The Property Casualty Insurers Association of America (PCI) appreciates the opportunity to respond to the IAIS’ ComFrame consultation draft. PCI promotes and protects the viability of a competitive private insurance market for the benefit of consumers and insurers. PCI is composed of approximately 1,000 member companies and 340 insurance and reinsurance groups, representing the broadest cross section of home, auto, and business insurers of any national trade association. PCI members represent all sizes, structures, and regions, which protect families, communities, and businesses in the U.S. and across the globe. PCI members write $245 billion in annual premium, which is 38 percent of the U.S. property casualty insurance marketplace.

PCI’s primary concern with the Introduction to ComFrame relates to the overarching concepts described in paragraphs 22-25 and which pertain to:

- Proportionality, and incorporating that concept by reference as described in the Introduction to the ICPs;
- Allocation of roles:
  - Governance structures; and
  - Group-wide supervision.

While we agree with what is stated for each of those overarching concepts, in some cases there is a need for:

- More text to clarify what is stated for the benefit of supervisors, stakeholders and assessors;
- Relocation of some text from the ICPs to this Introduction section to better clarify that the points made in that text are indeed overarching concepts that apply to all ICPs/ComFrame text, and not just the single ICP where that language currently resides; and
- Inclusion of additional overarching concepts.

We believe it most pragmatic to address these concerns through the section on overarching concepts in the Introduction; otherwise numerous other detailed changes would be required throughout the ICPs/ComFrame text. Examples of each of the foregoing are discussed below:

**Additional Text to Clarify:**

Our concerns in regard to clarifying existing text on the overarching concepts include paragraphs 24 and 25 on governance structures and group-wide supervision, respectively. We don’t disagree with either concept as described – assuming we understand them correctly – but each of those concepts is described in only 1-2 very brief sentences, and is vastly outbalanced by the preponderance of text in the body of the ICPs which, taken literally, is in conflict with the stated overarching concept. In the case of governance structures, the overarching concept is that ComFrame is neutral (“does not favor”) as to any
particular governance model, e.g., whether centralized or decentralized. That said, it seems that the ComFrame text embedded within the ICPs is drafted primarily, if not exclusively, from the perspective of an IAIG with a centralized structure. For all readers to better understand that to be simply a drafting convention rather than a conflict between the overarching concept and the ComFrame text, additional clarification is needed.

For example, paragraph 24 on governance structures could be expanded with the following additional text:

“IAIGs have different models of governance (i.e. more centralized or more decentralized). ComFrame does not favor any particular governance model and instead focuses on the outcomes that the governance model needs to achieve. That said, for simplicity and consistency, the accompanying ComFrame text has been written primarily from the standpoint of an IAIG with a centralized business model. The text should nonetheless be read to apply as well to IAIGs with decentralized business models such that the standard could be achieved on an outcomes basis regardless of the business model in use by an IAIG. Thus, and for example, ComFrame text in ICP 16 in respect of certain group-wide functions and policies should not be taken to require that there is only one such function or policy across the entire IAIG, or that it necessarily resides at the Head of the IAIG, or under the domain of a single key person in a control function.” We consider the suggested additional text to be entirely consistent with the IAIS' responses to stakeholders. For example, in the prior consultation on ComFrame text added to ICP 8, stakeholders commented on CF 8.6.b regarding the group-wide actuarial function:

“In some jurisdictions it is common that an insurer’s actuarial function is fulfilled collectively by several divisions. The standard should be revised to allow for such practices. Performance of an actuarial function could vary across jurisdictions. In some cases, the function is fulfilled by a division which is under the management of a Board member. Therefore, the standard should be revised to allow for such practices under ComFrame and the term “independent” in the second bullet point should be deleted.”

The IAIS responded as follows: “The organization of the insurer can be structured in various ways as long as the requirement of the independence is satisfied.”

We concur with that response, which reflects the outcomes-oriented intent of the ComFrame standards. That said, the changes that were then made to CF 8.6.b do not address the stakeholder’s comments, nor do they incorporate the IAIS’ response. This appears to be a somewhat pervasive phenomenon that reflects decisions as to drafting styles and conventions for ComFrame, but in the absence of sufficient explanation nonetheless give readers a quite different impression. That is why we believe additional explanatory and clarifying text is necessary, and which can be most simply and pragmatically addressed through the suggestions in marked text above, to be added to the section on overarching concepts in the ComFrame Introduction.

