Spring National Meeting  
Conference Call

GROUP SOLVENCY ISSUES (E) WORKING GROUP  
Wednesday, April 1, 2020  
1:00 p.m. – 2:00 p.m. CT

ROLL CALL

Justin Schrader, Chair  
Jamie Walker, Vice Chair  
Susan Bernard/Kim Hudson  
Kathy Belfi  
Charles Santana  
Virginia Christy/Carolyn Morgan  
Cindy Andersen/Eric Moser  
Roy Eft  
Jim Armstrong  
John Turchi  
Texas  
California  
Connecticut  
Delaware  
Florida  
Illinois  
Indiana  
Iowa  
Judy Weaver  
Debbie Doggett/Shannon Schmoeger  
Diana Sherman  
Margot Small  
Dale Bruggeman/Tim Biler  
Joe DiMemmo  
Doug Stolte  
Steve Junior  
Massachusetts  
Michigan  
Missouri  
New Jersey  
New York  
Ohio  
Pennsylvania  
Virginia  
Wisconsin

NAIC Support Staff: Bruce Jenson/Jane Koenigsman

AGENDA

1. Consider Adoption of Fall National Meeting Minutes—Justin Schrader (NE)  
   Attachment A

2. Receive an Update on International Association of Insurance Supervisors (IAIS) Group-Related Activities—Justin Schrader (NE)

3. Discuss Results of ComFrame Gap Analysis and Next Steps in Implementation—Justin Schrader (NE)  
   • Summary of Gap Analysis Results  
   • Comments Received on Exposure of Gap Analysis Results  
   Attachment B  
   Attachment C

4. Discuss Any Other Matters Brought Before the Working Group—Justin Schrader (NE)

5. Adjournment

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Attachment A

Fall National Meeting Minutes
Draft Pending Adoption

Draft: 12/10/19

Group Solvency Issues (E) Working Group
Austin, Texas
December 7, 2019

The Group Solvency Issues (E) Working Group of the Financial Condition (E) Committee met in Austin, TX, Dec. 7, 2019. The following Working Group members participated: Justin Schrader, Chair (NE); Doug Slape, Vice Chair (TX); Kathy Belfi and Michael Shanahan (CT); Virginia Christy and Carolyn Morgan (FL); Kim Cross and Mike Yanacheak (IA); Cindy Andersen and Eric Moser (IL); Roy Eft (IN); John Turchi (MA); Judy Weaver (MI); Shannon Schmoeger (MO); Marlene Caride (NJ); Stephen Doody (NY); Tim Biler and Dale Bruggeman (OH); Joe DiMemmo and Kimberly Rankin (PA); Doug Stolte (VA); and Amy Malm (WI).

1. Received an Update from the ORSA Implementation (E) Subgroup

Ms. Belfi provided an update of recent activities of the ORSA Implementation (E) Subgroup, which has not met since the Summer National Meeting but has been engaged in ongoing projects. She said the NAIC held its first Own Risk and Solvency Assessment (ORSA) Peer Review session in August, which was led by the Risk-Focused Surveillance (E) Working Group but supported by the Subgroup. She stated that she was able to attend the session as an observer. During the session, several sound practices and opportunities for improvement were identified for use in reviewing and incorporating ORSA work into ongoing analysis and examination processes. Ms. Belfi stated that Subgroup leadership has worked with NAIC staff to develop a state insurance regulator only ORSA Review Sound Practices document to share these takeaways with other states. In addition, as the session was very well received, the NAIC intends to conduct another ORSA Peer Review session in 2020 to allow other states to participate.

Ms. Belfi stated that in addition to its support for ORSA Peer Review work, the Subgroup has also been engaged in the development of guidance for use in reviewing and evaluating an insurer’s use of internal capital models. She said this guidance is not intended as a standard set of procedures to be performed at all ORSA filers, but it will instead be optional supporting guidance for those states that want to dig deeper into their insurers’ use of internal capital models. As such, the guidance is intended for use as a state insurance regulator-only tool, and it is being discussed and developed during regulator-to-regulator calls of the Subgroup. At this point, a first draft of guidance was developed and exposed for state insurance regulator comment. Comments were received from several states, and the proposed guidance is currently being revised to address comments received. Ms. Belfi stated that once a revised draft is developed, it will be reviewed by the Subgroup and approved for use as an optional state insurance regulator-only tool.

2. Heard a Report on IAIS Activities

Mr. Schrader provided a report on recent group-related activities of the International Association of Insurance Supervisors (IAIS), including the status of ongoing projects of the Insurance Groups Working Group. He said that now that the Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame) has been adopted, several supporting activities are underway at the IAIS to assist in implementation. A supervisory college workshop is in development to assist supervisors in learning best practices for use in conducting college sessions. Other related projects include the ongoing development of an aide memoire to assist in post-implementation review, as well as a frequently asked questions (FAQ) document for supervisors.

