

IAIS Consultations

Print view of your comments on "Consultation on The Supervisor: ICP 1 (Objectives, Powers and Responsibilities of the Supervisor) and ICP 2 (Supervisor)" - Date: 29.08.2017, Time: 14:23

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Question	
Answer	<p>Q1 General Comment on ICP 1</p> <p>The new wording of ICP 1 could be improved as follows: "Each authority responsible for insurance supervision, its powers, as well as the general objectives of insurance supervision are clearly defined."</p>
Answer	<p>Q2 Comment on Guidance 1.0.1</p> <p></p>
Answer	<p>Q3 Comment on Guidance 1.0.2</p> <p>After the first sentence, GFIA proposes the following clarifications to the second and fourth sentences regarding updates of supervisory responsibilities and objectives: "When those responsibilities and objectives must be periodically updated, the updates should be implemented in a manner that avoids creating instability, as a stable business environment is important for the insurance market and consumer confidence." "Aspects that should undergo frequent updating due to environmental or other changes should be supplemented as needed with updated legally enforceable rules and guidance."</p>
Answer	<p>Q4 Comment on Standard 1.1</p> <p></p>
Answer	<p>Q5 Comment on Guidance 1.1.1</p> <p></p>
Answer	<p>Q6 Comment on Guidance 1.1.2</p> <p>In practice, some frameworks have separate authorities responsible for supervising (re)insurers and (re)insurance distributors. Therefore, the list of examples should also reflect this separation.</p>
	<p>Q7 Comment on Guidance 1.1.3</p>

Answer

Q8 Comment on Standard 1.2

Answer

GFIA suggests the following modification of the opening clause, in order to provide greater clarity:

“Primary legislation clearly defines the principle objectives of insurance supervision; at a minimum, the principal objectives are to:”

GFIA is of the view that the terms used for the second principal objective are highly subjective (“fair” and “safe”) and potentially misleading (“stable”). Stability should be clarified to mean stability of the overall financial system (as per the third principal objective). The standard should avoid any language that implies the supervisor has justification to interfere with free competition in the insurance market – instead, GFIA suggest that the promotion of competition is included as an objective.

Q9 Comment on Guidance 1.2.1

Answer

GFIA would like to point out that the suggestion in Guidance 1.2.1 to include “promoting insurance market development” as a supervisory objective may and, in practice, has invited supervisors to take protectionist measures against foreign (re)insurers under the justification of promoting local insurance markets and their developments. GFIA would therefore urge the IAIS to not encourage such behaviour by explicitly listing the objective as an option in Guidance 1.2.1, or by including the promotion of competition as an objective.

Q10 Comment on Guidance 1.2.2

Answer

Q11 Comment on Guidance 1.2.3

Answer

GFIA considers that the ICP should be further enhanced to set out good regulatory practice that the supervisor should have regard to in fulfilling its mandate. Therefore, GFIA would recommend adding the following wording to the end of paragraph 1.2.3:

“In fulfilling its objectives the supervisor should have regard to the following regulatory principles:

- The need to use its resources efficiently, and transparently;
- The principle that a burden of restriction imposed should be proportionate to the benefits;
- The general principle that consumers should take responsibility for their decisions;
- The benefit of competitive markets to good consumer outcomes;
- That the regulator should act in a transparent manner; and
- The potential detriment that publishing information relating to persons may have on them.”