Similarly, paragraph 25 on group-wide supervision should be clarified and expanded. It currently reads as follows: “Whereas the ICPs are neutral as to direct or indirect approaches to group-wide supervision, ComFrame uses a direct approach for certain powers as indicated by the relevant ComFrame Standards.”

While we note that the term “uses” has replaced “requires” from a prior version, the implication remains that ComFrame is not neutral on the matter of direct v. indirect supervision (as in the case of the ICPs). Indeed, CF 10.0.a provides that “where appropriate, the group-wide supervisor applies supervisory measures directly to the Head of the IAIG…” The only situation where the related guidance acknowledges that the group-wide supervisor uses indirect powers is when the Head of the IAIG is located outside the jurisdiction of the group-wide supervisor. Our concerns therefore are (1) the standard is thus not “outcomes-focused” as per paragraph 21 in the ComFrame Introduction and (2) does not recognize the state-based system in the United States.

This is consistent with PCI’s comments in the prior consultation about the Introduction and Assessment Methodology including ComFrame material embedded therein: “If the Head of the IAIG is not a registered insurance company, under U.S. state law, a direct approach for certain powers may not be available to the group wide supervisor. Similarly, it may be difficult for the insurance supervisor to apply supervisory measures directly on an unregulated entity.”

The IAIS response was: “Para 16 makes it clear that both direct and indirect approaches are fine as long as the outcome is similar.” While PCI’s comment was clearly in regard to ComFrame (reference to IAIG in text), the IAIS response referenced ICP text, which text we consider to not apply to IAIGs because of the specific ComFrame text at paragraph 25. If, as we hope, the intent of the IAIS is to be neutral as to direct vs. indirect powers in ComFrame, we recommend the following changes to paragraph 25:

“The ICPs and ComFrame are neutral as to direct or indirect approaches to group-wide supervision. That said, for purposes of simplicity in the construction of the ComFrame text,
it has been primarily written from the standpoint of direct supervision. This drafting convention should not be taken to mean that indirect powers are inappropriate for group-wide supervision of IAIGs or would be inherently deficient in achieving outcomes similar to those for direct supervision of IAIGs. It therefore follows that where ComFrame text generally is stated in terms of the "group-wide supervisor requires the Head of the IAIG to do X, Y or Z", that in the case of a group-wide supervisor applying indirect powers, it should be read that "the group-wide supervisor requires the IAIG to do X, Y or Z."

If the intent is otherwise, i.e., that indirect powers are fine for supervision of non-IAIGs but that direct powers are a necessary precondition for supervision of IAIGs, then we have significant concerns. Using the size of a group and the amount of its international business as a trigger to suddenly require a change to the nature of the powers of the supervisor is unrealistic. The powers of the supervisor in a jurisdiction are set by legislative authority and consider a myriad of factors and a history of legislative, political and judicial developments. ComFrame should not presume those powers can be changed, or that one approach is necessarily better than another for a particular jurisdiction.

Relocation of Text:

A key issue pertains to an item covered in the part of the August 29, 2018 Stakeholder call on “Overarching Issues Related to Drafting of ComFrame,” specifically on prescriptiveness, limiting the necessary flexibility, one-size-fits-all approach, and materiality. This is an issue that was raised by some stakeholders in the earlier consultation on ICP 7, to which the IAIS responded at that time as follows:

"In most of the cases it is clear that the Head of the group/IAIG takes into account the overall risks and activities of the individual legal entities across the group and focuses on those which are material for the group as a whole, even when materiality is not referred to explicitly. To help clarify this issue and the role of materiality, new text has will be added to Introductory Guidance of ICP 7. Materiality is mentioned explicitly when it is necessary taking into account the context of the standard, in particular when a standard is not supported by guidance that provide further details on which risks, activities, etc. should be considered in a particular case."

As was mentioned on the Stakeholder call, language was indeed added to ICP 7, specifically, paragraph 7.0.8, which states as follows: “The head of the group is ultimately responsible for the group’s sound and prudent management. In doing so, it should take into account the risks and activities of the individual legal entities within the group, focusing in particular on those which are material for the group as a whole. While the ultimate responsibility for corporate governance at the group-level lies with the head of the group, the legal entities within a group are, and remain, fully responsible for their own sound and prudent management. As a result of this distinction in responsibilities, it is important to have appropriate coordination on corporate governance, based on the group’s organizational model, between the group-wide level and the legal entity level.”

