a.1

Answer

GFIA welcomes the explicit reference to confidentiality here.

Q23 Comment on ComFrame Standard CF9.6.a

Answer

GFIA notes that this Standard re-words the current Parameter M3E1-1-7 and now appears to require on-site inspections at the level of the Head of the IAIG.

GFIA recommends amending this Standard to include a caveat (e.g., "The group-wide supervisor performs on-site inspections at the level of the Head of the IAIG, where necessary") to encourage a more proportionate approach to supervision.

Q24 Comment on ComFrame Guidance CF9.6.a.1

Answer

Q25 Comment on ComFrame Guidance CF9.6.a.2

Answer

Q26 Comment on ComFrame Guidance CF9.6.a.3

Answer

Q27 Comment on ComFrame Standard CF9.6.b

Answer

GFIA considers that the situations anticipated by this Standard (where the group-wide or other involved supervisors join the on-site inspections of an insurance legal entity) would be an exceptional situation. The local supervisor of the legal entity would normally have the appropriate knowledge and experience to inspect the legal entity effectively. The wording of this Standard should reflect its exceptional nature.

Q28 Comment on ComFrame Guidance CF9.6.b.1

Answer

Q29 Comment on ComFrame Standard CF9.7.a

Answer

Q30 General Comment on ComFrame in ICP 10

Answer	GFIA strongly recommends that the ComFrame materials relating to ICP 10 serve as illustrative guidance, rather than prescriptive standards. Allowing for flexible and proportionate application would avoid unnecessary changes to time-tested supervisory regimes and the potential disruption of well-developed insurance markets without commensurate benefits to global financial stability. This material should focus on desired outcomes and broad objectives, not strict compliance with defined requirements, and must be sufficiently adaptable to accommodate multiple jurisdictions' supervisory frameworks.
	Q31 Comment on ComFrame Standard CF10.0.a
Answer	GFIA welcomes the amendment to this Standard recognising that ComFrame must be implemented within the existing legal structures of the jurisdictions in which the IAIG operates.
	Q32 Comment on ComFrame Guidance CF10.0.a.1
Answer	GFIA welcomes the recognition that the group-wide supervisor's ability to apply supervisory measures may need to vary according to legal structure, jurisdiction and supervisory authority.
	Q33 Comment on ComFrame Guidance CF10.0.a.2
Answer	
	Q34 Comment on ComFrame Guidance CF10.0.a.3
Answer	
	Q35 Comment on ComFrame Standard CF10.0.b
Answer	
	Q36 Comment on ComFrame Guidance CF10.0.b.1
Answer	GFIA welcomes the added cross-reference to the ComFrame material in ICP 25.
	Q37 Comment on ComFrame Guidance CF10.0.b.2
Answer	
	Q38 Comment on ComFrame Guidance CF10.0.b.3
Answer	
	Q39 Comment on ComFrame Guidance CF10.0.b.4
Answer	
	Q40 Comment on ComFrame Guidance CF10.0.b.5
Answer	
	Q41 Comment on ComFrame Guidance CF10.0.b.6
Answer	
	Q42 Comment on ComFrame Standard CF10.2.a

Answer	<p>GFIA disagrees with empowering the group-wide supervisor to require measures affecting legal entities directly. This inappropriately interferes with the responsibilities of the supervisor of the legal entity. The clarification made in CF 10.2.a.2 should be moved up to the Standard level to avoid such conflicts.</p> <p>Additionally, the phrase “likely [...] inconsistent with any relevant regulatory requirements” lacks legal certainty. Supervisors should only take action where objective grounds call for such and not based on “likely” infringements.</p>
	Q43 Comment on ComFrame Guidance CF10.2.a.1
Answer	
	Q44 Comment on ComFrame Guidance CF10.2.a.2
Answer	Please refer to comment made on CF10.2.a.
	Q45 Comment on ComFrame Guidance CF10.2.a.3
Answer	
	Q46 Comment on ComFrame Standard CF10.5.a
Answer	
	Q47 Comment on ComFrame Standard CF10.5.b
Answer	
	Q48 Comment on ComFrame Standard CF10.6.a
Answer	<p>When suggesting the imposition of penalties and sanctions, there should be more definitive criteria than the vague phrase “where appropriate”. Actions of an affiliate should not trigger a sanction on the Head of the IAIG; this raises due process concerns. The imposition of sanctions must be proportionate.</p>
	Q49 Comment on ComFrame Guidance CF10.6.a.1
Answer	<p>GFIA emphasises that the phrase “the imposition of fines and penalties (even if non-compliance is due to the actions of a legal entity within the IAIG)” will not find a legal basis in several jurisdictions. Therefore, GFIA takes the view that this part should be deleted.</p>
	Q50 Comment on ComFrame Guidance CF10.6.a.2
Answer	
	Q51 Comment on ComFrame Guidance CF10.6.a.3
Answer	
	Q52 Comment on ComFrame Standard CF10.6.b
Answer	
	Q53 Comment on ComFrame Guidance CF10.6.b.1
Answer	