Q12 Comment on Guidance 1.2.1

Answer

Q13 Comment on Standard 1.3

Answer

Q14 Comment on Guidance 1.3.1

Answer

Q15 Comment on Guidance 1.3.2

Answer	<input type="text"/>
	Q16 Comment on Guidance 1.3.3
Answer	<input type="text"/>
	Q17 Comment on Standard 1.4
Answer	<input type="text"/>
	Q18 Comment on Guidance 1.4.1
Answer	<input type="text"/>
	Q19 Comment on Guidance 1.4.2
Answer	<input type="text"/>
	Q20 Comment on Guidance 1.4.3
Answer	<input type="text"/>
	Q21 General Comment on ICP 2
Answer	GFIA does not support the IAIS decision to delete the reference to confidentiality in ICP 2 and would ask this be reconsidered.
	Q22 Comment on Guidance 2.0.1
Answer	<input type="text"/>
	Q23 Comment on Guidance 2.0.2
Answer	GFIA generally appreciates and supports the additional guidance added on operational independence, accountability, and transparency.
	Q24 Comment on Guidance 2.0.3
Answer	<input type="text"/>
	Q25 Comment on Guidance 2.0.4
Answer	<input type="text"/>
	Q26 Comment on Guidance 2.0.5
Answer	<input type="text"/>
	Q27 Comment on Guidance 2.0.6
Answer	<input type="text"/>
	Q28 Comment on Standard 2.1
Answer	<input type="text"/>
	Q29 Comment on Guidance 2.1.1

Answer	<p>GFIA agrees with the principle of operational independence, however recommends amending the guidance as follows to better reflect the need for proportionality in the exercise of supervisory objectives.</p> <p>“Operational independence of the supervisor includes having the discretion to allocate its resources, including financial and human resources, and to carry out the supervisory process proportionality, taking into account cost-benefit analysis, in accordance with its objectives and the risks the supervisor perceives. Having this discretion, which underpins operational independence, should be reflected in primary legislation.”</p>
Q30 Comment on Guidance 2.1.2	
Answer	
Q31 Comment on Guidance 2.1.3	
Answer	<p>GFIA agrees that the supervisor and government relationship should be clearly defined in legislation. GFIA also considers that legislation should enable the government to direct the supervisor to take account of public policy objectives in the exercise of its supervisory objectives. It is therefore recommended that the following sentence is inserted follow the initial sentence in 2.1.3:</p> <p>“This should include provision for the government to notify the supervisor of public policy objectives which it should have regard to in the exercise of its supervisory objectives.”</p>
Q32 Comment on Guidance 2.1.4	
Answer	<p>GFIA generally agrees with the importance of structural independence between the supervisor and supervised entities. However, the second half of 2.1.4. seems to be overly prescriptive in listing potential risks that an overly close relationship could bring. It is not clear what value is added by the list of risks. GFIA would hence propose the following amendments:</p> <p>“In addition to independence from the government, the supervisor should be independent from the entities it supervises. In cases where there are industry representatives on the governing body of the supervisor, the composition of the governing body should be sufficiently diverse to prevent industry representatives from controlling the supervisor. The supervisor should not have an excessively close relationship with supervised entities. The supervisor’s policies regarding, for example, post-employment, anti-corruption and accountability in decision-making, should seek to avoid such close relationship.”</p>
Q33 Comment on Guidance 2.1.5	
Answer	
Q34 Comment on Standard 2.2	
Answer	
Q35 Comment on Guidance 2.2.1	
Answer	
Q36 Comment on Guidance 2.2.2	
Answer	<p>GFIA has strong concerns about the guidance provided in 2.2.2. While a certain level of legal protection of individuals is necessary to ensure operational independence, GFIA strongly disagrees with criminal liability being included in this scope. Furthermore, criminal liability by definition requires an element of illegality which is not clear from the last part of the guidance.</p> <p>GFIA would propose to redraft guidance 2.2.2, potentially with wording closer to the former 2.10.1.</p>

Q37 Comment on Standard 2.3

Answer

Q38 Comment on Guidance 2.3.1

Answer

Q39 Comment on Guidance 2.3.2

Answer

Q40 Comment on Guidance 2.3.3

Answer

Q41 Comment on Standard 2.4

Answer

As used in the proposed standard, the term “stakeholders” is unclear. If the IAIS intends the term “stakeholders” to be the persons to whom the supervisor is accountable as described in Guidance 2.0.3, then the proposed standard needs to state that fact. As this proposed standard is currently worded, it is not entirely clear to whom the supervisors are accountable. GFIA would appreciate a clarification of this term as used, for example, in 2.4, and 2.4.3.

