

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: 23:58

Organisation	International Association of Insurance Receivers
Jurisdiction	US Corporation, International membership
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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>The relationship between liquidation and the other resolution tools could be explained more clearly. While liquidation is a subset of resolution, it is treated in ICP 12 as a separate mechanism in some respects. This implication is reinforced by providing a separate standard for liquidation (12.8), and describing it as a counterfactual process in the NCWOL principal.</p>
	Q2 Comment on Introductory Guidance ICP 12.0.1
Answer	<p>There is a danger in identifying an "orderly process" for insurer exits as a goal or criterion for successful regulation, at least if that results in the diminution of policyholder rights and the lack of accountability of individuals responsible for the disorder.</p> <p>Consider adding, "WHILE EMPHASIZING ACCOUNTABILITY OF CORPORATE AND REGULATORY LEADERSHIP AND PRESERVATION, SO FAR AS POSSIBLE, OF POLICYHOLDER VALUES."</p>
	Q3 Comment on Introductory Guidance ICP 12.0.2
Answer	<p>Suggest ICP 12 should include situations in which an insurer losses its licensure. Consider modifying text (additions in capital letters) "towards an insurer that is no longer viable INCLUDING INSTANCES WHERE THERE IS A LOSS OF ELIGIBILITY TO OPERATE IN ONE OR MORE JURISDICTIONS..."</p>
	Q4 Comment on Introductory Guidance ICP 12.0.3
Answer	
	Q5 Comment on Introductory Guidance ICP 12.0.4
Answer	
	Q6 Comment on Introductory Guidance ICP 12.0.5
Answer	

Q7 Comment on Introductory Guidance ICP 12.0.6

Answer

Consider adding language addressing the complexities of construction replacement mechanisms, such as "THE EASE OF CONSTRUCTING REPLACEMENT MECHANISMS MAY VARY DEPENDING ON THE INSURER'S ISSUANCE OF SHORT-TERM OR LONG TERM CONTRACTS, WHETHER PARTICIPATION IN THE CONTINUITY OF COVERAGE SCHEME IS MANDATORY OR VOLUNTARY, AND WHETHER POLICYHOLDER OR JUDICIAL APPROVAL IS REQUIRED TO EFFECT THE ARRANGEMENT."

Q8 Comment on Introductory Guidance ICP 12.0.7

Answer

Q9 Comment on Introductory Guidance ICP 12.0.8

Answer

Permanent loss of authority to transact insurance business should be one of the reasons for an "involuntary" exit from the market. Suggest, (new matter all caps) " The resolution of insurers that are no longer ELIGIBLE TO OPERATE IN THE MARKET, are no longer viable ..."

Q10 Comment on Introductory Guidance ICP 12.0.9

Answer

Q11 Comment on Introductory Guidance ICP 12.0.10

Answer

This language is confusing. It is not clear which creditors are "lower ranking" and what permissible variations may be introduced by the relevant jurisdiction's hierarchy of claims.

Suggest replacing with: "THE RESOLUTION REGIME SHOULD PROVIDE THAT POLICYHOLDERS ABSORB LOSSES ONLY AFTER OTHER CREDITORS HAVE FULLY ABSORBED LOSSES. THE JURISDICTION'S HIERARCHY OF CLAIMS SHOULD DETERMINE THE ORDER OF PAYMENT AMONG SUBORDINATED CLAIMS AND MAY PROVIDE THAT THE RESOLUTION AUTHORITY'S EXPENSES MAY PRECEDE POLICYHOLDER CLAIMS IN PAYMENT."

