

# Questions for public consultation on draft revisions to supervisory material related to the Holistic Framework in ICPs 12 and 16 and related ComFrame standards

Thank you for your interest in the public consultation on the proposed changes to reflect climate risk in selected ICP guidance material and supporting material. The Consultation Tool is available on the IAIS website.

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## Consultation questions

ICP 12 (Exit from the Market and Resolution)	
1	General comments on proposed changes to ICP 12 and related ComFrame standards
2	<p>Question related to ICP 12.3 and ICP 16.15: The ICPs establish the minimum requirements for effective insurance supervision and are expected to be implemented and applied in a proportionate manner. Do you favour the proposed proportionate application of certain recovery and resolution planning requirements to all insurers? Please explain and provide details of how proportionality should apply and/or where such planning should be deemed necessary. The IAIS may consider this feedback in the final versions of the ICP guidance or in the supporting material (application papers).</p> <p>U.S. state insurance supervisors agree that jurisdictions should have processes and procedures in place to ensure orderly resolution or recovery of any insurer should the circumstances arise. As not all insurers are the same, it is important for any such processes and procedures to be applied in a proportionate manner, in line with the ICPs’ overarching principle of proportionality. For example, in the U.S. state-based insurance framework, all insurers must have effective systems of risk management and internal control, while more specific requirements are applied to insurers exceeding certain premium threshold limits (i.e., insurers writing more than \$500 million in annual premiums) and may be required of other insurers below those limits at the discretion of the supervisory authority. We feel this approach appropriately accounts for proportionality in these areas. Certain requirements, like recovery or resolution plans, would not be appropriate for all insurers; accordingly, we agree that 12.4 and 16.16 take an appropriate approach to determining which insurers must have such plans in place.</p>
3	<p>Question related to CF 12.4.a: Recovery plans are required for all IAIGs. Resolution plans are required to be in place, at a minimum, for any insurer assessed to be systemically important or critical if it fails (regardless of their status as an IAIG). Due to their nature, scale and complexity, arguably there could be a presumption that all IAIGs should be subject to the requirement to have a resolution plan in place (unless deemed unnecessary by the supervisor or resolution authority), even if not assessed as systemically important. Are you in favour or against the possible introduction of a requirement, or presumption, that resolution plans are also required to be in place for all IAIGs? Please explain your opinions.</p> <p>U.S. state insurance supervisors are opposed to a presumption that all IAIGs should be required to maintain formal resolution plans based solely on their size and operations in multiple jurisdictions, which does not align with the IAIS Holistic Framework. Such requirements can be overly burdensome on both the IAIG and the supervisor when not warranted due to other criteria outlined in CF guidance 12.4.a (e.g., risk profile and risk management, level of substitutability, interconnectedness, impact of failure).</p>
4	<p>Comments on proposed changes to ICP 12.3</p> <p>“Prepared for and used in” is not a parallel construction. The authority needs to be prepared for the possibility of resolution, while (some of) the procedures need to be used. (It is true that the procedures must be prepared before they can be used, but “developed” would be a better verb, and having procedures in place necessarily entails</p>

