

IAIS Consultations

Print view of your comments on "Consultation on ICP 12 and ComFrame material integrated with ICP 12 (Public version)" - Date: 01.06.2017, Time: 11:36

Organisation	Global Federation of Insurance Associations
Jurisdiction	Global
Role	Other (not IAIS Member)
Other Roles	Not Potential IAIG
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Treat my comments as confidential	No

Question	
	Q1 General Comment on ICP 12 (including ComFrame text)
Answer	<p>GFIA would like to point out that:</p> <ul style="list-style-type: none">• The traditional insurance business has proven extremely resilient to business cycle fluctuations in the past, as evidenced by the fact that insurers weathered the recent financial crisis quite well.• Insurance failures are rare and do not affect other insurers or the payments system. Should an insurer fail, there is also no convincing evidence of a lack of substitutability of products that would justify the introduction of additional measures.• Unlike in banking, insurers do not fail suddenly as insurers' liabilities crystallise gradually over time, allowing for a structured wind-down, so that policyholders are unlikely to be left without cover. In addition, insurance liabilities are largely independent of each other, and are not 'callable' on demand since an insurance liability occurs at a specified point in time or following a pre-defined, insured event.• The unique characteristics of the insurance business model stand in clear contrast to those of banks; resolution approaches should closely reflect that. The key difference between a bank's resolution and an insurer's resolution is that the latter can be managed over an extended period. There is no need to rush into resolution, particularly because doing so could generate avoidable losses for policyholders.
	Q2 Comment on Introductory Guidance ICP 12.0.1
Answer	
	Q3 Comment on Introductory Guidance ICP 12.0.2
Answer	<p>The first sentence should also contain "or for other reasons under local legislation can no longer be permitted to continue its business". Moreover, GFIA would recommend phrasing the second sentence as follows: "Resolution actions may include portfolio transfer, run-off, restructuring, and liquidation." The choice of resolutions measures depends on the circumstances of the situation. Most cases are likely to be resolved by less intrusive interventions such as portfolio transfers and do not necessarily end up in liquidations or require more intense actions.</p> <p>Given insolvent resolution actions tend to be governed by local corporate and insolvency law rather than the insurance regulatory framework, GFIA suggests that the focus of the ICP should be on solvent resolution actions that focus on an orderly wind-down of the company, so as to protect policyholders.</p>

	Q4 Comment on Introductory Guidance ICP 12.0.3
Answer	GFIA welcomes the distinction that has been made in this Guidance between “resolution authority” and “supervisor”, reflecting the fact that resolution actions may be split between different bodies, and not all under the direct control of the insurance supervisor.
	Q5 Comment on Introductory Guidance ICP 12.0.4
Answer	
	Q6 Comment on Introductory Guidance ICP 12.0.5
Answer	GFIA welcomes the recognition in this revised ICP that not all exits from the market happen under distressed conditions and may occur voluntarily for strategic purposes.
	Q7 Comment on Introductory Guidance ICP 12.0.6
Answer	
	Q8 Comment on Introductory Guidance ICP 12.0.7
Answer	Establishing mechanisms to ensure substitutability or maintenance of insurance coverage is not a task of the supervisor but a political question to be decided by the competent institutions of the jurisdiction.
	Q9 Comment on Introductory Guidance ICP 12.0.8
Answer	This sentence would be better included in Guidance ICP 12.0.5, as the concluding sentence of 12.0.5 also relates to supervisor-requested exit.
	Q10 Comment on Introductory Guidance ICP 12.0.9
Answer	It should be explicitly recognised that no single point can be defined that will be appropriate for all resolution measures. As well as no longer being viable, all recovery options should have been exhausted, and supervisory powers should no longer be adequate, before resolution is the right option.
	Q11 Comment on Introductory Guidance ICP 12.0.10
Answer	
	Q12 Comment on Introductory Guidance ICP 12.0.11
Answer	The guidance extends the scope of resolution measures to non-regulated entities within the group, rather than recognising that the remit of insurance supervision will relate only to insurance entities and insurance groups.
	Q13 Comment on Introductory Guidance ICP 12.0.12

