

Mr. Jonathan Dixon  
Secretary General  
Dr. Victoria Saporta  
Chairperson  
International Association of Insurance Supervisors (IAIS)  
Centralbahnplatz 2  
CH-4051 Basel  
Switzerland

October 30, 2018

**Re: IAIS public consultation on overall ComFrame**

Dear Mr. Dixon and Dr. Saporta,

The Institute of International Finance (IIF) and the Geneva Association (GA) welcome the opportunity to provide comments to the consultation package dated July 31, 2018 on the draft overall ComFrame. We appreciate the extensive work undertaken by the IAIS to shape the post-crisis regulatory framework. IIF and GA have been actively engaged in constructive dialogue with the IAIS on the development of ComFrame, and the Risk-based Global Insurance Capital Standard (ICS), since the launch of the project, and we look forward to continuing this dialogue.

Our comments on ComFrame address the following key themes:

- ComFrame, the ICS, and other ongoing global insurance regulatory policy initiatives should form a comprehensive and integrated insurance policy framework
- ComFrame should allow for a wide range of regulatory frameworks and effective supervisory approaches
- Disconnects between the Insurance Core Principles (ICPs)/ComFrame and the ICS must be addressed
- ComFrame components should be better aligned

In addition, we offer some specific comments on ComFrame 16.13, *Recovery Planning*, and ComFrame 12, *Exit from the Market and Resolution*.

**ComFrame, the ICS, and other ongoing global insurance regulatory policy initiatives should form a comprehensive and integrated insurance policy framework**

We have submitted a separate response to the ICS Version 2.0 consultation. However, considering the inherent linkages between ComFrame and the ICS, we request that the IAIS consider our comments on the individual documents as applicable to both ComFrame and ICS, as well as in the broader context of the overall framework of IAIS and Financial Stability Board global insurance regulatory policy initiatives.

ComFrame<sup>1</sup> and the ICS are, collectively, intended to provide a fundamental insurance policy framework for regulators and supervisors to advance the goals of protecting policyholders, maintaining fair, safe and stable insurance markets, and contributing to a level playing field for

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<sup>1</sup> References to ComFrame include the integral Insurance Core Principles (ICPs).

internationally active insurance groups (IAIGs). We support the goals and objectives of ComFrame and the ICS and encourage the IAIS to closely align and integrate the work on ComFrame, the ICS, and other IAIS policy initiatives, including work in train on systemic risk and recovery planning.

We acknowledge the practical necessity of completing the insurance policy framework through different IAIS workstreams operating in parallel, but encourage the workstream leads and Committee chairs to resist the natural tendency to operate in silos. We also encourage a thoughtful phasing of the work in progress. To this second point, we would note that, while ComFrame materials relevant to ICP 16, *Enterprise Risk Management for Solvency Purposes*, is the subject of the current consultation, the IAIS is developing an Application Paper on Recovery Planning for release later this year. It may not be possible for the IAIS to consider fully the comments received on the ComFrame materials relevant to ICP 16 in time to inform the drafting of the Application Paper. We respectfully suggest that the release of an Application Paper on Recovery Planning in 2018 may be premature.

Similarly, another IAIS workstream is continuing work on the holistic systemic risk framework for insurance, including an activities-based approach to systemic risk (ABA). At present, we perceive a lack of alignment and integration between ComFrame and the systemic risk framework and between the current draft of the Application Paper on Recovery Planning and the ABA. For example, the current draft of the Application Paper references the proportionality principle by way of an example that describes the size of an insurer compared to the overall insurance market, a concept that is not in alignment with the approach to size contained in the ABA.

### **ComFrame should allow for a wide range of regulatory frameworks and effective supervisory approaches**

The ComFrame introduction indicated explicitly that, “ComFrame seeks to assist supervisors in: addressing group-wide activities and risks; identifying and avoiding supervisory gaps; coordinating supervisory activities efficiently and effectively between the group-wide and other involved supervisors. ComFrame also aims to provide a basis for comparing IAIG supervision across jurisdictions; however, **it does not create a one-size-fits all approach to IAIG supervision.**” (Emphasis added.) We strongly support the language and believe that a wide range of existing regulatory frameworks and supervisory approaches should be recognized in ComFrame. However, specific ComFrame standards appear to be inconsistent with this introductory language. We have identified a few instances where the ICP/CF language conflicts with existing jurisdictional practices For example:

- There are multiple instances where standards prescribe requirements for policies, documents, frameworks, overviews, etc. to be produced and then require specific content and/or elements to be reflected in the documentation. The prescriptive language precludes different jurisdictional approaches and the distinct possibility that the required content already exists but sits elsewhere, resulting in potentially needless and duplicative documentation (e.g., 7.0a1, 8.6a, 16.1c, and 16.7e and 16.7e1)
- There continues to be insufficient recognition of risk-based approaches, which are already in place in many jurisdictions. Section 8.8 on outsourcing/third party risk management ought to apply risk-based language when, for example, insurers are required to “review the cumulative risks of outsourced activities and functions.” (Additional e.g.,: 7.2b, 7.3, 8.4, 8.7, and 9.2b1 and 9.2b6)
- We have also identified instances where the ICPs and ComFrame language conflict with existing jurisdictional practices. For example, ComFrame 10.6.a states, “Where appropriate, the group-wide supervisor imposes sanctions directly on the Head of the IAIG within the

group-wide supervisor’s jurisdiction.” We note that, in some jurisdictions, the group-wide supervisor cannot impose sanctions on the Head of the IAIG but, rather, must refer violations of regulations to another authority.

- Moreover, in some jurisdictions, IAIGs do not have a group-wide supervisor or lead supervisor with the authority to regulate enterprise-wide investment activity, as required in ComFrame 15, Investments. The ICPs and ComFrame language should recognize and accommodate existing jurisdictional limitations and established regulatory and supervisory frameworks, focusing on outcomes, rather than suggesting that formal group-wide supervision is necessary or required.

### **Disconnects between the ICP/CF Framework and the ICS must be addressed**

We continue to advocate an integrated approach to ComFrame which includes risk-based capital as a fundamental part. However, a risk-based capital standard should be aligned and integrated with the full suite of qualitative measures that ComFrame provides and the entire package should be evaluated as to its ability to deliver the goals of policyholder protection, fair, safe, and stable insurance markets, and a level playing field for IAIGs. That is, a risk-based capital standard should be viewed in the context of the overall regulatory and supervisory approach for IAIGs and should not be considered as a stand-alone, complete solution. This being said, we continue to note a number of disconnects between the qualitative components of ComFrame and the ICS which stymie this integration and need to be addressed promptly. We would highlight the following examples:

- One area where some members see significant potential for excessive prudence and over-calibration is in the inclusion of a margin over current estimate (MOCE) in light of the requirement for IAIGs to have solid recovery (and resolution<sup>2</sup>) plans in place under ComFrame 16.13.
- We note that the IAIS is planning revisions to ICP 14 (Valuation) and ICP 17 (Capital Adequacy) after the adoption of ComFrame and ICS 2.0 in November 2019. We encourage the IAIS to clarify to all stakeholders how adjustments will be made to the ICS to ensure that the ICS conforms to the updates to ICP 14 and ICP 17.
- We have also identified some misalignments between the ICS field testing technical specifications and the ComFrame and ICP language. ICP 16.5.1 states that “[...] ALM does not imply that assets should be matched as closely as possible to liabilities, but rather that mismatches are effectively managed [...]”, which implies that ICP 16 does not impose a cashflow matching requirement. However, in the ICS field testing technical specifications on the three-bucket approach, a cashflow matching calculation is imbedded in the criteria for the buckets.
- Although the ICS will ultimately become a component of ComFrame, it is still being developed as a separate standard, and will continue to be tested before any final decisions are made in terms of its implementation. As the standard is under development, it is premature to insert the ICS into supervisory college discussions and to include guidance related to ICS reporting in ComFrame. In particular, ComFrame 9.4.a provides that the group-wide supervisor would require the Head of the IAIG to report the reference ICS and, at the option of the group-wide supervisor, provide any additional reporting. ComFrame 25.6.c states that the members of the IAIG’s supervisory college would discuss and assess a summary of the reference ICS prepared by the group-wide supervisor, as well as a summary of any additional reporting that has been reported at the option of the group-wide supervisor. Given that the ICS is not yet adopted or

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<sup>2</sup> See ComFrame materials under ICP 12, *Exit from the Market and Resolution*.

implemented, ComFrame guidance on reporting should be deferred and this section should be deleted until after the conclusion of the Monitoring Period. Please refer to our comment letter on the ICS, where we express our strongly held view that the ICS should only be reported to group-wide supervisors, and not to the entire supervisory college, during the Monitoring Period.

### **ComFrame components should be better aligned**

We appreciate the receptivity of the IAIS to prior comments during the public consultation in spring 2017, as reflected in the current ComFrame draft, including comments on the structure of ICP 10 and the movement of ComFrame material on recovery planning to ICP 16, *Enterprise Risk Management for Solvency Purposes*. However, we continue to note some continuing misalignment of different components of the ComFrame framework.