	<p>their development, which does not need to be mentioned.) Therefore, consider the following edit:</p> <p><b>12.3 The supervisor and/or resolution authority has in place effective processes and procedures for use in preparing for and conducting the resolution as of insurers.</b></p>
5	<p>Comments on proposed changes to ICP guidance 12.3.1</p> <p>The aim of the processes and procedures includes making firms better prepared as well as making the jurisdiction better prepared – see 12.3.4, 12.3.5, and the final sentence of 12.3.3. Also, “processes and procedures” are plural. Therefore, consider the following edits:</p> <p>12.3.1: Resolution processes and procedures are aimed at supporting the resolution preparedness of a jurisdiction and of insurers within that jurisdiction. They should entail the establishment of strategies ....</p>
6	Comments on proposed changes to ICP guidance 12.3.2
7	Comments on proposed changes to ICP guidance 12.3.3
8	Comments on proposed changes to ICP guidance 12.3.4
9	Comments on proposed changes to ICP guidance 12.3.5
10	Comments on proposed changes to CF 12.3.a
11	Comments on proposed changes to CF 12.3.a.1
12	Comments on proposed changes to CF 12.3.a.2
13	Comments on proposed changes to CF 12.3.a.3
14	<p>Comments on proposed changes to ICP 12.4</p> <p>The syntax “to regularly assess for which insurers having a resolution plan is necessary” is difficult to follow, and the construction of the third bullet is not fully parallel. Consider the following nonsubstantive edits to the first and third bullets:</p> <ul style="list-style-type: none"> <li>• <b>has a process to regularly assess which insurers need to be subject to a resolution plan requirement, based on established criteria that consider the nature, scale and complexity of the insurer;</b></li> <li>• ...</li> <li>• <b>ensures that such resolution plans are in place, that the plans are regularly reviewed and where necessary updated, and that resolvability assessments are regularly undertaken.</b></li> </ul>
15	<p>Comments on proposed changes to ICP guidance 12.4.1</p> <p>Having guidance on factors that should be considered as part of the criteria in determining the necessity of a resolution plan or a recovery plan (in revised 16.16.2) is helpful. However, the same factors are listed in each section. While this makes some sense, a resolution plan and a recovery plan serve different purposes, so the consideration and analysis should not necessarily be the same. We therefore suggest adding a sentence either as part of 12.4.1 or as a new 12.4.2 to help emphasise this point: “When assessing the criteria to determine whether a resolution plan is necessary for an insurer, the supervisor and/or resolution authority should keep in mind the intended purpose and role of a resolution plan as well as other requirements and/or powers that may already be applicable.”</p> <p>Also, for the reasons discussed in the comments on ICP guidance 12.4.1, consider one of the following edits to the introductory clause:</p>

	<p>12.4.1 When developing the criteria for deciding which insurers will be subject to a resolution plan requirement, the supervisor and/or resolution authority should consider factors such as:</p> <p style="text-align: center;">or</p> <p>12.4.1 The criteria to be used by the supervisor and/or resolution authority, when deciding which insurers will be subject to a resolution plan requirement, should address factors such as:</p> <p>Alternatively, replace “will be subject to a recovery plan requirement” with “must have recovery plans in place” or “will be required to have recovery plans in place”, and consider whether it is appropriate to use the same language for resolution plans in ICP guidance 12.4.1.</p>
16	Comments on proposed changes to ICP guidance 12.4.2
17	Comments on proposed changes to ICP guidance 12.4.3
18	Comments on proposed changes to ICP guidance 12.4.4
19	Comments on proposed changes to ICP guidance 12.4.5
20	Comments on proposed changes to ICP guidance 12.4.6
21	Comments on proposed changes to ICP guidance 12.4.9
22	Comments on proposed changes to CF 12.4.a
23	<p>Comments on proposed changes to CF 12.4.a.1</p> <p>Consistent with the suggested edits to ICP guidance 12.4.1, change to one of the following; and also consider streamlining what might be excess verbiage:</p> <p>CF 12.4.a.1 Factors to be considered in developing the criteria for assessing whether a resolution plan is needed are set out in Standard 12.4.</p> <p style="text-align: center;">or</p> <p>CF 12.4.a.1 Factors to be addressed by the criteria for assessing whether a resolution plan is needed are set out in Standard 12.4.</p>
24	Comments on proposed changes to CF 12.4.b
25	Comments on proposed changes to ICP 12.8
26	<p>Comments on proposed changes to ICP guidance 12.8.1</p> <p>As currently drafted, the guidance distinguishes between jurisdictions where the goal should be effective and orderly resolution and jurisdictions where the goal merely needs to be orderly resolution. The reason for drawing this distinction is unclear. Consider the following edit:</p> <p>12.8.1 The range of available resolution powers in a jurisdiction should allow the effective and orderly resolution of insurers, in a manner that protects policyholders and contributes to financial stability. Some powers may not be needed for all insurers but only, for example, for insurers that are of systemic importance or critical in failure in the jurisdiction. Therefore, in jurisdictions with more developed insurance markets and/or that include large, complex insurers, it is particularly important for legislation to provide a sufficiently wide range of resolution powers.</p>
27	Comments on proposed changes to ICP guidance 12.8.2
28	Comments on proposed changes to ICP guidance 12.8.3
29	Comments on proposed changes to ICP guidance 12.8.4