Answer	<p>GFIA supports the recognition given in this revised ICP to the case of insurance groups and cross-border operations. This is an improvement upon the current ICP which only applies to individual legal entities.</p> <p>However, GFIA notes that cross-border coordination may not be necessary for all insurers operating on that basis, particularly where an insurer's material entities are operationally and financially independent of one another. Accordingly, GFIA would propose amending the final sentence by replacing the words "is necessary" with "may help facilitate" as these factors would not be a prerequisite for resolution action at a legal entity level.</p> <p>In addition, when considering the exchange of information between supervisors on a cross-border basis, reference should be made to ICP 3 and the confidentiality requirements around the exchange of information.</p>
	Q14 Comment on ICP 12.1
Answer	
	Q15 Comment on ICP 12.1.1
Answer	
	Q16 Comment on ICP 12.1.2
Answer	<p>GFIA would suggest amending the last part of the sentence to 'including 'ensuring adequate' rather than having adequate as in the case of a portfolio transfer it will be the resources of the receiving insurer rather than the transferring insurer that will be relevant.</p>
	Q17 Comment on ICP 12.1.3
Answer	<p>GFIA welcomes the idea of a run-off programme to manage an insurer's voluntary exit from the market.</p>
	Q18 Comment on ICP 12.1.4
Answer	<p>The second sentence of this paragraph refers to legislation providing appropriate requirements for exiting insurers. This sentence should highlight the flexibility that the legislation will need to have as obligations may be discharged over an extended period of time. For example, an insurer may move from an insolvent to a solvent run-off, or vice versa.</p>
	Q19 Comment on ICP 12.2
Answer	
	Q20 Comment on ICP 12.2.1
Answer	<p>GFIA supports the IAIS's recognition of differences across jurisdictions with regards to funding mechanisms, as there are jurisdictions in which policy protection schemes do not exist. GFIA believes that the decision to establish such mechanism is for individual jurisdictions to make and supports the IAIS' recognition of differences across jurisdictions with regard to resolution objectives.</p>
	Q21 Comment on ICP 12.2.2
Answer	<p>It is not the IAIS' role to recommend how countries should fund resolutions; it should be up to the jurisdiction as to the source of any public funding that is provided. Therefore, ICP 12.2.2 should be deleted.</p>

Q22 Comment on CF 12.2a.1

Answer

The objectives of the resolution of insurers should be clear. This is currently not the case in CF12.2a.1 which states that a jurisdiction may choose to rank resolution objectives (policyholder protection and financial stability) at its discretion. It is not clear what is intended by this.

- On one reading, this suggests different IAIGs could have different resolution objectives in a single jurisdiction. In the GFIA's view, resolution objectives should not explicitly differ between insurers in a jurisdiction because the interests of various stakeholders in a resolution process should be protected in the same way. In practice, some objectives may be more relevant than others (depending on the circumstances of the IAIG).

- On another reading, the wording in CF12.2a.1 could suggest that the same IAIG could have different resolution objectives over time, or that different jurisdictions could have different objectives for a single IAIG. GFIA does not support these approaches either. The objectives of the resolution and the rationale for those objectives should be made clear to the IAIG.

GFIA is also concerned that further explicit emphasis on financial stability as an objective for the resolution of IAIGs will reinforce the common and erroneous assumption that insurance business written by IAIGs poses the same contagion risk as banking.

Q23 Comment on Standard CF 12.2b

Answer

GFIA suggests that CF12.2.b be deleted, as GFIA doesn't agree that the IAIS should recommend how countries fund resolutions (see our response to Q21 above). If CF 12.2b is retained, a clarification of the term "public ownership" is needed.

Q24 Standard CF12.2b

Does the IAIG currently fulfil the requirements of the standard? If "No" or "Partially", what changes would have to be made in order to comply with ComFrame (e.g. changes to resources, processes, structures, etc.) and to what extent would those changes have to be made solely for the purpose of ComFrame?

Answer

Q25 Standard CF12.2b

What are the one-time (initial) costs to the firm associated with the changes described in the answer to Q24 that would have to be made solely for purposes of ComFrame (please specify the currency)?

Answer

Q26 Standard CF12.2b

What are the ongoing costs to the firm per year (excluding one-time costs) associated with the changes described in the answer to Q24 that would have to be made solely for purposes of ComFrame (please specify the currency)?

Answer

Q27 Standard CF12.2b

Please provide the assumptions made to estimate the one-time costs (Q25) and the ongoing costs per year (Q26).

Answer

Q28 Standard CF12.2b
Please specify the benefits of fulfilling the requirements included in the standard (that are attributable solely to ComFrame). The benefit should be viewed in terms of meeting the overall standard and should be all encompassing (e.g. the benefit for the company as well as the benefits for policyholders, for the public, for financial stability, etc.).

Answer

Q29 Comment on CF 12.2b.1

Answer

As noted above (Q21), is not the IAIS' role to recommend how countries should fund resolutions.

