



# IAIS

INTERNATIONAL ASSOCIATION OF  
INSURANCE SUPERVISORS

**Public**

## Compiled Stakeholders' Comments on *Consultation on ICP 12* with resolutions

| Organisation                                                      | Jurisdiction | Answer                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Response to comments                                                                                                                                    |
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| <b>1 - Q1 General Comment on ICP 12 (including ComFrame text)</b> |              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                         |
| 1. Assuris                                                        | Canada       | <p>1.Thank you for the opportunity to provide feedback in response to the International Association of Insurance Supervisors' consultative document on the ICP 12 Exit from the Market and Resolution and the ComFrame Module 3, Element 3 Recovery and Resolution.</p> <p>2.Assuris is the not for profit Policyholder Protection Scheme (PPS) for life insurance companies operating in Canada. Assuris is formally designated under legislation by the both the Federal and Quebec governments and has agreements to protect policyholders with every province and territory in Canada. Assuris was an active participant in four life insurer insolvencies. Assuris has provided funding to the failed insurer to ensure policyholder benefits are protected during the insolvency. In addition, Assuris has utilized its bridge institution to facilitate the transfer of assets and liabilities from the insolvent insurer.</p> <p>3.We are pleased at the on-going work completed on the initial draft ICP12 and ComFrame issued in 2016. Assuris strongly supports the focus on policyholder protection and the important role played by the PPS in providing this protection in resolution and in maintaining confidence in the insurance sector. In considering the effective resolution of an insurer, Assuris strongly supports:</p> <ul style="list-style-type: none"> <li>• the definition of multiple resolution authorities – It is important to note that at different stages of recovery and resolution, different relevant authorities may take the lead to coordinate a successful resolution. Close cooperation and coordination between the supervisors, resolution authorities and the PPS is essential to ensure an effective resolution of an insurer.</li> <li>• the need for key risk information – Key risk information is critical for resolution planning and assessing resolvability. Key risk information should be provided routinely by all insurers while they are solvent as part of their regulatory filing.</li> <li>• that resolutions plans are not required for all insurers – Resolution plans should only be required if the resolution authorities are concerned the insurer is not resolvable.</li> <li>• that PPSs should be consulted as they have resolution experience and expertise – PPSs, as a relevant authority, can significantly contribute in developing resolution strategies, assessing resolvability and resolution planning.</li> </ul> | <p>Noted.</p> <p>With reference to the last bullet point of the comment 3, we observe that the consultation with PPS is mentioned under ICP 12.5.1.</p> |
|                                                                   | EU           | General comments on objectives and proportionality                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                         |

2. Reinsurance  
Advisory Board  
(RAB)

Background: The main driver for the development of a recovery and resolution framework for insurers at international level was the experience from the financial crisis during which government and regulatory officials were faced with the sudden failure of systemically connected financial institutions. This required immediate intervention (“weekend resolution”) to prevent systemic failure and damage to the real economy. These past developments also form the basis of the FSB’s “Key Attributes of Effective Resolution Regimes for Financial Institutions” (‘FSB Key Attributes’) which have significantly influenced the emerging Comframe module. Objectives – financial stability and the real economy: Protection of financial stability and the real economy and specifically for insurance, policyholder protection, are listed as objectives for recovery and resolution in the FSB Key Attributes. These, in turn, influence the objectives set out in ICP 12. In this context, the Reinsurance Advisory Board (RAB) would like to stress that reinsurance in general does not pose systemic threat in the same way as banks or other potentially systemically connected companies may do. In fact, and as is elaborated in more detail in Insurance Europe’s position paper “Why insurers differ from banks”, by improving the resilience of individual primary insurance companies, reinsurance enhances financial stability.

Lack of interconnectedness: Notwithstanding the very important role reinsurers play in supporting the activity of primary insurers by pooling tail risk globally, the interconnections between reinsurers and the rest of the financial system are unlikely to prove problematic from a systemic perspective. In fact, only around 5% of global primary insurance premiums are ceded to reinsurers. This risk is partially passed on through insurance-linked securities to capital markets and other reinsurers. But total ILS issuance is equivalent to around 0.1% of global insurance premiums.

Retrocession (which consists of reinsurers buying reinsurance) is considered the main channel of direct interaction between reinsurers. Retrocession is mainly used for peak risk exposures and amounts to 13% of global reinsurance premiums and a mere 0.6% of global insurance premiums. Risks are retroceded only once and this process rarely occurs between top reinsurers but more often involves second or third tier reinsurers. Consequently, there is no network-like inter-insurance market similar to the interbank market and the systemic risk potential is correspondingly much lower. It has been shown (in particular by the French regulator) that even an extreme scenario in which all reinsurers in a market fail, would only adversely impact a small number of insurers, without leading to the materialisation of counterparty risk. As the IAIS noted in a 2011 study, “the (re)insurance sector has built in circuit breaks” and “connections between reinsurers are weak and most likely immaterial”.

First, although the financial crisis and the role some insurers played in the crisis was a motivator for many developments at the international level, the IAIS pre-dated such crisis and has been a forum for developing best practices for insurance regulation for years. The ICPs also predated the financial crisis, and as a general matter they are applicable to all insurance regulation no matter the size of the insurer or group. As such and as stated in the ICP, the primary objective of ICP 12 is to ensure the orderly and effective resolution of insurers no matter the size in order to protect policyholders. Policyholder protection is repeatedly at the forefront of the ICP. Both the ICP and CF recognize that jurisdictions can have other legitimate objective when an insurer needs to be resolved, especially if it is an IAIG, and those include financial stability concerns. But such concerns are not the primary motivating factor for ICP 12.

Whether reinsurers are systemic or not is beyond the scope of this ICP.

Although reinsurers are removed from direct responsibility for the satisfaction of policyholder claims, a reinsurer failure can impact the solvency of multiple cedent insurers and by extension its policyholders. Therefore, ICP 12 and its provisions equally apply to a reinsurer resolution.

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|                                       |         | <p>Reinsurance is not a “critical function”: Furthermore, in order to satisfy the criteria for the definition of a critical function, an activity should not be easily substituted and must have a material impact on the financial system and the real economy should it fail. The RAB believes that reinsurance would not satisfy either of these criteria. Regarding substitutability, in the case of an isolated reinsurance failure, expertise and capacity will remain in the market giving continued reinsurance options for primary writers. At an industry-wide level, major catastrophes lead to premium increases (a hard reinsurance market) with the consequent attraction of additional capital and reinsurance capacity.</p> <p>Objectives - policyholder protection: Regarding policyholder protection, the RAB would like to emphasise that reinsurance is a business to business activity. This has a number of important implications in the context of recovery and resolution frameworks:</p> <ul style="list-style-type: none"> <li>• Failure or entry into distress of a reinsurer will not have a direct impact on policyholders, and could only do so indirectly through the impact of the reinsurance failure on the direct writer.</li> <li>• Negative publicity surrounding financial difficulties for a reinsurance company and the corresponding impact on policyholders of such publicity will be significantly more limited than in the case of a direct insurer. This will provide the company and authorities with more time to address the issues and use the run-off and transfer/sale tools than would be the case for a direct writer (or banks, more generally).</li> <li>• In the event of reinsurance default, the ceding company as a professional counterparty will be in an appropriate position to engage regarding any claim it may have on the failed reinsurer; it will not need a resolution authority to step in to protect or maximize its interests, as long as a clear legal framework is in place regarding the priority of claims on liquidation etc. This is, however, different for direct policyholder who, without the resolution authority and link to the Insurance Guarantee Scheme, would not be in the same position to protect their interests.</li> </ul> | <p>We understand that the reinsurers do not directly contract with policyholders (PHs) . Resolution actions, and that in the case of a non-viable reinsurer, may be less needed for the protection of PHs than in the case of a direct insurer.</p> <p>We note, however, that reinsurers should not be excluded from the framework, considering that the proportionality principle is fully applicable to resolution; in particular, ICP 12.7 states that resolution powers are exercised proportionately.</p> |
| 3. GDV - German Insurance Association | Germany | <p>The German Insurance Association appreciates the opportunity to comment on the revised ICP 12.</p> <p>Considering the informal draft consulted in August 2016, the current wording includes significant progress. From a conceptual perspective, we welcome the decision to integrate ComFrame-related aspects into the ICPs. This contributes to more transparency and ensures consistency with the hierarchy of IAIS’ supervisory material.</p> <p>In terms of content, we welcome that language on proportional application of e.g., resolution plans and resolution powers has been added. However, it will be crucial that the proportionality principle also prevails in practice once ICP 12 is adopted and</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p>Noted. We thank you for your support of the framework and appreciate the consideration on the improvement of the wording,</p>                                                                                                                                                                                                                                                                                                                                                                               |

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|                                                |               | <p>implemented in jurisdictions. In this context, it is important to bear in mind that insurance failures are very rare and regular insolvency procedures have proven to be unsuitable to deal with insurance failures. There is no precedence where a regular insolvency exercise has led to the destruction of values at the cost of policyholders or destabilized financial markets.</p> <p>That is why we urge supervisors to remain cautious to prematurely initiate resolution procedures and apply resolution powers with constraint, since doing so may contradict the well-tailored crisis management procedures of ongoing supervision and possibly result in avoidable losses for policyholders.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                   |
| 4. Global Federation of Insurance Associations | Global        | <p>GFIA would like to point out that:</p> <ul style="list-style-type: none"> <li>• The traditional insurance business has proven extremely resilient to business cycle fluctuations in the past, as evidenced by the fact that insurers weathered the recent financial crisis quite well.</li> <li>• Insurance failures are rare and do not affect other insurers or the payments system. Should an insurer fail, there is also no convincing evidence of a lack of substitutability of products that would justify the introduction of additional measures.</li> <li>• Unlike in banking, insurers do not fail suddenly as insurers' liabilities crystallise gradually over time, allowing for a structured wind-down, so that policyholders are unlikely to be left without cover. In addition, insurance liabilities are largely independent of each other, and are not 'callable' on demand since an insurance liability occurs at a specified point in time or following a pre-defined, insured event.</li> <li>• The unique characteristics of the insurance business model stand in clear contrast to those of banks; resolution approaches should closely reflect that. The key difference between a bank's resolution and an insurer's resolution is that the latter can be managed over an extended period. There is no need to rush into resolution, particularly because doing so could generate avoidable losses for policyholders.</li> </ul> | <p>The comment is noted.</p> <p>The IAIS fully acknowledges that an insurer's resolution can generally be managed over a much more extended period, than a bank's resolution.</p> |
| 6. International Actuarial Association         | International | <p>The IAA believes it is helpful to have a revised ICP12 which includes the ComFrame material.</p> <p>A general comment is that the ICP does not distinguish between insurers and reinsurers where there may be different considerations. In some jurisdictions reinsurance policyholder creditors rank below other insurance policyholders</p> <p>The ICP is silent on the issue of capital – in practice there are many different bases on which liabilities can be calculated and on which assets, particularly illiquid assets can be valued. Thus assessing by how much the value of assets exceed the value of liabilities is not a precise or unique calculation. Indeed involved supervisors and resolution authorities from the various jurisdictions in which an insurer or group</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p>Noted. We thank you for your suggestion for the improvement of the text.</p>                                                                                                   |

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|                                                               |               | <p>operate may not initially share a unique and common view on the valuation of assets and liabilities during the winding up process. This may be scenario dependent and may well be dependent on the degree of certainty of the value of the assets and liabilities and how well matched they are. This is why a common actuarial approach has been to focus on assessing the combined future cash flow streams instead of just relying on a balance sheet summary. We recognise that this is partly addressed in 12.6.1 but believe that this could be also considered in other parts of the ICP. The text is quite generic and subjective in places e.g. the supervisor may require / do any number of things. We appreciate that the action to be taken will depend on the circumstances of the company/group/country etc. but perhaps more guidance could be given on when to apply different actions, or a hierarchy depending on solvency coverage e.g. page 4 of CP12.</p> <p>It would be helpful to discuss the treatment of healthy subsidiaries when a group is in resolution.</p> <p>We recommend mentioning data protection requirements in relation to sharing information with other supervisors.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                          |
| 7. International Forum of Insurance Guarantee Schemes (IFIGS) | International | <p>The International Forum of Insurance Guarantee Schemes (IFIGS), on behalf of its members, respectfully submits its comments in response to the International Association of Insurance Supervisors' consultative document regarding revised ICP 12 and the ComFrame material integrated into ICP 12.</p> <p>IFIGS was formed by a group of policyholder protection schemes from around the world interested in sharing their experiences in providing policyholder protection in the event of an insurance company failure. IFIGS facilitates and promotes international cooperation between policyholder protection schemes and other stakeholder organisations with an interest in policyholder protection.</p> <p>IFIGS believes that the consultation document reflects a thoughtful evolution of ICP 12 and ComFrame since last autumn. We support the IAIS' focus on policyholder protection and its recognition of the important role played by policyholder protection schemes. Policyholder protection schemes are a critical part of the resolution framework that ensures policyholders are protected and financial stability is maintained. It is important to emphasize that they are not just a source of funds, but also a source of expertise in resolution. Close cooperation between the supervisor, resolution authority and policyholder protection scheme is essential to ensure an effective resolution of an insurance company.</p> <p>The following points enable a resolution authority to fully utilise the benefits provided by a policyholder protection scheme: (1) Policyholder protection schemes can and should play an important role in developing or assessing resolution strategies, and therefore, should be part of or otherwise support recovery and resolution planning, resolvability assessments, crisis management groups and other coordination efforts,</p> | Noted. We thank you for your suggestion for the improvement of the text. |

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|                                                       |             | <p>(2) early policyholder protection scheme involvement in a resolution is a critical part of policyholder protection. The policyholder protection scheme should be informed by the supervisor of any potentially non-viable company at the earliest possible time, as well as information about risks that may be encountered in resolution, (3) Policyholder protection schemes must have access to information from the company as early as possible to enable them to plan for a transfer, payout or run off of the business in resolution.</p> <p>Furthermore, while IFIGS supports the goal of maintaining financial stability, financial stability should not be achieved in a way that compromises policyholder protection.</p> <p>We offer these comments regarding how ICP 12 and the related ComFrame material might be strengthened and clarified.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 9. Swiss Financial Market Supervisory Authority FINMA | Switzerland | Comment was moved to the Members file                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 10. and 11. Swiss Re & Zurich Insurance Group         | Switzerland | <p>Kindly note this is a joint submission by Swiss Re and Zurich Insurance Group.</p> <p><b>Proportionality</b></p> <p>1. Comparing with the material on ICP10, 12 and ComFrame Module 3 Element 3 proposed by the IAIS in the 2Q16 informal consultation, we appreciate that the proportionality principle, building on ICP0 Introduction and Assessment Methodology, is now mentioned in ICP12. With due consideration though for the critical role the principle plays in resolution, we consider that the principle, and its application, are not yet sufficiently articulated. For instance, proportionality acts as a differentiating factor when the decision is made whether or not proposed measures actually apply. Equally proportionality acts as a guide in elaborating resolution plans. Lastly, proportionality will guide authorities in conducting resolvability assessments, where they are deemed necessary, in a manner which efficiently and effectively addresses the objectives of resolution planning. The language does not seem to elaborate on these different facets of proportionality.</p> <p><b>Delineation of applicability</b></p> <p>2. As per their scope, FSB's "Key Attributes of Effective Resolution Regimes for Financial Institutions" (2014), thereafter Key Attributes, <a href="http://www.fsb.org/wp-content/uploads/r_141015.pdf">http://www.fsb.org/wp-content/uploads/r_141015.pdf</a> address "[a]ny financial institution that could be systemically significant or CRITICAL [...] if it fails" including holding companies, non-regulated operational entities and branches of foreign firms. That is: at least G-SIIs, and possibly beyond.</p> | <p>1. We have noted your criticism that the proportionality principle &amp; its application are not sufficiently articulated. However, we believe that proportionality is here sufficiently referenced, and that a more precise or detail "articulation" would contradict the necessary flexibility that should be left to authorities when implementing resolution measures.</p> <p>2. We have noted your criticism that the IAIS proposes to apply to IAIGs, all the powers provided by the KAs with the exception of "the necessity to develop a resolution plan and conduct related resolvability assessments".</p> |

As per the IAIS, e.g. §35 of its FAQ 5 Oct. 2015 <https://www.iaisweb.org/page/supervisory-material/financial-stability-and-macroprudential-policy-and-surveillance/file/57111/gsii-and-mps-frequently-asked-questions-updated-5-oct-2015> an insurer qualifying as a G-SII is considered an IAIG, but the reciprocal is not necessarily true: “Policy measures on G-SIIs will apply only to designated G-SIIs and will be appropriate for the risks that G-SIIs pose to the financial system, if any.”

In certain instances of ICP 12, as well as ICP10, though, the ComFrame text reads as if the IAIS had adopted the view that IAIGs are all deemed systemically critical when they fail, and the IAIS has therefore opted for a broad application of the Key Attributes, with one exception: the necessity to develop a resolution plan and conduct related resolvability assessments. We think that this broad view lacks in proportionality.

#### **Introduction of concepts (requirements) and structure**

**3.** In general, we believe there is a need for the IAIS to ensure a better articulated sequence of actions with respect to resolution including resolution planning. For instance -

As a first step, the IAIS could explain how insurers, and IAIGs in particular, stand in relation to FSB’s Key Attributes, that is when they qualify as systemically critical and when not.

**3.b.** Then the IAIS could introduce the concept of a Crisis Management Group (CMG) for IAIGs, which is actually done in CF 25.7a; an adequate reference may help. CMGs are introduced for all IAIGs, which may lack in proportionality. We consider that CF 25.7a et seq. should provide guidance under what conditions a CMG is to be formed, about its composition and what the roles and responsibilities of its members are.

Then, the IAIS could introduce the concept of a resolution strategy by adequately leveraging the FSB’s “Developing Effective Resolution Strategies and Plans for Systemically Importance Insurers” (2016) <http://www.fsb.org/2016/06/developing-effective-resolution-strategies-and-plans-for-systemically-important-insurers/>. FSB’s guidance on resolution strategies acknowledges the need for institution-specific resolution strategies in insurance, privileging portfolio transfers and run-off instruments for the core business of insurance. The IAIS should explicitly endorse the notion of institution-specific resolution strategies in insurance, while making reference to the two resolution models (“opco” and “topco”) at the extreme ends of the spectrum.

We disagree with your inference that “the IAIS had adopted the view that IAIGs are all deemed systemically critical when they fail”. For instance, the IAIS believes that the power to transfer a portfolio, which is provided by the KAs for systemic insurers, should be available in the resolution of every insurer: this does not mean that the IAIS believes that every insurer is systemic.

**3.** See above resolution: we believe that the question is not to determine whether an IAIG qualify as systemically critical or not; rather, we believe that the question is to determine whether a power, that the FSB may have provided for systemically critical insurers, may be also useful in the resolution of an insurer that is not systemically critical.

**3.b.** Your comments are noted.

We disagree with the assertion that introducing CMG for all IAIGs lacks proportionality.

We are of the view that resolution strategies should not be developed at the level of the ICP & ComFrame 12. They could be developed later in an Application Paper.

4. Finally, the IAIS could introduce the concept of resolution plans and provide guidance as to when and under what conditions they are to be developed, who is responsible etc. The resolution plan should document the composition of the CMG and the resolution strategy. Clearly, though, the plan follows the establishment of the CMG and the development of a resolution strategy.

4.b. In all these steps, the IAIS ought to explain how proportionality is to be accounted for. Concretely, we believe that authorities should have at their disposal a set of measures which are to be applied to a given insurer proportional to a substantiated assessment of the risks it poses to policyholders. On one end of the spectrum are insurers for which a CMG is not needed. For other insurers, a CMG will be established and define a resolution strategy but it will forgo the development of a resolution plan. On the other end of the spectrum are insurers for which there is a CMG which has agreed on a resolution strategy and has developed a comprehensive resolution plan which is tested as part of resolvability assessments.

5. Moreover, when dealing with IAIGs all efforts should drive towards a single group-wide resolution plan. Host supervisors and supervisory authorities should contribute to the overall effort. National efforts should only be considered in rare circumstances, when there is a demonstrable need and following consultation with the group-wide supervisor or resolution authority. To avoid inconsistencies with the CMG's efforts, the national resolution plans must be established in cooperation and coordination with the group-wide effort.

The resolution strategy should guide the development of the resolution plan and the degree of coordination. A "topco" approach clearly calls for a single resolution plan. In an "opco" approach jurisdictions may have a greater influence on local entities; still, the whole resolution planning effort ought to be coordinated.

#### Policyholder Protection Schemes (PPS)

6. ICP 12 makes reference to policyholder protection schemes in at least ICP12.3.1, 12.3.3, 12.5.1, 12.7.8, 12.9.3 and 12.10.2. The IAIS (2013) and the OECD (2013) noted in their respective papers on policyholder protection schemes that other mechanisms like tied assets play a relevant, possibly equivalent role. The existence of alternative measures ought to be duly noted in ICP12.

6.b. ICP12 fails to account for the practical variety in PPS: While PPS and other mechanisms may indeed help achieve orderly resolution, the IAIS should devote some language to the particularities of cooperating and coordinating with a PPS in resolution to ensure a more differentiated view, and that: "As PPSs are a last resort

4. Similarly, we believe that guidance on the development of resolution plans could be dealt with in an Application Paper, but not in the ICP 12.

4.b. Similarly, "explaining how proportionality is to be accounted for" should be done in a future Application paper. Your comment that "authorities should have at their disposal a set of measures which are to be applied [proportionally] is noted, and is well-founded and sensible. We believe that nothing in the current text contradicts it.

5. Your comment on the necessity to have "a single GW resolution plan", while "national efforts should only be considered in rare circumstances", is noted, but may be shared with variable adherence by host supervisors.

6. The IAIS 2013 application paper on PPS does not say that tied assets have an equivalent role to a PPS.

mechanism they should not be over-relied upon. In this context their effectiveness is supported by well-functioning supervisory and winding-up/liquidation regimes, as set out in the ICPs; the existence of a PPS should not be seen as a substitute for either of these.” (§119, Issues Paper on Policyholder Protection Schemes, Oct. 2013). Graphic 1 on p. 32 of the IAIS (2013) Issues Paper provides a good overview <https://www.iaisweb.org/page/supervisory-material/issues-papers/file/34547/issues-paper-on-policyholder-protection-schemes>. In the case of IAIGs in particular the implication are that leading resolution authority may have to coordinate with several, not just one, PPS, and that across various legislations. We think this is insufficiently captured by ICP12.5 and 12.7a.

#### Formulations

7. Formulations that express requirements towards insurers tend to be formulated in direct language, whereas formulations that relate to the collaboration and cooperation among supervisors and other resolutions authorities tend to be formulated in a more indirect manner. We urge the IAIS to adopt less ambiguous language when describing the responsibilities of authorities, in particular with regards to cooperation and coordination, not the least because we notice a weakening of both ICP3 and 25 in that regard. In general, we are missing language that encourages jurisdictions, i.e. authorities within jurisdictions, to establish cooperation and coordination agreements for (recovery and) resolution. The objective is for supervisors to cooperate and coordinate to ensure an orderly path to resolution, or at least to improve the prospects of an orderly resolution. As stated in the FSB document "Developing Effective Resolution Strategies and Plans for Systemically Importance Insurers" (2016) <http://www.fsb.org/2016/06/developing-effective-resolution-strategies-and-plans-for-systemically-important-insurers/>, authorities must determine if cross-border cooperation is a necessity, and if so, they must establish mechanisms to ensure effective cooperation. We recommend the IAIS recognizes this necessity in the context of ICP12 including ComFrame. We elaborate on this point in comments to specific standards and guidance.

#### Substantiated intervention

8. ICP12 states that “Legislation provides requirements for the resolution of insurers that are no longer viable or are “likely to be no longer viable” [...]”. Interventions by the supervisor should be substantiated and based on an analysis and not an “impression”. The chosen formulation is inappropriate for a principle. ICP12.0.9 is

In 12.5.1, an “s” will be added to “PPS” to take account of your relevant comment on the variety of PPSs.

6.b. Your comments are noted but your proposals go beyond the scope of this supervisory document. Such developments will be better substantiated in a future IAIS application paper.