	<p>This paragraph would be clearer if resolution powers were the subject of both of the first two sentences, which could then be combined into a single sentence as follows:</p> <p>12.8.4 Some resolution powers are exercised with the aim to stabilise or restructure an insurer and avoid liquidation, while other resolution powers can be used in conjunction with liquidation. Creditors should have a right to compensation where they do not receive at a minimum what they would have received in a liquidation of the insurer under the applicable insolvency regime (NCWOL principle).</p>
30	Comments on proposed changes to ICP guidance 12.8.6
31	Comments on proposed changes to CF 12.8.a
32	Comments on proposed changes to CF 12.8.b
33	Comments on proposed changes to CF 12.8.c
34	Comments on proposed changes to CF 12.8.d
35	Comments on proposed changes to CF 12.8.d.1
36	Comments on proposed changes to CF 12.8.d.2
37	Comments on proposed changes to CF 12.8.d.3
38	Comments on proposed changes to CF 12.8.e
39	Comments on proposed changes to CF 12.8.f
40	Comments on proposed changes to CF 12.8.g
41	<p>Comments on proposed changes to CF 12.8.g.1</p> <p>“IT” is not a defined abbreviation, so it should either be spelled out or replaced with “MIS”, which is used elsewhere in this section. MIS is arguably not quite the same as IT, but to the extent that it is slightly broader in scope, it is nonetheless essential.</p>
42	Comments on proposed changes to CF 12.8.g.2
43	Comments on proposed changes to CF 12.8.g.3
44	Comments on proposed changes to CF 12.8.i
45	Comments on proposed changes to CF 12.8.i.1
46	<p>Comments on proposed changes to CF 12.8.i.2</p> <p>The divide between jurisdictions with judicial and administrative liquidation is not as sharply drawn as the current draft suggests. Consider one of the following clarifications:</p> <p>CF 12.8.i.2 The power to put the insurer into liquidation may be exercised in a variety of ways, such as (i) all or part of the insurance contracts are put into run-off; or (ii) the resolution authority passes on the authority to resolve the insurer to a judicial body or court of law, or requires court approval or supervision in order to conduct the liquidation (judicial liquidation).</p> <p>or</p> <p>CF 12.8.i.2 The power to put the insurer into liquidation may be exercised in a variety of ways, such as (i) all or part of the insurance contracts are put into run-off; or (ii) the resolution authority passes on the authority to resolve the insurer to a judicial body or court of law (judicial liquidation). In some jurisdictions with judicial liquidation, the resolution authority is appointed to act on behalf of the court.</p>
<p><b>ICP 16 (Enterprise Risk Management for Solvency Purposes)</b></p>	