It was noted on the call that proportionality applies to IAIGs, too, given their varying complexities, even if materiality is not referred to specifically in the text. All that said, paragraph 7.0.8 is in the ICP text and therefore is not subject to the current consultation. Nonetheless, and despite that the paragraph clearly is an overarching issue – as described in the stakeholder call – it now resides in the text of a single ICP (ICP 7) rather than in the Introduction to the ICPs and ComFrame where other overarching material is included (e.g., paragraphs 9 and 10 on proportionality and risk-based supervision; and paragraphs 22-25 on allocation of roles, governance structures, and group-wide supervision). Placed only in ICP 7 and phrased in the context of governance, it would not seem to have that overarching intent. Therefore, we recommend moving paragraph 7.0.8 from ICP 7 to the Introduction to ComFrame and including it with the other overarching concepts that begin at paragraph 22. We also recommend that it be explicitly clarified to apply to governance broadly, specifically including the applicable control functions which are covered in other ICPs – compliance, actuarial, audit, and enterprise risk management.

Q2 Comment on paragraph 18

Answer

Q3 Comment on paragraph 19

Answer

Q4 Comment on paragraph 20

Answer
We agree that the overarching principle of proportionality identified in the ICP Introduction should be equally applicable to ComFrame. That said, and to remove all doubt, we recommend that an explicit reference be added to paragraph 22 referring and incorporating by reference the subject ICP text on proportionality contained in paragraphs 9 and 10.

A key issue about proportionality pertains to an item covered in the part of the August 29, 2018 Stakeholder call on “Overarching Issues Related to Drafting of ComFrame,” specifically on prescriptiveness, limiting the necessary flexibility, one-size-fits-all approach, and materiality. This is an issue that was raised by some Stakeholders in the earlier consultation on ICP 7, to which the IAIS responded at that time as follows:

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There is a need to clarify existing text on the overarching concept in paragraph 24 on governance structures. We don’t disagree with the concept as described – assuming we understand it correctly – but it is described in only 2 very brief sentences, and is vastly outbalanced by the preponderance of text in the body of the ICPs which, taken literally, is in conflict with the stated overarching concept. In the case of governance structures, the overarching concept is that ComFrame is neutral ("does not favor") as to any particular governance model, e.g., whether centralized or decentralized. That said, it seems that the ComFrame text embedded within the ICPs is drafted primarily, if not exclusively, from the
perspective of an IAIG with a centralized structure. For all readers to better understand that
to be simply a drafting convention rather than a conflict between the overarching concept
and the ComFrame text, additional clarification is needed.

For example, paragraph 24 on governance structures could be expanded with the following
additional text:

"IAIGs have different models of governance (i.e. more centralized or more decentralized).
ComFrame does not favor any particular governance model and instead focuses on the
outcomes that the governance model needs to achieve. That said, for simplicity and
consistency, the accompanying ComFrame text has been written primarily from the
standpoint of an IAIG with a centralized business model. The text should nonetheless be
read to apply as well to IAIGs with decentralized business models such that the standard
could be achieved on an outcomes basis regardless of the business model in use by an
IAIG. Thus, and for example, ComFrame text in ICP 16 in respect of certain group-wide
functions and policies should not be taken to require that there is only one such function or
policy across the entire IAIG, or that it necessarily resides at the Head of the IAIG, or under
the domain of a single key person in a control function." We consider the suggested
additional text, above, to be entirely consistent with the IAIS' responses to stakeholders.

For example, in the prior consultation on ComFrame text added to ICP 8, stakeholders
commented on CF 8.6.b regarding the group-wide actuarial function:

"In some jurisdictions it is common that an insurer’s actuarial function is fulfilled collectively
by several divisions. The standard should be revised to allow for such practices.

Performance of an actuarial function could vary across jurisdictions. In some cases, the
function is fulfilled by a division which is under the management of a Board member.
Therefore, the standard should be revised to allow for such practices under ComFrame
and the term “independent” in the second bullet point should be deleted."

The IAIS responded as follows: “The organization of the insurer can be structured in
various ways as long as the requirement of the independence is satisfied.”