7. Your comment is noted.

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|                                        |    | <p>leveraging the exact same language; and we believe that the illustration related to ICP12.0.9 offers a more appropriate depiction of the situation the IAIS is attempting to capture.</p> <p>Proposed language: “[...] the resolution of insurers that are substantively determined to be no longer viable, and have no reasonable prospect of returning to viability.”</p> <p>-OR-</p> <p>“[...] the resolution of insurers whose viability is substantively determined to be in question, and have no reasonable prospect of returning to viability.”</p> <p>The language would have to be amended throughout ICP12.</p> <p><b>9.</b> Related to the viability question: We understand the IAIS’ focus on resolution as an orderly wind-down process. In insurance however, history has established, that insurers may actually recover during a run-off/ wind-down process and become operational again. We are not recommending to make this an objective of resolution, but that the IAIS explicitly acknowledges the possibility.</p> | <p><b>8.</b> The language here exactly replicates that of FSB KAs, § 3.1 page 6.</p> <p><b>9.</b> Your comment is well-founded; however, as you have pointed out, this should not be “an objective of resolution”.</p> |
| 12. Institute and Faculty of Actuaries | UK | <p>The IFoA believes that it is helpful to have a revised ICP12 which includes the ComFrame material.</p> <p>A general comment is that ICP 12 does not distinguish between insurers and reinsurers where there may be different considerations – in particular noting that under SII, reinsurance policyholder creditors rank below other insurance policyholders.</p> <p>The ICP is silent on the issue of capital. In practice, there are many different bases on which liabilities can be calculated (and, particularly illiquid, assets can be valued), so assessing by how much the value of assets exceed the value of liabilities is not a precise calculation. Indeed, assets and liabilities may be based on a best-estimate and hence the reason capital needs to be held. In our view therefore, it is insufficient</p>                                                                                                                                                                                                             | <p>Noted. We thank you for your suggestion for the improvement of the text.</p>                                                                                                                                        |

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|                                                        |                | <p>to consider simply the situation where the value of assets is less than liabilities, or that it is likely that claims may not be paid when they fall due, without considering how the likelihood may be assessed.</p> <p>Loss events that would trigger resolution need to be considered. This may be scenario dependent, and may well be impacted by the degree of certainty over the value of the assets and liabilities, and how well-matched they are. We recognise that this is partly addressed in paragraph 12.6.1, but believe that this could be also considered in other parts of the ICP.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                           |
| 13. Association of British Insurers                    | United Kingdom | <p>The Association of British Insurers (ABI) welcomes the opportunity to comment on the IAIS' revised ICP 12 and ComFrame material integrated with ICP 12.</p> <p>The ABI is broadly supportive of the revised ICP 12. While proposing a common set of principles on insurance resolution for supervisory authorities to follow, it also recognises differences in types of insurers and their circumstances, variations in legal and insolvency rules, as well as diversity in supervisory tools and powers across multiple jurisdictions, which we welcome.</p> <p>Although we understand that this paper is to be read in light of the overarching concept of proportionality as set out in the Introduction and Assessment Methodology paper, we suggest that there be greater elaboration in this ICP on the application of proportionality to resolution.</p>                                                                                                                                                                                                                                                                                      | Noted. We thank you for your suggestions for the improvement of the text. |
| 15. Chubb                                              | United States  | <p>We believe that ICP 12 should be focused on identifying the legal authority that a jurisdiction should have to resolve an insurance legal entity that is no longer viable. If a jurisdiction has the requisite authority, specifics of how that authority is exercised should be left to the local jurisdiction and its policy objectives. ICP 12 should focus on the resolution authority rather than requirements for insurers.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Noted.                                                                    |
| 16. National Association of Mutual Insurance Companies | United States  | <p>Q1 General Comment on ICP 12 (including ComFrame text)</p> <p>NAMIC appreciates the significant response to the stakeholder comments made to the informal draft proposed in 2016. This is a vast improvement from that earlier version. We also appreciate the jurisdictional flexibility generally included in the ICP language and will provide additional information where the same regulatory flexibility would be an improvement over the current draft.</p> <p>Notwithstanding the excellent work on ICP 12 some problems remain to be corrected. The language infers there is unlimited authority of the groupwide supervisor to require and exert power over all the legal entities in the group. Regardless of the language in a country's law or regulation, this is just not so. No group supervisor has power outside of its jurisdictional boundaries over affiliates that do not operate in their jurisdiction. They may be able to apply pressure, but not to enforce or punish behavior except on those entities domiciled or doing business within their jurisdiction. To achieve full group supervision requires engagement in</p> | Noted.                                                                    |

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|                                                                                                                                                       |               | <p>the supervisory colleges with the domiciliary regulator of the legal entity at fault for the infraction. The myth that some supervisors can exert power over the entire group, even non-insurance entities and entities that do not conduct any business in the jurisdiction needs to be eliminated from international standards. All authority over such entities is indirect for all insurance supervisors.</p> <p>The discussions in the ICP's regarding fungibility create the perception that insurance groups will go insolvent and yet only legal entities can be resolved. There may be more than one entity within a group that will be liquidated, but in most jurisdictions only legal entities go insolvent. The ICPs should recognize this fact. Fungibility of capital within a group or lack thereof is not the same in all jurisdictions, so the Consultation Document requires revision to reflect this fact.</p> <p>A point that needs to be emphasized in the Consultation Draft is that resolution should not occur until all options have been exhausted to rehabilitate the insurer. This is in everyone's best interest. It is important to policyholder protection, regulatory efficiency and to continued opportunity for the insurance firm to survive and thrive. In addition, the resolving the company over an extended period of time may well be beneficial to the policyholders and is not uncommon as it may avoid more serious problems arising from attempts to resolve the company too abruptly. Finally, throughout the ICP there is language that suggests there should be limits on public funding. We suggest that this issue will have to be addressed on a jurisdictional basis and is not appropriate in the ICP.</p> <p>In addition to the comments NAMIC provides we also endorse the comments on ICP 12 provided by the National Conference on Insurance Guaranty Funds and generally those of the Global Federation of Insurance Associations and the National Association of Insurance Commissioners.</p> |                                                                                                                                                                                                                                            |
| 17. National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF) | United States | <p>We appreciated the opportunity to comment on an earlier version of this document and believe that the latest version represents a significant step forward. We have included more granular, point-by-point responses below, but wanted to provide an overview of the policy perspectives behind our detailed comments.</p> <ol style="list-style-type: none"> <li>1. Policyholder protection schemes can and should play an important role in developing or assessing resolution strategies, and therefore they should be part of or otherwise support crisis management groups and other coordination efforts.</li> <li>2. Early PPS involvement in a resolution is a critical part of policyholder protection.</li> <li>3. We support the goal of maintaining financial stability, but we do not believe that financial stability should be achieved in a way that compromises policyholder protection. <ol style="list-style-type: none"> <li>a. In no event should insurance liabilities be restructured, limited or written down in a way that deprives policyholders of the protection afforded by a PPS.</li> </ol> </li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p>The comment is noted.</p> <ol style="list-style-type: none"> <li>1. and 2. We observe that the consultation with PPS is mentioned under ICP 12.5.1.</li> <li>3. The relevance of financial stability is limited in the text.</li> </ol> |

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|                                                                   |                           | <p>b. Policyholders should not be treated differently from each other so that payments can be made to lower priority claimants. Furthermore, in jurisdictions where the PPS is subrogated to the rights of covered policyholders, uncovered policyholders should not be allocated a higher percentage of estate assets than covered policyholders are allocated.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 18. Institute of International Finance and the Geneva Association | United States/Switzerland | <p>Leverage FSB's guidance on resolution-related matters for insurers</p> <p>1. We believe that the IAIS should appropriately leverage what has been developed in the FSB's resolution-related work, which acknowledges the need for institution-specific resolution strategies in insurance, privileging portfolio transfers and run-off instruments for the core business of insurance. The IAIS should endorse the notion of institution-specific resolution strategies in insurance, while referring to the two resolution models ("opco" and "topco") at the extreme ends of the spectrum. In this respect, we would point out that while FSB guidance to date has focused on guidance related to insurers that could be critical should they fail, all insurers can and do fail. Therefore, resolution with properly tailored requirements should cover all insurers, allowing for additional objectives, powers and considerations, subject to supervisory discretion and proportional application. Indeed, we urge against establishing separate statutory resolution regimes for IAIGs versus non-IAIGs and propose instead a common regime that provides a range of options and tools to manage a diversity of circumstances as described above. Furthermore, a supervisor or resolution authority should only be able to utilize extreme powers (e.g., establish a bridge institution, provide continuity of essential services and functions, or temporarily stay early termination rights associated with derivatives and securities financing transactions) in the extremely unlikely event that more traditional tools would not be sufficient.</p> <p>2. As regards resolution planning we recommend the following criteria should be included as part of the considerations for an insurance supervisor or resolution authority to determine whether a resolution plan is required or not, and if so, what degree or level of resolution planning is required:</p> <ul style="list-style-type: none"> <li>• the IAIG's type and level of activities as well as the companies' risk mitigation mechanisms in place plus the domestic regulators' existing rules, limitations and restrictions pertaining to these activities;</li> <li>• an analysis of the likelihood of the IAIG's vulnerability to significant financial distress;</li> <li>• an impact assessment of the potential failure of the IAIG; and</li> <li>• the expected benefits and outcomes of the resolution planning requirement.</li> </ul> | <p>We thank you for the suggestions for the improvement of the text.</p> <p>1. The ICP takes in strong consideration the content of the FSB's resolution-related work. It seems important to observe that the scope of the ICP is different (all insurers and not only GSIs) and that the application of the proportionality is already requested by the text, also with reference to the possible use of the resolution powers.</p> <p>2. A major explanation of the criteria related to the determination of the resolution planning could be taken into account in the application paper.</p> |

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|                                                      |                 | <p>We also strongly recommend that consideration be given to the fact that contrary to many banks, insurers fail slowly, allowing time for consideration of tools such as portfolio transfer and runoff.</p> <p>The starting point for a resolution planning requirement should be a comprehensive understanding of an IAIG's activities, their potential connection to risk transmission channels, all relevant risk mitigants, including extant rules, limitations and internal risk mitigation efforts, as well as costs to the IAIG of the resolution planning.</p> <p>3.Role and establishment of Crisis Management Groups (CMG) should be elaborated</p> <p>The IAIS should provide guidance on when a CMG is to be formed, whom it is composed of, and what the roles and responsibilities of its members are. The resolution plan should follow the establishment of the CMG and the development of a resolution strategy.</p> <p>The full a spectrum of group structures including the two extreme cases of "topco" and "opco" should be recognized:</p> <ul style="list-style-type: none"> <li>• In a "topco" approach, to the extent the group-wide supervisor and/or resolution authority in consultation with the CMG of the IAIG determine a resolution plan is necessary, a single plan covering material legal entities in the IAIG (i.e., the head of the IAIG and its material insurance subsidiaries) should be developed.</li> <li>• In an "opco" approach, we believe that host supervisors and/or resolution authorities, where there is a demonstrable need, may have their own resolution plans for the IAIG's insurance legal entity in their jurisdictions following consultation with the group-wide supervisor and/or resolution authority. These local resolution plans must be established in cooperation and coordination with the group-wide supervisor and/or resolution authority to ensure that the plan is as consistent as possible with the resolution plan for the IAIG.</li> </ul> <p>4.Alternative mechanisms and supervisory coordination of Policyholder Protection Schemes (PPS) should be acknowledged</p> <p>ICP 12 refers to policyholder protection schemes (PPS) in several standards and guidelines. We would like to point out that the IAIS (2013) and the OECD (2013) noted in their papers on PPS that other mechanisms, such as tied assets, play a relevant, possibly equivalent role. The existence of such alternative mechanisms should be reflected in ICP 12. We believe that ICP 12 should also capture in its language that, in the case of an IAIG, the leading resolution authority may have to coordinate with more than one PPS across various jurisdictions; i.e. while clearly valuable, PPS introduce an additional layer of complexity regarding cooperation and coordination.</p> | <p>3. We may analyse these considerations in the context of an application paper.</p> <p>4. A more detailed analysis of this other mechanisms than the PPS will be done in another context</p> |
| 19. International Association of Insurance Receivers | US Corporation, | The relationship between liquidation and the other resolution tools could be explained more clearly. While liquidation is a subset of resolution, it is treated in ICP                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | ICP 12.8 addresses liquidation in general. This ICP also applies in circumstances where legislation permits another person (such as a                                                          |

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|                                                                | International membership | 12 as a separate mechanism in some respects. This implication is reinforced by providing a separate standard for liquidation (12.8), and describing it as a counterfactual process in the NCWOL principal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | creditor of the insurance legal entity, the insurance legal entity itself, or the court) to initiate liquidation.<br><br>ICP 12.8 has been amended                  |
| 20. Liberty Mutual Insurance Group                             | USA                      | <p>Supervisors should make plans to coordinate the cross-border resolution of licensed insurance entities within an IAIG that are no longer viable. Pre-arranged plans for multiple insurance supervisors to cooperate are critical to protect policyholders. The focus on insurance supervisor coordination and cooperation in ICP 12 is the proper context in which all of the IAIS's standard setting activity should occur. Accordingly, ICP 12 appropriately recognizes that resolution is a function of regulatory authority. An insurer or IAIG that is the subject of the resolution does not have a significant role to play in its own resolution, other than to ensure its records are maintained in a manner that allows a resolution authority to seamlessly operate the insurer, if the time comes for a resolution.</p> <p>However, ICP 12 should not provide for an insurance supervisor to exercise legal authority over the head of an IAIG that is not, itself, a regulated insurance entity. Furthermore, ICP 12 should recognize the legal limits on the authority of insurance supervisors. For example, U.S. insurance regulatory architecture assumes the existence, and is respectful, of multiple regulators, each with authority over the legal entity domiciled in each jurisdiction. Accordingly, the resolution authority of U.S. insurance regulators and that of insurance supervisors in many other jurisdictions will not extend beyond insurers to a non-insurance head of an IAIG. The IAIS should revise ICP 12 to focus on insurance entities and protecting their policyholders, separate and apart from any broader power an insurance supervisor is mistakenly presumed to have over the IAIG and its non-insurance members.</p> | Noted. See ICP 12.0.3 that clarifies the use of the terms "supervisor", "resolution authority" and "supervisor and/or resolution authority" in the text if the ICP. |
| 21. Property & Casualty Insurers Association of America (PCI)  | USA                      | PCI endorses the comments of the Global Federation of Insurance Associations.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Noted.                                                                                                                                                              |
| <b>2 - Q2 Comment on Introductory Guidance ICP 12.0.1</b>      |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                     |
| 22. Assuris                                                    | Canada                   | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Noted.                                                                                                                                                              |
| 24. International Forum of Insurance Guarantee Schemes (IFIGS) | International            | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                     |
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| 26. International Association of Insurance Receivers           | US Corporation, International membership | <p>There is a danger in identifying an “orderly process” for insurer exits as a goal or criterion for successful regulation, at least if that results in the diminution of policyholder rights and the lack of accountability of individuals responsible for the disorder.</p> <p>Consider adding, “while emphasizing accountability of corporate and regulatory leadership and preservation, so far as possible, of policyholder values.”</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Disagree. ICP 12.0.1 makes a general statement in respect of insurer’s withdrawal from the business of insurance. Transparent and effective regimes for an insurer’s exit from the market and the resolution of an insurer is important and do not undermine accountability of those involved in these regimes.                                                                                                                                                                       |
| <b>3 - Q3 Comment on Introductory Guidance ICP 12.0.2</b>      |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 27. Assuris                                                    | Canada                                   | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Noted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 28. Insurance Europe                                           | Europe                                   | <p>The resolution actions listed in this definition of “resolution” are very broad – i.e. restructuring and liquidation are actions that are undertaken with different objectives. Given that insolvent resolution actions tend to be governed by local corporate and insolvency law rather than the insurance regulatory framework, Insurance Europe suggests that the focus of the ICP should be on solvent resolution actions that focus on an orderly wind-down of the company in order to protect policyholders. The IAIS may want to clarify that the restructuring measures referred to in ICP12.0.2 are ex-post restructuring measures.</p>                                                                                                                                                                                                                                                       | <p>Agree that the definition of resolution is very broad and includes diverse powers. However, as acknowledged in the ICP, this is necessary to address the diverse circumstances of a resolution scenario, especially whether the resolution will be conducted on solvent or insolvent basis. However, the ICP cannot be limited to solvent circumstances as the ICP is required to address both circumstances and provide best practices for all circumstances at a high level.</p> |
| 29. GDV - German Insurance Association                         | Germany                                  | <p>We would recommend phrasing the second sentence as follows: “Resolution actions <b>may</b> include portfolio transfer, run-off, restructuring, and liquidation.” The choice of resolutions measures depends on the circumstances of the situation. In particular, most cases are likely to be resolved by less intrusive interventions such as portfolio transfers and do not necessarily end up in liquidations or require more intense actions.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Disagree. This is a general introductory statement that just provides some examples of possible resolution actions.                                                                                                                                                                                                                                                                                                                                                                   |
| 30. Global Federation of Insurance Associations                | Global                                   | <p>The first sentence should also contain “or for other reasons under local legislation can no longer be permitted to continue its business”. Moreover, GFIA would recommend phrasing the second sentence as follows:” Resolution actions may include portfolio transfer, run-off, restructuring, and liquidation.” The choice of resolutions measures depends on the circumstances of the situation. Most cases are likely to be resolved by less intrusive interventions such as portfolio transfers and do not necessarily end up in liquidations or require more intense actions. Given insolvent resolution actions tend to be governed by local corporate and insolvency law rather than the insurance regulatory framework, GFIA suggests that the focus of the ICP should be on solvent resolution actions that focus on an orderly wind-down of the company, so as to protect policyholders.</p> | <p>Disagree. This is a general introductory statement that merely provides some examples of possible resolution actions. The word “include” already indicates that there may be other potential resolution actions. Therefore, the addition of the word “may” is not needed.</p>                                                                                                                                                                                                      |
| 31. International Forum of Insurance Guarantee Schemes (IFIGS) | International                            | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Noted                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| 33. Association of British Insurers                            | United Kingdom                           | The resolution actions included in this definition of “resolution” are very broad, and include actions, such as restructuring and liquidation, that can be undertaken with very different objectives. Given insolvent resolution actions tend to be governed by local corporate and insolvency law rather than the insurance regulatory framework, we suggest that the focus of the ICP should be on solvent resolution actions that focus on an orderly wind-down of the company in order to protect policyholders.                                                                        | Do not agree. The aim of the work is to develop comprehensive resolution regimes and therefore needs to deal with supervisors intervening where necessary to achieve effective resolution actions.                              |
| 34. ACLI                                                       | US                                       | The first sentence should also contain “or for other reasons under local legislation can no longer be permitted to continue its business”.                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Disagree. This is a general introductory statement that just provides some examples of possible resolution actions.                                                                                                             |
| 35. International Association of Insurance Receivers           | US Corporation, International membership | Suggest ICP 12 should include situations in which an insurer losses its licensure. Consider modifying text (additions in bold letters) "towards an insurer that is no longer viable <b>including instances where there is a loss of eligibility to operate in one or more jurisdictions...</b>                                                                                                                                                                                                                                                                                              | This is addressed in ICP 12.0.8 - Supervisory measures and/or sanctions may result in an insurer exiting from the market (i.e. involuntary exit from the market) (see ICP 10 Preventive and Corrective Measures and Sanctions). |
| <b>4 - Q4 Comment on Introductory Guidance ICP 12.0.3</b>      |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                 |
| 36. Assuris                                                    | Canada                                   | Assuris strongly supports the definition of resolution authority as the exercise of powers, not a designated title, and the principle that there may be multiple authorities that are responsible for the resolution of insurers. It is imperative that clear roles need be defined outlining the responsibilities and powers of each authority in the resolution of an insurer. Where there are multiple authorities, there must be cooperation and coordination to ensure the protection of policyholders and maintain consumer confidence in the resolution process and in the industry. | Noted.                                                                                                                                                                                                                          |
| 37. Insurance Europe                                           | Europe                                   | Insurance Europe welcomes the fact that the IAIS no longer uses “supervisor” as an all-encapsulating term, but instead clearly distinguishes when “resolution authority” should be used instead.                                                                                                                                                                                                                                                                                                                                                                                            | We appreciate the support for refinement of the terminology used in the ICP.                                                                                                                                                    |
| 38. GDV - German Insurance Association                         | Germany                                  | The wide definition of the term “resolution authorities” is welcomed as it takes account of the capacity of national legislators to determine which authority is best qualified to manage resolution procedures. As stated in in Introductory Guidance 12.04, resolution actions may be allocated to the supervisor itself due to his knowledge of the insurer gained by day to day supervision.                                                                                                                                                                                            | Noted. No change needed.                                                                                                                                                                                                        |
| 39. Global Federation of Insurance Associations                | Global                                   | GFIA welcomes the distinction that has been made in this Guidance between “resolution authority” and “supervisor”, reflecting the fact that resolution actions may be split between different bodies, and not all under the direct control of the insurance supervisor.                                                                                                                                                                                                                                                                                                                     | Noted.                                                                                                                                                                                                                          |
| 41. International Forum of Insurance Guarantee Schemes (IFIGS) | International                            | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Noted.                                                                                                                                                                                                                          |

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| 43. Association of British Insurers                            | United Kingdom | The ABI welcomes the distinction that has been made in this Guidance between “resolution authority” and “supervisor”, reflecting the fact that resolution actions may be split between different bodies, and not all under the direct control of the insurance supervisor.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Noted.                                                                                                                                                                                                                                                                                                                                     |
| <b>5 - Q5 Comment on Introductory Guidance ICP 12.0.4</b>      |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                            |
| 44. Assuris                                                    | Canada         | Assuris strongly supports the recognition that some resolution powers will be exercised by the Court.<br>In jurisdictions with a strong history of restructuring all types of enterprises through a court process, there can be a significant advantage to using court restructuring process for the resolution of insurance companies. Resolution by administrative powers can prove difficult as it is not always possible to anticipate the problems that will need to be solved in a future crisis. Well-crafted legislation to guide the court, combined with adequate flexibility for the court to approve new solutions to new problems, can be the ideal resolution mechanism. For bank resolution, some decisions must be taken with extreme speed that the court may not be able to accommodate. Insurance resolution does not have the same need for extreme speed and courts that are familiar with overseeing commercial restructuring understand that decisions still need to be taken quickly. | Noted.                                                                                                                                                                                                                                                                                                                                     |
| 46. International Forum of Insurance Guarantee Schemes (IFIGS) | International  | Cooperation and coordination between all parties that are involved in resolution is very important, including policyholder protection schemes given the role they play in ensuring successful protection of policyholders in the resolution. The relevant policyholder protection schemes should be included in resolution processes as early as possible, typically before the policyholder protection scheme is triggered, so that (i) the policyholder protection scheme may serve as a resource to the resolution authority in developing a resolution strategy, and (ii) the policyholder protection scheme will have some time to prepare for the resolution.                                                                                                                                                                                                                                                                                                                                           | Noted.                                                                                                                                                                                                                                                                                                                                     |
| 48. and 49. Swiss Re & Zurich Insurance Group                  | Switzerland    | The last sentence of the guidance should read: “[...] the resolution regime “empowers” the relevant authorities to cooperate and coordinate with each other.”. Without the constructive language, the prospects of orderly resolution even within a single jurisdiction are seriously undermined.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Noted but disagree. The drafting convention within IAIS supervisory material provides that guidance is not prescriptive but only recommendation, and accordingly should be drafted using the auxiliary modals “should” or “may”. According to these IAIS’ drafting conventions, any prescriptive text should have the level of a standard. |
| 50. National Organization of Life and Health                   | United States  | Guidance should encourage resolution authorities to cooperate and coordinate with policyholder protection schemes. Early involvement of the PPS is a critical part of policyholder protection.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Noted.                                                                                                                                                                                                                                                                                                                                     |

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| Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF) |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                  |
| 51. Institute of International Finance and the Geneva Association                                        | United States/Switzerland | <p>Given that certain jurisdictions may limit the ability of supervisors to coordinate actions we would suggest the phrase “to the extent permitted by law” be added at the end of this section.</p> <p>With our recommended changes, it would read:</p> <p>The structure and roles of resolution authorities vary across jurisdictions. In some jurisdictions, the resolution authority and the supervisor may be one single authority; in other jurisdictions, resolution of insurers may be the responsibility of one or more separate authorities. In some jurisdictions certain resolution powers may be exercised or overseen by the court. Whatever the allocation of responsibilities, a transparent and effective resolution regime should clearly delineate the responsibilities and powers of each authority involved in the resolution of insurers. Where there are multiple authorities responsible for the resolution of insurers, the resolution regime empowers the relevant authorities to cooperate and coordinate with each other to the extent permitted by law.</p> | Disagree. Any action will need to be permitted by law.                                                                                                                                           |
| 52. ACLI                                                                                                 | US                        | <p>ACLI agrees with the following joint comments of the National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF):</p> <p>Guidance should encourage resolution authorities to cooperate and coordinate with policyholder protection schemes. Early involvement of any existing policyholder protection scheme is a critical part of policyholder protection.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Noted.                                                                                                                                                                                           |
| 53. Property & Casualty Insurers Association of America (PCI)                                            | USA                       | <p>We support this, but suggest that the reference in the last sentence to cooperation and coordination might be enhanced by a specific reference to the need for resolution authorities to coordinate with policyholder protection schemes. Early involvement of the PPS is a critical part of policyholder protection.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>Not every jurisdiction has a PPS and where there are, not every insurer is covered by the existing PPS.</p> <p>Also 12.5.1 already refers to involving a PPS.</p>                             |
| <b>6 - Q6 Comment on Introductory Guidance ICP 12.0.5</b>                                                |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                  |
| 54. Assuris                                                                                              | Canada                    | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Noted.                                                                                                                                                                                           |
| 55. Insurance Europe                                                                                     | Europe                    | <p>The IAIS should separately consider the case where an exit from the market takes place in the context of resolution, and during the resolution process an insurer/insurance portfolio returns to viability and to a “going concern.” The question</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p>a) The ICP addresses involuntarily exit from the market for financial reasons already in the context of resolution. One of the key powers of resolution authorities is to have an insurer</p> |