47	General comments on proposed changes to ICPs 16.6 and 16.9 and related ComFrame standards
48	Comments on proposed changes to ICP 16.6
49	<p>Comments on proposed changes to ICP guidance 16.6.11</p> <p>“Establishes” seems circular. Consider the following edit:</p> <p>16.6.11 Counterparty risk appetite refers to the level of risk the insurer is willing to accept that a counterparty will be unable to meet its obligations as they fall due with a focus on the relevant risk limits. This may impact the insurer’s financial position through, for example, reductions in fair value or impairment of investments, loss of reinsurance cover, open market exposures or the loss of securities that have been loaned.</p>
50	<p>Comments on proposed changes to ICP guidance 16.6.12</p> <p>What the investment policy specifies should be “the” risk appetite that drives the insurer’s decision. Consider the following edit:</p> <p>16.6.12 In deciding whether it is necessary for the insurer to specify its counterparty risk appetite in its investment policy, the supervisor should take into account the size of the insurer’s counterparty exposures, both in absolute terms and relative to the insurer’s portfolio, according to the characteristics outlined in Guidance 16.6.4, as well as the complexity and form of these exposures. Particular attention should be paid to financial sector counterparties, as these counterparties may be more likely to contribute to the build-up of systemic risk. Attention should also be paid to off-balance sheet exposures or commitments, as these may be more likely to materialise during stress.</p>
51	Comments on proposed changes to CF 16.6.b
52	<p>Comments on proposed changes to ICP guidance 16.9.7</p> <p>The descriptive mode “is documented” is not typical for guidance. Consider one of the following edits:</p> <p>16.9.7 The contingency funding plan may, at the discretion of the supervisor, be either a standalone document or integrated fully and comprehensively into another document as part of other elements of the ERM.</p> <p>or</p> <p>16.9.7 The contingency funding plan should be documented and, at the discretion of the supervisor, may be either a standalone document or integrated fully and comprehensively into another document as part of other elements of the ERM.</p>
53	Comments on proposed changes to CF guidance 16.9.c.1
54	Comments on proposed changes to CF guidance 16.9.c.2
55	Comments on proposed changes to CF guidance 16.9.c.3
56	Comments on proposed changes to CF guidance 16.9.c.4
57	Comments on proposed changes to CF guidance 16.9.c.5
58	General comments on proposed changes to ICPs 16.15 and 16.16 and related ComFrame standards
59	<p>Comments on proposed changes to ICP 16.15</p> <p>While the revision to 16.15 makes sense given the revisions to 16.16, it seems there is potential overlap with 16.14 which addresses continuity analysis. The distinction</p>

	<p>between this and what an insurer would do to evaluate in advance their specific risks and options in possible recovery scenarios is a bit unclear so suggest reviewing these two standards and ensure the distinction is clear and avoid overlap.</p>
60	Comments on proposed changes to ICP guidance 16.15.1
61	<p>Comments on proposed changes to ICP 16.16</p> <p>The third bullet seems redundant. How can supervisors “require a recovery plan” while leaving it optional whether or not the plan is “in place”? If the phrase “in place” is necessary at all, consider the following edit:</p> <ul style="list-style-type: none"> <li>• <b>has a process to regularly assess which insurers are required to have a recovery plan in place, based on established criteria that consider the nature, scale and complexity of the insurer; and</b></li> <li>• <b>requires, at a minimum, recovery plans to be in place for any insurer(s) assessed to be systemically important or critical if it fails.</b></li> </ul>
62	Comments on proposed changes to ICP guidance 16.16.1
63	<p>Comments on proposed changes to ICP guidance 16.16.2</p> <p>Having guidance on factors that should be considered as part of the criteria in determining the necessity of a recovery plan or a resolution plan (in revised 12.4.1) is helpful. However, the same factors are listed in each section. While this makes some sense, a recovery plan and a resolution plan serve different purposes, so the consideration and analysis should not necessarily be the same. We therefore suggest adding a sentence either as part of 16.16.2 or as a new 16.16.3 to help emphasize this point: “When assessing the criteria to determine whether a recovery plan is necessary for an insurer, the supervisor and/or resolution authority should keep in mind the intended purpose and role of a recovery plan as well as other requirements and/or powers that may already be applicable.”</p> <p>Also, it is the authority, not the criteria, who considers the enumerated factors and makes the decision (although the criteria might simply be the enumerated factors. Consider one of the following edits to the introductory clause:</p> <p style="padding-left: 40px;">12.4.1 When developing the criteria for deciding which insurers will be subject to a resolution plan requirement, the supervisor and/or resolution authority should consider factors such as:</p> <p style="padding-left: 80px;">or</p> <p style="padding-left: 40px;">12.4.1 The criteria to be used by the supervisor and/or resolution authority, when deciding which insurers will be subject to a resolution plan requirement, should address factors such as:</p> <p>Finally, edit the last bullet as follows:</p> <ul style="list-style-type: none"> <li>• the impact of the insurer’s failure.</li> </ul>
64	Comments on proposed changes to ICP guidance 16.16.3
65	Comments on proposed changes to ICP guidance 16.16.4
66	Comments on proposed changes to ICP guidance 16.16.5
67	Comments on proposed changes to ICP guidance 16.16.7
68	Comments on proposed changes to ICP guidance 16.16.8
69	Comments on proposed changes to CF 16.16.a