In addition, GFIA would recommend that a further guidance paragraph (2.4.5) is added to support the overriding principle of accountability.

“The supervisor should publish a public annual report of its activities and how its resources have been deployed over the period in order to facilitate public understanding and scrutiny of the supervisor.”

Q42 Comment on Guidance 2.4.1

Answer

Q43 Comment on Guidance 2.4.2

Answer

Q44 Comment on Guidance 2.4.3

Answer

Q45 Comment on Guidance 2.4.4

Answer

Q46 Comment on Standard 2.5

Answer

It is sufficient for Standard 2.5 to state: “The supervisor applies requirements and supervisory procedures equitably and consistently.” The mutual concepts of policyholder protection and financial protection should permeate throughout the ICPs, so it is not necessary to restate them here; therefore, the second sentence should be deleted in its entirety. GFIA supports the proposed Guidance as drafted.

Q47 Comment on Guidance 2.5.1

Answer

Q48 Comment on Guidance 2.5.2

Answer

Q49 Comment on Guidance 2.5.3

Answer

Q50 Comment on Standard 2.6

Answer

As mentioned in Q21, GFIA is of the view that confidentiality warrants mentioning at ICP level. Confidentiality should be an “overarching concept” within the ICP framework, that applies to all elements of the ICPs. As GFIA has previously commented in response to the consultation on revised ICP 3, the objective should be to ensure professional secrecy at the supervisory level as opposed to confidentiality only.

Q51 Comment on Guidance 2.6.1

Answer

Q52 Comment on Guidance 2.6.2

Answer

Q53 Comment on Guidance 2.6.3

Answer

Q54 Comment on Standard 2.7

Answer

Q55 Comment on Guidance 2.7.1

Answer

GFIA would like to remark on the importance of sufficient leeway for supervisors to refrain from publishing information about problem or failed insurers (5th bullet point). The term “supervisory actions” used in this Guidance is wide-ranging, and publication of such often delicate information can have significant detrimental effects that may not only conflict with other supervisory objectives, but also interfere with existing recovery plans and measures taken in relation to resolution. Please refer to the GFIA positions on recovery and resolution in the responses provided to the recent IAIS consultation on revised ICPs 10 and 12.

Q56 Comment on Guidance 2.7.2

Answer

Q57 Comment on Standard 2.8

Answer

Scope and meaning of the term “requirements” are not clear in the context of Standard 2.8. This should be clarified, for example by referring to “regulatory requirements” instead of “its requirements”.

Q58 Comment on Guidance 2.8.1

Answer

Q59 Comment on Guidance 2.8.2

Answer

Q60 Comment on Guidance 2.8.3

Answer

Q61 Comment on Standard 2.9

Answer

Q62 Comment on Guidance 2.9.1

Answer

Q63 Comment on Guidance 2.9.2

Answer

Q64 Comment on Guidance 2.9.3

Answer

Q65 Comment on Guidance 2.9.4

Answer

Q66 Comment on Guidance 2.9.5

Answer

Q67 Comment on Standard 2.10

Answer

GFIA would suggest that in the selection of third party provider requirements on public procurement may be of relevance in some jurisdictions. This could find reflection in the Guidance following Standard 2.10.

The general principle that responsibility cannot be outsourced should be reflected in 2.10. GFIA therefore recommends that reference in 2.10 to supervisory responsibility is replaced with supervisory activity, as the supervisor should retain responsibility for activities that it outsources.

In addition to the bullet points that follow 2.10, GFIA recommends that a further bullet is added.

“Effectively control the costs of outsourced activities in a transparent manner that can be publicly scrutinised.”

Q68 Comment on Guidance 2.10.1

Answer

Q69 Comment on Guidance 2.10.2

Answer

Q70 Comment on Guidance 2.10.3

Answer

Q71 Comment on Guidance 2.10.4

Answer