Q30 Comment on ICP 12.3

Answer

As the focus of this ICP is resolution planning, as set out in the FSB's Key Attributes for Effective Resolution Regimes, the responsibility for resolution planning should rest with the supervisor or resolution authority and not with insurers (who are responsible for recovery planning). Therefore, GFIA suggests that ICP 12.3 should be amended to note 'The supervisor/resolution authority plan for contingencies....'. GFIA also suggests that the IAIS provides further clarity as to how proportionality applies to the plans, and the supervisory powers in relation to such plans.

Q31 Comment on ICP 12.3.1

Answer

Group-wide supervisors may be subject to specific jurisdictional rules as to when a resolution plan should be in place. The requirement that the supervisor must consult with the crisis management group of the IAIS in connection with this decision is onerous and may result in conflicts with the rules and laws of the jurisdiction in which the group-wide supervisor sits. At most, consultation with the crisis management group should be optional rather than mandatory.

Q32 Comment on ICP 12.3.2

Answer

As with Q30 above, the text of 12.3.1 should be amended to note that it is the supervisor/resolution authority that should consider such risks.

Q33 Comment on ICP 12.3.3

Answer

Q34 Comment on Standard CF 12.3a

Answer

Any requirement for resolution planning should be appropriate in the context of the resolution objectives. This standard, which states that resolution plans are in place for IAIGs in cases where the group-wide supervisor/resolution authority in consultation with the crisis management group of the IAIG deems necessary in accordance with the resolution objectives.

For example, where the objective of the resolution framework is policyholder protection, it should be clear how the resolution planning helps ensure policyholders are protected. There are many circumstances where resolution planning would not necessarily achieve this. These include when it is extremely unlikely that the firm would enter resolution or where, upon entering financial difficulty, the firm/supervisor would have sufficient time to carry out the planning needed to ensure an orderly resolution (which is likely to be the default position in insurance where portfolio run-off has historically proven to be an effective resolution tool).

This standard also does not clarify with whom the responsibility for developing resolution plans lies. GFIA believes that this CF standard should clarify that the responsibility lies with the group-wide supervisor and/or resolution authority and not with insurers, in order to align

with the provision in FSB's Key Attributes (i.e. Appendix I, Annex 4, 1.9). The standard should therefore be revised to read as follows: "Resolution plans are developed for IAIGs by the group-wide supervisor or resolution authority in cases where the group-wide supervisor, in consultation with the crisis management group of the IAIG, deems necessary."

Q35 Standard CF12.3a

Does the IAIG currently fulfil the requirements of the standard? If "No" or "Partially", what changes would have to be made in order to comply with ComFrame (e.g. changes to resources, processes, structures, etc.) and to what extent would those changes have to be made solely for the purpose of ComFrame?

Answer

Q36 Standard CF12.3a

What are the one-time (initial) costs to the firm associated with the changes described in the answer to Q35 that would have to be made solely for purposes of ComFrame (please specify the currency)?

Answer

Q37 Standard CF12.3a

What are the ongoing costs to the firm per year (excluding one-time costs) associated with the changes described in the answer to Q35 that would have to be made solely for purposes of ComFrame (please specify the currency)?

Answer

Q38 Standard CF12.3a

Please provide the assumptions made to estimate the one-time costs (Q36) and the ongoing costs per year (Q37).

Answer

Q39 Standard CF12.3a

Please specify the benefits of fulfilling the requirements included in the standard (that are attributable solely to ComFrame). The benefit should be viewed in terms of meeting the overall standard and should be all encompassing (e.g. the benefit for the company as well as the benefits for policyholders, for the public, for financial stability, etc.).

Answer

Q40 Comment on CF 12.3a.1

Answer

In CF12.3a.1 the IAIS states that at least 1) the number of jurisdictions in which the IAIG operates and the complexity of its group structure, and 2) its possible impact on the financial system and the macro economy should be taken into consideration in deciding whether resolution plans are needed.

GFIA believes that there are other considerations which would be important with respect to the policyholder protection objective. These include:

- the current financial state of the institution / whether entry into resolution is likely,
- whether entry into resolution / financial difficulty could happen suddenly for a given IAIG
- whether there is likely to be time to develop an effective resolution plan on entry into financial difficulty
- the extent to which the institution directly insures policyholders.
- the benefits and impacts of the resolution planning requirement.

A predicate for any resolution planning requirement should be a full understanding of an IAIG's activities and risk mitigation efforts, as well as costs to the IAIG of the degree of

resolution planning proposed.