# Questions for public consultation on proposed changes to reflect climate risk in selected ICP guidance and supporting material

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## Consultation questions

ICP 15 (Investments) guidance material	
1	General comments on the proposed changes to reflect climate risk in ICP 15 (Investments) guidance material
2	<p>Comments on proposed changes to ICP guidance 15.2.3</p> <p>We question the practical applicability of rating adjustments and suggest this would be more appropriate as a “may” given there are various ways to consider this concern, such as on a qualitative basis on the assessment of the risk of the portfolio as a whole. Suggest:</p> <p>The insurer <del>should</del> <u>may</u> also consider the extent to which various external risks (such as climate change) have been factored into the ratings and over what time horizon, and make adjustment to the ratings where <del>necessary</del> <u>appropriate</u>.</p>
3	<p>Comments on new ICP guidance 15.2.6</p> <p>First sentence, suggest replacing the word “effects” with “materiality” as it would be a more appropriate word choice given the context:</p> <p>“insurers should consider the potential <del>effects</del> <u>materiality</u> of climate change”</p>
4	Comments on proposed changes to ICP guidance 15.3.1
5	Comments on proposed changes to ICP guidance 15.4.1
6	<p>Comments on proposed changes to ICP guidance 15.4.2</p> <p>Suggest adding the “prioritizes” to help supervisors better understand the criteria insurers are utilizing to prioritize their risks.</p> <p>The supervisor should assess how the insurer identifies, analyses, <u>prioritizes</u>, monitors, manages, controls, and reports risks arising from its investments. This assessment includes how the insurer considers varying time horizons (short, medium and long-term).</p>
ICP 16 (Enterprise Risk Management for Solvency Purposes) guidance material	
7	General comments on the proposed changes to reflect climate risk in ICP 16 (Enterprise Risk Management for Solvency Purposes) guidance material
8	Comments on proposed changes to ICP guidance 16.1.1
9	Comments on proposed changes to ICP guidance 16.1.3
10	Comments on proposed changes to ICP guidance 16.1.6
11	Comments on proposed changes to ICP guidance 16.2.2
12	Comments on proposed changes to ICP guidance 16.2.16
13	Comments on proposed changes to ICP guidance 16.2.19
14	<p>Comments on proposed changes to ICP guidance 16.6.6</p> <p>Suggest this would be more appropriate as a “may” given the relevance and/or materiality of these different considerations could vary based on the individual insurer:</p>