For example:

- In ComFrame 8.1.c, the expression “sound risk culture” is used whereas, in ComFrame 8.1.c.1, the expression “appropriate risk culture” is used. We believe that the IAIS intends the same meaning in both references and, thus, should use the same language. [We would favour the use of the phrasing “appropriate risk culture,” as this is more reflective of a risk-based approach.]
- In ComFrame 8.4.a, the expression “group-wide risk management function” is used whereas, in ComFrame 8.4.b, the expression “IAIG risk management function” is used. [We prefer the latter formulation, as it reflects that the risk management function in a complex insurance group may not be the same across all of the group’s operations.]

In addition, for clarity, we request further elaboration of the IAIS’s views on what would constitute a “material effect on the supervision of the IAIG” in ComFrame 10.6b.

### **Comments on ComFrame 16.13 Recovery Planning**

We support the IAIS’s consideration of recovery planning separately from ICP 10, *Preventive Measures, Corrective Measures and Sanctions*, and the integration of recovery planning material in ICP/ComFrame 16, *Enterprise Management for Solvency Risk Purposes*. As noted above, the IAIS is developing an Application Paper on recovery planning, which we would argue is premature, as ICP 16.13 and the ComFrame material to which it relates is still open for public consultation.

The draft Application Paper attempts to distinguish a recovery plan, which becomes relevant when an insurer is under stress, from a going concern own risk and solvency assessment (ORSA). We would argue that a properly designed ORSA reflects a range of scenarios including severe stress scenarios and provides management with the information needed to guide the insurer through times of stress and select the appropriate tools in response to stress. While regulatory structures and requirements vary from jurisdiction to jurisdiction, a robust ORSA process demonstrates the strength of the firm’s risk management for solvency and liquidity through the severe but plausible stress scenarios that are most relevant to the firm, given the nature, scale and complexity of the firm’s business. In many jurisdictions, the ORSA process has been developed and implemented as both an integral part of the insurer’s enterprise risk management, and as a tool to provide regulators with insight into the insurer’s risk profile. The results of a robust ORSA process should be recognized as fulfilling the underlying purpose of recovery planning and a separate recovery plan should not be required. This approach would have the benefit of promoting a holistic view of enterprise risk management and would avoid

the imposition of duplicative requirements that may not be proportionate to the risks faced by the organization.

At a minimum, we would urge the IAIS to allow for jurisdictional and supervisory discretion with respect to the requirement for a recovery plan.

Moreover, in cases where a recovery plan would be required, the plan should align with the ORSA and similar management and supervisory tools. The stress scenarios included in an ORSA serve a sound basis for selecting appropriate management tools in times of stress and, thus, the ORSA stress scenarios should be aligned with the stress scenarios required for a recovery plan. Host supervisors should not require separate legal entity recovery plans when a group recovery plan is in place.

### **Comments on ComFrame 12, Exit from the Market and Resolution**

In line with our comments on earlier consultations, we would like to reemphasize that the resolution of an insurance firm differs significantly from the resolution of a banking organization in many key aspects. Of particular note, insurers do not perform the same critical functions as banking organizations, are far less susceptible than banks to deposit “runs,” have greater liquidity buffers, and insurance supervisors have a longer time period and a wider range of tools to effect a successful resolution (e.g. through run off) compared to banking supervisors.

We believe that where existing insurance resolution regimes can provide for the orderly satisfaction of inforce liabilities over an extended period of time, advance resolution planning is neither necessary nor cost effective. When determining whether resolution plans are necessary for IAIGs we ask that the authorities reference all six factors outlined in CF 12.3.a.1 equally. This would ensure that all factors are viewed as important for a group-wide supervisor and/or resolution authority and IAIG Crisis Management Group to consider when determining if a resolution plan is needed and/or the degree of planning required. The IIF and GA also believe it is critical to include the consideration of an additional factor: an analysis of an IAIG’s vulnerability to significant financial distress.

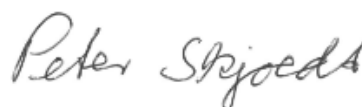
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We thank the IAIS for the opportunity to comment on the 31 July 2018 version of draft overall ComFrame and welcome our continued constructive dialogue. Should you have any questions on the issues raised in this letter, please contact Mary Frances Monroe ([mmonroe@iif.com](mailto:mmonroe@iif.com)); Ningxin Su ([nsu@iif.com](mailto:nsu@iif.com)); Peter Skjoedt ([peter\\_skjoedt@genevaassociation.org](mailto:peter_skjoedt@genevaassociation.org)), or Dennis Noordhoek ([dennis\\_noordhoek@genevaassociation.org](mailto:dennis_noordhoek@genevaassociation.org)).

Very truly yours,



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