Q41 Comment on CF 12.3a.2

Answer

GFIA agrees that the resolution plan, if deemed necessary, should be developed by the group-wide supervisor. However, it would make sense to also consult the IAIG at least on the basic aspects of the plan in order to ensure that it is based on realistic assumptions and is manageable if applied. It is particularly important that it offers enough leeway to adequately react to the concrete crisis situation.

The final bullet requiring “clear options or principles for conclusion of resolution process” seems unrealistic. Some jurisdictions may require hard and fast rules, but others do not.

Q42 Comment on CF 12.3a.3

Answer

GFIA welcomes the aim in this paragraph to ensure consistency between local and group resolution plans. The guidance indicates that it may be acceptable for host supervisors and/or resolution authorities to have their own resolution plans for IAIG legal entities in their jurisdictions. In GFIA’s view, this should only take place where there is a clear need for the host to have their own resolution plan.

Further, in order to avoid inconsistencies in the resolution planning process, GFIA recommends that the organizational guidance stated in CF12.3.a.2 be referenced in CF12.3a.3.

GFIA therefore suggests that CF12.3a.3 should read as follows: “Following the coordinated development process set forth in CF12.3a.2, host supervisors and/or resolution authorities may, where there is a clear demonstrable need, have their own resolution plans for the IAIG’s insurance legal entity in their jurisdictions, cooperating with the group-wide supervisor and/or resolution authority to ensure that the plan is as consistent as possible with the resolution plan for the IAIG.”

Q43 Comment on CF 12.3a.4

Answer

Although resolution plans, where required, should be reviewed periodically, we do not believe it necessary to prescribe a set, annual timeframe. GFIA would suggest that the phrase “at least annually” be replaced with “periodically.”

Q44 Comment on Standard CF 12.3b

Answer

The obligation to conduct regular resolvability assessments refers to “relevant resolution authorities”. As resolvability assessments are an inseparable part of resolution plans, the responsibility should rest with the group-wide supervisor as well.

The comment on Q34 applies here as well, in that the requirement for resolvability assessments should be appropriate in the context of the resolution objectives.

Q45 Standard CF12.3b

Does the IAIG currently fulfil the requirements of the standard? If “No” or “Partially”, what changes would have to be made in order to comply with ComFrame (e.g. changes to resources, processes, structures, etc.) and to what extent would those changes have to be made solely for the purpose of ComFrame?

Answer

Q46 Standard CF12.3b

What are the one-time (initial) costs to the firm associated with the changes described in the answer to Q45 that would have to be made solely for purposes of ComFrame (please specify the currency)?

Answer

Q47 Standard CF12.3b
What are the ongoing costs to the firm per year (excluding one-time costs) associated with the changes described in the answer to Q45 that would have to be made solely for purposes of ComFrame (please specify the currency)?

Answer

Q48 Standard CF12.3b
Please provide the assumptions made to estimate the one-time costs (Q46) and the ongoing costs per year (Q47).

Answer

It is unclear how the resolvability assessment process relates to the requirement to review resolution plans set forth in CF 12.3a.4 above. GFIA suggests that the CF 12.3a.4 guidance be integrated into this standard.

Q49 Standard CF12.3b
Please specify the benefits of fulfilling the requirements included in the standard (that are attributable solely to ComFrame). The benefit should be viewed in terms of meeting the overall standard and should be all encompassing (e.g. the benefit for the company as well as the benefits for policyholders, for the public, for financial stability, etc.).

Answer

Q50 Comment on CF 12.3b.1

Answer

GFIA welcomes the fact that the revised ICP 12 acknowledges the utilization of a multiple point of entry resolution scheme for IAIGs, which would be an effective substantive strategy for subsidiary-based insurance groups. A typical insurance group's balance sheet demonstrates that the focus of its resolution will be on relevant operating insurance companies. Certain regimes currently give supervisors and resolution authorities a broad range of powers and tools to ensure an orderly multiple point of entry resolution of these operating insurance companies with minimum impact to the broader financial system.

Q51 Comment on CF 12.3b.2

Answer

A jurisdiction may have alternative/additional resolution objectives to those identified in this paragraph. GFIA therefore suggests that this paragraph refers instead to the feasibility of resolution in achieving the jurisdiction's resolution objectives.

It is not the IAIS' role to recommend how countries should fund resolutions and therefore, the phrase "without use of public funds" should be deleted."

Q52 Comment on CF 12.3b.3

Answer

It is likely that a resolution strategy of an IAIG would envisage resolution at different levels, depending on the circumstances giving rise to the need for resolution.