3. Discussed State Insurance Regulator Approach to ComFrame Implementation

Mr. Schrader stated that the Working Group will be receiving a significant new charge for 2020 related to ComFrame implementation. The IAIS adopted ComFrame on Nov. 14, which establishes supervisory standards and guidance focusing on the effective group-wide supervision of Internationally Active Insurance Groups (IAIGs). ComFrame is a comprehensive and outcome-focused framework aimed at facilitating effective group-wide supervision of IAIGs by providing qualitative and (in a future phase) quantitative supervisory minimum requirements tailored to the international activity and size of IAIGs. The intent of ComFrame is to help supervisors address group-wide risks and avoid supervisory gaps by supporting coordination across jurisdictions.

Mr. Schrader stated that ComFrame builds on, and expands upon, the high-level standards and guidance currently set out in the Insurance Core Principles (ICPs) of the IAIS, which generally apply on both an insurance legal entity and group-wide level.
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Consistent with the application of the ICPs, the minimum requirements established by ComFrame are expected to be implemented and applied in a proportionate manner. However, supervisors have the flexibility to tailor implementation of supervisory requirements and application of insurance supervision to achieve the outcomes described in ComFrame Standards.

Mr. Schrader stated that certain elements of ComFrame were incorporated into the 2014 revisions to the Insurance Holding Company System Regulatory Act (#440), which were developed by the Working Group. However, there have been a number of additions and enhancements to ComFrame since that time, which is why the Working Group is intended to receive the following charge for 2020: “Assess the IAIS Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame) and make recommendations on its implementation in a manner appropriate for the U.S.”

Mr. Schrader stated that ComFrame requirements are quite broad and extensive, with elements included in 10 of the 25 ICPs, as well as the ICP Introduction and Assessment Methodology. He said that many of the key elements of ComFrame may already be incorporated into the U.S. system of state insurance regulation, at least partially; but it will be the Working Group’s assignment to identify other elements that may not yet be incorporated and discuss how to address them. He stated that the Working Group asked for comments on how to proceed with addressing this charge in 2020, and it received requests to speak on this topic from several interested parties.

Tom Finnell (America’s Health Insurance Plans—AHIP) stated his agreement that many of the ComFrame elements are already at least partially incorporated into the U.S. system of state-based regulation. In addition, while the ComFrame language and wording tends to emphasize or encourage a centralized approach to group management and oversight, he encouraged state insurance regulators to consider the introductory guidance and assessment methodology that allows for additional flexibility in applying oversight to different types of insurance groups. He stated that the guidance related to who is considered the head of an insurance group is very important, and it should be carefully considered in applying ComFrame concepts in the U.S.

Stephen Broadie (American Property Casualty Insurance Association—APCIA) stated that the language in the charge stating that ComFrame should be implemented “in a manner appropriate for the U.S.” is very important as new requirements should not be adopted or implemented if they do not make sense within the U.S. system of state-based insurance regulation. He also stated that ComFrame is designed to produce equivalent outcomes, but such outcomes can be achieved in different ways. As such, he encouraged state insurance regulators to not adopt ComFrame elements that would promote a prescriptive approach to company management and oversight.

Mariana Gomez-Vock (American Council of Life Insurers—ACLI) stated her support for an approach that identifies existing practices in the U.S. system that address ComFrame elements before identifying and addressing any gaps that may need to be considered.

Bill Schwegler (Transamerica) stated that he was speaking on behalf of several U.S. insurance groups, including Jackson National Life Insurance and Protective Live Insurance, that are subsidiaries of foreign-based groups that will be subject to ComFrame requirements imposed by their group-wide supervisors. Therefore, to ensure that these groups are not put at a disadvantage in U.S. ComFrame implementation, he recommended that state insurance regulators consider three important points. First, state insurance regulators should create an appropriate legal architecture to coordinate and share information across jurisdictions. Second, state insurance regulators should avoid placing additional requirements on IAIGs that are not specifically associated with their international activities. Third, as the distinction between IAIGs and other large insurers is not very significant in the U.S. market, state insurance regulators should avoid setting an inappropriate scope in implementing ComFrame requirements.

Mr. Shrader thanked interested parties for their comments, and he committed to hold implementation discussions in an open manner while keeping the interested party comments in mind. Ms. Belfi asked if the ComFrame guidance could be separated out from the ICPs and distributed to Working Group members for review. Mr. Schrader asked NAIC staff to extract the ComFrame elements from the ICPs and distribute the guidance to the Working Group. Mr. Schrader also asked NAIC staff to begin work on a document comparing ComFrame elements to existing practices in the U.S. system of state-based regulation for Working Group review.

4. Discussed Other Matters

Mr. Schrader said the Group Capital Calculation (E) Working Group has been discussing the need to revise the holding company models to allow for the collection of data associated with the calculation, and he has submitted a Request for NAIC
Draft Pending Adoption

Model Law Development to the Executive (EX) Committee for approval. He said that the Group Solvency Issues (E) Working Group will be involved in the project due to its role in overseeing Model #440.