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|                                                                |                | of who bears the losses of the resolution should be answered separately, and one of the objectives should be the avoidance of distortion of competition.<br>As a wording suggestion, ICP 12.0.8 could be moved to the end of ICP 12.0.5, as ICP 12.0.8 and the concluding sentence of ICP 12.0.5 both relate to involuntary exit.                                                                                                                                                                            | experiencing financial difficulties to cease sales of new policies and enter into run-off or portfolio transfers to assuming insurers.<br>b) Agree that it would make sense to move the text of ICP 12.0.8 to the end of ICP 12.0.5. |
| 56. GDV - German Insurance Association                         | Germany        | It is important to admit that exit from the market does not necessarily include the entire business of the insurer and may result from a voluntary decision of the management. It may be worth to explore whether the voluntary cessation of certain parts of the business requires a different regulatory approach to serve the interests of policyholders and financial stability, such as the permission to apply different rules for maintaining capital adequacy.                                       | Noted. This might be further discussed in a possible application paper.                                                                                                                                                              |
| 57. Global Federation of Insurance Associations                | Global         | GFIA welcomes the recognition in this revised ICP that not all exits from the market happen under distressed conditions and may occur voluntarily for strategic purposes.                                                                                                                                                                                                                                                                                                                                    | Noted.                                                                                                                                                                                                                               |
| 58. International Forum of Insurance Guarantee Schemes (IFIGS) | International  | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Noted.                                                                                                                                                                                                                               |
| 60. Association of British Insurers                            | United Kingdom | The ABI welcomes that this revised ICP recognises, and makes provision for, the fact that not all exits from the market happen under distressed conditions and may occur voluntarily for strategic purposes.                                                                                                                                                                                                                                                                                                 | Noted.                                                                                                                                                                                                                               |
| <b>7 - Q7 Comment on Introductory Guidance ICP 12.0.6</b>      |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                      |
| 61. Assuris                                                    | Canada         | Assuris supports stressing the importance of the continuity of insurance coverage for life insurance policyholders.<br>The best protection option for life insurance policyholders is the transfer of their policies to a solvent insurer. Transferring policies preserves values and is the most cost effective alternative for resolving an insurer. If policies are cancelled for a cash claim against the failed company, the policyholder may, due to age or illness, be unable to replace that policy. | Noted.                                                                                                                                                                                                                               |
| 62. International Forum of Insurance Guarantee Schemes (IFIGS) | International  | There should be no contract amendments that would materially reduce the protection that is provided by a policyholder protection scheme in that jurisdiction.<br><br>When considering if products are substitutable, consideration should be given to ensuring they can be substituted without major changes to the terms of the policy.                                                                                                                                                                     | Noted                                                                                                                                                                                                                                |
| 64. Swiss Re & Zurich Insurance Group                          | Switzerland    | Jurisdictions should explain their rationale for considering specific functions as "critical"; introducing the following language in the first sentence would reflect that: "Jurisdictions may need to have STRUCTURED, TRANSPARENT and                                                                                                                                                                                                                                                                      | These characteristics are implicitly included in the proposed guidance.                                                                                                                                                              |

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|                                                                                                                                                       |                                          | RECONCILABLE mechanisms in place to determine whether the continuity of insurance cover [...]"                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                            |
| 65. Zurich Insurance Company Ltd.                                                                                                                     | Switzerland                              | Jurisdictions should explain their rationale for considering specific functions as "critical"; introducing the following language in the first sentence would reflect that: "Jurisdictions may need to have STRUCTURED, TRANSPARENT and RECONCILABLE mechanisms in place to determine whether the continuity of insurance cover [...]"                                                                                      | Noted                                                                                                                                                                                                                                                                      |
| 66. Institute and Faculty of Actuaries                                                                                                                | UK                                       | We appreciate the recognition given to the key theme of 'continuity of insurance cover', and stress that the mechanisms in place to achieve such continuity are critical within a resolution context.                                                                                                                                                                                                                       | Noted                                                                                                                                                                                                                                                                      |
| 67. National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF) | United States                            | We agree that continuity of coverage for some non-life products may be necessary only for only a short period.                                                                                                                                                                                                                                                                                                              | We believe that the current wording is clear enough.                                                                                                                                                                                                                       |
| 68. International Association of Insurance Receivers                                                                                                  | US Corporation, International membership | Consider adding language addressing the complexities of construction replacement mechanisms, such as <b>"the ease of constructing replacement mechanisms may vary depending on the insurer's issuance of short-term or long term contracts, whether participation in the continuity of coverage scheme is mandatory or voluntary, and whether policyholder or judicial approval is required to effect the arrangement."</b> | The comment is noted but such an addition is deemed too detailed for an ICP.                                                                                                                                                                                               |
| <b>8 - Q8 Comment on Introductory Guidance ICP 12.0.7</b>                                                                                             |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                            |
| 69. Assuris                                                                                                                                           | Canada                                   | No comment                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                            |
| 70. GDV - German Insurance Association                                                                                                                | Germany                                  | Establishing mechanisms to ensure substitutability or maintenance of insurance coverage is not a task of the supervisor but a political question to be decided by the competent institutions of the jurisdiction.                                                                                                                                                                                                           | The comment is noted but this guidance relates to the protection of policyholders and is written in a sufficiently non-prescriptive way: "may need to be explored". Furthermore, footnote 2 of ICP Introduction states that in the ICPs, "supervisors include regulators." |
| 71. Global Federation of Insurance Associations                                                                                                       | Global                                   | Establishing mechanisms to ensure substitutability or maintenance of insurance coverage is not a task of the supervisor but a political question to be decided by the competent institutions of the jurisdiction                                                                                                                                                                                                            | See response to comment 70                                                                                                                                                                                                                                                 |

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| 72. International Forum of Insurance Guarantee Schemes (IFIGS)    | International                            | No comment                                                                                                                                                                                                                                                                                                                                                            | Noted                                                                                                                                                                                                                           |
| 74. and 75. Swiss Re & Zurich Insurance Group                     | Switzerland                              | Overall we think that ICP12.0.6 and 12.0.7 could be better structured.                                                                                                                                                                                                                                                                                                | The comment is fair. There are some changes made in the structure and language of these paragraphs.                                                                                                                             |
| <b>9 - Q9 Comment on Introductory Guidance ICP 12.0.8</b>         |                                          |                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                 |
| 76. Assuris                                                       | Canada                                   | No comment                                                                                                                                                                                                                                                                                                                                                            | Noted.                                                                                                                                                                                                                          |
| 77. Global Federation of Insurance Associations                   | Global                                   | This sentence would be better included in Guidance ICP 12.0.5, as the concluding sentence of 12.0.5 also relates to supervisor-requested exit.                                                                                                                                                                                                                        | The comment is fair. 12.0.5 and 12.0.8 have been amended in that direction. 12.0.8 will mention the starting point for resolution.                                                                                              |
| 78. International Forum of Insurance Guarantee Schemes (IFIGS)    | International                            | No comment                                                                                                                                                                                                                                                                                                                                                            | Noted                                                                                                                                                                                                                           |
| 80. and 81. Swiss Re & Zurich Insurance Group                     | Switzerland                              | It is confusing to address ICP12.0.8 in ICP12. The language should feature in ICP10, establishing the link for the follow-up actions in ICP12.                                                                                                                                                                                                                        | See response to comment 77                                                                                                                                                                                                      |
| 82. Association of British Insurers                               | United Kingdom                           | This sentence would be better included in Guidance ICP 12.0.5, as the concluding sentence of 12.0.5 also relates to where exit is requested by the supervisor.                                                                                                                                                                                                        | See response to comment 77                                                                                                                                                                                                      |
| 83. Institute of International Finance and the Geneva Association | United States/Switzerland                | It is confusing to address ICP12.0.8 in ICP12. The language should feature in ICP10, establishing the link for the follow-up actions in ICP12.                                                                                                                                                                                                                        | See response to comment 77                                                                                                                                                                                                      |
| 84. International Association of Insurance Receivers              | US Corporation, International membership | Permanent loss of authority to transact insurance business should be one of the reasons for an "involuntary" exit from the market. Suggest, (new matter all caps) "The resolution of insurers that are no longer ELIGIBLE TO OPERATE IN THE MARKET, are no longer viable ..."                                                                                         | This is addressed in ICP 12.0.8 - Supervisory measures and/or sanctions may result in an insurer exiting from the market (i.e. involuntary exit from the market) (see ICP 10 Preventive and Corrective Measures and Sanctions). |
| <b>10 - Q10 Comment on Introductory Guidance ICP 12.0.9</b>       |                                          |                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                 |
| 85. Assuris                                                       | Canada                                   | Assuris strongly supports intervention by the supervisor when a company is no longer viable and before it is balance sheet insolvent. Once an insurer becomes non-viable, the supervisor should take swift action to intervene. Quick intervention helps ensure the protection of policyholder benefits and to maintain the reputation and stability of the industry. | Noted.                                                                                                                                                                                                                          |

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| 86. Global Federation of Insurance Associations                | Global         | It should be explicitly recognised that no single point can be defined that will be appropriate for all resolution measures. As well as no longer being viable, all recovery options should have been exhausted, and supervisory powers should no longer be adequate, before resolution is the right option.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | The 2 <sup>nd</sup> sentence was amended in line with your suggestion.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 88. International Forum of Insurance Guarantee Schemes (IFIGS) | International  | We strongly support the prompt intervention by the supervisor when a company is no longer viable and before it is balance sheet insolvent. Prompt intervention is important to ensure the protection of policyholder benefits. When a supervisor is considering whether an insurer “has no reasonable prospect” of becoming viable, he/she should have a timeframe to guide that inquiry. In other words, the guidance should specify a period of time in which the insurer has no prospect of becoming viable.                                                                                                                                                                                                                                                                                                                                                     | The comment is noted and acknowledge but the worldwide nature of supervisory material does not allow to enter into such detailed specification. But this could be further discussed and substantiated in a future application paper.                                                                                                                                                                                                                                                                                                                         |
| 89. General Insurance Association of Japan                     | Japan          | Whether an insurer is to be resolved should not be determined in a uniform manner based on the ICS or jurisdictional capital requirements. In order to prevent any arbitrage, it should be ensured that judgements made by the supervisor are reasonable and consistent.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | This is implicit in the guidance.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 91. and 92. Swiss Re & Zurich Insurance Group                  | Switzerland    | Kindly refer to our answer to Q1 about principle ICP12 (“likely to be no longer viable”).<br><br>The illustration is helpful. That notwithstanding, and similarly to ICP10.3a3, the nature of the instruments (metrics) ought to be clarified; they could be on an accounting, statutory or supervisory basis.<br>In some jurisdictions supervisory intervention ladders are determined in relation to solvency requirements, e.g. a solvency ratio, yet the point of non-viability or point of entry into resolution is determined based on statutory instruments, like over-indebtedness or liquidity, on a different valuation basis. This complicates the understanding of an insurers’ transition from going-concern to gone-concern, i.e. the instruments could be indicating different conditions. This is an area where the IAIS ought to provide guidance. | Noted.<br><br>Further guidance may be provided in a future application paper.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 93. Association of British Insurers                            | United Kingdom | It should be explicitly recognised in this Guidance that no single point can be defined that will be appropriate for all resolution measures. As well as the insurer no longer being viable, all recovery options should have been exhausted, and supervisory powers should no longer be adequate, before resolution is the right option.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Agree that no single point can be defined as commencement of resolution measures and this should be considered for inclusion, and the text has been amended to better clarify this.<br>Do not agree that all recovery options should have been exhausted - there will be judgements to be made by the supervisor about the point at which resolution action is needed in line with the objectives of the resolution regime e.g. financial stability, market disruption. It may be that this needs to take precedence over pursuing further recovery options. |

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| 94. National Association of Mutual Insurance Companies                                                                                     | United States             | <p>Q10 Comment on Introductory Guidance ICP 12.0.9</p> <p>It should be explicitly recognised that no indisputable point can be defined that will be appropriate for all resolution measures. As well as the company no longer being viable, all recovery options should have been exhausted, and supervisory powers should no longer be adequate, before resolution is the appropriate option.</p>                                                                                                                                                                                                                                                                                                                                                                           | See response to comment 93                                   |
| 95. National Organization of Life and Health Insurance Guaranties (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF) | United States             | When a supervisor is considering whether an insurer “has no reasonable prospect” of becoming viable, he/she should have a time frame to guide that inquiry. The guidance should specify a period of time in which the insurer has no prospect of becoming viable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | This may be further developed in a future application paper. |
| 96. Institute of International Finance and the Geneva Association                                                                          | United States/Switzerland | <p>The illustration is helpful. That notwithstanding, and similarly to ICP10.3a3, the nature of the instruments (metrics) ought to be clarified; they could be on an accounting, statutory or supervisory basis</p> <p>In some jurisdictions supervisory intervention ladders are determined in relation to solvency requirements, e.g. a solvency ratio, yet the point of non-viability or point of entry into resolution is determined based on statutory instruments, like over-indebtedness or liquidity, on a different valuation basis. This complicates the understanding of an insurers’ transition from going-concern to gone-concern, i.e. the instruments could be indicating different conditions. This is an area where the IAIS ought to provide guidance.</p> | This may be further developed in a future application paper. |
| <b>11 - Q11 Comment on Introductory Guidance ICP 12.0.10</b>                                                                               |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                              |
| 97. Assuris                                                                                                                                | Canada                    | Assuris strongly supports that losses should be first absorbed by general creditors prior to policyholders. The hierarchy of claims should not change if an insurer is resolved prior to being assigned into insolvency proceedings.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Noted.                                                       |
| 98. International Actuarial Association                                                                                                    | International             | The IAA notes that in many jurisdictions PPS are not pre-funded (and in any case the pre-funding may be insufficient) so levies to fund PPS’s may in practice be absorbed by other firms’ policyholders and the levies themselves may cause further firms to enter resolution. In an extreme. (or systemic) event, this may result in some of the costs being borne by taxpayers if there is insufficient stress testing and/or oversight of the resilience of the PPS.                                                                                                                                                                                                                                                                                                      | Noted.                                                       |

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|                                                                |               | <p>Other considerations are liquidity and/or fungibility across regulated entities – it may be that assets are sufficient to cover liabilities on a best estimate basis but there may be insufficient liquid assets in which case there may need to be a liquidity facility (or prior agreements) available so that the resolution authority or PPC can pay claims as they fall due and/or to avoid the forced sale of assets in a depressed market.</p> <p>We recognize there is some continued debate about the the role/relevance of other capital such as sub-debt, convertible debt and ancillary capital. However, it would be helpful to at least mention the possible value and limitations they may provide.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Noted                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 99. International Forum of Insurance Guarantee Schemes (IFIGS) | International | <p>We fully support that junior creditors should absorb losses before policyholders.</p> <p>We support the acknowledgement of the role of policyholder protection schemes in protecting policyholders in the resolution of an insurance company.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Noted                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 100. General Insurance Association of Japan                    | Japan         | The guidance should be revised to clarify that it does not intend to completely exclude bail-out by use of public funds.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Please refer to Guidance 12.2.2.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 102. and 103. Swiss Re & Zurich Insurance Group                | Switzerland   | <p><b>1.</b> While shareholders, debt holders and other creditors invest in an insurer for a profit accepting a risk, policyholders seek protection. They deserve specific attention in a resolution situation. ICP12 and ICP12.0.10 insufficiently reflect these differences in the nature of engagement. Resolution of non-systemically important firms ought to focus on policyholder protection only.</p> <p><b>2.</b> Following such a clarification, the IAIS could elaborate on the hierarchy of claims in liquidation. While the order presented in ICP12.0.10 is correct, the IAIS ought to insist more on the ultima ratio nature of a policyholder reduction in benefits (“restructuring of insurance liabilities” as per the FSB).</p> <p><b>3.</b> For the aforementioned differences we do not support the notion of policyholder bail-in, i.e. policyholders becoming shareholders of the insurer. We would suggest to limit the loss absorption by policyholders to the “restructuring of insurance liabilities”, haircut or contractual terms. If policyholder bail-ins are maintained, we would urge the IAIS ought to clarify what their expectations are in case of a policyholder bail-in.</p> | <p><b>1.</b> We believe nothing in the current text contradicts your view.</p> <p><b>2.</b> Further elaboration is provided under ICP 12.9.1 &amp; 12.9.2. and under newly inserted ICP 12.2.2.</p> <p><b>3.</b> The term “bail in” appeared only once in the current text, last sentence of ICP 12.7.11, and it was not related to policyholders. This last sentence has anyway be removed from the text.</p> <p>Likewise, 10<sup>th</sup> bp of ICP 12.7.4 exclusively uses the terms “restructure, limit or write down liabilities”.</p> |
| 104. Institute and Faculty of Actuaries                        | UK            | We note that in other IAIS documents the term ‘Insurance Guarantee Fund’ is used instead of PPS (Policyholder Protection Scheme), and it would be helpful to use consistent terminology. We also note that in many jurisdictions PPSs are not pre-funded (and in any case the pre-funding may be insufficient), so levies to fund PPSs                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Noted                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

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|                                                                                                                                                        |                                          | may in practice be absorbed by other firms' policyholders, and the levies themselves may cause further firms to enter resolution. Ultimately the costs may then have to be borne by taxpayers. (This may be addressed by loans from the authorities to spread the burden for the industry with repayment over time).<br>Other considerations are liquidity and/or uncertainty: it may be that assets are sufficient to cover liabilities on a best estimate basis, but there may not be sufficient liquid assets. In such circumstances a liquidity facility could be required, so that the resolution authority or PPS can pay claims as they fall due and/or to avoid the forced sale of assets in a depressed market. |                                                                                                                                                                                                                                                                                                                                                                                             |
| 105. Chubb                                                                                                                                             | United States                            | We agree that the ICPs should respect the jurisdiction's right to craft its own resolution scheme based on its policy objectives. The U.S. has a robust policyholder protection scheme and has a clear policy of protecting policyholders over all others, which we support.                                                                                                                                                                                                                                                                                                                                                                                                                                             | Noted                                                                                                                                                                                                                                                                                                                                                                                       |
| 106. National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF) | United States                            | We strongly agree that policyholders should absorb losses only after lower ranking creditors have fully absorbed losses. We further agree that policyholder protection schemes may mitigate the need for the absorption of losses by policyholders.                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Noted                                                                                                                                                                                                                                                                                                                                                                                       |
| 107. International Association of Insurance Receivers                                                                                                  | US Corporation, International membership | This language is confusing. It is not clear which creditors are "lower ranking" and what permissible variations may be introduced by the relevant jurisdiction's hierarchy of claims.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Phrasing slightly adjusted, however "lower ranking creditors" has not been further detailed as the intention is just to refer to all creditors lower ranked than the policyholder.                                                                                                                                                                                                          |
|                                                                                                                                                        |                                          | Suggest replacing with: <b>"the resolution regime should provide that policyholders absorb losses only after other creditors have fully absorbed losses. the jurisdiction's hierarchy of claims should determine the order of payment among subordinated claims and may provide that the resolution authority's expenses may precede policyholder claims in payment."</b>                                                                                                                                                                                                                                                                                                                                                | ICP 12.0.10 (guidance) does specify that policyholders should absorb losses only after all lower ranking creditors have fully absorbed losses. Mechanisms, such as policyholder protection schemes (PPSs), may mitigate the need for the absorption of losses by policyholders. Further to this, ICP 12.9.1 explains that claims ranking higher than PHs's may include liquidators' claims. |
| <b>12 - Q12 Comment on Introductory Guidance ICP 12.0.11</b>                                                                                           |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                             |
| 108. Assuris                                                                                                                                           | Canada                                   | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Noted                                                                                                                                                                                                                                                                                                                                                                                       |
| 109. Reinsurance Advisory Board (RAB)                                                                                                                  | EU                                       | Please note that, in line with FSB's guidance on resolution planning for systemically important insurers, reinsurers should be resolved according to their resolution strategy, which must seek preservation of diversification. The FSB guidance states that "where, as is the case for reinsurance, the business model is designed to                                                                                                                                                                                                                                                                                                                                                                                  | ICP 12, including the text in 12.0.11, does not dictate a specific approach to resolution.<br>Having that said, there was additional guidance text on cooperation agreements in 12.4.4 and 12.5.8.                                                                                                                                                                                          |

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|                                                                 |                | <p>benefit from diversification, it is likely that the resolution strategies for that firm will seek, as far as possible, to preserve or avoid unnecessary destruction of that diversification.”</p> <p>A point-of-entry at holding company approach is a prerequisite for diversification preservation, and there must therefore be adequate mechanisms in place to ensure cooperation of resolution authorities up to and during resolution. The RAB advocates the use of Cooperation Agreements for this purpose. Lastly, exchange of information from (re)insurer resolution authorities needs to be permitted. To the extent that local laws prevent direct information sharing, this would need to be addressed.</p> |                                                                                                                                                                                                                                                                                   |
| 110. Insurance Europe                                           | Europe         | Insurance Europe welcomes the shift from focusing solely on insurance legal entities (as is the case in the current ICP 12) to focusing on group considerations and bridging entities, including branches. It also welcomes the reference to other resolution regimes which may apply for other regulated entities within the group (such as banks). However, it should be recognised in the ICP that the remit of insurance supervisors will only relate to insurance legal entities and insurance groups.                                                                                                                                                                                                                | We acknowledge your support for the additions to the ICP. With regard to the suggestion that the ICP recognize that , depending on circumstances that may also differ from jurisdiction to jurisdiction, resolution measures may also be applied on non–insurance legal entities. |
| 111. GDV - German Insurance Association                         | Germany        | It should be clarified that resolution measures exercised by the supervisor will face legal obstacles if applied to non-regulated entities or entities of different regulated sectors.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Guidance 12.0.11 was modified, making it clear that not <b>all</b> resolution measures were to be applied to e.g. non-regulated entities.                                                                                                                                         |
| 112. Global Federation of Insurance Associations                | Global         | The guidance extends the scope of resolution measures to non-regulated entities within the group, rather than recognising that the remit of insurance supervision will relate only to insurance entities and insurance groups.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Noted.<br>The guidance clearly states that resolution measures may be applied to one or more separate entities <b>in an insurance group</b> .                                                                                                                                     |
| 113. International Forum of Insurance Guarantee Schemes (IFIGS) | International  | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Noted                                                                                                                                                                                                                                                                             |
| 115. Institute and Faculty of Actuaries                         | UK             | <p>Mixed groups as well as pure insurance groups need to be considered.</p> <p>This section should also consider in-house asset managers, as they may fall within the remit of an insurance group’s resolution regime or be considered a critical shared service in this context.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                      | Noted                                                                                                                                                                                                                                                                             |
| 116. Association of British Insurers                            | United Kingdom | This Guidance extends the scope of resolution measures to non-regulated entities within the group, and does not recognise that the remit of insurance supervision should extend only to insurance entities and insurance groups.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Noted                                                                                                                                                                                                                                                                             |
| 117. Chubb                                                      | United States  | As a general principle of corporate law, a branch of a corporation cannot live on after the dissolution of the underlying corporation itself. So as part of any windup or dissolution (or in obtaining regulatory approval for any windup or dissolution), a                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Noted                                                                                                                                                                                                                                                                             |