CF 12.3b.3 should include or refer to a definition for the "Head of the IAIG."

Q53 Comment on Standard CF 12.3c

Answer GFIA believes that CF 12.3c, which requires the IAIG to develop and maintain management information systems (MIS), needs to be reconsidered from the following three angles:

- It should be clarified that the content of information produced by MIS should be determined under the proportionality principle for example by giving due consideration to cost/benefit analysis.
- It is not appropriate to give specific name to such a system such as “management information system” as this would lead to the misunderstanding that resolution authorities shall require the IAIG to develop certain pre-defined set of systems. “Adequate arrangements for information management” should replace “management information system”.
- The existing information system that IAIG’s have in place should be recognised as an effective MIS where such existing system can function as envisaged by this Standard. It should be clarified that the resolution authority does not necessarily require the IAIG to develop a brand-new system in such cases as it could impose excessive burden on IAIGs in terms of resources (e.g. financial, human).

To reflect these considerations, the standard should be redrafted as follows: “The resolution authority requires the IAIG to establish and/or maintain adequate arrangements for information management that are able to produce information on a timely basis to supervisor and/or resolution authorities for purposes of resolution planning and resolution actions. The IAIG can rely on the existing information system it has in place. When setting out detailed content for information produced by IAIG’s information management system, proportionality should apply by considering the nature, scale and complexity of the IAIGs.”

Q54 Standard CF12.3c
Does the IAIG currently fulfil the requirements of the standard? If “No” or “Partially”, what changes would have to be made in order to comply with ComFrame (e.g. changes to resources, processes, structures, etc.) and to what extent would those changes have to be made solely for the purpose of ComFrame?

Answer

Q55 Standard CF12.3c
What are the one-time (initial) costs to the firm associated with the changes described in the answer to Q54 that would have to be made solely for purposes of ComFrame (please specify the currency)?

Answer

Q56 Standard CF12.3c
What are the ongoing costs to the firm per year (excluding one-time costs) associated with the changes described in the answer to Q54 that would have to be made solely for purposes of ComFrame (please specify the currency)?

Answer

Q57 Standard CF12.3c
Please provide the assumptions made to estimate the one-time costs (Q55) and the ongoing costs per year (Q56).

Answer

It is difficult to answer the questions in this series (55 to 58) without knowing the degree of resolution planning required or the scope of data and information needed. As with resolution planning generally, GFIA suggests that supervisors consider the overarching concepts of proportionality and risk based supervision, and work cooperatively with IAIGs to ensure that any such new standards are progressively applied over a reasonable timeframe, especially when resolution planning efforts are required of an IAIG not experiencing severe stress.

Q58 Standard CF12.3c
Please specify the benefits of fulfilling the requirements included in the standard (that are attributable solely to ComFrame). The benefit should be viewed in terms of meeting the overall standard and should be all encompassing (e.g. the benefit for the company as well as the benefits for policyholders, for the public, for financial stability, etc.).

Answer

Q59 Comment on CF 12.3c.1

Answer

Q60 Comment on CF 12.3c.2

Answer

The third bullet refers to recovery planning, which is out of place in the integrated ComFrame text that focuses on resolution planning. This drafting error needs to be corrected by deleting the words "recovery and".

Q61 Comment on ICP 12.4

Answer

Q62 Comment on ICP 12.4.1

Answer

Q63 Comment on ICP 12.4.2

Answer

Q64 Comment on ICP 12.4.3

Answer

The guidance suggests there should be a lead resolution authority, but the criteria in 12.4.3 seem more appropriate for supervision than resolution authorities whose powers are likely to have jurisdictional boundaries in terms of their scope of application.

Q65 Comment on ICP 12.5

Answer

The sharing of information between the supervisor and/or resolution authority and other relevant authorities should be explicitly subject to appropriate confidentiality requirements. Therefore, in addition to the criteria listed in 12.5.1 to 12.5.7, there should also be a requirement to ensure that any sharing of information, for example under cooperative arrangements (COAGs) and supervisory colleges, is subject to an appropriate confidentiality agreement.

Although cross-border coordination may support an orderly resolution of certain insurers, it may not be necessary in all cases, particularly where an insurer's material entities are operationally and financially independent of one another. Accordingly, GFIA would suggest revising ICP 12.5 to insert the phrase "as and if necessary" after "other relevant authorities".