Mr. Bruggeman stated that the Statutory Accounting Principles (E) Working Group exposed agenda item 2019-34 for public comment and would be asking the Working Group to review and provide comment on the proposed changes that are intended to clarify accounting and reporting requirements for related parties. As related parties are more difficult to appropriately identify and disclose in large insurance groups, the proposed revisions should be relevant to the Group Solvency Issues (E) Working Group.

Having no further business, the Group Solvency Issues (E) Working Group adjourned.

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Attachment B

ComFrame Gap Analysis Summary
The Group Solvency Issues (E) Working Group received a charge to “Assess the IAIS Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame) and make recommendations on its implementation in a manner appropriate for the U.S.” for 2020.

At the 2019 Fall National Meeting the Working Group received comments on and led a discussion of how to address this charge in 2020. As a result of those discussions, the Working Group asked NAIC staff to conduct a detailed ComFrame gap analysis to identify significant elements not already incorporated into the U.S. system of insurance regulation.

In conducting the analysis, staff noted that many of the key elements of ComFrame have already been incorporated into the state-based system of U.S. insurance regulation through recent amendments to the holding company models, the establishment of ORSA requirements and other existing regulatory practices. Staff also noted that some of the more prescriptive elements of ComFrame may not be appropriate for the U.S. system.

In conducting the analysis, staff was also asked to outline recommendations for addressing any significant gaps identified. As such, the following recommendations are outlined for regulator consideration. Additional details regarding the full analysis conducted by NAIC staff and the resulting recommendations can be made available upon request.

<table>
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<th>Reference</th>
<th>Recommendations</th>
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<tr>
<td>ICPs 5, 7, 8</td>
<td>Require that a Corporate Governance Annual Disclosure be filed at the Head of the IAIG level to ensure that processes are evaluated at an appropriate level for the full group</td>
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| ICPs 5, 7, 8, 9, 10, 16, 23, 25 | Update the Financial Analysis Handbook to provide additional guidance for use in completing holding company analysis of IAIG groups. Update the Financial Condition Examiners Handbook to provide additional guidance for use in conducting coordinated exams of IAIG groups. For example, consider development of additional guidance/procedures related to:  
  - Assessment of group-wide governance framework and reporting  
  - Assessment of group-wide control functions  
  - Group-wide oversight of outsourced activities  
  - Preventive/Corrective measures  
  - Recovery/Resolution planning and crisis management groups  
  - Group-wide investment strategy/oversight  
  - Processes/controls around capital fungibility  
  - Head of IAIG determination  |
<p>| ICPs 7, 8, 16 | Require that ORSAs be conducted and filed at the Head of the IAIG level to ensure that risk exposures and control functions are evaluated at an appropriate level for the full group |</p>
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| ICP 8, 16 | Update the ORSA Guidance Manual to encourage additional discussion of certain elements in IAIG ORSA reporting. For example, consider additional discussion of:  
- Group business strategy  
- Mapping of risks/processes to legal entities  
- Independence of the risk management function  
- Actuarial function and its role in ERM/ORSA  
- Independent review/validation of ERM/ORSA processes  
- Macroeconomic stresses and counterparty risk  
- Liquidity risk and stresses  
- Resolution/Recovery planning |
| ICP 9     | Finalize a project being led by the Group Capital Calculation (E) Working Group to develop a tool for use in assessing capital at the Head of the IAIG. In addition, the NAIC should continue to work with other regulatory stakeholders to develop and finalize an aggregation method approach for ICS. |
| ICP 12    | Finalize a project being led by the Receivership and Insolvency (E) Task Force to encourage consistent adoption of certain provisions into law for key areas of receivership. This project may include consideration of amendments to the Financial Regulation Standards and Accreditation Program Part A standards for receivership and guaranty fund laws. |
| ICP 16    | Finalize a project being led by the Liquidity Assessment (EX) Subgroup of the Financial Stability (EX) Task Force to develop a liquidity stress testing framework for life insurers. |
Attachment C

Comment Letters
March 18, 2020

Re: Exposure Memorandum addressing NAIC ComFrame Gap Analysis

Dear Mr. Schrader,

The American Council of Life Insurers\(^1\) appreciates the opportunity to share our views on the NAIC Group Solvency Issues (E) Working Group’s February 11, 2020 exposure draft memorandum from NAIC staff to the Working Group re “ComFrame Gap Analysis” (ComFrame Gap Analysis). The memo outlines initial NAIC staff recommendations to the Working Group as it responds to its charge to “assess the IAIS Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame) and make recommendations on its implementation in a manner appropriate for the U.S.”

ACLI believes that it is difficult for interested parties to draw clear conclusions on whether the proposed actions appropriately address potential gaps based on the high-level points provided in the ComFrame Gap Analysis. We would appreciate additional dialogue with Working Group members and staff to better understand the underlying rationale for each recommendation. This dialogue should be followed by an additional opportunity to offer feedback on the gap analysis.