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|                                                                                                                                                        |                           | corporation's branches would be unwound or dissolved before or along with the dissolution of the corporate entity. Regulators can hold up the dissolution of certain branches, or hold up the corporate dissolution on the basis of something having to do with a branch, but the branches themselves can't live on past the time the corporation disappears.                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                              |
| 118. National Association of Mutual Insurance Companies                                                                                                | United States             | The guidance extends the scope of resolution measures to non-regulated entities within the group, rather than recognising that the remit of insurance supervision will relate only to insurance entities and insurance groups.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Noted                                                                                                                                                        |
| 119. National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF) | United States             | With the arguable exception of a group that is systemically important, we're not sure that a resolution authority should ever need the ability to exercise resolution powers over the head of an insurance group or an intermediate holding company. In the U.S., any resolution strategy should include a resolution at the operating company level, unless the operating company is solvent and able to pay claims as they come due. Absent a resolution of the operating company, policyholder protection scheme benefits would not be available to help protect policyholders. (In the U.S., policyholder protection scheme coverage obligations are triggered by an order of liquidation and a finding of insolvency for an operating insurance company.) | Noted but the guidance does not prohibits any resolution at the level of operating companies.                                                                |
| 120. Institute of International Finance and the Geneva Association                                                                                     | United States/Switzerland | The guidance appears to extend the scope of resolution measures to non-regulated entities within the group. The guidance should recognize that the remit of insurance supervision will relate only to insurance entities and insurance groups.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Noted                                                                                                                                                        |
| 121. Liberty Mutual Insurance Group                                                                                                                    | USA                       | Insurance supervisors' authority to apply resolution measures typically does not extend to a non-insurance company head of an insurance group or to non-insurance entities within an insurance group.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | See ICP 12.0.3 that clarifies the use of the terms "supervisor", "resolution authority" and "supervisor and/or resolution authority" in the text if the ICP. |
| 122. Property & Casualty Insurers Association of America (PCI)                                                                                         | USA                       | The standard suggests that resolution measures could be applied to various separate entities in the insurance group, including, inter alia, the head of the group and an intermediate holding company. We are concerned at the suggestion that resolution might take place at the head of the group or intermediate holding company. In the U.S., resolution generally occurs at the operating company level, and indeed PPS protection can only be made available pursuant to a finding of insolvency and order of liquidation for the operating entity. Resolution of a non-insurer parent company should be beyond the scope of the ICPs.                                                                                                                   | Noted. Each legal entity within an insurance group will have to be resolved separately.                                                                      |
| <b>13 - Q13 Comment on Introductory Guidance ICP 12.0.12</b>                                                                                           |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                              |
| 123. Assuris                                                                                                                                           | Canada                    | Assuris strongly supports the need for cross-border coordination and cooperation for the successful resolution of an insurer.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Noted.                                                                                                                                                       |

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|                                                  |         | Coordination and cooperation between the relevant authorities, including PSSs, in multiple jurisdictions can improve the speed and effectiveness of the resolution. This can minimize losses to policyholders and creditors.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 124. Insurance Europe                            | Europe  | <p>Insurance Europe strongly supports cross-border coordination and cooperation, including exchange of information, which is indeed necessary for the orderly and effective resolution of insurers that operate on a cross-border basis. All ex-ante measures, the best resolution plan and resolvability assessments will be of no or limited use if the cooperation and coordination among relevant authorities breaks down in times of crisis. Therefore, the language in favour of cooperation and coordination in ICP12 should be strengthened.</p> <p>At the same time, Insurance Europe believes that the IAIS should also introduce an explicit requirement for confidentiality agreements which should be in place when authorities exchange information on a cross-border basis. In addition, Insurance Europe would propose amending the reference in the final sentence from “cross-border coordination and cooperation, including exchange of information, is necessary” to “is desirable”, because these would not be prerequisites for resolution action at a legal entity level.</p> | <p>a) We agree that coordination and cooperation in cross-border resolutions are important. See also newly introduced guidance text in 12.5.8. Please also note that it is emphasized throughout the ICP and is specifically a topic more broadly in ICPs 3 and 25.</p> <p>b) This is addressed in ICP 3 and a reference does not have to be added because other ICPs including ICP 3 already apply to supervisors</p> <p>c) Disagree with recommended edit because such cooperation and coordination is necessary for all cross-border groups even if the resolution only affects an insurer located completely in one jurisdiction. Furthermore, to make the edit would weaken the language in the ICP and contravene your recommendation for strengthening the language regarding coordination and cooperation throughout the ICP.</p> |
| 125. GDV - German Insurance Association          | Germany | We endorse the notion that cooperation and coordination among involved supervisors/resolution authorities is key to resolve insurers operating cross-border.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Noted. No change needed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 126. Global Federation of Insurance Associations | Global  | <p>GFIA supports the recognition given in this revised ICP to the case of insurance groups and cross-border operations. This is an improvement upon the current ICP which only applies to individual legal entities.</p> <p>1. However, GFIA notes that cross-border coordination may not be necessary for all insurers operating on that basis, particularly where an insurer’s material entities are operationally and financially independent of one another. Accordingly, GFIA would propose amending the final sentence by replacing the words “is necessary” with “may help facilitate” as these factors would not be a prerequisite for resolution action at a legal entity level.</p> <p>2. In addition, when considering the exchange of information between supervisors on a cross-border basis, reference should be made to ICP 3 and the confidentiality requirements around the exchange of information.</p>                                                                                                                                                                            | <p>1. We believe that a minimal form of cooperation is necessary at any rate. It is then up to involved authorities to determine the level and intensity of such cooperation, depending on intra-group transactions, interdependence etc.</p> <p>2. A reference does not have to be added because other ICPs including ICP 3 already apply to supervisors</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

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| 127. International Actuarial Association                        | International  | There could be mentioned here the role of "Crisis Management Groups" (CMG) for IAIGs while recognizing that the CMG would probably not include the resolution authorities for all group companies.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Noted. This will be dealt with under ComFrame part.                                                    |
| 128. International Forum of Insurance Guarantee Schemes (IFIGS) | International  | Cross border cooperation should include the relevant policyholder protection schemes.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Please refer to ICP 12.5.1                                                                             |
| 130. and 131. Swiss Re & Zurich Insurance Group                 | Switzerland    | We agree that cross-border cooperation and coordination is of critical importance for the orderly and effective resolution of insurers that operate on a cross-border basis. All ex-ante measures, the best resolution plan and all resolvability assessments will be of no or at best limited use if the cooperation and coordination among relevant authorities breaks down in times of crises.<br>In that sense, and as per our answer to Q1 we are concerned that the language on cooperation and coordination in ICP12 is at times too weak.                                                                                                                                                               | Noted. Language was amended and new guidance 12.4.4 and 12.5.8 was added.                              |
| 132. Institute and Faculty of Actuaries                         | UK             | There could be mention here of the role of 'Crisis Management Groups' (CMGs) for IAIGs, while recognising that the CMG would probably not include the resolution authorities for all group companies.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Noted. This could be further developed in a future application paper                                   |
| 133. Association of British Insurers                            | United Kingdom | The ABI supports the recognition given in this revised ICP to the case of insurance groups and cross-border operations. This is an improvement upon the current ICP which only applies to individual legal entities.<br>When considering the exchange of information between supervisors on a cross-border basis, the ABI suggests reference should be made to ICP 3 and the confidentiality requirements around the exchange of information.<br>In addition, the ABI proposes an amendment to the final sentence, to 'cross-border coordination and cooperation, including exchange of information, is desirable', as these factors would not be a prerequisite for resolution action at a legal entity level. | A reference does not have to be added because other ICPs including ICP 3 already apply to supervisors. |
| 134. Chubb                                                      | United States  | We agree that cooperation and coordination is essential for an insurer that operates in more than one jurisdiction. In the absence of binding global law or agreement, an authority from one jurisdiction cannot assert direct authority over an entity supervised by another sovereign jurisdiction. For this reason, cooperation is critical.                                                                                                                                                                                                                                                                                                                                                                 | Noted                                                                                                  |
| 135. MetLife, Inc                                               | United States  | Cross-border coordination may not be necessary for all insurers operating on that basis, particularly where an insurer's material entities are operationally and financially independent of one another. Accordingly, we suggest revising the last sentence of ICP 12.0.12 by replacing the phrase "is necessary for" with "may help facilitate."                                                                                                                                                                                                                                                                                                                                                               | Current wording seems correct.                                                                         |

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| 136. Institute of International Finance and the Geneva Association | United States/Switzerland                | <p>Dependent on group structure and approach to resolution, cross-border cooperation and coordination may be important for the orderly and effective resolution of insurers that operate on a cross-border basis.</p> <p>In that sense, we are concerned that the language on cooperation and coordination in ICP12 is at times too weak. and that the ICPs and ComFrame sections should strongly encourage cross-border cooperation and coordination to the extent permitted by law, especially in the event of resolution.</p> <p>As cross-border coordination may not be necessary where an insurer's material entities are operationally and financially independent of one another, we suggest revising the last sentence of ICP 12.0.12 by replacing the phrase "is necessary for" with "may help facilitate."</p> | Noted                                                                                                                                                             |
| 137. ACLI                                                          | US                                       | Cross-border coordination may not be necessary for all insurers operating on that basis, particularly where an insurer's material entities are operationally and financially independent of one another. Accordingly, we suggest revising the last sentence of ICP 12.0.12 by replacing the phrase "is necessary for" with "may help facilitate."                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Noted                                                                                                                                                             |
| 138. International Association of Insurance Receivers              | US Corporation, International membership | Text should also highlight necessity of exchange of information with interested parties as well as officials. Suggest modifying the last sentence to: "Cross-border coordination and cooperation, including exchange of information, <b>not only among responsible officials but also among interested parties</b> , is necessary for the orderly and effective resolution of insurers that operate on a cross-border basis. (Addition in bold letters)                                                                                                                                                                                                                                                                                                                                                                  | Disagree. This is implicit in the ICP.                                                                                                                            |
| 139. Property & Casualty Insurers Association of America (PCI)     | USA                                      | Cross-border coordination may not be necessary for all insurers operating on that basis, particularly where an insurer's material entities are operationally and financially independent of one another. Accordingly, we suggest revising the last sentence of ICP 12.0.12 by replacing the phrase "is necessary for" with "may help facilitate."                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Disagree. Cross-border coordination remains relevant in all instances where an insurer or insurance group operated on a cross border basis.                       |
| <b>14 - Q14 Comment on ICP 12.1</b>                                |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                   |
| 140. Assuris                                                       | Canada                                   | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Noted.                                                                                                                                                            |
| 141. International Forum of Insurance Guarantee Schemes (IFIGS)    | International                            | Policyholder protection schemes have no role in voluntary exit from the market provided the supervisor ensures the continued viability of the insurer during the process.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Noted                                                                                                                                                             |
| 143. Chubb                                                         | United States                            | We are not clear on what is meant by "voluntary exit from the market". We assume this is referring to the exit and winding up of an insurer and not exit from a particular line of business.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Your interpretation is correct in the sense that it refers to the complete voluntary exit from the market, and not to the exit from a particular line of business |

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| 144. American Insurance Association              | USA           | Section 12.1 discusses voluntary exit by insurers from the market and the use of run-off and portfolio transfers to handle the resolution of policyholder claims after voluntary exit. Resolution processes should apply only to insurers who are no longer viable or who need resolution or recovery actions to return to viability to continue to pay claims and write business. Resolution efforts should not apply to insurers who are solvent and still able to pay the claims of its policyholders and the debts to its creditors. | We agree that resolution processes should only apply to non-viable insurers, but this does not prevent tools such as run-off or portfolio transfers to be used for the settlement of policyholder claims during or after voluntary exit.<br>See below response to comment 158. |
| <b>15 - Q15 Comment on ICP 12.1.1</b>            |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                |
| 145. Assuris                                     | Canada        | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Noted                                                                                                                                                                                                                                                                          |
| 146. International Actuarial Association         | International | We note that for some mutual insurers there is a difference between the roles and rights of different groups of policyholders and the “members”.                                                                                                                                                                                                                                                                                                                                                                                         | Noted                                                                                                                                                                                                                                                                          |
| 148. Institute and Faculty of Actuaries          | UK            | We note that for some mutual firms there is a difference between the roles and rights of different groups of policyholders and their ‘members’.                                                                                                                                                                                                                                                                                                                                                                                          | The comment is noted. The last sentence of ICP 12.1.1 was removed.                                                                                                                                                                                                             |
| <b>16 - Q16 Comment on ICP 12.1.2</b>            |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                |
| 149. Assuris                                     | Canada        | Assuris supports that the supervisor should ensure policyholders are protected throughout an insurer’s voluntary exit. This includes ensuring that there are sufficient assets to meet expected policyholder obligations and additional assets to provide capital as a solvency buffer.                                                                                                                                                                                                                                                  | Noted                                                                                                                                                                                                                                                                          |
| 150. Insurance Europe                            | Europe        | Insurance Europe suggests changing the last part of the sentence to “including ensuring adequate” instead of “having adequate”, as in the case of a portfolio transfer it will be the resources of the receiving insurer rather than the transferring insurer that will be relevant.                                                                                                                                                                                                                                                     | Agree. See response to comment 151                                                                                                                                                                                                                                             |
| 151. Global Federation of Insurance Associations | Global        | GFIA would suggest amending the last part of the sentence to ‘including ‘ensuring adequate’ rather than having adequate as in the case of a portfolio transfer it will be the resources of the receiving insurer rather than the transferring insurer that will be relevant.                                                                                                                                                                                                                                                             | Agreed. “having” will be replaced by “ensuring”.                                                                                                                                                                                                                               |
| 152. International Actuarial Association         | International | You could include policy buy-backs as a resolution arrangement..                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | The comment is noted, but guidance here is only indicative and does not aim at exhaustiveness. Policy buy-backs could be further described in a future application paper.                                                                                                      |
| 154. Institute and Faculty of Actuaries          | UK            | ‘Appropriate arrangements’ could be made more precise – in particular, this would likely involve the insurer refreshing its run-off plan.<br><br>Operational infrastructure is also required for insurers to fulfil their insurance obligations, in addition to human and financial resources.                                                                                                                                                                                                                                           | The comment is noted, but the IAIS believes, that additional precision would better take place in a future IAIS Application Paper.                                                                                                                                             |

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| 155. Association of British Insurers                               | United Kingdom                           | The ABI recommends amending the last part of the sentence to ‘...including ensuring adequate human and financial resources...’ (rather than the current ‘including having adequate’), as in the case of a portfolio transfer it will be the resources of the receiving insurer rather than the transferring insurer that will be relevant.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | See response to comment 151                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 156. Institute of International Finance and the Geneva Association | United States/Switzerland                | We would propose amending the last part of the sentence to ‘including ensuring adequate...’, rather than ‘having’, as in the case of a portfolio transfer it will be the resources of the receiving insurer rather than the transferring insurer will be relevant.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | See response to comment 151                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 157. International Association of Insurance Receivers              | US Corporation, International membership | Consider adding, “to the extent that a voluntary exit plan contemplates the insurer continuing in the marketplace, but restructures or diminishes existing policyholder benefits, such policyholders should participate appropriately in favorable development in the surviving company.”                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | The IAIS believes that the proposed adjunct would not be appropriate in the current supervisory material. Rather, such issues could be developed in a future IAIS Application Paper.                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 158. American Insurance Association                                | USA                                      | Section 12.1.2 discusses arrangements for run-off and portfolio transfers when an insurer voluntarily exits the market. Resolution processes should apply only to insurers who are no longer viable or who need resolution or recovery actions to return to viability to continue to pay claims and write business. Resolution efforts should not apply to insurers who are solvent and still able to pay the claims of its policyholders and the debts to its creditors. Moreover, a solvent insurer should not be permitted to engage in portfolio transfers and run-off mechanisms without the consent of the policyholder. Policyholders must retain the right to opt-out of any resolution plan of a voluntary solvent insurer including a run-off or portfolio transfer of existing policies and anti-assignment provisions in policies and contracts should be respected. | Disagree. The use of run-off and portfolio transfers to handle the settlement of policyholder claims during or after voluntary exit is appropriate mechanisms for voluntary exit from the market.<br><br>As to transfers, ICP 6 will apply where transfer is used as an exit strategy.<br><br>As to run-offs, the policyholders remain policyholders of the insurer. ICP 12.1.3 provides that such insurers must submit a run-off programme to the supervisor. The programme should include information on communication with policyholders about the insurer’s exit from the market.<br><br>See above resolution 144 |
| <b>17 - Q17 Comment on ICP 12.1.3</b>                              |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 159. Assuris                                                       | Canada                                   | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Noted                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 160. Global Federation of Insurance Associations                   | Global                                   | GFIA welcomes the idea of a run-off programme to manage an insurer’s voluntary exit from the market.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Noted                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 161. International Actuarial Association                           | International                            | For the reasons noted in the answer to Q1 there should be a consideration of capital requirements.<br>It would be helpful to refer to an allowance for diseconomies of scale on run-off.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Noted                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 163. Institute and Faculty of Actuaries                            | UK                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Your comment under ICP 12.1.3, as well as your former comment 12 under ICP 12 General, are acknowledged.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

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|                                                                                                                                                        |                | <p>For the reasons noted in the answer to Q1, capital requirements should be considered.</p> <p>Projected financial statements should cover both capital and liquidity arrangements, and include specific examples such as the company's P&amp;L position and balance sheet. In addition, projected capital and liquidity numbers should reflect financial interdependencies including reinsurance arrangements and hedging strategy. Furthermore, the run-off programme should consider both a base and stressed case.</p>                                                                                                                                                                                                                                                                                                                          | <p>The IAIS would probably agree with you that projected financial statements should cover both capital &amp; liquidity arrangements, etc. However, the IAIS believes that such details adjunct would not be appropriate in, and compatible with the desired of, the current supervisory material.</p> <p>Rather, such developments could take place in a future IAIS Application Paper.</p>                                                                                                                                                                                                                              |
| 164. Association of British Insurers                                                                                                                   | United Kingdom | The ABI welcomes the idea of a run-off programme to manage an insurer's voluntary exit from the market                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Noted and appreciated                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 165. National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF) | United States  | A run-off programme should have meaningful regulatory oversight that includes (1) ongoing evaluation of the financial viability of the solvent run-off, (2) protections against creditor preferences in violation of the NCWOL principle, and (3) contingency planning for the possibility that the programme may not work as expected. The contingency planning should include consultation and collaboration with any relevant PPS.                                                                                                                                                                                                                                                                                                                                                                                                                | <p>Your comment is noted. However, the IAIS believes that developing these issues here would not be appropriate in, and compatible with the desired of, the current supervisory material.</p> <p>Rather, such developments could take place in a future IAIS Application Paper.</p>                                                                                                                                                                                                                                                                                                                                       |
| 166. American Insurance Association                                                                                                                    | USA            | Section 12.1.3 discussed requirements of run-off plans for solvent insurers seeking voluntary exit from the market. Resolution processes should apply only to insurers who are no longer viable or who need resolution or recovery actions to return to viability to continue to pay claims and write business. Resolution efforts should not apply to insurers who are solvent and still able to pay the claims of its policyholders and the debts to its creditors. Moreover, a solvent insurer should not be permitted to engage in run-off mechanisms without the consent of the policyholder. Policyholders must retain the right to opt-out of any resolution plan of a voluntary solvent insurer including a run-off or portfolio transfer of existing policies and anti-assignment provisions in policies and contracts should be respected. | <p>Disagree. The use of run-off and portfolio transfers to handle the resolution of policyholder claims during or after voluntary exit is appropriate mechanisms for voluntary exit from the market.</p> <p>As to transfers, ICP 6 will apply where transfer is used as an exit strategy.</p> <p>At to run-offs, the policyholders remain policyholders of the insurer. ICP 12.1.3 provides that such insurers must submit a run-off programme to the supervisor. The programme should include information on communication with policyholders about the insurer's exit from the market.</p> <p>See above 144 and 158</p> |
| <b>18 - Q18 Comment on ICP 12.1.4</b>                                                                                                                  |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 167. Assuris                                                                                                                                           | Canada         | Assuris supports that the supervisor should ensure policyholders are protected throughout an insurer's voluntary exit. This includes ensuring that there are sufficient assets to meet expected policyholder obligations and additional assets to provide capital as a solvency buffer.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Noted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

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| 168. GDV - German Insurance Association                                                                                                                | Germany        | We agree that insurers exiting from the market on a voluntary basis should continue to be subject to supervision. Further clarification would be helpful what „Legislation should provide for appropriate requirements for these exiting insurers „exactly means. We understand this notion as an indication that the insurance obligations affected by the voluntary exit may be, at least partly, subject to a different supervisory regime.                                                                      | If further elaboration is needed, it could be addressed in an application paper.                                                                                                                                                                      |
| 169. Global Federation of Insurance Associations                                                                                                       | Global         | The second sentence of this paragraph refers to legislation providing appropriate requirements for exiting insurers. This sentence should highlight the flexibility that the legislation will need to have as obligations may be discharged over an extended period of time. For example, an insurer may move from an insolvent to a solvent run-off, or vice versa.                                                                                                                                                | The wording seems broad enough to allow for sufficient flexibility.<br><br>Besides, insurers which move from insolvent to solvent run-off are not targeted here: it is assumed that an insolvent insurer does not “voluntarily” exit from the market. |
| 171. Association of British Insurers                                                                                                                   | United Kingdom | The second sentence of this paragraph refers to legislation providing appropriate requirements for exiting insurers. This sentence should highlight the flexibility that the legislation will need to have as obligations may be discharged over an extended period of time. For example, an insurer may move from an insolvent to a solvent run-off, or vice versa.                                                                                                                                                | See response to comment 169                                                                                                                                                                                                                           |
| 172. National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF) | United States  | We agree. The supervisor should maintain meaningful oversight, including ongoing evaluation of the insurer's financial viability, until all insurance liabilities are discharged or transferred. In the event that the supervisor has concerns about the financial viability of the insurer, the supervisor should help guard against creditor preferences in violation of the No Creditor Worse Off in Liquidation principle.                                                                                      | Noted and appreciated.                                                                                                                                                                                                                                |
| <b>19 - Q19 Comment on ICP 12.2</b>                                                                                                                    |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                       |
| 173. Assuris                                                                                                                                           | Canada         | Assuris supports that policyholders should not absorb losses before other creditors. In Canada, there is legislation to protect policyholders by providing them priority ahead of general creditors when an insurer is liquidated.                                                                                                                                                                                                                                                                                  | Noted and appreciated.                                                                                                                                                                                                                                |
| 174. Reinsurance Advisory Board (RAB)                                                                                                                  | EU             | The RAB generally agrees with the listed objectives of resolution. Protection of policyholders should be the primary objective for insurance companies, since the insurance industry only poses limited risk to the financial stability. This should also take into account the sophistication of the insurers' clients.<br>As noted in general comments and as further elaborated in the response to Q34, the objectives of the resolution framework do not apply to reinsurers in the same way as direct writers. | We thank you for your support of the objectives as listed, and note your perspective on how those objectives may not apply in the same way to reinsurers.                                                                                             |

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| 175. International Actuarial Association                        | International | This should include protection of creditors. "Liquidation" may have a specific meaning in a jurisdiction and there may be other forms of winding-up that can occur. We also note that the liquidation of insurers is not a common occurrence in most countries and therefore it may not be known what would actually happen in liquidation until it actually happened (which as noted below is a problem with the NCWOL concept).                                       | IAIS' objectives are the protection of policyholders and the maintenance of financial stability. The protection of policyholders is thus a specific objective of the IAIS. The protection of non-policyholder creditors is only an objective of the IAIS to the extent that such protection may be necessary to maintaining financial stability.<br>Please also note that the last sentence of 12.7.11 was deleted. |
| 176. International Forum of Insurance Guarantee Schemes (IFIGS) | International | 1. We support that the primary purpose of resolution legislation is to protect policyholders.<br><br>2. The existence of policyholder protection schemes is aligned with this objective and the creation of a policyholder protection scheme tailored to the needs of the jurisdiction should be considered. The policyholder protection scheme should be designed to meet the public policy objectives and not indiscriminately cover all policyholders or all risks.  | 1. Noted.<br><br>2. It is for each jurisdiction to define the scope & coverage of a PPS.                                                                                                                                                                                                                                                                                                                            |
| 178. and 179. Swiss Re & Zurich Insurance Group                 | Switzerland   | Developing our comments to ICP12.0.10:<br><br>ICP12.2 and/or ICP12.2.1 should re-emphasize the hierarchy of claims, as in ICP12.0.10.                                                                                                                                                                                                                                                                                                                                   | See response to paragraph 2 of comment 102.                                                                                                                                                                                                                                                                                                                                                                         |
| 180. Institute and Faculty of Actuaries                         | UK            | This should include protection of creditors. 'Liquidation' may have a specific meaning in a jurisdiction and there may be other forms of winding up that can occur. We also note that the liquidation of insurers is not a common occurrence in most countries, and therefore it may not be known what would actually happen in liquidation until it happened (which as noted below is a problem with the 'No Creditor Worse Off than in Liquidation' (NCWOL) concept). | See response to comment 175.                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>20 - Q20 Comment on ICP 12.2.1</b>                           |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 181. Assuris                                                    | Canada        | Assuris strongly supports having legislation to protect policyholders. Protecting policyholders is essential to maintaining consumer confidence and providing stability to the insurance industry.                                                                                                                                                                                                                                                                      | Noted and appreciated.                                                                                                                                                                                                                                                                                                                                                                                              |
| 182. Insurance Europe                                           | Europe        | Insurance Europe supports the IAIS's recognition of differences across jurisdictions with regard to funding mechanisms as there are jurisdictions in which policyholder protection schemes do not exist and any decision to establish such mechanism is for individual jurisdictions to make.                                                                                                                                                                           | We appreciate the support for the ICP as drafted.                                                                                                                                                                                                                                                                                                                                                                   |
| 183. Global Federation of Insurance Associations                | Global        | GFIA supports the IAIS's recognition of differences across jurisdictions with regards to funding mechanisms, as there are jurisdictions in which policy protection schemes do not exist. GFIA believes that the decision to establish such mechanism is for                                                                                                                                                                                                             | Noted and appreciated.                                                                                                                                                                                                                                                                                                                                                                                              |