Q66 Comment on ICP 12.5.1

Answer

Q67 Comment on ICP 12.5.2

Answer

Q68 Comment on ICP 12.5.3

Answer	
	Q69 Comment on ICP 12.5.4
Answer	This paragraph focuses on avoiding or minimising adverse impact on other group entities, but the authorities should also consider the unnecessary adverse impact their failure to coordinate could also have on the entity being resolved. It should also be kept in mind that in some jurisdictions group-level resolution is not the norm. Therefore, GFIA would suggest rephrasing this ICP as follows: "When applicable, authorities should seek to determine if coordinated action on the resolution of an insurance group is necessary".
	Q70 Comment on ICP 12.5.5
Answer	
	Q71 Comment on ICP 12.5.6
Answer	
	Q72 Comment on ICP 12.5.7
Answer	This guidance should also highlight that information sharing among supervisors or resolution authorities, if and as necessary, should not compromise confidentiality and should be pursuant to the information sharing and confidentiality requirements in ICP 3.
	Q73 Comment on ICP 12.6
Answer	GFIA supports the IAIS' approach of not providing a mechanical set of triggers, as it should not be assumed that a single point can be defined that will be appropriate for all circumstances. Supervisors and/or resolution authorities should be required to exercise their judgement that the insurer is no longer viable, that all recovery options have been exhausted, that supervisory powers are no longer adequate, and that resolution is the right option. At the same time, the criteria that are provided in legislation should be the only criteria that lead to the initiation of resolution, and the ICP should be clear on this.
	Q74 Comment on ICP 12.6.1
Answer	<p>The first sentence should also contain "or for other reasons under local legislation can no longer be permitted to continue its business".</p> <p>The qualitative elements of the list of criteria for determining the initiation of resolution need to be more precise, to avoid giving supervisors undue power to enter a firm into resolution. For example, GFIA notes the ambiguity of the reference to the "minimum capital requirement", as intervention points and definitions can vary between supervisory regimes. This should be reflected in the wording of the ICP.</p> <p>GFIA suggests deleting point (ii) in the final bullet point as what may be considered timely is subjective, and timing is not likely to be an issue in insurance resolution given the long-term nature of insurance liabilities.</p> <p>GFIA also suggests that the resolution authority and/or supervisor may find it appropriate to seek the support of third party skilled persons to help them determine when to enter resolution. Legal remedies should be available to policyholders and investors in the event of poor decisions by the authorities.</p>
	Q75 Comment on ICP 12.7
Answer	GFIA agrees that a range of powers should be available to resolve insurers, so that the powers used to resolve the insurer are appropriate and proportionate. GFIA also welcomes the explicit reference to proportionality in this ICP.

Q76 Comment on ICP 12.7.1

Answer

GFIA welcomes the first sentence of this paragraph, which sets out that powers should be exercised in a proportionate manner. This sentence should refer to paragraph 12.7.4, so it is clear what the “powers described below” are.

GFIA would suggest removing the reference to “systemic importance” in the second sentence. The proportionate choice of resolution powers should exclusively depend on the circumstances of the individual situation, regardless of the designation of the insurer.

Q77 Comment on ICP 12.7.2

Answer

The first sentence should read “exercised with the aim”

Q78 Comment on ICP 12.7.3

Answer

Q79 Comment on ICP 12.7.4

Answer

The initial sentence of 12.7.4 should be amended to reflect that the powers listed are powers that could (rather than should) be included in the powers available to a resolution authority. Although the list of powers in 12.7.4 may not be an exhaustive list, the ICP should be clear that the powers that are set out in the legislation of the jurisdiction is an exhaustive list of the powers available to the resolution authority in that jurisdiction. The phrase “including courts where applicable” should be added after “adequate safeguards”.

With respect to stay powers, GFIA believes that these can be a helpful tool to preserve value and prevent mass lapses and the need to use more drastic measures within the resolution toolkit.

Q80 Comment on ICP 12.7.5

Answer

Q81 Comment on ICP 12.7.6

Answer

GFIA is concerned that the situation described in this paragraph could result in a situation where the resolution authority and the “person taking control” both have authority over the insurer in resolution, and act for different purposes, to the detriment of an orderly resolution. The resolution authority should have authority over the person taking control or, for example, the ability to direct, or apply to the court for the court to direct, the person taking control.

Q82 Comment on ICP 12.7.7

Answer

While GFIA agrees with 12.7.7, it would suggest that resolution powers should also be exercised according to the agreed hierarchy of creditors in that jurisdiction.