We would also appreciate more detail regarding how the NAIC intends to implement the IAIS’ Holistic Framework for Systemic Risk in the Insurance Sector (holistic framework). ACLI members have a particular interest in the successful implementation of the holistic framework, which is embedded in ComFrame and the Insurance Core Principles, and we want to work with the NAIC to ensure it is done in a credible and proportionate manner. We believe the gap analysis will serve as an important first step for this endeavor.

Lastly, while it is premature for us to offer detailed comments on the gap analysis, we would make some preliminary observations. First, while the memo proposes the ORSA as the mechanism to address some identified gaps, it will be important for regulators to consider whether the proposed additions are consistent with the solvency-focused purpose and management-directed nature of the ORSA. Second, the details of certain proposed items –

\(^1\) The ACLI advocates on behalf of 280 member companies dedicated to providing products and services that promote consumers’ financial and retirement security. 90 million American families depend on our members for life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, dental and vision and other supplemental benefits. ACLI represents member companies in state, federal and international forums for public policy that supports the industry marketplace and the families that rely on life insurers' products for peace of mind. ACLI members represent 95 percent of industry assets in the United States.
in particular recovery and resolution planning – will be essential for determining if and how the tools will be beneficial in the context of the U.S. system of insurance regulation.

We appreciate the opportunity to comment and look forward to working with you on this important initiative.

Best Regards,

Gabrielle Griffith  
Policy Analyst & NAIC Coordinator  
GabrielGriffith@acli.com (202) 624-2371

David Leifer  
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Wayne Mehlman  
Senior Counsel, Insurance Regulation  
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Robert Neill  
VP, International and Government Relations  
RobertNeill@acli.com (202)624-2042
March 18, 2020

Justin Schrader
Chair, Group Solvency Issues (E) Working Group
National Association of Insurance Commissioners

By e-mail to: Bruce Jenson, NAIC, bjenson@naic.org

**Re: Group Solvency Issues (E) Working Group (GSIWG) Exposure**

Dear Chair Schrader:

America’s Health Insurance Plans (AHIP) is pleased to comment on the NAIC staff’s Summary of its ComFrame Gap Analysis (Summary) which was prepared in response to the GSIWG’s charge: “Assess the IAIS Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame) and make recommendations on its implementation in a manner appropriate for the U.S.” The Summary lists recommendations for GSIWG members to consider in addressing the gaps identified.

AHIP appreciates the importance of the GSIWG’s interest in developments regarding standard setting at the global level by the IAIS. We fully support the charge’s specificity that implementation of global standards be done “in a manner appropriate for the U.S.” For the most part, it appears that the staff recommendations embrace that view as well, although in at least two instances, we have concerns. These may be alleviated if you could permit AHIP and other Interested Parties to review the full documentation underlying the staff’s Summary. Our hope is that further consideration and discussions will provide that clarity and confirm the appropriateness of any recommendations for the U.S.

Our first concern is that the Summary seems to overlook the additional “overarching concepts” language that the IAIS added in the Introduction Section of the ICPs and ComFrame. This language, adopted by the IAIS in November 2019, means the document’s 390 pages are to be interpreted with the overarching concepts in mind. It includes the following:

> “ComFrame does not favour any particular governance model and is intended to be read to apply to all models. The organization of an IAIG can be structured in various ways as long as the outcomes are achieved.”

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AHIP also provided similar comments to the GSIWG at the Fall National Meeting, emphasizing that a gap analysis comparing ComFrame’s provisions to the U.S. (or any jurisdiction’s) supervisory regime must consider the drafting convention (the use of “overarching concepts) in which the ComFrame text was developed and ultimately finalized by the IAIS. AHIP noted that similar text in the overarching concepts section also addressed stakeholder’s concerns with respect to direct supervisory powers and the scope of responsibility of the head of the IAIG with respect to less material legal entities /activities within the group.

If the overarching concepts are not applied in reading the ComFrame text which accompanies various IAIS Insurance Core Principles, the reader might erroneously conclude that:

1. An Internationally Active Insurance Group (IAIG) should have centralized, group wide control functions in place;
2. In the context of group supervision the supervisory authority should have direct powers over the parent and other legal entities in the insurance group enabling the supervisor to impose supervisory measures directly on those legal entities, including non-regulated legal entities, to address all relevant group-wide risks; and/or,
3. The head of an insurance group is responsible for the group’s sound and prudent management, including down to the legal entity level.

None of those conclusions are correct.

The overarching concept text that the IAIS finally added in the adopted version of ComFrame was the result of a years-long debate involving the IAIS, Team USA including NAIC/state representatives, and stakeholders, which finally culminated in a “win” for the U.S. That should not be forgotten or overshadowed due to the relative brevity of text in which that “win” is stated in the overarching concepts as compared to the many detail statements, seemingly to the contrary, in the ICPs/ComFrame. The overarching text is just that – overarching – it is intended to trump any language to the contrary.