Q12 Comment on Introductory Guidance ICP 12.0.11

Answer

Q13 Comment on Introductory Guidance ICP 12.0.12

Answer

Text should also highlight necessity of exchange of information with interested parties as well as officials. Suggest modifying the last sentence to: "Cross-border coordination and cooperation, including exchange of information, NOT ONLY AMONG RESPONSIBLE OFFICIALS BUT ALSO AMONG INTERESTED PARTIES, is necessary for the orderly and effective resolution of insurers that operate on a cross-border basis. (Addition in capital letters)

Q14 Comment on ICP 12.1

Answer

Q15 Comment on ICP 12.1.1

Answer

Q16 Comment on ICP 12.1.2

Answer Consider adding, "TO THE EXTENT THAT A VOLUNTARY EXIT PLAN CONTEMPLATES THE INSURER CONTINUING IN THE MARKETPLACE, BUT RESTRUCTURES OR DIMINISHES EXISTING POLICYHOLDER BENEFITS, SUCH POLICYHOLDERS SHOULD PARTICIPATE APPROPRIATELY IN FAVORABLE DEVELOPMENT IN THE SURVIVING COMPANY."

Q17 Comment on ICP 12.1.3

Answer

Q18 Comment on ICP 12.1.4

Answer

Q19 Comment on ICP 12.2

Answer

Q20 Comment on ICP 12.2.1

Answer

Q21 Comment on ICP 12.2.2

Answer

Q22 Comment on CF 12.2a.1

Answer

Q23 Comment on Standard CF 12.2b

Answer

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	<input type="text"/>
	<p>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.).</p>
Answer	<input type="text"/>
	<p>Q29 Comment on CF 12.2b.1</p>
Answer	<input type="text"/>
	<p>Q30 Comment on ICP 12.3</p>
Answer	<input type="text" value="Suggest clarifying term 'gone-concern' as it is not used elsewhere in the ICP."/>
	<p>Q31 Comment on ICP 12.3.1</p>
Answer	<input type="text"/>
	<p>Q32 Comment on ICP 12.3.2</p>
Answer	<input type="text"/>
	<p>Q33 Comment on ICP 12.3.3</p>
Answer	<input type="text"/>
	<p>Q34 Comment on Standard CF 12.3a</p>
Answer	<input type="text"/>
	<p>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?</p>
Answer	<input type="text"/>
	<p>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)?</p>
Answer	<input type="text"/>
	<p>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)?</p>
Answer	<input type="text"/>

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

Q41 Comment on CF 12.3a.2

Answer

Q42 Comment on CF 12.3a.3

Answer

Q43 Comment on CF 12.3a.4

Answer

Q44 Comment on Standard CF 12.3b

Answer

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	<input type="text"/>
	<p>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.).</p>
Answer	<input type="text"/>
	<p>Q50 Comment on CF 12.3b.1</p>
Answer	<input type="text"/>
	<p>Q51 Comment on CF 12.3b.2</p>
Answer	<input type="text"/>
	<p>Q52 Comment on CF 12.3b.3</p>
Answer	<input type="text"/>
	<p>Q53 Comment on Standard CF 12.3c</p>
Answer	<input type="text"/>
	<p>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?</p>
Answer	<input type="text"/>
	<p>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)?</p>
Answer	<input type="text"/>
	<p>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)?</p>
Answer	<input type="text"/>
	<p>Q57 Standard CF12.3c Please provide the assumptions made to estimate the one-time costs (Q55) and the ongoing costs per year (Q56).</p>
Answer	<input type="text"/>
	<p>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.).</p>

Answer	
	Q59 Comment on CF 12.3c.1
Answer	
	Q60 Comment on CF 12.3c.2
Answer	
	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	
	Q65 Comment on ICP 12.5
Answer	
	Q66 Comment on ICP 12.5.1
Answer	
	Q67 Comment on ICP 12.5.2
Answer	
Answer	Q68 Comment on ICP 12.5.3 Consider adding, "WHERE MULTIPLE AUTHORITIES ARE INVOLVED, THE LEAD RESOLUTION AUTHORITY SHOULD ADJUST THE RESOLUTION PLAN TO ACCOMMODATE JOINT SUPERVISION AND THE CONFIDENTIALITY REGIMES OF OTHER INVOLVED JURISDICTIONS."
	Q69 Comment on ICP 12.5.4
Answer	
	Q70 Comment on ICP 12.5.5
Answer	
	Q71 Comment on ICP 12.5.6
Answer	
	Q72 Comment on ICP 12.5.7
Answer	

Q73 Comment on ICP 12.6

Answer

Q74 Comment on ICP 12.6.1

Answer

Q75 Comment on ICP 12.7

Answer

Q76 Comment on ICP 12.7.1

Answer

Q77 Comment on ICP 12.7.2

Answer

Suggest omitting balance of paragraph after "Liquidation can be used in conjunction with other resolutions actions.," as it does not provide definitive guidance.and the examples may be misleading.