Q83 Comment on ICP 12.7.8

Answer

Q84 Comment on ICP 12.7.9

Answer

Q85 Comment on ICP 12.7.10

Answer

Q86 Comment on ICP 12.7.11

Answer

Q87 Comment on ICP 12.7.12

Answer

Q88 Comment on ICP 12.7.13

Answer

Q89 Comment on ICP 12.7.14

Answer

This paragraph states the resolution authority should “have the capacity to cooperate” with relevant supervisors and resolution authorities in other jurisdictions. The precise meaning of this provision should be clarified . If resolution of two entities in the same group is taking place in two different jurisdictions simultaneously, relevant supervisors and authorities should cooperate to the extent necessary and appropriate.

GFIA would suggest replacing the word “capacity” with “ability” in the second and third sentences of the 12.7.14; and adding the phrase “to the extent necessary and appropriate” to the end of the last sentence of 12.7.14.

Q90 Comment on ICP 12.7.15

Answer

Q91 Comment on ICP 12.7.16

Answer

Q92 Comment on Standard CF 12.7a

Answer

In the first sentence, the phrase “including courts where applicable,” should be added after “adequate safeguards”; the word “may” should be added after the phrase “the resolution of the IAIG”. The first 16 bullet points reflecting powers that may be exercised are the same as those listed in 12.7.4. This seems an unnecessary duplication and therefore, GFIA would recommend that these points are deleted from CF12.7.a.

In the 17th bullet point, the phrase “if applicable in certain jurisdictions” should be added after “relevant entities within the group”.

In the 19th bullet point the phrase “if applicable in certain jurisdictions” should be added after “bridge institution”.

Q93 Standard CF12.7a

Does the IAIG currently fulfil the requirements of the standard? If “No” or “Partially”, what changes would have to be made in order to comply with ComFrame (e.g. changes to resources, processes, structures, etc.) and to what extent would those changes have to be made solely for the purpose of ComFrame?

Answer

Q94 Standard CF12.7a

What are the one-time (initial) costs to the firm associated with the changes described in the answer to Q93 that would have to be made solely for purposes of ComFrame (please specify the currency)?

Answer

Q95 Standard CF12.7a
What are the ongoing costs to the firm per year (excluding one-time costs) associated with the changes described in the answer to Q93 that would have to be made solely for purposes of ComFrame (please specify the currency)?

Answer

Q96 Standard CF12.7a
Please provide the assumptions made to estimate the one-time costs (Q94) and the ongoing costs per year (Q95).

Answer

Q97 Standard CF12.7a
Please specify the benefits of fulfilling the requirements included in the standard (that are attributable solely to ComFrame). The benefit should be viewed in terms of meeting the overall standard and should be all encompassing (e.g. the benefit for the company as well as the benefits for policyholders, for the public, for financial stability, etc.).

Answer

Q98 Standard CF12.7a (21st bullet point)
Some IAIS Members consider that this power should be available only for IAIGs; other IAIS Members are of the view that the power should be available both for IAIGs and insurers that are neither G-SIIs nor IAIGs. Please provide your thoughts on this with rationale.

Answer

Q99 Comment on CF 12.7a.1

Answer

Q100 Comment on CF 12.7a.2

Answer

GFIA agrees that, before powers to require an IAIG to take actions to improve its resolvability are used, the IAIG should be given the opportunity to propose its own remedies. GFIA also considers that there should be some safeguards surrounding the use of powers to improve resolvability so that an IAIG has a right to appeal and challenge such actions if it disagrees with their appropriateness. Given that CF 12.7a.2 relates to resolution planning, it could be moved to CF 12.3.

Q101 Comment on CF 12.7a.3

Answer

GFIA supports the explicit statement in this paragraph that powers should only be used if suitable and necessary to meet resolution objectives.

Q102 Comment on CF 12.7a.4

Answer

Essential services referred to are covered in the 20th bullet point, and not the 21st as noted in the draft.