Therefore, having set out our first concern, it is our hope that as GSIWG members discuss the individual recommendations, they will be mindful of the ComFrame drafting conventions and the overarching concepts.

AHIP’s second concern relates to this recommendation in the Summary:

“Require that ORSAs be conducted and filed at the Head of the IAIG level to ensure that risk exposures and control functions are evaluated at an appropriate level for the full group.”

We interpret this to mean the filing of a single ORSA, i.e., one which includes all risks (whether related to insurance or non-insurance operations) to which the entire group is exposed. If so, that is a significant departure from the way ORSA’s are currently prepared and filed with state insurance regulators. A single, group-wide filing is not required either by the NAIC’s Risk
Management and Own Risk and Solvency Assessment Model Act (Model Act) or by the ORSA Guidance Manual. Rather, the question of filing an ORSA Summary Report at the entity or group level was extensively discussed during development of Model 505, and it was concluded that was a question to be resolved by the entity or group.

The ORSA Guidance Manual does not specifically address IAIGs. It does state that “if a U.S. state insurance commissioner is the global group-wide supervisor, the U.S. state insurance commissioner should receive the ORSA Summary Report covering all group-wide insurance operations.” (emphasis added) While this suggests a single report, the intended focus is on relevant and material risks to the insurance operations. Non-insurance entities/operations that do not pose relevant and material risks to the insurance operations could be excluded from the ORSA.

Indeed, neither the Model Act nor the Guidance Manual provide requirements or guidance as to whether to include within an ORSA, and if so how to assess, the non-insurance operations or entities within a group. Nonetheless, there could be material and relevant risks to the insurance operations of a group emanating from non-insurance entities elsewhere within the group. If so, such risks would presumably be addressed in the ORSA as to their impacts on the insurance operations. That would be consistent with ComFrame and the IAIS’ Insurance Core Principle 23, Group-Wide Supervision. ICP 23’s focus on non-insurance legal entities within the group is on those that pose risk to the insurance operations, i.e., where there is:

- a linkage between the insurance operations and the noninsurance legal entity (other than an investment in or from the non-insurance legal entities) that could adversely affect the insurance operations; and
- a lack of adequate safeguards, including additional capital, to mitigate risks arising from any such linkages.

By contrast, simply requiring the ORSA to be filed at the Head of the IAIG level for all U.S.-based IAIGs would necessarily mean assessing all risks and entities within a group, including possibly many that may neither be material nor relevant to the insurance operations within the group. We believe that the intent of ComFrame is accomplished under current practices in the U.S. which provide insurance groups the flexibility to file a single report or reports at subsidiary levels, as long as the report(s) reflect all material and relevant risks to the group-wide insurance operations.

Moreover, groups are already required to file an Enterprise Risk Report (Form F) at the level of the ultimate controlling person, which would identify all material risks in all downstream entities that could pose enterprise risk to the insurer.

As a result of Form F requirements and the disclosures currently required in an ORSA, we believe requiring an ORSA to be filed at the Head of the IAIG level would provide little, if any, incremental value to supervisors, at potentially significant incremental expense and burden for U.S.-based IAIGs.

* * * * *
AHIP appreciates this opportunity to comment and would be glad to address any questions you or
other GSIWG members may have at your convenience.

Sincerely,
America’s Health Insurance Plans

Bob Ridgeway
Bridgeway@AHIP.org
501-333-2621
March 18, 2020

Justin Schrader, Chair  
Group Solvency Issues (E) Working Group  
National Association of Insurance Commissioners

Re: ComFrame Gap Analysis Memorandum

Dear Chairman Schrader:

The American Property Casualty Insurance Association (APCIA) welcomes the opportunity to comment on NAIC staff’s February 11 memorandum to the Group Solvency Issues (E) Working Group on potential changes to U.S. regulatory standards that are needed to implement the International Association of Insurance Supervisors’ (IAIS) Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame). APCIA is the primary national trade association for home, auto, and business insurers. APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe.

**ComFrame Implementation Must Be Appropriate for the U.S.**

APCIA appreciates that the exposed memorandum recognizes that some of the more prescriptive elements of ComFrame may not be appropriate for the U.S. system. This statement is consistent with the Working Group’s charge to make recommendations for ComFrame implementation “in a manner appropriate for the U.S.”

However, APCIA is concerned that some of staff’s recommendations in the memo could be difficult to reconcile with the decentralized and complex corporate structures that are commonly utilized by large U.S. insurance groups. For example, we are concerned with the recommendations to develop additional guidance or procedures in the Financial Analysis Handbook concerning the assessment of group-wide control functions and group-wide investment strategy. Without further context, these recommendations imply that group-wide control functions and investment strategy must be determined by an insurance group on a centralized basis.