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|                                                                                                                                                        |                | individual jurisdictions to make and supports the IAIS' recognition of differences across jurisdictions with regard to resolution objectives.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                       |
| 184. International Forum of Insurance Guarantee Schemes (IFIGS)                                                                                        | International  | We support that the primary purpose of resolution legislation is to protect policyholders.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Noted and appreciated.                                                                                                                                                                                                                                                |
| 186 and 187. Swiss Re & Zurich Insurance Group                                                                                                         | Switzerland    | As we stated in our response to question 11, we believe that resolution planning for non-systemic firms must focus on policyholder protection.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Noted.                                                                                                                                                                                                                                                                |
| 188. Association of British Insurers                                                                                                                   | United Kingdom | The ABI is supportive of IAIS' recognition of differences across jurisdictions with regards to funding mechanisms as there are jurisdictions in which policy protection schemes do not exist. We consider that the decision to establish such mechanism is for individual jurisdictions to make.<br>We also support the IAIS' recognition of differences across jurisdictions with regard to resolution objectives.                                                                                                                                                                                                                                                                                                                                                      | Noted and appreciated.                                                                                                                                                                                                                                                |
| 189. National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF) | United States  | We strongly agree that policyholder protection should be the primary goal of insurer resolutions. We do not object to financial stability being an additional objective, but we believe that financial stability should be achieved in a way that is consistent with – and does not compromise – policyholder protection.                                                                                                                                                                                                                                                                                                                                                                                                                                                | Noted and appreciated.                                                                                                                                                                                                                                                |
| 190. American Insurance Association                                                                                                                    | USA            | Section 12.2.1 provides that while resolution legislation should support the objective of protecting policyholders, a jurisdiction may have additional resolution objectives such as maintaining financial stability. The highest priority during resolution should be protecting policyholder interests. Due to the business nature of insurance and the financial supervision and regulation of insurers, financial stability of the economy should not be an issue in the resolution of an insurer.                                                                                                                                                                                                                                                                   | Disagree. Other resolution objectives may exist. Each Individual jurisdiction should have the discretion to establish additional objectives in its legislation. Please note that the only resolution objective mentioned in Standard 12.2 is policyholder protection. |
| 191. Property & Casualty Insurers Association of America (PCI)                                                                                         | USA            | We agree that policyholder protection should be the primary goal of insurer resolutions. However, the standard notes that “[a] jurisdiction may have additional resolution objectives in the legislation, such as maintaining financial stability.” Consistent with our past comments, we do not believe that regulators should have authority to make resolution decisions based on financial stability considerations with respect to companies that have not been found to be systemically important. While there is a structure within jurisdictions and globally for designating companies as systemically important, general references to financial stability in the context of resolving non-systemically important companies are worrisome as they suggest that | See response to comment 190.<br>Please note that 12.2.1 is not a standard, but guidance.                                                                                                                                                                              |

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|                                                                              |               | various regulators will engage in analyses of financial stability outside of any understood structure. This can lead to erratic and inappropriate results. More importantly, despite the helpful language in the guidance noting the primacy of policyholder protection, the reference to “financial stability” raises the specter that some policyholders could suffer at the hands of a regulator resolving a company because of a perceived financial stability concern rather than because of the company’s non-viability or insolvency. |                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>21 - Q21 Comment on ICP 12.2.2</b>                                        |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                      |
| 192. Assuris                                                                 | Canada        | Assuris supports that resolution should seek to minimize reliance on public funding. A PPS can act as the mechanism to provide funding and recoup the resolution costs from the insurance sector.                                                                                                                                                                                                                                                                                                                                            | Noted.                                                                                                                                                                                                                                                                                                                                                                               |
| 193. Insurance Europe                                                        | Europe        | Insurance Europe strongly believes that introducing a principle that requires public funding used for the resolution of an insurer (in any circumstance) to be recouped is not appropriate, as this is ultimately a political decision for each individual jurisdiction to make. The wording used in this provision should allow for such flexibility.                                                                                                                                                                                       | We believe that the ICP as drafted provides adequate jurisdictional flexibility. ICP 12.2.2 constitutes guidance. It caveats the concept of recouping any public funding from the insurance sector with the introduction “in principle”. This recognises that particular factual circumstances and/or the decisions of jurisdictional policymakers may result in different outcomes. |
| 194. Deutsche Aktuarvereinigung e.V. (DAV) (German Association of Actuaries) | Germany       | Recouping money from other insurance companies to come up for resolution costs of a single insurer should not be targeted (if there has not been initially set up such a common dedicated fund); shareholders should generally come up for such costs. Moreover, would it be enforceable by law to recoup money from the insurance sector, and would it be consistent with existing protective mechanisms such as “Protector” in Germany?                                                                                                    | When shareholders and lower-ranking creditors cannot absorb all potential losses to policyholders, contributions from the industry can avoid or reduce the need for public funding of a resolution.                                                                                                                                                                                  |
| 195. GDV - German Insurance Association                                      | Germany       | ICP 12 should refrain from addressing funding issues in resolution. This is a political decision to be made by each jurisdiction in its own responsibility.                                                                                                                                                                                                                                                                                                                                                                                  | Please note that 12.2.2 is not a standard, but guidance, and that similar or stronger requirements exist in KAs. Recommending that resolution funding comes from industry promotes market discipline.                                                                                                                                                                                |
| 196. Global Federation of Insurance Associations                             | Global        | It is not the IAIS’ role to recommend how countries should fund resolutions; it should be up to the jurisdiction as to the source of any public funding that is provided. Therefore, ICP 12.2.2 should be deleted.                                                                                                                                                                                                                                                                                                                           | See response to comment 195.                                                                                                                                                                                                                                                                                                                                                         |
| 197. International Actuarial Association                                     | International | As noted in our answer to Q11, recouping the costs of resolving a large insurer may not be feasible if it is required at the same time as the resolution of other insurers or the PPS scheme is not sufficiently robust.                                                                                                                                                                                                                                                                                                                     | See response to comment 195.                                                                                                                                                                                                                                                                                                                                                         |
| 198. International Forum of Insurance Guarantee Schemes (IFIGS)              | International | When funds from a policyholder protection scheme are used to protect policyholders, these funds are recouped from the industry                                                                                                                                                                                                                                                                                                                                                                                                               | Noted.                                                                                                                                                                                                                                                                                                                                                                               |

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| 199. General Insurance Association of Japan     | Japan          | As this guidance could be read to indicate that public funding used for the resolution of the insurer should always be recouped from the insurance sector, we suggest revising it as follows: "Resolution should seek to minimise reliance on public funding. In principle, efforts should be made to recoup any public funding used for the resolution of the insurer from the insurance sector."                                                                                                                                                                                          | See response to comment 193.                                                                                                                                                                                                                                                                                                                                                                                          |
| 201. Canadian Institute of Actuaries            | Ontario        | Replace the first sentence "Resolution should seek to minimise reliance on public funding." with "Resolution should not rely on public funding." The second sentence in that paragraph can remain unchanged. The point is to reinforce the idea that public funds should not be thought of as a backstop for insurers, and make the paragraph consistent with CF12.2b.                                                                                                                                                                                                                      | We believe that the ICP as drafted provides appropriate jurisdictional flexibility.                                                                                                                                                                                                                                                                                                                                   |
| 202. and 203. Swiss Re & Zurich Insurance Group | Switzerland    | <p>1. We are sympathetic with the principle stated in ICP12.2.2, but we are wondering what recouping mechanisms the IAIS has in mind, and how this would affect existing and new policyholders? This is a complex matter, and it would deserve additional guidance.</p> <p>2. Transparency needs to be established for such a recouping mechanism.</p>                                                                                                                                                                                                                                      | <p>1. We believe that the ICP as drafted provides appropriate jurisdictional flexibility. Jurisdictions will have to consider how best to recoup such funds. Guidance may be provided in a future IAIS Application Paper.</p> <p>2. The sentence will be amended: "In principle, any public funding used for the resolution of the insurer should be recouped from the insurance sector in a transparent manner."</p> |
| 204. Institute and Faculty of Actuaries         | UK             | As noted in our answer to Q11, recouping the costs of resolving a large insurer may not be feasible if it: <ul style="list-style-type: none"> <li>• is required at the same time as needing to resolve other insurers or</li> <li>• it actually triggers the failure of other insurers.</li> </ul>                                                                                                                                                                                                                                                                                          | See response to comment 193.                                                                                                                                                                                                                                                                                                                                                                                          |
| 205. Association of British Insurers            | United Kingdom | While the ABI agrees that resolution should seek to minimise reliance on public funding, it should be up to the jurisdiction as to the source of any public funding that is provided.                                                                                                                                                                                                                                                                                                                                                                                                       | See response to comment 193.                                                                                                                                                                                                                                                                                                                                                                                          |
| 206. ACLI                                       | US             | It is not the role of the IAIS to set standards or make recommendations on how countries fund resolutions. We request the deletion of 12.2.2.                                                                                                                                                                                                                                                                                                                                                                                                                                               | See response to comment 193.                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>30 - Q30 Comment on ICP 12.3</b>             |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 264. Assuris                                    | Canada         | Assuris supports that the supervisor or resolution authorities should require insurers to plan for contingencies based on their gone-concern risks. However, it is more important for supervisors, in planning for resolution, to obtain key risk information to understand gone concern risks. This key risk information is more beneficial to the supervisor and/or resolution authorities as a plan for contingencies may not address their specific concerns. Also, where a PPS has resolution expertise, they should be consulted by the supervisor to discuss the gone concern risks. | Noted. The authority of the supervisor to secure information about key risks is entrenched throughout the ICPs, and the language of ICP 12.3 has been edited to make this focus clearer. Also, consultation with an applicable PPS is provided for in ICP 12.5.1.                                                                                                                                                     |

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| 265. Insurance Europe                            | Europe      | Insurance Europe assumes that, given the focus on the gone concern situation, this section is referring to resolution planning. As such, (and as set out in the FSB's Key Attributes for Effective Resolution Regimes), the responsibility for resolution planning should rest with the supervisor/resolution authority and not with insurers (who are responsible for recovery planning). Therefore, we suggest that 12.3 should be amended to note "The supervisor/resolution authority plans for contingencies..."                                                                                                                                                | Agree that the development of a resolution plan is led by the supervisor and/or resolution authority (see ComFrame and definition in the Annex) and not by the insurer itself. However, please note that this standard does not refer to such a resolution plan. As such, ICP 12.3 is not requiring resolution planning for all insurers. Also, the text has been amended to better clarify, so that the supervisor and/or the resolution authority requires <b>as necessary</b> insurers to evaluate their specific operations and risks in a possible resolution and to put in place procedures for use during a resolution. |
| 266. GDV - German Insurance Association          | Germany     | The wording of Standard 12.3 implies that contingency plans are prepared and maintained by the insurer. In accordance with the allocation of responsibilities in terms of resolution plans for IAIGs, this obligation should rest with the supervisor/resolution authority.                                                                                                                                                                                                                                                                                                                                                                                          | See response to comment 265.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 267. Global Federation of Insurance Associations | Global      | <ol style="list-style-type: none"> <li>1. As the focus of this ICP is resolution planning, as set out in the FSB's Key Attributes for Effective Resolution Regimes, the responsibility for resolution planning should rest with the supervisor or resolution authority and not with insurers (who are responsible for recovery planning). Therefore, GFIA suggests that ICP 12.3 should be amended to note 'The supervisor/resolution authority plan for contingencies....'.</li> <li>2. .GFIA also suggests that the IAIS provides further clarity as to how proportionality applies to the plans, and the supervisory powers in relation to such plans.</li> </ol> | <ol style="list-style-type: none"> <li>1. See response to comment 265.</li> <li>2. The text has been amended to clarify the proportionality.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 268. General Insurance Association of Japan      | Japan       | It is redundant to require insurers to plan for contingencies even if they continue to be soundly managed. The purpose can be served if material risks are properly identified and assessed through insurers' ORSA and other measures in normal times.                                                                                                                                                                                                                                                                                                                                                                                                               | We disagree. ORSAs are documents that require insurers to identify risks and capital needs as a "going concern;" whereas, ICP 12.3 relates to possible resolution circumstances. The aims of these activities are very different.                                                                                                                                                                                                                                                                                                                                                                                              |
| 270. Canadian Institute of Actuaries             | Ontario     | We suggest clarifying that the planning referred to in this standard is to occur by all going-concern insurers, not only when insurers have become a gone-concern, perhaps as follows: "The supervisor requires going-concern insurers to plan for contingencies based on their specific risk in a gone-concern situation, to ensure insurers can support the supervisor or resolution authority in the event of resolution."                                                                                                                                                                                                                                        | ICP 12.3 has been amended to clarify its intent.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 271. and 272. Swiss Re & Zurich Insurance Group  | Switzerland | Whereas CF12.3a.2 establishes the supervisor/ resolution authority to lead the resolution planning effort, ICP12.3 tends to shift the responsibility to the insurer. FSB's "Developing Effective Resolution Strategies and Plans for Systemically Important Insurers" (2016) <a href="http://www.fsb.org/2016/06/developing-effective-resolution-strategies-and-plans-for-systemically-important-insurers/">http://www.fsb.org/2016/06/developing-effective-resolution-strategies-and-plans-for-systemically-important-insurers/</a> states: "For                                                                                                                    | See responses to comment 265.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

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|                                      |                | <p>global systemically important insurers (G-SIIs), the home resolution authority should lead the development of the group resolution plan in coordination with all members of the firm's Crisis Management Group (CMG)."</p> <p>We would appreciate clarity by the IAIS regarding roles and responsibilities. It seems inconsistent that for G-SIIs and IAIGs the lead is with the resolution authority, and that at the ICP level the requirement addresses insurers</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                   |
| 272. Zurich Insurance Company Ltd.   | Switzerland    | <p>Whereas CF12.3a.2 establishes the supervisor/ resolution authority to lead the resolution planning effort, ICP12.3 tends to shift the responsibility to the insurer. FSB's "Developing Effective Resolution Strategies and Plans for Systemically Importance Insurers" (2016) <a href="http://www.fsb.org/2016/06/developing-effective-resolution-strategies-and-plans-for-systemically-important-insurers/">http://www.fsb.org/2016/06/developing-effective-resolution-strategies-and-plans-for-systemically-important-insurers/</a> states: "For global systemically important insurers (G-SIIs), the home resolution authority should lead the development of the group resolution plan in coordination with all members of the firm's Crisis Management Group (CMG)."</p> <p>We would appreciate clarity by the IAIS regarding roles and responsibilities. It seems inconsistent that for G-SIIs and IAIGs the lead is with the resolution authority, and that at the ICP level the requirement addresses insurers.</p> | See responses to comment 265.                                                                                                                     |
| 273. Association of British Insurers | United Kingdom | <p>1. As set out in the FSB's Key Attributes for Effective Resolution Regimes, the responsibility for resolution planning should rest with the supervisor/resolution authority and not with insurers (who are responsible for recovery planning). Therefore, we suggest that ICP 12.3 should be amended to:</p> <p>'The supervisor and/or resolution authority plans for contingencies '.</p> <p>2 .We also suggest that the IAIS provides further clarity as to how proportionality applies to the plans, and the supervisory powers in relation to such plans. Unlike in revised ICP 10, which states that supervisors may require recovery planning, this ICP makes resolution planning mandatory. We recommend that resolution planning should also be subject to proportionality in respect of both which insurers resolution planning applies to, and what the requirements are.</p>                                                                                                                                     | See response to comment 265.                                                                                                                      |
| 275. Chubb                           | United States  | <p>This seems to require all insurers to have a plan regarding specific actions that would be taken in a winding up situation. Imposing this requirement would create an excessive burden to place on an insurer and would be a poor utilization of resources where there is no evidence of financial distress. We also do not believe that such a theoretical plan would be meaningful or useful in the absence of actual financial distress and causes thereof. This also seems to be misplaced in ICP 12 which in our view should be focused on the supervisory authority to address a non-viable insurer and to cooperate across jurisdictions. A high-level plan that demonstrates the insurer has in place appropriate processes to recover from financial distress and to undertake a winding up of a non-viable insurer may be acceptable provided such</p>                                                                                                                                                            | See responses to comment 265 and 268. ICP 10 would be an inappropriate location for ICP 12.3 because its focus is on resolution and not recovery. |

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|                                                                    |                                          | plan contemplates a general approach to these events and recognizes the futility of trying to plan for endless scenarios which may occur. This provision may be better placed in ICP 10 with a focus on the insurers obligations to address financial distress.                                                                                                                                                                                                                       |                                                                                                     |
| 276. MetLife, Inc                                                  | United States                            | We suggest that this ICP be revised as follows to provide a clearer predicate for the supporting guidance: "The supervisor identifies company specific issues that could impede resolution and requires the company, where appropriate, to develop risk mitigation plans to address them."                                                                                                                                                                                            | See responses to comment 265.                                                                       |
| 277. National Association of Mutual Insurance Companies            | United States                            | In the ICP language and the guidance below, the supervisors are to require the insurers to have a resolution plan. This requirement seems to apply to all insurers and should be limited to those insurers are no longer viable, likely to be no longer viable or that have no reasonable prospects of being viable.                                                                                                                                                                  | See responses to comment 265.                                                                       |
| 278. Institute of International Finance and the Geneva Association | United States/Switzerland                | Our assumption is that given the focus on gone concern situation, this section is referring to resolution planning. As such, different practices across jurisdictions should be recognized and reflected in the ICPs. In some jurisdictions, the responsibility for resolution planning rest with the supervisor/resolution authority and not with insurers (who are responsible for recovery planning).                                                                              | See responses to comment 265.                                                                       |
| 279. ACLI                                                          | US                                       | We suggest that this ICP be revised as follows to provide a clearer predicate for the supporting guidance: "The supervisor identifies company specific issues that could impede resolution and requires the company, where appropriate, to develop risk mitigation plans to address them."                                                                                                                                                                                            | See responses to comment 265.                                                                       |
| 280. International Association of Insurance Receivers              | US Corporation, International membership | Suggest clarifying term "gone-concern" as it is not used elsewhere in the ICP.                                                                                                                                                                                                                                                                                                                                                                                                        | ICP 12.3 has be amended to eliminate use of this term.                                              |
| 281. Property Casualty Insurers Association of America (PCI)       | USA                                      | We suggest that this ICP be revised as follows to provide a clearer predicate for the supporting guidance: "The supervisor identifies company specific issues that could impede resolution and requires the company, where appropriate, to develop risk mitigation plans to address them."                                                                                                                                                                                            | See responses to comment 265.                                                                       |
| <b>31 - Q31 Comment on ICP 12.3.1</b>                              |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                     |
| 282. ABIR Association of Bermuda Insurers & Reinsurers             | BERMUDA                                  | Group-wide supervisors may be subject to specific jurisdictional rules as to when a resolution plan should be in place. The requirement that the supervisor must consult with the crisis management group of the IAIS in connection with this decision is - onerous and may result in conflicts with the rules and laws of the jurisdiction in which the group-wide supervisor sits. At most, consultation with the crisis management group should be optional rather than mandatory. | Your comment, which relates to CF 12.3.a, was moved to the end of Q34, and will be addressed there. |
| 283. Assuris                                                       | Canada                                   | Assuris supports that the supervisor or resolution authorities may identify risks to an insurer's circumstances that arise in resolution.                                                                                                                                                                                                                                                                                                                                             | We appreciate the support. ICP 12.5.1 provides for consultation with the PPS as appropriate.        |

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| 284. Insurance Europe                                           | Europe        | <p>The risks identified by a supervisor which would arise in resolution of an insurer should be shared with relevant authorities including the PPS. This key risk information can assist the PPS in preparing for the resolution by potentially providing financial support and to minimize the cost in protecting policyholders. The PPS may have resolution expertise and should be consulted by the supervisor to discuss the gone concern risks.</p> <p>a) As with Q30 above, the text of ICP 12.3.1 should be amended to note that it is the supervisor / resolution authority that should consider such risks.</p> <p>b) The example provided is unclear when it states that “such risks may relate to the insurer’s provision of relevant information”. This may relate to CF12.3c on MIS. It would help if the IAIS could articulate its specific expectations about information</p> | a) See response to comment 265.                                                                                                                                                                                                                                                                                                                                                 |
| 285. Global Federation of Insurance Associations                | Global        | <p>Group-wide supervisors may be subject to specific jurisdictional rules as to when a resolution plan should be in place. The requirement that the supervisor must consult with the crisis management group of the IAIS in connection with this decision is onerous and may result in conflicts with the rules and laws of the jurisdiction in which the group-wide supervisor sits. At most, consultation with the crisis management group should be optional rather than mandatory.</p>                                                                                                                                                                                                                                                                                                                                                                                                   | Your comment, which relates to CF 12.3.a, was moved to the end of Q34.                                                                                                                                                                                                                                                                                                          |
| 286. International Forum of Insurance Guarantee Schemes (IFIGS) | International | <p>All information on the risks that would arise in resolution should be shared with the policyholder protection scheme.</p> <p>There should be early and active cooperation between the supervisor and the policyholder protection scheme to discuss risks that could arise on resolution. Those risks will directly affect the ease and cost of implementing the policyholder protection through the policyholder protection scheme.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                   | We appreciate the support. ICP 12.5.1 provides for consultation with the PPS as appropriate.                                                                                                                                                                                                                                                                                    |
| 287. General Insurance Association of Japan                     | Japan         | <p>It is redundant to require insurers to plan for contingencies even if they continue to be soundly managed. The purpose can be served if material risks are properly identified and assessed through insurers’ ORSA and other measures in normal times.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | See response to comment 268.                                                                                                                                                                                                                                                                                                                                                    |
| 289. and 290. Swiss Re & Zurich Insurance Group                 | Switzerland   | <p>The example provided is not clear to us. We think this may relate to CF12.3c on MIS. It would help if the IAIS could articulate its specific expectations about information requirements.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | ICP 12.3.1’s example appears to be clear. This process is about insurer specific operations and risks that could be key in a resolution, or could pose difficulties. Further exploration of this topic may be more appropriate in an application paper.                                                                                                                         |
| 291. Chubb                                                      | United States | <p>This reference to business continuity plans again seems better placed in ICP 10.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | ICP 12.3.1 does not address business continuity plans. It is identifying that the type of analysis required by this ICP should consider what portions of an insurers’ operations would be essential to continue in a resolution scenario. For example, perhaps an insurer has a significant real estate business, the insurer should evaluate whether those operations could be |