Q54 General Comment on ComFrame in ICP 25

Answer

Q55 Comment on ComFrame Guidance CF25.0.a.1

Answer

GFIA suggests that this ComFrame Guidance, and the concept of “Head of the IAIG” generally, be considered in the context of the ICP and ComFrame’s stated structure, which allows for a wide range of effective supervisory approaches and regulatory frameworks.

By way of example, the US insurance law’s revised insurance holding company system approach provides insurance regulators with the necessary tools to obtain key enterprise-wide and/or holding company information, including such tools as the Group Profile Summary that includes capital and risk reporting.

The ICP and ComFrame Standards and Guidance should recognize such time-tested and effective regulatory and oversight frameworks, including their jurisdictional limitations.

Q56 Comment on ComFrame Standard CF25.6.a

Answer

Consistent with a flexible and risk-based approach to supervisory review and reporting, GFIA suggests that the frequency of the supervisory college be within the supervisory judgment and discretion of the group-wide supervisor based on discussions with IAIG management.

GFIA therefore recommends that the phrase “at least annually” be changed to “periodically as deemed necessary by the group-wide supervisor.”

Q57 Comment on ComFrame Guidance CF25.6.a.1

Answer

This Guidance should not only be a ComFrame requirement - the first meeting of the supervisory college should take place in a timely manner irrespective of whether the insurer is an IAIG.

Q58 Comment on ComFrame Guidance CF25.6.a.2

Answer

If a supervisory college is meeting annually (as provided in CF25.6a), the coordination agreements for the year ahead should be confirmed and not just discussed at the initial meeting (bullet point 3 of CF25.6a.2).

It is unclear why these priorities should only be the priorities of the supervisory college of the IAIG and not supervisory colleges generally.

Q59 Comment on ComFrame Guidance CF25.6.a.3

Answer

Q60 Comment on ComFrame Guidance CF25.6.a.4

Answer

Q61 Comment on ComFrame Guidance CF25.6.a.5

Answer

Q62 Comment on ComFrame Standard CF25.6.b

Answer

Q63 Comment on ComFrame Standard CF25.6.c

Answer

Guidance related to ICS reporting, the manner of its reporting and how confidential data is reviewed and evaluated is premature. The ICS has not yet been adopted, and more importantly, the IAIS has yet to determine the governance of and the process to be followed for reporting during the monitoring period when the ICS is to be evaluated against existing capital standards or standards under development.

GFIA would suggest that ComFrame Guidance on this issue should be set aside and this section deleted until the IAIS has developed the system of governance and process by which ratios will be reported and has explained to the satisfaction of volunteer groups how the confidentiality of sensitive non-public data will be preserved.

Q64 Comment on ComFrame Guidance CF25.6.c.1

Answer

As explained in response to Q63, GFIA is of the view that this Guidance is premature. That said, this requirement is too prescriptive, particularly for capital requirements that are in development (as mentioned in the first bullet point). GFIA is of the view that this Guidance should ultimately be a more pragmatic and proportionate request for a comparison against other capital requirements.

Q65 Comment on ComFrame Guidance CF25.6.c.2

Answer

Q66 Comment on ComFrame Standard CF25.7.a

Answer

It should be noted in this ComFrame section that a CMG should also consult with the IAIG, and that a policyholder protection scheme should be considered by a CMG in its analysis and deliberations.

Q67 Comment on ComFrame Guidance CF25.7.a.1

Answer

Q68 Comment on ComFrame Guidance CF25.7.a.2

Answer

Q69 Comment on ComFrame Guidance CF25.7.a.3

Answer

Q70 Comment on ComFrame Guidance CF25.7.a.4

Answer

Q71 Comment on ComFrame Standard CF25.7.b

Answer

Q72 Comment on ComFrame Guidance CF25.7.b.1

Answer

Q73 Comment on ComFrame Guidance CF25.7.b.2

Answer