Any ComFrame standards implemented by the Working Group must provide sufficient flexibility to accommodate the diverse corporate structures of large U.S. insurance groups. After all, the ComFrame Introduction makes clear that ComFrame does not favor any particular governance model (i.e., centralized or decentralized), as its standards are intended to be read to
apply to all models. Likewise, the Introduction also states that ComFrame does not create a one-size-fits-all approach to supervisory standards; ultimately what is important is that ComFrame’s desired outcomes and broad objectives are achieved. Team USA and U.S. stakeholders were successfully able to persuade the IAIS to add these points to the Introduction as “overarching concepts” of the IAIS’ Insurance Core Principles (ICPs) and ComFrame. Accordingly, APCIA believes it is essential that the Working Group is mindful of these and other overarching concepts for ComFrame when considering how to implement its standards in a manner appropriate for the U.S.

**Recommendation to Require CGAD and ORSA Filings at the Head of the IAIG Level**

APCIA is also concerned with the recommendations to require Corporate Governance Annual Disclosures (CGAD) and Own Risk and Solvency Assessments (ORSA) to be filed at the Head of the IAIG level. Neither a CGAD nor ORSA is currently required to be filed at this level for good reason.

With regard to CGAD filings, the Corporate Governance Annual Disclosure Model Act specifically allows insurance groups to provide information regarding corporate governance at the ultimate controlling parent level, an intermediate holding company level, and/or the individual legal entity level, depending upon how the insurer or insurance group has structured its system of corporate governance. Like ComFrame standards, the CGAD Model Law provides flexibility to accommodate the diverse structures of insurance groups. Regardless of the level of reporting, CGAD filings contain all material information necessary to gain an understanding of the group’s corporate structure, policies, and practices. Therefore, APCIA urges the Working Group to maintain the current flexibility concerning the level at which a CGAD must be filed.

Requiring the ORSA report to be filed at the Head of the IAIG level for all U.S.-based IAIGs would necessarily mean assessing all risks and entities within a group, including possibly many that may neither be material nor relevant to the insurance operations within the group. Yet, ICP 23 would only require an assessment of non-insurance members if there is:

- a linkage between the insurance operations and the noninsurance legal entity (other than an investment in or from the non-insurance legal entities) that could adversely affect the insurance operations; and
- a lack of adequate safeguards, including additional capital, to mitigate risks arising from any such linkages.

We believe that the overarching intent of ComFrame is satisfied by current U.S. practices, which provide insurance groups the flexibility to file a single report or reports at subsidiary levels, as long as the report(s) reflect all material and relevant risks to the group-wide insurance operations.

Moreover, groups are already required to file an Enterprise Risk Report (Form F) at the level of the ultimate controlling person, which would identify all material risks in all downstream entities that could pose enterprise risk to the insurer. As a result of Form F requirements and the disclosures currently required in an ORSA, we believe requiring an ORSA to be filed at the Head of the IAIG level would provide little, if any, incremental value to supervisors, at potentially significant incremental expense and burden for U.S.-based IAIGs.
ORSA Guidance Manual Recommendations

The exposed memo next recommends amendments to the ORSA Guidance Manual “to encourage additional discussion” of various items in the ORSA, including liquidity risk, resolution/recovery planning, and group business strategy. APCIA is concerned this additional guidance can result in the ORSA evolving into a prescriptive checklist that may not be relevant to the material risks associated with a particular insurance group’s current business plan.

For example, the memo recommends additional discussion of liquidity risk and stresses in an ORSA report; however, property-casualty insurers are subject to very low (if any) liquidity risk because there is no risk of a “run on the bank”. Claims are payable only when due to claimants under the underlying insurance policy after investigation and, for liability claims, after settlement negotiations. Moreover, covered events triggering significant property-casualty insurance liabilities (e.g., hurricanes, wildfires, etc.) are rarely, if ever, correlated to risks in the broader financial system, with the resulting claims payments occurring over months, quarters, and for the largest events, years. Likewise, the cash flows of property-casualty insurers are not significantly affected by macroprudential factors such as changes in interest rates and yield curves.

The more prescriptive the ORSA guidance becomes, the more it belies the purpose of an ORSA, which, of course, is intended to be a company’s own risk assessment. Furthermore, insurers are already required to assess and discuss all material and relevant risks associated with the group’s business plan in their ORSA. Accordingly, APCIA believes the existing ORSA requirements are appropriate, and more prescriptive guidance is not warranted.

Identification of ComFrame Gaps in the U.S. Regulatory System

Although the memorandum provides recommendations for changes to regulatory standards that are needed to implement ComFrame, it does not identify the specific ComFrame standard nor a specific regulatory gap in the U.S. system. It would be helpful for interested parties to understand what particular ComFrame standard the Working Group intends to implement and why the Working Group believes that standard is not currently reflected in the U.S. group supervisory framework. With this context, APCIA believes interested parties would be able to provide the Working Group with more relevant comments that can better inform the Working Group’s consideration of ComFrame implementation. We also believe it would be helpful for the Working Group to release the full analysis conducted by NAIC staff so stakeholders can better understand the process staff used in making its recommendations.

Thank you for considering the points addressed in this letter, and please do not hesitate to contact us if you have any questions.