Q78 Comment on ICP 12.7.3

Answer

Q79 Comment on ICP 12.7.4

Answer

In regards to the third bullet: "recover monies from the Board, Senior Management, Key Persons in Control Functions and major risk taking staff, including claw-back of variable remuneration."; consider clarification of term "variable remuneration".

Q80 Comment on ICP 12.7.5

Answer

This section causes concern due to the implication that a resolution authority may appropriately allow an insolvent insurer to continue in operation due to a perceived "disruption." Consider clarifying to make clear that the potential of disruption to the financial system or economic activity should not override the necessity of protection of policyholders.

Q81 Comment on ICP 12.7.6

Answer

Q82 Comment on ICP 12.7.7

Answer

Consider adding: "WHEN EXERCISING RESOLUTION POWERS THAT ALLOCATE LOSSES, THE PRIORITY OF POLICYHOLDER RIGHTS VIS-À-VIS OTHER CREDITORS OR SHAREHOLDERS SHOULD BE PROTECTED. THE AVAILABILITY OF PROTECTION TO A SUBSET OF POLICYHOLDERS BY A PPS MECHANISM DOES NOT CREATE INAPPROPRIATE DISCRIMINATION."

Q83 Comment on ICP 12.7.8

Answer

Q84 Comment on ICP 12.7.9

Answer Clarify that restructuring liabilities in the course of a transfer is appropriate only to the extent that available PPS are insufficient to support a full transfer of liability. Consider modifying last sentence as follows: (new text is capitalized): TO THE EXTENT THAT POLICYHOLDER PROTECTION SCHEMES ARE INSUFFICIENT OR INAPPLICABLE, policyholder interests may best be protected by restructuring, limiting or writing down insurance liabilities.

Q85 Comment on ICP 12.7.10

Answer Consider addition as follows (new text all caps): “PROVIDED THAT THE SUPERVISING COURT OR AUTHORITY IS SATISFIED, FOLLOWING NOTICE TO POLICYHOLDERS AND INTERESTED PARTIES AND AN OPPORTUNITY TO BE HEARD, THAT THE INTERESTS OF ANY SUCH PARTY WHOSE RIGHTS ARE ASSUMED BY THE OTHER INSURER ARE ADEQUATELY PROTECTED,, portfolio transfers and transfers of other types of contracts of the insurer in resolution should not require the consent of each policyholder or party to the contract.

Q86 Comment on ICP 12.7.11

Answer Add, after “after compensation, where necessary,” “AND AFTER CONSIDERATION OF THE BENEFIT THAT POLICYHOLDERS WOULD OTHERWISE RECEIVE FROM PPS.)”,

Q87 Comment on ICP 12.7.12

Answer

Q88 Comment on ICP 12.7.13

Answer

Q89 Comment on ICP 12.7.14

Answer

Q90 Comment on ICP 12.7.15

Answer A critical omission is that there is no provision for a “tie-breaker” if parallel authorities do not agree. Suggest addition, “IF, AFTER CONSULTATION AMONG AFFECTED AUTHORITIES, THE AUTHORITIES DO NOT AGREE, THE AUTHORITY RESPONSIBLE FOR THE INSURANCE LEGAL ENTITY SHALL ELECT THE MECHANISM THAT EQUALIZES THE IMPACT OF LIQUIDATION ON ALL POLICYHOLDERS, REGARDLESS OF THE BRANCH THROUGH WHOM THEY DERIVE THEIR RIGHTS”

Q91 Comment on ICP 12.7.16

Answer

Q92 Comment on Standard CF 12.7a

Answer

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

Q101 Comment on CF 12.7a.3

Answer

Q102 Comment on CF 12.7a.4

Answer

Q103 Comment on ICP 12.8

Answer

Q104 Comment on ICP 12.8.1

Answer

Q105 Comment on ICP 12.9

Answer

Amend to include PPSs: "Liquidation provides a high legal priority to policyholders' claims AND CLAIMS OF PPS within the hierarchy of claims in liquidation."