We concur with that response, which reflects the outcomes-oriented intent of the
ComFrame standards. That said, the changes that were then made to CF 8.6.b do not
address the stakeholder’s comments, nor do they incorporate the IAIS’ response. This
appears to be a somewhat pervasive phenomenon that reflects decisions as to drafting
styles and conventions for ComFrame, but in the absence of sufficient explanation
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explanatory and clarifying text is necessary, and which can be most simply and
pragmatically addressed through the suggestions in marked text above, to be added to the
section on overarching concepts in the ComFrame Introduction.

Q9 Comment on paragraph 25

Answer

Paragraph 25 on group-wide supervision should be clarified and expanded. It currently
reads as follows: "Whereas the ICPs are neutral as to direct or indirect approaches to
group-wide supervision, ComFrame uses a direct approach for certain powers as indicated
by the relevant ComFrame Standards."

While we note that the term “uses” has replaced “requires” from a prior version, the
implication remains, that ComFrame is not neutral on the matter of direct v. indirect
supervision (as in the case of the ICPs). Indeed, CF 10.0.a provides that “where
appropriate, the group-wide supervisor applies supervisory measures directly to the Head of
the IAIG...” The only situation where the guidance related to that standard acknowledges
that the group-wide supervisor uses indirect powers is when the Head of the IAIG is located
outside the jurisdiction of the group-wide supervisor.

Our concerns therefore are (1) the standard is thus not “outcomes-focused” as per
paragraph 21 in the ComFrame Introduction and (2) does not recognize the state-based
system in the United States. This is consistent with PCI’s comments in the prior
consultation about the Introduction and Assessment Methodology including ComFrame
material embedded therein: “If the Head of the IAIG is not a registered insurance company,
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group wide supervisor. Similarly, it may be difficult for the insurance supervisor to apply
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are fine as long as the outcome is similar.”

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IAIS response referenced ICP text, which text we consider to not apply to IAIGs because of
the specific, and different, ComFrame text at paragraph 25.
If, as we hope, the intent of the IAIS is to be neutral as to direct v. indirect powers in ComFrame, we recommend the following changes to paragraph 25:

"The ICPs and ComFrame are neutral as to direct or indirect approaches to group-wide supervision. That said, for purposes of simplicity in the construction of the ComFrame text, it has been primarily written from the standpoint of direct supervision. This drafting convention should not be taken to mean that indirect powers are inappropriate for group-wide supervision of IAIGs or would be inherently deficient in achieving outcomes similar to those for direct supervision of IAIGs. It therefore follows that where ComFrame text generally is stated in terms of the "group-wide supervisor requires the Head of the IAIG to do X, Y or Z", that in the case of a group-wide supervisor applying indirect powers, it should be read that "the group-wide supervisor requires the IAIG to do X, Y or Z."

If the intent is otherwise, i.e., that indirect powers are fine for supervision of non-IAIGs but that direct powers are a necessary precondition for supervision of IAIGs, then we have significant concerns. Using the size of a group and the amount of its international business as a trigger to suddenly require a change to the nature of the powers of the supervisor is unrealistic. The powers of the supervisor in a jurisdiction are set by legislative authority and which consider a myriad of factors and a history of legislative, political and judicial developments. ComFrame should not presume those powers can be changed, or that one approach is necessarily better than another for a particular jurisdiction.

Q10 General comment on Glossary terms

Answer

Q11 Comment on definition of IAIG Board

Answer

We note that paragraph 16.12.4 includes some text which can be read as an alternative (and perhaps conflicting) definition of the term as it is defined in the glossary. We recommend that language be deleted from 16.12.4 and added to the definition in the glossary.

Q12 Comment on definition of contingency plan

Answer

We agree with the definition of "IAIG Board". However, the definition includes the term "Head of the Internationally Active Insurance Group," a term that itself is not defined, nor does it seem to be used elsewhere in the document. But "Head of IAIG" is used extensively in the document. We suggest adding "Head of IAIG" to the IAIS Glossary as well, perhaps referring to ICP 23 by way of reference.

Q13 Comment on definition of liquidation

Answer

Q14 Comment on definition of portfolio transfer

Answer

Q15 Comment on definition of recovery plan

Answer

Q16 Comment on definition of resolution

Answer

Q17 Comment on definition of resolution authority

Answer
<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q18 Comment on definition of resolution plan</td>
<td></td>
</tr>
<tr>
<td>Q19 Comment on definition of run-off</td>
<td></td>
</tr>
</tbody>
</table>