Sincerely,

Stephen W. Broadie
Vice President, Financial & Counsel
March 11, 2020

Mr. Justin Schrader  
Chair, Group Solvency Issues (E) Working Group  
National Association of Insurance Commissioners  
1100 Walnut Street, Suite 1500  
Kansas City, MO 64106

VIA Email Transmission: BJenson@naic.org; JKoenigsman@naic.org

RE: NAMIC Comments on ComFrame Gap Analysis and Recommendations

Dear Mr. Schrader:

The following comments are submitted on behalf of the member companies of the National Association of Mutual Insurance Companies regarding the NAIC staff analysis and resulting recommendations that address the working group’s request to conduct a detailed ComFrame gap analysis intended to identify significant elements not already incorporated into the U.S. system of insurance regulation.

NAMIC members appreciate the opportunity to provide comments on the NAIC staff recommendations in an effort to find ways that can enhance supervisory cooperation between varying global insurance markets without disrupting local regulatory authority; however, after considering existing regulatory processes, we do not believe any changes to state insurance laws or NAIC models needs to be considered at this time. Further, we oppose any changes to the ORSA guidance manual as proposed, because it is too prescriptive and presumably many IAIG ORSA reports already contain the additional considerations laid out in the memorandum. We do believe additional guidance around determining the Head of the IAIG may prove to be useful, but the population of IAIGs is varied in terms of corporate/legal structure, risk profile, jurisdictional presence and overall complexity of the group that a prescriptive approach may not be beneficial to supervisors. NAMIC members recommend amending the Financial Condition Examiners Handbook and Financial Analysis Handbook to provide regulatory guidance around the determination of the Head of an IAIG.

The charge received by the working group is to “Assess the IAIS Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame) and make recommendations on its implementation in a manner appropriate for the U.S.” The NAIC

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1 NAMIC is the largest property/casualty insurance trade association in the country, with more than 1,400-member companies representing 39 percent of the total market. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country’s largest national insurers. NAMIC member companies serve more than 170 million policyholders and write more than $230 billion in annual premiums. Our members account for 54 percent of homeowners, 43 percent of automobile, and 32 percent of the business insurance markets. Through our advocacy programs we promote public policy solutions that benefit NAMIC member companies and the policyholders they serve and foster greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.
has already done much of the work to implement the various elements of ComFrame, including amending the Insurance Holding Company System Regulatory Act (#440) to give state insurance commissioners the authority to act as the group-wide supervisor for any internationally active insurance group; the adoption of the Risk Management and Own Risk and Solvency Assessment Model Act (#505) which includes a group capital assessment; the implementation of corporate governance and oversight regulations through the adoption of the Corporate Governance Annual Disclosure Model Act (#305); and the current development of an aggregation method to calculating group capital that is designed to leverage the legal entity approach to state insurance regulation producing an equivalent outcome to the IAIS Insurance Capital Standard.

NAMIC membership recognizes the value of quality insurance regulation. Regulation that protects policyholders and that doesn’t interrupt the stability the insurance industry provides to the global economy in times of natural and man-made catastrophes as well as economic crisis is essential. Quality insurance regulation should always, first and foremost, protect the policyholders that purchase insurance products. Good regulation should also include regulatory tools to monitor, analyze, assess and support solvency of the firms within its expertise and jurisdiction to regulate. There are obvious challenges that global standard-setters must overcome to accomplish the goals of producing high-quality standards, and for this reason NAMIC members have pressed international standard-setters to produce standards that are high-level and that recognize the differences between different jurisdictions. The NAIC has noted these challenges and the staff memorandum and associated recommendations have acknowledged that some elements within ComFrame may be too prescriptive and not appropriate for the U.S. system. Additionally, it is noted that many of the key elements of ComFrame have already been incorporated into the state-based system of U.S. insurance regulation. NAMIC members agree with this assessment and do not think any additional changes to state laws or NAIC models needs to be considered.

If it is determined by state insurance regulators that additional ComFrame elements would make sense for the U.S. system, the appropriate vehicle for additional regulatory guidance should be the Financial Condition Examiners Handbook and the Financial Analysis Handbook. These Handbooks already include guidance for holding company analysis and ORSA reporting and provide the flexibility needed in applying oversight to insurance groups of various sizes and complexity. When ComFrame was officially adopted by the IAIS in November 2019, it was written with the flexibility required for variations in approach to supervision at both the group and the legal entity level. ComFrame and the various Insurance Core Principles which ComFrame was built to achieve an outcomes-based system. How those outcomes are achieved can be different leading to a diversity in regulation that NAMIC members believe strengthens the overall global insurance market.

Thank you for your consideration of these comments on this matter of importance to NAMIC, its member companies and their policyholders. If there are any questions, please feel free to contact me at 317-876-4206.