Q106 Comment on ICP 12.9.1

Answer

Wording makes provision seem descriptive instead of permissive. Suggest modifying wording to "However, JURISDICTIONS MAY ALSO APPLY A HIGHER PRIORITY TO a limited number of other categories of claims. These may include" (New matter in capital letters)

Q107 Comment on ICP 12.9.2

Answer

Wording makes provision seem descriptive instead of permissive. Suggest modifying wording to "In jurisdictions WHERE POLICYHOLDERS receive high priority, but only on a determined part of the insurance legal entity's assets (e.g. the assets covering technical provisions), POLICYHOLDERS' CLAIMS TO THIS PORTION OF THE INSURER'S ASSETS SHOULD generally be over-ranked only by liquidation expenses." (New wording in caps)

Q108 Comment on ICP 12.9.3

Answer

Consider amending as follows: WHERE A PPS OR OTHER PROTECTION MECHANISMS APPLY, OR where a bridge institution is available, this can ensure continuity of insurance products in cases where no insurer present in the market takes over the portfolio of the insurance legal entity that would otherwise be liquidated. WHERE A PPS APPLIES, MECHANISMS SHOULD BE IN PLACE ALLOWING THE PPS TO PARTICIPATE IN ARRANGEMENTS FOR POLICY RESTRUCTURING OR PORTFOLIO TRANSFER THAT PLACE POLICYHOLDERS IN A POSITION, INCLUDING BOTH PPS RECOVERY AND RECOVERY FROM THE ASSETS OF THE ESTATE, EQUAL TO OR BETTER THAN THEY WOULD HAVE ENJOYED HAD THE PPS PAID ELIGIBLE CLAIMS IN NORMAL COURSE. BECAUSE PPS CAN CONTRIBUTE TO OR HELP ASSESS RESOLUTION STRATEGIES, A SUPERVISOR SHOULD CONSIDER INVOLVING OR CONSULTING A PPS AS A RESOURCE TO A CRISIS MANAGEMENT GROUP. (Capitalized text is suggested addition.)

Q109 Comment on ICP 12.10

Answer

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 Figures 2 and 3 attempt to illustrate the NCWOL principle in the context of a hypothetical restructuring. This subject does not lend itself to a simplified example, which by its nature cannot provide meaningful guidance. The failure of the example to discuss the source of the "compensation" to be received by the the "B" policyholders could render the example misleading. It is suggested that the examples be omitted. This concept should be the subject of an IAIS Application Paper, which can provide actual examples or case studies. The International Association of Insurance Receivers would be willing to assist in the development of such a document

Q114 Comment on ICP 12.10.5

Answer See response to Question 113. As is Figure 2, the hypothetical presented in Figure 3 is also incomplete in that it does not explain the source of the compensation due to the participants in Portfolio B. Suggest that a more rigorous analysis of potential restructuring plans, including those described in 12.10.4 and 12.10.5 be prepared in the form of an application paper. The International Association of Insurance Receivers would be willing to assist in the development of such a document

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

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

Q120 Comment on CF 12.12a.1

Answer

Q121 Comment on CF 12.12a.2

Answer

Q122 Comment on CF 12.12a.3

Answer

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

Q127 Comment on ICP 12.13.4

Answer

Q128 Comment on Appendix

Answer

The definition of "Liquidation" incorrectly assumes that corporate existence is necessarily terminated at the conclusion of the process. Some jurisdictions allow the sale of corporate shells and intellectual property associated with the corporate entity. If such a transaction is contemplated, termination of the insurer's corporate existence may not be in its creditors' best interest. Suggest delete "and corporate existence " in the first sentence. Add following first sentence, "THE CORPORATE EXISTENCE OF THE INSURER MAY BE TERMINATED OR THE CORPORATION AND ANY USEFUL INTELLECTUAL PROPERTY MAY BE TRANSFERRED TO UNRELATED OWNERS ..." (suggested new text in capital letters)