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|                                                                    |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                              | suspended during a resolution scenario as they are not essential to ensuring payment of policyholder claims.                                                                                                                                                                                                                          |
| 292. National Association of Mutual Insurance Companies            | United States             | Q31 Comment on ICP 12.3.1<br>In this guidance, the supervisors are to require the insurers to have a resolution plan. This requirement seems to apply to all insurers and should be limited to those insurers are no longer viable, likely to be no longer viable or that have no reasonable prospects of being viable.                                                                                                                      | See responses to comment 265.                                                                                                                                                                                                                                                                                                         |
| 293. Institute of International Finance and the Geneva Association | United States/Switzerland | 1. The example provided is not entirely clear to us: "For example, such risks may relate to the insurer's PROVISION of relevant information [...]" We understand this may relate to CF12.3c on MIS. It would help if the IAIS could articulate its specific expectations about information.<br>2. Additionally, the text of 12.3.1 should be amended to note that it is the supervisor/resolution authority that should consider such risks. | 1. See response to comment 289 and 290.                                                                                                                                                                                                                                                                                               |
| <b>32 - Q32 Comment on ICP 12.3.2</b>                              |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                       |
| 294. Assuris                                                       | Canada                    | Assuris supports that the insurer should consider the risks which may arise in its resolution. It is important for the supervisor or resolution authorities to receive key risk information from the insurer which addresses their gone concern risks.                                                                                                                                                                                       | Noted and we appreciate the support.                                                                                                                                                                                                                                                                                                  |
| 295. Global Federation of Insurance Associations                   | Global                    | As with Q30 above, the text of 12.3.1 should be amended to note that it is the supervisor/resolution authority that should consider such risks.                                                                                                                                                                                                                                                                                              | See responses to comment 265.                                                                                                                                                                                                                                                                                                         |
| 296. International Forum of Insurance Guarantee Schemes (IFIGS)    | International             | Any contingency plans to mitigate risks on resolution should be shared and discussed with the policyholder protection scheme.                                                                                                                                                                                                                                                                                                                | See response to comment 283.                                                                                                                                                                                                                                                                                                          |
| 297. General Insurance Association of Japan                        | Japan                     | It is redundant to require insurers to plan for contingencies even if they continue to be soundly managed. The purpose can be served if material risks are properly identified and assessed through insurers' ORSA and other measures in normal times.                                                                                                                                                                                       | See response to comment 268.                                                                                                                                                                                                                                                                                                          |
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| 299. National Association of Mutual Insurance Companies            | United States             | Q32 Comment on ICP 12.3.2<br>Mitigation of risk is a concept used for viable companies. A company in resolution, by definition, is not viable. This requirement should be deleted from the Consultation Document.                                                                                                                                                                                                                            | Disagree. There is value in having viable companies evaluate their specific risks and operations and how those would be impacted in a resolution scenario to identify any possible obstacles or decision points in advance of resolution. See responses throughout for further discussion on the scope, intent and value of this ICP. |
| 300. Liberty Mutual Insurance Group                                | USA                       | This provision is not relevant to the resolution of an insurer and should be deleted from ICP 12. This provision would require insurers to invest management resources and expenses in planning for a hypothetical event that is unrelated to the ongoing                                                                                                                                                                                    | Disagree. Where the supervisor has identified risks, specific to an insurer's circumstances, that would arise in resolution and which may impact the supervisor achieving the resolution objectives of                                                                                                                                |

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|                                                                 |               | business of the insurer. Mitigation of risks is pertinent only when an insurer is still viable. Resolution, by definition, occurs only when an insurer is no longer viable.                                                                                                                                                                                                                                                                                                                                                                                                                                                          | the jurisdiction the insurer must consider such risks and where appropriate, prepare contingency plans to mitigate the risk.                                                                                                                                          |
| <b>33 - Q33 Comment on ICP 12.3.3</b>                           |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                       |
| 301. Assuris                                                    | Canada        | Assuris supports that the insurer has plans and procedures in place to provide necessary information to relevant authorities. Resolution plans are not required however, having updated key risk information ready to provide to the relevant authorities will allow for decisions and actions, such as portfolio transfers, to be completed in a timely manner                                                                                                                                                                                                                                                                      | Noted. Also, see responses to comment 265.                                                                                                                                                                                                                            |
| 302. International Actuarial Association                        | International | We do not think including the "e.g." list is helpful as the examples are only a small part of the range and amount of data that would be needed in practice. However, we agree there needs to be appropriate documentation, processes and plans, especially in respect of outsourced activities.                                                                                                                                                                                                                                                                                                                                     | Noted. Given that the ICP aims at providing guidance to jurisdictions that have resolution regimes that may vary in their degree of sophistication, we will retain the example as is.                                                                                 |
| 303. International Forum of Insurance Guarantee Schemes (IFIGS) | International | We strongly agree with this.<br>In addition, where the policyholder protection scheme protects policyholders by the transfer of the portfolio to a solvent insurer, the policyholder protection scheme must receive information sufficient to implement that transfer. Similarly, where the policyholder protection scheme provides protection through a payment process, sufficient information must be made available to ensure that this can be done effectively and efficiently.<br>It is critical that this information is prepared in advance so that it is available at the point of when the company is declared non-viable. | Noted. Further guidance may be appropriate in a future Application Paper.                                                                                                                                                                                             |
| 304. General Insurance Association of Japan                     | Japan         | It is redundant to require insurers to plan for contingencies even if they continue to be soundly managed. The purpose can be served if material risks are properly identified and assessed through insurers' ORSA and other measures in normal times.                                                                                                                                                                                                                                                                                                                                                                               | See response to comment 268.                                                                                                                                                                                                                                          |
| 306. Institute and Faculty of Actuaries                         | UK            | We do not think the list of examples given is helpful, as these examples are only a small part of the range and amount of data that would be needed in practice. However, we agree there need to be appropriate documentation, processes and plans, especially in respect of outsourced activities.                                                                                                                                                                                                                                                                                                                                  | See response to comment 302.                                                                                                                                                                                                                                          |
| 307. National Association of Mutual Insurance Companies         | United States | Q33 Comment on ICP 12.3.3<br>In this guidance, the supervisors are to require the insurers to have a resolution plan. This requirement seems to apply to all insurers and should be limited to those insurers are no longer viable, likely to be no longer viable or that have no reasonable prospects of being viable.                                                                                                                                                                                                                                                                                                              | See responses to comment 265.                                                                                                                                                                                                                                         |
| 308. National Organization of Life and Health Insurance         | United States | We strongly agree with the importance of providing necessary information to a PPS in a timely manner and observe that early PPS involvement in a resolution is critical to protecting policyholders. The guidance should include a time frame or a trigger for                                                                                                                                                                                                                                                                                                                                                                       | See response to comment 305. Additionally, the ICPs need to allow for jurisdictional flexibility in order to cope with the specific features of the different markets and frameworks in place. As such, it would not be appropriate to specify a specific time frame. |

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| Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF) |                           | when an insurer should have in place plans and procedures for providing the necessary information to the PPS.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 309. Institute of International Finance and the Geneva Association                             | United States/Switzerland | The IAIS should clarify that “a timely manner” for an insurance company resolution – which can be drawn out over many years unlike a bank – does not mean “real-time.”                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | This comment goes beyond the scope of ICP 12.3.3. We are aware that insurance resolutions can be lengthy given the nature of the insurance liabilities that may last for years. The term “timely manner” allows for a flexible approach.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 310. Property & Casualty Insurers Association of America (PCI)                                 | USA                       | We support this standard and agree, in particular, that providing timely information to a PPS is imperative.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Noted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>61 - Q61 Comment on ICP 12.4</b>                                                            |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 527. Assuris                                                                                   | Canada                    | Assuris strongly supports having clearly defined roles and responsibilities of relevant authorities in a jurisdiction for the exit of insurers. Pre-defined roles and responsibilities for the relevant authorities will ensure the resolution actions are timely and effective. The PPS’s roles and responsibilities should be clearly defined in each jurisdiction, as they can be an integral part of the resolution process.                                                                                                                                                                                                                                                                                                                                                                        | Noted. ICP 12 includes several references to PPS, where deemed necessary in the resolution process.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 528. Insurance Europe                                                                          | Europe                    | Insurance Europe generally agrees with this ICP, but would also emphasise the following aspects:<br>a) • Cooperation arrangements between supervisory and resolution authorities, within the insurance sector and also between the insurance sector and other financial sectors, should be clearly defined.<br><br>b) • Arrangements should be made for an appropriate separation of the supervisory and resolution functions, which may/or may not be part of the same authority.<br>c) • Where different rules may apply (eg banking vs insurance resolution), arrangements should be made to ensure that relevant resolution requirements apply to entities in a group and to the group. For example, an insurance-led conglomerate should not be resolved in accordance with bank resolution rules. | a) Agree. This is covered in other areas of the ICP and in ICP 3.<br><br>b) Noted. However, it is considered, that the ICP should not determine the institutional set-ups and should allow for jurisdictional flexibility. There is however additional guidance added in ICP 12.4 on coordination agreements.<br>c) Your comment is well noted and found relevant. However, we find that current wording under ICP 12.4.3 2 <sup>nd</sup> bp, and under (new) ICP 12.4.4, sufficiently address your concern. A future application paper may further exemplify cases where different sectoral rules should apply within a group / conglomerate. Please also refer to CF 12.12a.1 last bp, which only applies to IAIGs but whose underlying principle is valid for any group / conglomerate.<br>Noted. The current ICP 12.5.1 already recommends that cooperation take place with existing PPSs. |
| 530. International Forum of Insurance Guarantee Schemes (IFIGS)                                | International             | Policyholder protection schemes must be an integral part of any resolution process and there should be close cooperation between the policyholder protection scheme, the supervisor and any resolution authority.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| 532. Institute and Faculty of Actuaries                         | UK            | It is worth including asset managers in the second bullet under other financial operations.<br>An additional bullet should also be included in relation to the pensions regulator, for insurers with significant pensions business or company pensions.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | We understand that these comments apply to ICP 12.4.3.<br><br>Noted, but the text makes it clear that the examples here provided are not exhaustive. A future application paper may further develop these issues.                                                                                                                                                                                                    |
| 533. Chubb                                                      | United States | As set forth in Q. 41 and Q. 44, we believe the focus of ICP 12 and ComFrame provisions addressing resolution should be focused on supervisory authority and cooperation between supervisors. Exactly how the cooperation is achieved is dependent local legal requirements informed by relationships established among supervisors.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Noted. The current drafting allows flexibility for jurisdictional differences and approaches.                                                                                                                                                                                                                                                                                                                        |
| <b>62 - Q62 Comment on ICP 12.4.1</b>                           |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 534. Assuris                                                    | Canada        | Assuris supports having the designated authorities empowered to exercise powers for the resolution of an insurer. The authorities should be given powers based on their role in resolution of an insurer.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Noted.                                                                                                                                                                                                                                                                                                                                                                                                               |
| 535. International Forum of Insurance Guarantee Schemes (IFIGS) | International | The mandate and role of the policyholder protection scheme and its interaction with the resolution authorities should be clearly defined.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | The roles of PPSs are mentioned in different parts of the draft (see ICP 12.3.1, 12.3.3, 12.5.1, 12.7.8 etc.)<br>However, the mandates and roles of PPSs widely vary among jurisdictions. It is not for this supervisory material under ICP 12 to define them, but examples may be further developed in a future Application Paper                                                                                   |
| <b>63 - Q63 Comment on ICP 12.4.2</b>                           |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 537. Assuris                                                    | Canada        | It is important to identify a lead authority for resolution of an insurer however, the lead authority may change at different stages of resolution. Where different authorities are involved in the resolution of an insurer, there must clear agreement on who should be the lead authority at each stage of resolution.<br>Where different authorities are involved in the resolution of an insurer, having a lead authority can help coordinate the resolution of the insurer. The role of the lead authority could change depending on the viability of the insurer. For example, the supervisor will become the lead while the company is still viable and its role will be to supervise the recovery options. Once a company is no longer viable, the liquidator should become the lead for completing resolution options. | According to ICP 12.4.2 where different authorities within a single jurisdiction are in charge of the resolution of an insurer, a lead authority that coordinates the resolution of the insurer should be identified.<br>Noted. However dealing with this particular issue is not within the scope of the supervisory material developed under ICP 12. This may be further considered in a future Application Paper. |
| 538. Insurance Europe                                           | Europe        | It is absolutely necessary that a lead authority be identified. Accordingly, "should be" is too weak a formulation, which leaves too much room for discretion. The IAIS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                      |

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|                                                                    |                           | could reword as: "[...] a lead authority that coordinates the resolution of the insurer is identified".                                                                                                                                                           | ICP 12.4.2 is guidance and, according to IAIS drafting rules, is drafted in a non-mandatory way (see also response to comments 541 and 542).<br>However, this Guidance provides a recommendation how the (mandatory) standard 12.4 should be implemented.<br>Please also note that the ICPs are drafted to enable jurisdictional flexibility to cope with the specific features in each jurisdiction.<br>Also, in practice, the GWS for a group would take the functional lead in most jurisdictions. |
| 539. International Forum of Insurance Guarantee Schemes (IFIGS)    | International             | No comment                                                                                                                                                                                                                                                        | Not applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 541. and 542. Swiss Re & Zurich Insurance Group                    | Switzerland               | A lead authority ought to be identified within a single jurisdiction. We suggest to reword as: "[...] a lead authority that coordinates the resolution of the insurer IS identified."                                                                             | ICP 12.4.2 is guidance and, according to IAIS drafting rules, is drafted in a non-mandatory way<br><br>See also response to comment 538.                                                                                                                                                                                                                                                                                                                                                              |
| 543. Institute of International Finance and the Geneva Association | United States/Switzerland | We believe it is necessary that a lead authority be identified. The IAIS may reword as: "[...] a lead authority that coordinates the resolution of the insurer IS identified."                                                                                    | See response to comment 541.                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>64 - Q64 Comment on ICP 12.4.3</b>                              |                           |                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 544. Assuris                                                       | Canada                    | Agree                                                                                                                                                                                                                                                             | Noted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 545. Insurance Europe                                              | Europe                    | The criteria in 12.4.3 seem more appropriate for supervision than resolution authorities whose powers are likely to have jurisdictional boundaries in terms of their scope of application.                                                                        | Agree. 1 <sup>st</sup> bp of 12.4.3 has been removed, and 2 <sup>nd</sup> bp of 12.4.3 has been accordingly amended.                                                                                                                                                                                                                                                                                                                                                                                  |
| 546. Global Federation of Insurance Associations                   | Global                    | The guidance suggests there should be a lead resolution authority, but the criteria in 12.4.3 seem more appropriate for supervision than resolution authorities whose powers are likely to have jurisdictional boundaries in terms of their scope of application. | See response to Comment 545                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 547. International Forum of Insurance Guarantee Schemes (IFIGS)    | International             | No comment                                                                                                                                                                                                                                                        | Not applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 549. Institute and Faculty of Actuaries                            | UK                        | The second bullet point refers to 'other financial operations (such as banking)'. We suggest adding an additional reference to asset managers, to make it clear that                                                                                              | See response to comment 532.                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

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|                                                                    |                           | asset management services also fall under the remit of resolution strategy in some capacity.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 550. Association of British Insurers                               | United Kingdom            | This ICP suggests there should be a lead resolution authority, but the criteria set out in the bullet points in ICP 12.4.3 seem more appropriate for supervision than resolution.                                                                                                                                                                                                                                                                                                                                                                                                                                                              | See response to Comment 545                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 551. Institute of International Finance and the Geneva Association | United States/Switzerland | The criteria in 12.4.3 seem more appropriate for supervision than resolution authorities whose powers are likely to have jurisdictional boundaries in terms of their scope of application.                                                                                                                                                                                                                                                                                                                                                                                                                                                     | See response to Comment 545.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>65 - Q65 Comment on ICP 12.5</b>                                |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 552. Assuris                                                       | Canada                    | Assuris strongly supports that the supervisor and/or the resolution authorities share information, cooperate and coordinate with relevant authorities such as a PPS. Other authorities including a PPS can assist the resolution authorities in the resolution of the insurer. Early involvement of a PPS is beneficial for successful resolution.                                                                                                                                                                                                                                                                                             | Noted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 553. Reinsurance Advisory Board (RAB)                              | EU                        | Cooperation arrangements between supervisory and resolution authorities, within the (re)insurance sector and also between the (re)insurance sector and other financial sectors, should be clearly defined. The IAIS should aim to minimise impediments to the overall group supervisor being responsible for group resolution for reinsurers.<br>The recovery or resolution tools applied in the case of reinsurance need to ensure that the diversification in the reinsurance business model is preserved. For reinsurance, this underlines the importance of supervisory co-operation in the event that a reinsurer enters into resolution. | As noted previously, the ICPs and CF must be responsive to jurisdictional differences and sovereign boundaries. In practice, it would be unrealistic for a GWS of a cross-border group to have the legal authority to resolve an insurer within the group that is located in another sovereign jurisdiction. Thus, this ICP establishes that supervisors and/or resolution authorities must share information, coordinate and cooperate to achieve the objective of resolution for cross-border insurers and groups. |
| 554. Insurance Europe                                              | Europe                    | In addition to the criteria listed in 12.5.1 to 12.5.7, there should also be a requirement that any sharing of information is subject to an appropriate confidentiality agreement. The language in favour of cooperation and coordination in ICP12 should be strengthened.                                                                                                                                                                                                                                                                                                                                                                     | As the ICPs apply in its entirety to supervisors, requirements regarding information sharing in ICP 3 and 25 are applicable automatically also to supervisors in this case.<br>See also newly inserted guidance text in 12.4.4 and 12.5.8 with additional language on cooperation and coordination.                                                                                                                                                                                                                  |
| 555. GDV - German Insurance Association                            | Germany                   | We agree that coordination and cooperation between supervisors/authorities involved in the resolution of an insurer is paramount. However, the exchange of sensible information must be bound by confidentiality restrictions, in particular if an insurer operating on a cross-border basis is affected. Therefore, Standard 12.5 should explicitly take account of this.                                                                                                                                                                                                                                                                     | See response to Comment 554.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 556. Global Federation of Insurance Associations                   | Global                    | <b>1.</b> The sharing of information between the supervisor and/or resolution authority and other relevant authorities should be explicitly subject to appropriate confidentiality requirements. Therefore, in addition to the criteria listed in 12.5.1 to 12.5.7, there                                                                                                                                                                                                                                                                                                                                                                      | <b>1.</b> This is addressed in ICP 3 and a reference does not have to be added because other ICPs including ICP 3 already apply to supervisors.                                                                                                                                                                                                                                                                                                                                                                      |

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|                                                                                     |                | <p>should also be a requirement to ensure that any sharing of information, for example under cooperative arrangements (COAGs) and supervisory colleges, is subject to an appropriate confidentiality agreement.</p> <p>2. Although cross-border coordination may support an orderly resolution of certain insurers, it may not be necessary in all cases, particularly where an insurer's material entities are operationally and financially independent of one another. Accordingly, GFIA would suggest revising ICP 12.5 to insert the phrase "as and if necessary" after "other relevant authorities".</p> | <p>2. Noted but disagree. Such caveat could be read as overly restricting cooperation and coordination, which is important even for the day-to-day supervision of a cross-border insurance group.</p> |
| 557. International Forum of Insurance Guarantee Schemes (IFIGS)                     | International  | We support the importance of close cooperation and coordination between all relevant authorities including the policyholder protection scheme.                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Noted.                                                                                                                                                                                                |
| 559. and 560. Swiss Re & Zurich Insurance Group                                     | Switzerland    | The wording throughout 12.5 guidance could be strengthened in our view. As stated in the FSB's "Developing Effective Resolution Strategies and Plans for Systemically Important Insurers", authorities must always determine if cross-border cooperation is a necessity, and if so, must establish mechanisms to ensure effective cooperation. We suggest that the IAIS recognizes this necessity in the context of ICPs and ComFrame as well.                                                                                                                                                                 | Noted, but as you indicate these materials are guidance and as such, we believe that the wording of ICP 12.5 is strong enough.                                                                        |
| 561. Association of British Insurers                                                | United Kingdom | The sharing of information between the supervisor and/or resolution authority and other relevant authorities should be explicitly subject to confidentiality requirements. For example, ICP 12.5 could be reworded as 'Subject to confidentiality requirements, the supervisor and/or resolution authority shares information...'                                                                                                                                                                                                                                                                              | Agree that confidentiality requirements are important. However, this is addressed in ICP 3 and a reference does not have to be added because other ICPs including ICP 3 already apply to supervisors. |
| 562. Chubb                                                                          | United States  | This is the critical element of resolution because it addresses the cooperation, coordination and information sharing among supervisors. In the absence of a global resolution scheme, this coordination is the only viable way to resolve a global insurer.                                                                                                                                                                                                                                                                                                                                                   | Noted.                                                                                                                                                                                                |
| 563. MetLife, Inc                                                                   | United States  | Although cross-border coordination may support an orderly resolution of certain insurers, it may not be necessary in all cases, particularly where an insurer's material entities are operationally and financially independent of one another. Accordingly, we would suggest revising ICP 12.5 to insert the phrase "as and if necessary" after "other relevant authorities."                                                                                                                                                                                                                                 | Noted but disagree. Such caveat could be read as overly restricting cooperation and coordination, which is important even for the day-to-day supervision of a cross-border insurance group.           |
| 564. National Organization of Life and Health Insurance Guaranties (NOLHGA) and the | United States  | Supervisors and/or resolution authorities should coordinate and cooperate with policyholder protection schemes. Early PPS involvement in a resolution is a critical part of policyholder protection.                                                                                                                                                                                                                                                                                                                                                                                                           | Noted. This is addressed in Guidance 12.5.1.                                                                                                                                                          |

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| National Conference of Insurance Guaranty Funds (NCIGF)            |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 565. Institute of International Finance and the Geneva Association | United States/Switzerland | <p>1. FSB guidance provides that authorities should always determine if cross-border cooperation is a necessity, and if so, must establish mechanisms to ensure effective cooperation. We strongly advise the IAIS to recognize this necessity in the context of ICPs and ComFrame acknowledging however that there may be legal limitations on the ability to agree to mechanisms established. Given also that this guidance is provided at ICP level, it would be important to note that while cross-border coordination may support an orderly resolution of certain insurers, it may not be necessary in all cases, particularly where an insurer's material entities are operationally and financially independent of one another.</p> <p>2. In addition to the criteria listed in 12.5.1 to 12.5.7 there should also be a requirement to ensure that any sharing of information is subject to an appropriate confidentiality agreement.</p>                                                                                             | <p>1. Noted but disagree. Such caveat could be read as overly restricting cooperation and coordination, which is important even for the day-to-day supervision of a cross-border insurance group.</p> <p>2. See response to comment 561.</p>                                                                                                                                                                                                                                                                                 |
| 566. ACLI                                                          | US                        | <p>1. Language should be added that addresses confidentiality protections, cooperative arrangements (COAGs), crisis management groups (CMGs) and supervisory colleges.</p> <p>2. Although cross-border coordination may support an orderly resolution of certain insurers, it may not be necessary in all cases, particularly where an insurer's material entities are operationally and financially independent of one another. Accordingly, we would suggest revising ICP 12.5 to insert the phrase "as and if necessary" after "other relevant authorities."</p> <p>3. ACLI also agrees with the following comments of the National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF): Supervisors and/or resolution authorities should coordinate and cooperate with existing policyholder protection schemes. Early involvement of any existing policyholder protection scheme in a resolution is a critical part of policyholder protection.</p> | <p>1. See response to comment 561. Moreover, such items are only required for insurers identified as G-SIIs. Given the broad application of ICPs to all insurers, this does not seem necessary, but can be further developed in a future Application Paper.</p> <p>2. Noted but disagree. Such caveat could be read as overly restricting cooperation and coordination, which is important even for the day-to-day supervision of a cross-border insurance group.</p> <p>3. Noted. This is addressed in Guidance 12.5.1.</p> |
| 567. Property Casualty Insurers Association of America (PCI)       | USA                       | <p>4. Although cross-border coordination may support an orderly resolution of certain insurers, it may not be necessary in all cases, particularly where an insurer's material entities are operationally and financially independent of one another. Accordingly, we would suggest revising ICP 12.5 to insert the phrase "as and if necessary" after "other relevant authorities."</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <p>4. See response to comment 567.2 above.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>66 - Q66 Comment on ICP 12.5.1</b>                              |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