Sincerely,

Jonathan Rodgers
Director of Financial and Tax Policy
National Association of Mutual Insurance Companies
March 18, 2020

Mr. Justin Schrader  
Chair, Group Solvency Issues (E) Working Group  
National Association of Insurance Commissioners  

Via email to Bruce Jenson, bjenson@naic.org

Dear Mr. Schrader:

On behalf of Transamerica, I am writing to respond to the exposed NAIC staff memo, “ComFrame Gap Analysis.” Transamerica is the brand name for the U.S. operations of the Netherlands-based Aegon group. We appreciate the opportunity to provide input.

As a general comment, the brevity of the memo creates challenges for stakeholders. The underlying staff analysis has not been made available, and the memo does not explain the recommendations beyond a general comment that “some of the more prescriptive elements of ComFrame may not be appropriate for the U.S. system.” Therefore the following points should be considered subject to refinement should additional information become available.

1. Transamerica supports the build-out of U.S. group supervision that is signaled by the recommended initiatives

As a whole, the recommendations seem to propose the additional development of a group supervision framework within the United States. Transamerica supports this objective. The absence of a fulsome group supervision framework is sometimes considered an anomalous shortcoming of the state-based regulatory system. The repute of the U.S. insurance regulatory system is important to Transamerica in our dealings with non-U.S. authorities. As a result, we support the proposed enhancements to group supervisory oversight, governance, capital, and ERM/ORSA. We also support the “head of the IAIG” language that seems to avoid potential redundancies for foreign-owned groups.

2. The scope of the recommended initiatives seems misaligned with the substance of the initiatives

In IAIS parlance, the Insurance Core Principles (ICPs) apply broadly to legal entities and insurance groups, while ComFrame is a set of enhanced group supervision measures that apply to a subset of insurance groups referred to as Internationally Active Insurance Groups (IAIGs). Consistent with ComFrame, the scope of the memo’s recommended initiatives is generally limited to IAIGs. Yet the substance of the initiatives appears to be more in line with basic group supervision, i.e. the ICPs. Putting it together, the staff memo seems to imply that only IAIGs—a fraction of the industry—merit basic group supervision. It is not clear whether this outcome is intended, but it seems incongruous. While the cross-border dimensions of IAIGs might merit additional supervisory measures, consideration should be given to developing a meaningful basic group supervision framework for groups that do not meet the IAIG thresholds.

3. The recommended initiatives, in addition to other components of the NAIC’s Macroprudential Initiative, are unlikely to satisfy the requirements of the IAIS Holistic Framework for Systemic Risk

It is unclear if the proposed measures encompass the remainder of the NAIC’s proposed implementation of the IAIS’s Holistic Framework for Systemic Risk, beyond the existing Macroprudential Initiative. If so, we are deeply concerned by what would appear to be an unrealistically light implementation. For example, the
recommendation to update the ORSA Guidance Manual to “encourage additional discussion” makes these provisions seem discretionary. Moreover, there are numerous aspects of the Holistic Framework that would be unaddressed, including public disclosure, liquidity management plans, data collection and analysis, and various other ERM/ORSA requirements. A core component of the Holistic Framework is consistent jurisdictional implementation of supervisory material. Moreover, in 2022, the Financial Stability Board will review the need to either discontinue or re-establish an annual identification of G-SIIs based on the initial years of the implementation of the Holistic Framework. We therefore consider it imperative for the NAIC to develop and execute an implementation plan that is clear, concrete, and credible.

4. For foreign-owned groups, holding company analysis and examination initiatives should coordinate with existing group supervision

Under ComFrame, the responsibility of supervisors other than the group-wide supervisor, referred to as “involved supervisors,” is largely coordination, cooperation, and information sharing. Coordination of analysis and examination work is particularly important to avoid resource drain and duplication. For foreign-owned groups, this would mean the lead state supervisor would defer to group examination procedures conducted by the non-U.S. group-wide supervisor. This should be made clear in any charges that are developed on the basis of the staff memo.

5. Any inclusion of non-standard elements in the U.S. ORSA should not adversely impact the U.S. acceptance of ORSAs developed in non-U.S. jurisdictions

The memo appears to propose using ORSA reporting for non-standard purposes, such as recovery and resolution planning. We would prefer that U.S. ORSA requirements align with international standards. If not, any inclusion of non-standard elements in the U.S. ORSA should not prevent U.S. regulators from accepting ORSAs from non-U.S. groups that are developed more in line with international standards.

6. The proposed scope of application for the Group Capital Calculation (GCC) differs from the scope as proposed by the GCC Working Group

The staff memo suggests that only IAIGs would be in-scope for the Group Capital Calculation (GCC). This is inconsistent with the much broader scope proposed by the GCC Working Group. Our view is that group capital is a component of group supervision. Consequently, the scope of group capital (and other group measures) should be aligned with the scope of group supervision, and U.S. group supervision should apply only when a U.S. regulator is the group-wide supervisor.

We appreciate the opportunity to provide input and look forward to further discussions with the Working Group.

Best regards,

William J. (Bill) Schwegler
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cc: Kim Cross, Iowa Insurance Division