	With respect to climate-related risks, insurers <del>should</del> <u>may</u> consider: longer term time horizons (although within the maturity profile of their investment portfolio); the impact of material climate-related risks on their investments, and the impact of their investments on the climate; and their customers' known preferences in relation to sustainability considerations, where relevant.
15	Comments on proposed changes to ICP guidance 16.12.1
16	Comments on proposed changes to ICP guidance 16.16.9
<b>ICP 7 (Corporate Governance) supporting material</b>	
17	General comments on the proposed changes to reflect climate risk in existing supporting material related to ICP 7 (Corporate Governance)
18	Comments on proposed changes to section 3.3 (The role of the Board)
19	Comments on proposed changes to section 3.5 (Duties related to remuneration)
<b>ICP 8 (Risk Management and Internal Controls) supporting material</b>	
20	General comments on the proposed changes to reflect climate risk in existing supporting material related to ICP 8 (Risk Management and Internal Controls)
21	Comments on proposed changes to section 4.1 (Integrating climate-related risks into the scope of the risk management system)
<b>ICP 14 (Valuation) supporting material</b>	
22	General comments on the proposed additions to reflect climate risk in existing supporting material related to ICP 14 (Valuation)
23	Comments on section on Valuation of assets
24	Comments on section on Impacts on types of valuations
25	Comments on section on Time horizons of the investment
26	Comments on section on Valuation of liabilities
<b>ICP 15 (Investments) supporting material</b>	
27	General comments on the proposed additions to reflect climate risk in existing supporting material related to ICP 15 (Investments)
28	Comments on section on Climate change factor for investment requirements
29	Comments on section on Investment of assets for the portfolio as a whole
30	Comments on section on Asset liability management
31	Comments on section on Risk assessment and management of investments
<b>ICP 16 (Enterprise Risk Management for Solvency Purposes) supporting material</b>	
32	General comments on the proposed additions to reflect climate risk in existing supporting material related to ICP 16 (Enterprise Risk Management for Solvency Purposes)
33	Comments on section on Risk identification and measurement
34	Comments on section on Risk concentrations
35	Comments on section on Corporate strategy and time horizons
36	Comments on section on Risk appetite and limits

37	Comments on section on Asset liability management
38	Comments on section on Investment policy
39	Comments on section on ORSAs

# Questions for public consultation on draft application paper on supervising diversity, equity and inclusion: the governance, risk management and culture perspective

Thank you for your interest in the public consultation on draft application paper on supervising diversity, equity and inclusion: the governance, risk management and culture perspective. The Consultation Tool is available on the IAIS website.

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## Consultation questions

1	General comments on the Application Paper
2	Comments on section 1 Introduction
3	<p>Comments on section 1.1 Context and objective</p> <p>The acknowledgement in paragraph 6 is helpful and suggest adding another sentence to recognize potential legal limitations on data collection/use; suggest:</p> <p>The IAIS acknowledges that local circumstances, particularly the legal, cultural and historical context, will influence how DEI is considered and the actions taken by supervisors and insurers themselves, to enhance DEI within the sector. This application paper should therefore be read with this context in mind throughout. <u>Additionally, the paper's discussion of use and/or collection of data recognises jurisdictional legal and privacy issues surrounding any demographic data.</u></p>
4	Comments on Box 1 Interpretation of the terms diversity, equity and inclusion in this paper
5	Comments on section 1.2 Related work by the IAIS
6	Comments on section 1.3 Proportionality
7	Comments on section 2 Why DEI within an insurer matters to ICPs 7, 8 and corporate culture
8	<p>Comments on Box 2 What is groupthink and why does it matter to insurers?</p> <p>The drafting could be read to suggest groupthink is an issue specific to the insurance sector and the description of what happened with AIG should be more accurate; suggest: <u>In the insurance sector specifically, g</u>Groupthink has been cited as a factor in the failure of <u>certain non-insurance areas of</u> AIG during the financial crisis.</p>
9	Comments on section 3 What should a supervisor look out for?
10	Comments on section 3.1 Relevant matters to look at
11	Comments on section 3.2 Warning signs an insurer might need to enhance its DEI efforts
12	<p>Comments on Box 3 What is DEI-washing?</p> <p>For clarification, suggest the following revision: Subsequently, this can cause problems regarding ESG ratings, <u>where utilised or required.</u></p>
13	Comments on Box 4 Indicators of positive action on DEI at an insurer
14	Comments on section 4 What can a supervisor do in response?
15	Comments on section 4.1 Industry-wide approach

16	Comments on section 4.1.1 Use of soft powers
17	Comments on section 4.1.2 Incorporating DEI themes into supervisory approaches
18	Comments on section 4.1.3 Develop requirements
19	Comments on section 4.2 Insurer-specific engagement
20	Comments on section 4.2.1 Understanding an insurer's approach to DEI
21	Comments on section 4.2.2 Undertake review work to examine DEI related arrangements and plans
22	Comments on Box 5 Collecting and using data as part of a DEI strategy
23	Comments on section 5 Conclusion