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| 568. Assuris                                                       |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                    |
|                                                                    | Canada                    | Assuris strongly supports a PPS being a relevant authority in the resolution of an insurer.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Noted.                                                                                                                                                             |
| 569. International Forum of Insurance Guarantee Schemes (IFIGS)    | International             | A PPS can be a source of expertise and has experience that may provide advice and assistance in the resolution of an insurer. Cooperation and coordination with a PPS is necessary when it provides support for the transfer of businesses. We endorse the importance of close cooperation and coordination with the policyholder protection schemes. Early involvement of the policyholder protection scheme can result in a better resolution process and outcome. This cooperation is vital when the resolution includes support from the policyholder protection scheme for the transfer of business. |                                                                                                                                                                    |
| 571. and 572. Swiss Re & Zurich Insurance Group                    | Switzerland               | See our general comment on PPS as part of our answer to Q1.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Noted.                                                                                                                                                             |
| 573. Institute of International Finance and the Geneva Association | United States/Switzerland | See our general comment on PPS as part of our answer to Q1.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Noted.                                                                                                                                                             |
| 574. Property Casualty Insurers Association of America (PCI)       | USA                       | The standard appropriately requires the sharing of information among relevant parties, and in particular, notes the importance of sharing information with a PPS. PCI strongly supports this, and suggests that the involvement of a PPS at the earliest stages can be helpful, not only to keep the PPS fully informed, but also so that the knowledge and expertise of the PPS can be made available to supervisors as appropriate and needed.                                                                                                                                                          | Noted. Guidance 12.5.1 explicitly mentions cooperation with PPSs.                                                                                                  |
| <b>67 - Q67 Comment on ICP 12.5.2</b>                              |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                    |
| 575. Assuris                                                       | Canada                    | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Noted.                                                                                                                                                             |
| 576. International Forum of Insurance Guarantee Schemes (IFIGS)    | International             | When a company voluntarily exits from the market, the protection from the policyholder protection scheme should be retained throughout the process.                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Noted. In the absence of any IAIS supervisory material on PPSs, it is for each jurisdiction to decide on the involvement of its PPSs in each particular situation. |
| 578. and 579. Swiss Re & Zurich Insurance Group                    | Switzerland               | The IAIS ought to reword: "[...] cooperates and coordinates with other relevant supervisors to ensure an orderly exit from the market."                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Noted. However, this is not needed in ICP 12.5.2 because the Introductory Guidance at ICP 12.0.1 et seq. address the goal of an orderly exit.                      |
| <b>68 - Q68 Comment on ICP 12.5.3</b>                              |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                    |
| 580. Assuris                                                       | Canada                    | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Noted.                                                                                                                                                             |

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| 581. International Forum of Insurance Guarantee Schemes (IFIGS) | International                            | Agreed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Noted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 583. International Association of Insurance Receivers           | US Corporation, International membership | Consider adding, <b>"Where multiple authorities are involved, the lead resolution authority should adjust the resolution plan to accommodate joint supervision and the confidentiality regimes of other involved jurisdictions."</b>                                                                                                                                                                                                                                                                                                           | Joint supervision is accommodated through group supervision addressed in ICP 23.                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>69 - Q69 Comment on ICP 12.5.4</b>                           |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 584. Assuris                                                    | Canada                                   | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Noted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 585. Insurance Europe                                           | Europe                                   | Insurance Europe would reword as follows: "When consulting, authorities should seek to determine if coordinated action on the resolution of an insurer is necessary to avoid unnecessary destruction of value and adverse impact on other group entities".                                                                                                                                                                                                                                                                                     | Noted. However, the ICP as drafted incorporates the appropriate concept and "minimizing" adverse impact as opposed to "avoiding" is a valuable concept that should be retained. Plus, destruction of value would not be the overarching concern; rather adverse impacts on other group entities that could cause policyholder and/or creditor harm would be the primary concerns.                                                                                           |
| 586. Global Federation of Insurance Associations                | Global                                   | This paragraph focuses on avoiding or minimising adverse impact on other group entities, but the authorities should also consider the unnecessary adverse impact their failure to coordinate could also have on the entity being resolved. It should also be kept in mind that in some jurisdictions group-level resolution is not the norm. Therefore, GFIA would suggest rephrasing this ICP as follows: "When applicable, authorities should seek to determine if coordinated action on the resolution of an insurance group is necessary". | Noted; however, minimizing adverse impact on the entity being resolved is not necessarily the overarching goal unless those efforts are to achieve the protection of policyholders and other creditors. Also, we believe the proposed addition weakens the recommendation to coordinate. Also, the text recognizes that group-level resolution is not the norm, and thus emphasizes the need for resolution authorities to coordinate if group-level action is appropriate. |
| 587. International Forum of Insurance Guarantee Schemes (IFIGS) | International                            | Agreed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Noted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 589. Association of British Insurers                            | United Kingdom                           | This paragraph focuses on avoiding or minimising adverse impact on other group entities, but the authorities should also consider the unnecessary adverse impact their failure to coordinate could also have on the entity being resolved. We recommend deleting the last part of the sentence i.e. "... seek to determine if coordinated action on the resolution of an insurance group is necessary."                                                                                                                                        | See response to comment 586.                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>70 - Q70 Comment on ICP 12.5.5</b>                           |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 590. Assuris                                                    | Canada                                   | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Noted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

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| 591. International Forum of Insurance Guarantee Schemes (IFIGS)    | International             | Agreed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Noted.                                                                                                                                                                                                                                                    |
| <b>71 - Q71 Comment on ICP 12.5.6</b>                              |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                           |
| 593. Assuris                                                       | Canada                    | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Noted.                                                                                                                                                                                                                                                    |
| 594. International Forum of Insurance Guarantee Schemes (IFIGS)    | International             | Agreed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Noted.                                                                                                                                                                                                                                                    |
| <b>72 - Q72 Comment on ICP 12.5.7</b>                              |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                           |
| 596. Assuris                                                       | Canada                    | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Noted.                                                                                                                                                                                                                                                    |
| 597. Global Federation of Insurance Associations                   | Global                    | This guidance should also highlight that information sharing among supervisors or resolution authorities, if and as necessary, should not compromise confidentiality and should be pursuant to the information sharing and confidentiality requirements in ICP 3.                                                                                                                                                                                                                                                             | See response to comment 561.                                                                                                                                                                                                                              |
| 598. International Forum of Insurance Guarantee Schemes (IFIGS)    | International             | Agreed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Noted.                                                                                                                                                                                                                                                    |
| 600. and 601. Swiss Re & Zurich Insurance Group                    | Switzerland               | We propose to reword as: “[...] in a manner that improves the prospect of successful exit or resolution.”                                                                                                                                                                                                                                                                                                                                                                                                                     | This rewording would change the meaning of ICP 12.5.7. “Improving the prospect of successful resolution” weakens the importance of the point being made, namely that information should not “compromise” the prospect of a successful exit or resolution. |
| 602. Association of British Insurers                               | United Kingdom            | Information sharing, cooperation and coordination should also not unduly compromise the confidentiality of the information shared.                                                                                                                                                                                                                                                                                                                                                                                            | See response to comment 561.                                                                                                                                                                                                                              |
| 603. MetLife, Inc                                                  | United States             | This guidance should also highlight that information sharing among supervisors or resolution authorities, if and as necessary, should not compromise confidentiality and should be pursuant to the information sharing and confidentiality requirements in ICP 3. See also our comment in response to Q.19, Introduction and Assessment recommending the inclusion of an additional paragraph on Confidentiality to ICP Overarching Concepts. Please also see our comment in response to Q. 19 and Q. 28 of the Introduction. | See response to comment 561.                                                                                                                                                                                                                              |
| 604. Institute of International Finance and the Geneva Association | United States/Switzerland | We propose to reword as: “[...] in a manner that improves the prospect of successful exit or resolution.”                                                                                                                                                                                                                                                                                                                                                                                                                     | See response to 600 and 601.                                                                                                                                                                                                                              |

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| 605. ACLI                                                       | US            | This guidance should also highlight that information sharing among supervisors or resolution authorities, if and as necessary, should not compromise confidentiality and should be pursuant to the information sharing and confidentiality requirements in ICP 3.                                                                                                                                                                                                                                                                                                                                                                                                        | See response to comment 561.                                                                                                                                                    |
| 606. Property Casualty Insurers Association of America (PCI)    | USA           | This guidance should also highlight that information sharing among supervisors or resolution authorities, if and as necessary, should not compromise confidentiality and should be pursuant to the information sharing and confidentiality requirements in ICP 3.                                                                                                                                                                                                                                                                                                                                                                                                        | See response to comment 561.                                                                                                                                                    |
| <b>73 - Q73 Comment on ICP 12.6</b>                             |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                 |
| 607. Assuris                                                    | Canada        | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Noted.                                                                                                                                                                          |
| 608. Insurance Europe                                           | Europe        | Insurance Europe suggests the following change:<br><br>"Legislation provides the necessary criteria for determining the circumstances in which the supervisor and/or resolution authority initiates resolution for an insurer". It is important to reiterate that it should not be assumed that a single point can be defined that will be appropriate for all measures. Supervisors should exercise their judgment that the insurer is no longer viable, that all recovery options have been exhausted, that supervisory powers are no longer adequate, and that resolution is the right option.                                                                        | Suggested edit does not seem to make substantive difference from original text.<br>The second concept is noted but does not require amendment.                                  |
| 609. GDV - German Insurance Association                         | Germany       | There is no one-size-fits- all-approach in terms of defining the point of entry into resolution. Therefore, we welcome the notion that resolution should be considered in light of the insurer and the circumstances of its resolution. It is also important to bear in mind that the criteria listed in Standard 12.6 are only indicators and must not prevent the supervisor/resolution authority to consider all relevant factors.                                                                                                                                                                                                                                    | 12.6.1 states that criteria "may include, but are not limited to" the factors listed.                                                                                           |
| 610. Global Federation of Insurance Associations                | Global        | <b>1.</b> GFIA supports the IAIS' approach of not providing a mechanical set of triggers, as it should not be assumed that a single point can be defined that will be appropriate for all circumstances. Supervisors and/or resolution authorities should be required to exercise their judgement that the insurer is no longer viable, that all recovery options have been exhausted, that supervisory powers are no longer adequate, and that resolution is the right option.<br><b>2.</b> At the same time, the criteria that are provided in legislation should be the only criteria that lead to the initiation of resolution, and the ICP should be clear on this. | <b>1.</b> Your comment is noted.<br><br><b>2.</b> We believe that current drafting sufficiently specifies that criteria triggering resolutions must be provided in legislation. |
| 611. International Forum of Insurance Guarantee Schemes (IFIGS) | International | Agreed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Noted                                                                                                                                                                           |

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| 613. Association of British Insurers                    | United Kingdom | <p>The ABI supports the IAIS' approach of not providing a mechanical set of triggers, as it should not be assumed that a single point of initiation can be defined that will be appropriate for all circumstances. Supervisors and/or resolution authorities should be required to exercise their judgement that the insurer is no longer viable, that all recovery options have been exhausted, that supervisory powers are no longer adequate, and that resolution is the right option.</p> <p>At the same time, the criteria that are provided in legislation should be the only criteria that can lead to the initiation of resolution, (i.e. there needs to be legal certainty as to what these are), and the ICP should be clear on this.</p>                                                                                                                                                    | <p>Current text makes it clear that criteria determining the circumstance that permit initiating resolution should be provided in legislation, which addresses the 2<sup>nd</sup> § of your comment.</p> <p>At the same time, the legal provision can be that the supervisor initiates resolution when it appreciates that the insurer is no longer viable etc.</p> <p>However, it is outside of the IAIS purview to prescribe determined criteria for each jurisdiction. It is for each jurisdiction to determine its own criteria, and then FSAPs or other assessments can assess their appropriateness.</p> |
| 614. Chubb                                              | United States  | <p>It should be clear that resolution triggers are subject to the local law and not dictated by the ICP.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <p>Current text makes it clear that criteria determining the circumstance that permit initiating resolution must be provided by [local] legislation.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 615. National Association of Mutual Insurance Companies | United States  | <p>Q73 Comment on ICP 12.6</p> <p>Insurer viability should be the decision of the jurisdictional supervisor not subject to a static set of criteria.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p>The concern is already addressed in the series of guidance of ICP12.6</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>74 - Q74 Comment on ICP 12.6.1</b>                   |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 616. Assuris                                            | Canada         | <p>1. Assuris supports resolution being initiated when an insurer is no longer viable, even if the entity is solvent in light of financial reporting standards. A viable insurer must have adequate capital at the local and consolidated level.</p> <p>There are limits to the fungibility of capital. In particular, at the time of doubtful viability, every supervisor will need to ensure there is sufficient local capital to protect their policyholders. Supervisors should insist that minimum capital be kept in every jurisdiction with a higher capital requirement at the consolidated level to provide a source of fungible capital that can support and stabilize the group. This would meet the needs of every local supervisor and provide fungible capital at the holding company level. Failure to meet either of these capital requirements would be a trigger for resolution.</p> | <p>1. Noted.</p> <p>2. Noted and relevant, but, at this stage, beyond the scope of this supervisory material. The issue can be further considered in a future IAIS Application Paper.</p>                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 617. Reinsurance Advisory Board (RAB)                   | EU             | <p>The RAB agrees that supervisory judgement will be required as the conditions for entry into resolution are likely to depend on the circumstances giving rise to the financial difficulties.</p> <p>The RAB agrees that the point of viability may be crossed when there is a strong likelihood that policyholders or creditors will not receive payments as they fall due. However, in all cases, there should also be near certainty that all possible recovery</p>                                                                                                                                                                                                                                                                                                                                                                                                                                | <p>We appreciate the commenter's support for ICP 12.6.1 and its recognition of the need for the exercise of supervisory judgement when determining that resolution of an insurer is the appropriate course. However, the commenters' request for "near certainty" that recovery is not implausible is not capable of achievement, because these types of resolution decisions will always rely upon the exercise of supervisory judgement and expertise. The standard as</p>                                                                                                                                   |

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|                                                  |        | measures have been exhausted and failed, or ruled out as implausible. Given the longer timeframe afforded to insurers in recovery and resolution (as opposed to banks), it is ultimately to the advantage of policyholders to exhaust all potential recovery options before concluding that an insurer has crossed the point of non-viability and commencing resolution.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | expressed focusing on whether the insurer is no longer viable or likely to be no longer viable recognizes this.<br>Not disagreeing with the removed part of the former proposed resolution, however believe it would look strange if ICP 12 said “highly likely” while FSB’s KAs only say “likely”.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 618. Insurance Europe                            | Europe | <p>a) Insurance Europe welcomes the recognition that the indicators identified are to “help determine” (rather than simply “determine”) the circumstances for resolution, as more factors should be taken into consideration by the resolution authorities. The qualitative elements of the list need to be more precise. Otherwise the language might be too broad and open to interpretation.</p> <p>b) In addition, Insurance Europe would suggest the deletion of point (ii) in the final bullet point as what may be considered timely is subjective, and timing is not likely to be an issue in insurance resolution given the long-term nature of insurance liabilities.</p> <p>c) Similarly to ICP10.3a3, the nature of the instruments (metrics) ought to be clarified; they could be on an accounting, statutory or supervisory basis. In some jurisdictions, supervisory intervention ladders are determined in relation to solvency requirements (e.g. a solvency ratio like the MCR the IAIS mentions in the first bullet), yet the point of non-viability or point of entry into resolution is determined based on statutory instruments, like over-indebtedness or liquidity, on a different valuation basis. This complicates the understanding of an insurers’ transition from going concern to gone concern, i.e. the instruments could be indicating different conditions. This is an area where the IAIS could provide guidance.</p> | <p>a) The list are just examples of when resolution may be appropriate and are only guidance for jurisdictions. As noted, the list is not exhaustive and use of more precise terms in the qualitative elements is not possible due to jurisdictional differences as to standards and terminology (e.g. level and term for minimum capital requirements and when intervention is mandatory by the supervisory and/or resolution authority).</p> <p>b) Disagree. Timing is an important concept and the initiation of resolution will always involve the exercise of supervisory judgement and must be responsive to the factual circumstances and operations of the resolving insurer. Thus, more specificity with regard to timing is inappropriate.</p> <p>c) The ICPs need to be responsive to and accommodate jurisdictional differences to the extent that substantially similar outcomes are achieved, and therefore edits in this regard would be inappropriate.</p> |
| 619. Global Federation of Insurance Associations | Global | <p>1. The first sentence should also contain “or for other reasons under local legislation can no longer be permitted to continue its business”.</p> <p>2. The qualitative elements of the list of criteria for determining the initiation of resolution need to be more precise, to avoid giving supervisors undue power to enter a firm into resolution. For example, GFIA notes the ambiguity of the reference to the “minimum capital requirement”, as intervention points and definitions can vary between supervisory regimes. This should be reflected in the wording of the ICP. GFIA suggests deleting point (ii) in the final bullet point as what may be considered timely is subjective, and timing is not likely to be an issue in insurance resolution given the long-term nature of insurance liabilities.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p>1. The comment is noted but the IAIS is of the view that the (organised) exiting of an entity that is viable should not be called “resolution”. Such exiting is mentioned under ICP 12.0.8.</p> <p>2. Disagree. The list is not neither prescriptive nor limitative.</p> <p>3. How resolution authority and/or supervisor function and resort to outsourcing or external expertise is within the purview of each Authority and is not within the purview of the IAIS.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

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|                                                                 |               | <p>3. GFIA also suggests that the resolution authority and/or supervisor may find it appropriate to seek the support of third party skilled persons to help them determine when to enter resolution.</p> <p>4. Legal remedies should be available to policyholders and investors in the event of poor decisions by the authorities.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                | 4. Legal remedies are provided under ICP 2 and also apply here.                                                                                                                                                                                                                              |
| 620. International Actuarial Association                        | International | <p>We believe this is trying to address the issue we have noted in our answer to Q1, i.e. the uncertainty in valuing assets and liabilities, but believe this could be clarified. It is likely that there are a number of tools which may be used at various stages of the deterioration in a firm's financial condition and the effectiveness of those tools/actions may vary with where the firm is on continuum from recovery to resolution. Therefore, in our view, the resolution authority should consider when it might take certain actions, recognising that it may not be clear cut when a firm is no longer viable and hence when resolution powers may be fully engaged</p> <p>3rd last bullet could refer to a grace period to allow for short term liquidity issues.</p> | Noted. Triggers are intended to support forward looking supervisory judgement on initiating action.                                                                                                                                                                                          |
| 621. International Forum of Insurance Guarantee Schemes (IFIGS) | International | <p>1. We strongly support that the supervisory intervention should be at the point of non-viability and not when the insurance company is balance sheet insolvent.</p> <p>2. When a supervisor is considering whether an insurer "has no reasonable prospect" of becoming viable, he/she should have a timeframe to guide that inquiry. In other words, the guidance should specify a period of time in which the insurer has no prospect of becoming viable.</p> <p>3. We also suggest adding the following as a criteria: "loss of the confidence of policyholders and the public on the insurance company/ insurance group".</p>                                                                                                                                                    | <p>1. See response to comment 88.</p> <p>3. See response to comment 88</p> <p>3. We disagree. This is a vague and subjective criteria that would be difficult to demonstrate. Besides, loss of confidence could be remedied by supervisory actions.</p>                                      |
| 622. General Insurance Association of Japan                     | Japan         | <p>As we pointed out in our answer to Q10, whether an insurer is to be resolved should not be determined in a uniform manner based on the ICS or jurisdictional capital requirements. In order to prevent any arbitrage, it should be ensured that judgements made by the supervisor are reasonable and consistent.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                | The comment is acknowledged. It opportunely underlines the tension of the issue of triggers: need to be resolved "should not be determined in a uniform manner", but the determination should be "consistent".                                                                               |
| 624. Swiss Financial Market Supervisory Authority FINMA         |               | Comment was moved to Members' comments file.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                              |
| 625. and 626. Swiss Re & Zurich Insurance Group                 | Switzerland   | <p>Similarly to ICP10.3a3, the nature of the instruments (metrics) ought to be clarified; they could be on an accounting, statutory or supervisory basis.</p> <p>In some jurisdictions supervisory intervention ladders are determined in relation to solvency requirements, e.g. a solvency ratio like the MCR the IAIS mentions in the first bullet, yet the point of non-viability or point of entry into resolution is determined based on statutory instruments, like over-indebtedness or liquidity, on a different valuation basis. This complicates the understanding of an insurers' transition from going-concern to gone-concern, i.e. the instruments could be indicating different conditions. This is an area where the IAIS ought to provide guidance.</p>              | <p>The current option is that each jurisdiction determines on which basis an insurer will be determined as "no longer viable". At least for the time being the IAIS does not intend to intervene in this domain.</p> <p>Further discussion can be provided in a future application paper</p> |

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| 627. Institute and Faculty of Actuaries | UK             | <p>1. We believe this is trying to address the issue we have noted in our answer to Q1, i.e. the uncertainty in valuing assets and liabilities; however, this could be clarified. It is likely that there are a number of tools which may be used at various stages of the deterioration in a firm's financial condition; the effectiveness of those tools/actions may vary with where the firm is on a continuum from recovery to resolution. Therefore, in our view, the resolution authority should consider when it might take certain actions, recognising that it may not be clear cut when a firm is no longer viable and hence when resolution powers may be fully engaged.</p> <p>2. It would be helpful to include further detail regarding triggers, however we appreciate that keeping trigger details at a high level allows for the flexibility to recognise the features of different business models.</p> <p>3. The fifth bullet point could be refined to avoid ambiguity. We suggest specifying that it is 'policyholder and/or other creditor obligations', since later in the consultation paper it is mentioned that 'creditor' includes policyholders.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>1. See response to comment 620.</p> <p>2. The comment is noted. This can be developed in a future Application Paper.</p> <p>3. agree, text will be amended.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 628. Association of British Insurers    | United Kingdom | <p>1. The ABI agrees with the premise that resolution may be required even where the entity is solvent in light of financial reporting standards. However, we suggest that the wording of the first sentence is amended to indicate that resolution is an option, and not a necessity, for example Resolution may be initiated where...' and 'Criteria which may indicate resolution processes should be considered may include...'</p> <p>2. In order to give clarity to supervisors/resolution authorities, and to avoid giving supervisors undue power to enter a firm into resolution, the qualitative elements of the listed criteria for the initiation of resolution need to be more precise. For example, the "other prudential requirements" noted in the third bullet point could allow for entry into resolution for a wide range of less material concerns.</p> <p>3. Although we welcome the recognition in the final bullet point of measures being taken to return the insurer to viability, this should clarify that resolution should not be initiated until after the time period allowed to restore the health of an insurer in a supervisor-initiated recovery plan has elapsed.</p> <p>4. Similarly, we suggest deleting point (ii) in the final bullet point as what may be considered timely is subjective, and timing is not likely to be an issue in insurance resolution given the long term nature of insurance liabilities.</p> <p>5. We also suggest that the resolution authority and/or supervisor may find it appropriate to seek the support of third party skilled persons to help them determine</p> | <p>1. Comment is seeking greater certainty about the point at which resolution is initiated, and protection against unreasonable action by a resolution authority or supervisor. However, the IAIS believes that when an insurer is no longer viable and has no reasonable prospect of becoming so, deferring the initiation of resolution process weakens the likelihood of an orderly resolution. Therefore, the use of the modal "should" is appropriate here.</p> <p>2. The IAIS does not support greater certainty or prescription here. The IAIS retains the recognition of need for supervisory judgement.</p> <p>3. Similarly to the above, this is a question of supervisory judgement.</p> <p>4. Your comment is appreciated. Point (ii) will be amended.</p> <p>5. Noted.</p> |

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|                                                                                                                                                        |                           | when to enter into resolution. Legal remedies should be available to policyholders and investors in the event of poor decisions by the authorities.                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                         |
| 629. National Association of Mutual Insurance Companies                                                                                                | United States             | Q74 Comment on ICP 12.6.1<br><br>Insurer viability should be the decision of the jurisdictional supervisor not subject to a static set of criteria.                                                                                                                                                                                                                                                                               | See the resolution to Comment 615.                                                                                                                                                                                                                                                                                                                                                                      |
| 630. National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF) | United States             | When a supervisor is considering whether an insurer “has no reasonable prospect” of becoming viable, he/she should have a time frame to guide that inquiry. In other words, the guidance should specify a period of time in which the insurer has no prospect of becoming viable.                                                                                                                                                 | Noted. The IAIS currently prefers to leave this to supervisory judgement. However, a future IAIS Application Paper could deal with the issue.                                                                                                                                                                                                                                                           |
| 631. Institute of International Finance and the Geneva Association                                                                                     | United States/Switzerland | We would suggest the deletion of point (ii) in the final bullet point, as what may be considered timely is subjective, and timing is not likely to be an issue in insurance resolution given the long term nature of insurance liabilities.                                                                                                                                                                                       | Partly agree. However, drafting of Point (ii) has been amended.”                                                                                                                                                                                                                                                                                                                                        |
| 632. ACLI                                                                                                                                              | US                        | The first sentence should also contain “or for other reasons under local legislation can no longer be permitted to continue its business”.                                                                                                                                                                                                                                                                                        | ICP 12.0.8 implies this                                                                                                                                                                                                                                                                                                                                                                                 |
| 633. Property Casualty Insurers Association of America (PCI)                                                                                           | USA                       | PCI has no objection to the list of criteria that may be used to determine when a resolution should be initiated, but we are somewhat concerned that it is not an exclusive list. If it cannot be made exclusive, consideration might be given to setting forth certain criteria that would not be appropriate, including resolutions that are politically motivated or initiated to protect employees rather than policyholders. | Disagree. An exclusive list is not appropriate, because room must be left to supervisory judgement. Resolutions that are “politically motivated” or “initiated to protect employees rather than policyholders” would contradict the objectives of resolution as provided under ICP 12.2 and 12.2.1. Listing criteria that would not be appropriate does not seem appropriate in the context of the ICP. |
| <b>75 - Q75 Comment on ICP 12.7</b>                                                                                                                    |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                         |