Q103 Comment on ICP 12.8

Answer	<p>The ICP does not appear to articulate the powers of a third party in the liquidation/resolution process, rather it just recognises a role for the supervisor. This is inconsistent with FSB’s Key Attributes 2.1 where references to “resolution authority” include a reference to more than one authority where multiple authorities are responsible for exercising resolution powers. Also, FSB’s Key Attributes 2.3 states that resolution powers may be exercised by the resolution authority or through a special administrator, receiver, conservator or other official. GFIA suggests that this be amended to “...the supervisor or resolution authority is involved...”.</p> <p>As noted in the response to 12.0.2, liquidation is an action that tends to be governed by local corporate and insolvency law rather than the insurance regulatory framework. ICP 12 should focus on the insurance regulatory framework, and on actions taken by the insurance supervisor and/or resolution authority to resolve the entity, protect policyholders and preserve value.</p>
	Q104 Comment on ICP 12.8.1
Answer	<p>The phrase “should be authorised to initiate” should be replaced with “should be involved in the initiation of”. In the fourth sentence, the words “it should” should be replaced with “it may, in certain jurisdictions”.</p>
	Q105 Comment on ICP 12.9
Answer	
	Q106 Comment on ICP 12.9.1
Answer	<p>This paragraph first notes that policyholders should rank above ordinary unsecured creditors, before describing current practice in some jurisdictions where it is common that higher priority is given to other categories of claims; this appears to contradict the initial statement. The ICPs should be clear on the requirement and avoid describing current practice which may be better suited to an application paper.</p>
	Q107 Comment on ICP 12.9.2
Answer	<p>See the comment on Q106.</p>
	Q108 Comment on ICP 12.9.3
Answer	<p>In the last sentence, the words “should” should be replaced with “may” since not all jurisdictions have all the mechanism mentioned (e.g., bridge institutions).</p>
	Q109 Comment on ICP 12.10
Answer	<p>This standard allows different creditors within the same class to be treated differently, so long as they are not worse off if they were in liquidation. GFIA recommends amending the first sentence as follows “...and adheres to the NCWOL principle, where applicable.”</p>
	Q110 Comment on ICP 12.10.1
Answer	
	Q111 Comment on ICP 12.10.2
Answer	
	Q112 Comment on ICP 12.10.3

Answer	
	Q113 Comment on ICP 12.10.4
Answer	
	Q114 Comment on ICP 12.10.5
Answer	
	Q115 Comment on ICP 12.11
Answer	
	Q116 Comment on ICP 12.11.1
Answer	
	Q117 Comment on ICP 12.11.2
Answer	
	Q118 Comment on ICP 12.12
Answer	This paragraph, as currently written, could be interpreted as promoting the single point of entry resolution strategy over a multiple point of entry resolution strategy. The paragraph should be rewritten to promote situation and institution-specific strategies.
	Q119 ICP 12.12 This Standard has been created on the grounds that the revised ICP 12 addresses not only legal entity issues but also group issues like other ICPs and resolution of insurance legal entities can be complex where they belong to a group. The IAIS acknowledges that liquidation will take place in most cases on a legal entity basis. On the other hand, there might be cases where resolution actions on one entity can impact other entities within the group (e.g. resolution of the head of the insurance group can impact insurance legal entities in the group). The IAIS acknowledges that guidance needs to be provided under this Standard to help ensure appropriate implementation of the Standard. Please provide your thoughts on what guidance can help implementation of this Standard. Concrete ideas with supporting rationale are welcome.
Answer	This ICP and the related CF guidance should accommodate different jurisdictions' supervisory frameworks. In situations in which holding and service companies would be resolved under separate mechanisms, these would not need to be covered by ICP 12 and CF 12. Ultimately, orderly resolution of subsidiary-based insurance groups can be effectively accomplished utilising a multiple point of entry substantive strategy with cooperation and coordination among insurance supervisors and/or resolution authorities and the resolution authorities for the group's non-insurance entities if and as necessary.
	Q120 Comment on CF 12.12a.1
Answer	See comment to ICP 12.12 above. It is unclear how resolution powers used on an insurance legal entity could be extended to the Head of the IAIG and any intermediate holding company within the IAIG in other jurisdictions. This guidance should either be deleted or explicitly clarify how such powers would be enforceable.
	Q121 Comment on CF 12.12a.2
Answer	See comment to ICP 12.12 above

Q122 Comment on CF 12.12a.3

Answer

See comment to ICP 12.12 above.

Q123 Comment on ICP 12.13

Answer

Q124 Comment on ICP 12.13.1

Answer

Q125 Comment on ICP 12.13.2

Answer

Q126 Comment on ICP 12.13.3

Answer

The implications of the use of such broad powers by the branch resolution authority should be considered. Any unilateral decision by the resolution authority responsible for the branch would appear contrary to the aim of coordinated resolution actions. This paragraph should emphasise the need for cooperation and coordination and clarify that as the actions described in the final sentence of this paragraph should be a last resort, and that the branch resolution authorities do not take actions that are inconsistent with the home supervisors' authority.

Q127 Comment on ICP 12.13.4

Answer

Q128 Comment on Appendix

Answer

In "Resolution", the phrase "or for other reasons under local legislation that can no longer be permitted to continue its business" should be added.