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| 634. Assuris                                     | Canada         | Assuris strongly support that resolution powers should be flexible to deal with unanticipated future crises.                                                                                                                                                                                                                                                                                                                                                                                                                          | Noted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 635. Insurance Europe                            | Europe         | In some jurisdictions, a court based resolution system provides the flexibility to deal with unanticipated future crises. This is particularly effective where the law outlines clear principles that the courts must follow but allows for flexibility in implementation. Insurance Europe supports the wording of this ICP: "Legislation provides an appropriate range of powers to resolve insurers effectively. These powers are exercised proportionately and with appropriate flexibility".                                     | We appreciate the supportive comment.                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 636. Global Federation of Insurance Associations | Global         | GFIA agrees that a range of powers should be available to resolve insurers, so that the powers used to resolve the insurer are appropriate and proportionate. GFIA also welcomes the explicit reference to proportionality in this ICP.                                                                                                                                                                                                                                                                                               | Noted                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 638. Association of British Insurers             | United Kingdom | The ABI agrees that a range of powers should be available to resolve insurers, so that the powers used to resolve the insurer are appropriate and proportionate. The ABI welcomes the explicit reference to proportionality in this ICP.                                                                                                                                                                                                                                                                                              | We appreciate the supportive comment.                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>76 - Q76 Comment on ICP 12.7.1</b>            |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 639. Assuris                                     | Canada         | Assuris supports the proportionate manner which powers are exercised considering the systemic risks.<br>The "no creditor worse off in liquidation" (NCWOL) principle is an effective principle to apply to ordinary creditors however, it should not be applied to policyholders to create unequal treatment between policyholder portfolios. Treating policyholders differently is inequitable, and very difficult to explain. This could lead to loss of consumer confidence in the resolution process and in the insurance sector. | Amendments have been made to ICP 12.10 guidance to clarify the expected operation of the NCWOL principle.                                                                                                                                                                                                                                                                                                                                                                    |
| 640. Reinsurance Advisory Board (RAB)            | EU             | Restructuring of policyholder liabilities is a drastic measure that should be employed as a measure of last resort only – the RAB strongly advocates the application of the No Creditor Worse Off than in Liquidation (NCWO) principle.                                                                                                                                                                                                                                                                                               | Agreed that application of the NCOWL principle should apply to restructuring, and propose that ICP 12.7.1 be edited to make this clearer as follows: "When exercising resolution powers that allocate losses, the resolution authority apply the principle that no creditor receives less (after compensation, where necessary) than they would have received if the insurer had been liquidated (the "no creditor worse off than in liquidation – NCOWL – principle) . . ." |
| 641. Insurance Europe                            | Europe         | <ul style="list-style-type: none"> <li>a) Insurance Europe would disagree that a distinction may be drawn between powers to be used for insurers deemed systemic – the powers used will need to be appropriate for the individual circumstances, how an insurers is classified should make no difference.</li> <li>b) Insurance Europe would also like to note that "Systemic importance in the jurisdiction" relates to the "D-SII" concept that is not defined by the IAIS and might lead to inconsistent treatment.</li> </ul>     | a) We appreciate the comment, but disagree. Most insurer resolutions will never require the exercise of bank-like resolution tools such as a bridge institution. Thus, additional powers for IAIGs seems appropriate.                                                                                                                                                                                                                                                        |

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|                                                                 |               | c)The NCWOL principle and pari passu would deserve their own guidance for the IAIS to elaborate on their interpretation in insurance.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | c) Agreed, and we think that those concepts and others may be appropriate for further exploration in an application paper.                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 642. GDV - German Insurance Association                         | Germany       | We suggest removing the reference to “systemic importance”. The proportionate choice of resolution powers should exclusively depend on the circumstances of the individual situation, regardless of the designation of the insurer.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | “Of systemic importance in the jurisdiction” is not intended to mean the same as “GSII”.or other designation. The current drafting is considered satisfactory.                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 643. Global Federation of Insurance Associations                | Global        | <p>1. GFIA welcomes the first sentence of this paragraph, which sets out that powers should be exercised in a proportionate manner. This sentence should refer to paragraph 12.7.4, so it is clear what the “powers described below” are.</p> <p>2. GFIA would suggest removing the reference to “systemic importance” in the second sentence. The proportionate choice of resolution powers should exclusively depend on the circumstances of the individual situation, regardless of the designation of the insurer.</p>                                                                                                                                                                                                                                                                                                                                              | <p>1. IAIS “drafting rules” do not recommend cross-references at a more detailed level than the principle, as any change in numbering within the principle will invalidate the referencing.</p> <p>2. Disagree:</p> <p>a) the drafting is reasonably flexible (use of the modal “may”),</p> <p>b) The choice of powers may rightly depend on the implication of the failure on the rest of the financial system / economy.</p> <p>c) No reference to “designation” is made. Please note that “of systemic importance in the jurisdiction” does not mean the same as “GSII”.</p> |
| 644. International Actuarial Association                        | International | <p>We do not believe that it will be easy for a resolution authority to assess the NCWOL test given the uncertainty inherent in establishing liabilities and what would happen in liquidation ex ante.</p> <p>It may also not be clear how this interacts with payments from the PPS which will have a responsibility to control payment from the scheme. The paper repeatedly states that the NCWOL principle (no creditor worse off) applies after compensation , but does not appear to say who actually pays the compensation, when it needs to be paid, or from where it comes (i.e. need to distinguish between sources of compensation: other funds of the failed company, the regulator/taxpayer, or a Policyholder Protection Scheme). In the examples quoted, it is unlikely to be appropriate to use a PPS for the purpose of providing the compensation</p> | <p>NCWOL remains an important principle to apply in order to provide a consistent standard. It is acknowledged that judgement will be needed.</p> <p>In regard to compensation, this is a broad statement of principle and each jurisdiction will need to consider. .</p>                                                                                                                                                                                                                                                                                                       |
| 645. International Forum of Insurance Guarantee Schemes (IFIGS) | International | <p>1. Any restructuring of policies should not deprive policyholders of the protection afforded by the policyholder protection scheme.</p> <p>2. In addition, the reduction of policy obligations should only be done to maintain financial stability.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <p>1. Noted.</p> <p>2. As examples under Guidance 12.10.4 and 12.10.5 illustrate, reduction of insurance liabilities can be ordered to facilitate a portfolio transfer that better safeguards the interests of policyholders, even though the financial stability is not at stake.</p>                                                                                                                                                                                                                                                                                          |
| 647. and 648. Swiss Re & Zurich Insurance Group                 | Switzerland   | 1. The reference to “systemic importance in the jurisdiction” is somewhat discretionary and could be interpreted differently from one jurisdiction to the next.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 1. Noted but draft is not amended. This is appropriate for judgement in each jurisdiction.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

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| 649. Institute and Faculty of Actuaries                                                        | UK             | <ol style="list-style-type: none"> <li>Also, we think that the important NCWOL principle and pari passu deserve their own guidance for the IAIS to elaborate on their interpretation and application in insurance.</li> <li>We do not believe that it will be easy for a resolution authority to assess the NCWOL test given the uncertainty inherent in establishing liabilities and what would happen in liquidation before the event.</li> <li>It is also not clear how this interacts with payments from the PPS which will have a responsibility to control payment from the scheme. The paper repeatedly states that the NCWOL principle applies after compensation, but does not appear to say who actually pays the compensation or where it comes from; a range of possible sources of compensation could be relevant, including other funds of the failed company, the regulator/taxpayer, or a PPS. In the examples quoted, it is unlikely to be appropriate to use a PPS for the purpose of providing the compensation.</li> <li>The resolution authority should attempt to ensure that no creditor (including the compensation scheme if they have made a payments to policyholders) receives less than they would if the insurer had been liquidated, regardless of compensation. We believe the brackets (after compensation, where necessary) should be removed.</li> </ol> | <ol style="list-style-type: none"> <li>Guidance on NCWOL and pari passu are provided under ICP 12.10. Further, more detailed guidance may be provided at a later stage in an IAIS application paper.</li> <li>See response to comment 644.</li> <li>See response to comment 644.</li> <li>Disagree. This is an important element of the NCWOL principle.</li> </ol> |
| 650. Association of British Insurers                                                           | United Kingdom | <ol style="list-style-type: none"> <li>The ABI welcomes the first sentence of this paragraph, which sets out that powers should be exercised in a proportionate manner. We suggest that this sentence should make reference to ICP 12.7.4, so it is clear what the 'powers described below' are.</li> <li>The second sentence of this paragraph repeats the idea of proportionate exercise of powers set out in the first sentence and should be deleted. This sentence also gives the impression that certain powers should be available for the resolution of certain insurers on a pre-determined basis. All powers should be available for use with respect to all insurers, but it is the use of those powers that will differ based on the individual circumstances of the resolution.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <ol style="list-style-type: none"> <li>12.7.1 has been amended as suggested.</li> <li>The suggestion is noted, however it is considered current drafting remains appropriate.</li> </ol>                                                                                                                                                                            |
| 651. National Association of Mutual Insurance Companies                                        | United States  | <p>Q76 Comment on ICP 12.7.1</p> <p>The reference to systemic importance in this section should be defined to clarify what is meant by systemic. Does this only apply to GSIIIs or to GSIIIs and IAIGs?</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Disagree as "of systemic importance in the jurisdiction" is not intended to mean the same as "GSII" or other designation. The current drafting is considered satisfactory.                                                                                                                                                                                          |
| 652. National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the | United States  | We agree that certain resolution powers may be needed only for systemically significant insurers. This guidance should specify that insurance liabilities should be written down only when necessary to maintain financial stability.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Comment is noted, however, there may be circumstances, other than financial stability, that necessitate the writing down of insurance liabilities.                                                                                                                                                                                                                  |

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| National Conference of Insurance Guaranty Funds (NCIGF)            |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                        |
| 653. Institute of International Finance and the Geneva Association | United States/Switzerland                | the NCWOL principle and pari passu would deserve their own guidance for the IAIS to elaborate on their interpretation in insurance. Especially considering the fact that the NCWOL principle does not exist in the certain jurisdictional legal framework for receiverships that all states have adopted. It may conflict with the enumerates priorities of payment.                                                                                  | Noted. Consideration will be given to an Application Paper.                                            |
| 654. Property Casualty Insurers Association of America (PCI)       | USA                                      | This standard appropriately notes that some resolution powers may not be needed for all insurers, and in particular, notes that some may be appropriate only for systemically important insurers. It might be useful to provide add to the overall emphasis on policyholder protection by stating that insurance liabilities should not be written down except as necessary to resolve an insurer that has been designated as systemically important. |                                                                                                        |
| <b>77 - Q77 Comment on ICP 12.7.2</b>                              |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                        |
| 655. Assuris                                                       | Canada                                   | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                        |
| 656. Global Federation of Insurance Associations                   | Global                                   | The first sentence should read "exercised with the aim"                                                                                                                                                                                                                                                                                                                                                                                               | 1 <sup>st</sup> sentence will be reworded as                                                           |
| 657. International Forum of Insurance Guarantee Schemes (IFIGS)    | International                            | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                        |
| 659. Institute and Faculty of Actuaries                            | UK                                       | Regarding stay on termination rights: further consideration is needed around the period of stay for termination rights for derivatives and securities financing transactions. This point should also be addressed for stay on termination rights for reinsurance.                                                                                                                                                                                     | The ICP outlines guidance principles. This level of detail can be dealt with in each jurisdiction.     |
| 660. Association of British Insurers                               | United Kingdom                           | The first sentence should read 'exercised with the aim'.                                                                                                                                                                                                                                                                                                                                                                                              | Agree. 12.7.2 will be amended.                                                                         |
| 661. International Association of Insurance Receivers              | US Corporation, International membership | Suggest omitting balance of paragraph after "Liquidation can be used in conjunction with other resolutions actions.," as it does not provide definitive guidance.and the examples may be misleading.                                                                                                                                                                                                                                                  | Disagree with specific suggestion however amendment has been made to 12.7.2 to clarify this paragraph. |
| <b>78 - Q78 Comment on ICP 12.7.3</b>                              |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                        |
| 662. Assuris                                                       | Canada                                   | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                        |
| 663. International Forum of Insurance                              | International                            | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                        |

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| Guarantee Schemes (IFIGS)                                    |        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                           |
| 665. Property Casualty Insurers Association of America (PCI) | USA    | PCI is pleased that this standard acknowledges that court involvement is a part of the resolution process in some jurisdictions, and that the time required for court proceedings must be considered.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                           |
| <b>79 - Q79 Comment on ICP 12.7.4</b>                        |        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                           |
| 666. Assuris                                                 | Canada | Assuris supports the powers as listed. Specifically, Assuris supports that the restructure, limit or write down liabilities (including insurance liabilities) should only be done when necessary and should not affect policyholder's protection by the PPS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                           |
| 667. Reinsurance Advisory Board (RAB)                        | EU     | <p>With regards to the resolution powers listed in 12.7.4, the RAB would like to share the following feedback: Restructure, limit or write down liabilities, including insurance and reinsurance liabilities, and allocate losses to creditors and policyholders, where applicable and in a manner consistent with statutory creditor hierarchy and jurisdiction's legal frame work;</p> <p>1) Restructuring Insurance Contracts - There must be a distinction between reducing the value of insurance contracts and restructuring of insurance contracts. In reinsurance, the relevant valuation for insolvency proceedings and the going-concern value are practically identical. As a result, restructuring (uneven intervention in individual reinsurance contract categories), cannot be carried out without violating the no-creditor-worse-off principle. Therefore, the RAB opposes restructuring reinsurance contracts as a resolution power; any intervention must be limited to a uniform reduction of reinsurance claims. In addition, buyers of insurance purchase protection against financial losses that are incurred due to the occurrence of the insured risk. The insured pays a premium to mitigate risk – the investor takes risk to earn a premium. Therefore, the insured is entitled to higher protection in resolution (and liquidation) than the investor.</p> <p>2) Stay the rights of reinsurers of the cedent in resolution to terminate or not reinstate coverage relating to periods after the commencement of resolution; Subject to the structural concerns described below, the RAB considers this resolution power appropriate, though would like to emphasise the importance of adequate safeguards.</p> <ul style="list-style-type: none"> <li>• Reinsurers should not be made liable to pay for losses beyond those covered by contracts existing at the time of the loss.</li> <li>• Any reinstatement of coverage must be carried out at market prices. In the absence of comparable market prices, the reinsurer should be able to use its existing pricing mechanisms.</li> </ul> | <p>1) We acknowledge your concerns about restructuring and differences you perceive in reinsurer resolution scenarios. As noted, any restructuring would have to comply with the NCOWL principle and we believe this is clear in the ICP as drafted.</p> <p>2) Noted.</p> |

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|                                                                              |         | <p>However, it should be noted that there could be unintended consequences of interfering with the rights of reinsurers to terminate or not renew contracts, or more generally overriding the legal provisions of reinsurance treaties, when a ceding company enters into financial difficulty. The RAB would further suggest that a nuanced approach differentiating between recovery and resolution would be appropriate for such a tool. For an insurer in financial difficulty, reinsurance is a valuable tool in offering capacity to offload risk; where the implementation of such framework creates legal uncertainty or moral hazard risks in the case of recovery, this could limit reinsurers' willingness to get involved in such circumstances.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 668. Insurance Europe                                                        | Europe  | <p>Insurance Europe has the following rewording suggestions and comments regarding the powers set out in this ICP :</p> <p>a) ) • Retain, remove or replace authorisation of the Senior Management and/or Board Members. This would better reflect the tools that supervisors can exercise to bring about a replacement of management/board members without actually assuming the role of taking over the insurer</p> <p>b) • prohibit the insurer from paying discretionary variable remuneration to Senior Management.</p> <p>• Regarding the recovery of monies including claw-backs of variable remuneration, the IAIS should clarify what other sources it considers can be recovered without breaching contractual requirements.</p> <p>c) • The use of stay powers as part of the resolution toolkit can be a helpful tool to preserve value and prevent the need to use more drastic measures within the resolution toolkit. However, a cost-benefit analysis is required before considering the use of these powers, as they would likely have a commercial impact and/or increase the cost of impacted transactions and would also introduce a potential source of contagion.</p> <p>d) • Regarding bullet ten, the consent (or not) of the policyholders should be clarified, as is done for portfolio transfers and in ICP12.7.10</p> | <p>a) It is often a tool of many supervisors in day-to-day regulatory activities under certain circumstances; however, it is just as important of a tool in resolution and is therefore appropriate to list as a power;</p> <p>b) Noted. Variable remuneration is addressed in ICP 7.6.</p> <p>c) We acknowledge your position on the possible drawbacks to exercising stay powers; however, requiring a cost-benefit analysis should be a decision left to the discretion of each jurisdiction.</p> <p>d) Disagree. Restructuring contractual rights is different from a portfolio transfer on the same contractual terms, and therefore each jurisdiction should determine the appropriate level of consent necessary.</p> |
| 669. Deutsche Aktuarvereinigung e.V. (DAV) (German Association of Actuaries) | Germany | <p>3rd bullet point: Recovering money from persons could be difficult to enforce by law. Especially without having proven the person's deliberate intention or gross negligence.</p> <p>Additional comment: We understand in such a case that according to VAG, policyholder participation is also exempted (at least temporarily). Otherwise we could mention it separately</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <p>The standards for both: (a) recovering amounts, and (b) the rights of policyholders to participate in a proceeding, will depend on the jurisdiction.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

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| 670. Global Federation of Insurance Associations                | Global         | <p>1. The initial sentence of 12.7.4 should be amended to reflect that the powers listed are powers that could (rather than should) be included in the powers available to a resolution authority.</p> <p>2. Although the list of powers in 12.7.4 may not be an exhaustive list, the ICP should be clear that the powers that are set out in the legislation of the jurisdiction is an exhaustive list of the powers available to the resolution authority in that jurisdiction.</p> <p>3. The phrase “including courts where applicable” should be added after “adequate safeguards”.</p> <p>4. With respect to stay powers, GFIA believes that these can be a helpful tool to preserve value and prevent mass lapses and the need to use more drastic measures within the resolution toolkit.</p> | <p>1. Disagree. This question was already discussed within IAIS and a majority of Members were of the view that, while the said powers should not be mandatory—which explains why they are listed in Guidance and not in Standard—, they should also be recommended—whence the use of the modal “should”, rather than “could” or “may”.</p> <p>2. Disagree. It is not realistic to set out resolution powers exhaustively in the ICP.</p> <p>3. Disagree. This adjunct does not seem necessary.</p> <p>4. Noted.</p> |
| 671. International Forum of Insurance Guarantee Schemes (IFIGS) | International  | Insurance liabilities should not be restructured, terminated, limited or written down such that policyholders do not receive the protection afforded by the policyholder protection scheme. Insurance liabilities should be written down only when necessary to maintain financial stability.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | See response to comment 645.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 673. FINMA                                                      | Switzerland    | Moved to the Members File                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 674. and 675. Swiss Re & Zurich Insurance Group                 | Switzerland    | See our comment to Q7/ ICP12.0.6 regarding proportionality. Regarding bullet ten, the consent (or not) of the policyholders should be clarified, as is done for portfolio transfers and in ICP12.7.1.10                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | The 2 <sup>nd</sup> comment is noted but most of the mentioned powers are deemed to be exercised without the consent of the aggrieved party: eg. 1 <sup>st</sup> , 6 <sup>th</sup> , 9 <sup>th</sup> , 11 <sup>th</sup> , 12 <sup>th</sup> , 11 <sup>th</sup> , 16 <sup>th</sup> powers.                                                                                                                                                                                                                             |
| 676. Institute and Faculty of Actuaries                         | UK             | <p>1. The resolution authority may also have the power to clawback deferred variable remuneration from the insurer’s Senior Management.</p> <p>2. The resolution authority may also prohibit the payment of debt coupons (in addition to prohibiting the payment of dividends to shareholders), as it is automatically triggered under Solvency II if firms fall below 100% SCR.</p> <p>3. The resolution authority may exercise the power to put in place a special manager (in certain circumstances) to manage the insurer; this could be specified in the fifth or sixth bullet point.</p> <p>4. The penultimate bullet point could be rephrased to ‘stay of termination rights of the reinsurers’.</p>                                                                                          | <p>1. This level of detail is not appropriate for the ICP. It could be addressed in an individual jurisdiction.</p> <p>2. This level of detail is not appropriate for the ICP. It could be addressed in an individual jurisdiction.</p> <p>3. Agreed, although the amendment will refer ‘..or appoint an administrator or manager to do so.</p> <p>4. Noted however current drafting is considered satisfactory.</p>                                                                                                 |
| 677. Association of British Insurers                            | United Kingdom | <p>1. The initial sentence of ICP 12.7.4 should be amended to reflect that the powers listed are powers that could (rather than should) be included in the powers available to a resolution authority.</p> <p>2. Although the list of powers in ICP 12.7.4 may not be an exhaustive list, ICP 12.7.4 should be clear that the powers that are set out in the legislation of the jurisdiction is an exhaustive list of the powers available to the resolution authority in that jurisdiction.</p>                                                                                                                                                                                                                                                                                                     | 1 and 2. Disagree. See response to comment 670.                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

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|                                                                                                                                                        |                           | 3.The third bullet point is unclear as to how powers will be exercised with regard to the recovery of variable remuneration.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 3. The power is guidance. Legislation in each jurisdiction can provide this detail. See also response to comment 668.                                                                                                                                |
| 678. Chubb                                                                                                                                             | United States             | This is too prescriptive, jurisdictions should have clear powers spelled out in legislation but it should be up to the local jurisdiction to decide what powers should be provided.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Noted but disagree. See also response to comment 669.                                                                                                                                                                                                |
| 679. MetLife, Inc                                                                                                                                      | United States             | See response to Q.92, commenting on CF 12.7a.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Noted.                                                                                                                                                                                                                                               |
| 680. National Association of Mutual Insurance Companies                                                                                                | United States             | Q79 Comment on ICP 12.7.4<br>The powers listed in this section are quite inclusive and all do not need to be available in all jurisdictions. That is not clear in the introductory language. We suggest the following : "Powers that may be exercised, subject to adequate safeguards, [DELETE should] MAY include, but are not limit to, the following. This list is not exhaustive . . ."                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Disagree. See response to Comment 670.                                                                                                                                                                                                               |
| 681. National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF) | United States             | Given the emphasis on policyholder protection, insurance liabilities should be written down only when necessary to maintain financial stability. In no event should insurance liabilities be restructured, limited or written down in a way that deprives policyholders of the protection afforded by a PPS. Similarly, insurance contracts should not be terminated if doing so would deprive policyholders of the protection afforded by a PPS. The duration of any restriction or suspension of policyholder withdrawal rights should take into account whether there is a PPS.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Disagree. There may be circumstances, other than financial stability, that necessitate the writing down of insurance liabilities.                                                                                                                    |
| 682. Institute of International Finance and the Geneva Association                                                                                     | United States/Switzerland | <ul style="list-style-type: none"> <li>• 1.Regarding bullet ten, the consent (or not) of the policyholders should be clarified, as is done for portfolio transfers and in ICP12.7.10.</li> <li>2.The initial sentence of 12.7.4 should be amended to reflect that the powers that may be exercised, subject to adequate safeguards, could (rather than should) include, but are not limited to, the following <ul style="list-style-type: none"> <li>• 3.As currently drafted, bullet three assumes management is to blame for the failure of the insurer. A qualifier is necessary: (e.g., "to the extent they are found accountable in a court of law or other formal legal proceeding for the failure – recover monies from the Board, Senior Management, Key Persons in Control Functions and / or major risk taking staff, including claw-back of variable remunerations;")</li> <li>• 4.Additionally the use of stay powers as part of the resolution toolkit can be a helpful tool to preserve value and prevent the need to use more drastic measures, although they should be subject to appropriate safeguards. In particular reinsurers should not be made liable to pay for losses beyond those covered by contracts existing at the time of the loss and any reinstatement of coverage must be carried out at market prices or existing pricing approaches in the absence of comparable</li> </ul> </li> </ul> | <p>1.Disagree. See response to Comment 674.</p> <p>2.Disagree. See response to comment 670.</p> <p>3. The power is guidance. Legislation in each jurisdiction can provide this detail.</p> <p>4.Noted but disagree. See response to comment 667.</p> |

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|                                                                 |                                          | market prices. A cost benefit analysis is required before considering the use of these powers, as they would likely have a commercial impact and/or increase the future availability and the cost of impacted transactions (for example through the potential creation of greater legal uncertainty for the providers of such contracts).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                         |
| 683. ACLI                                                       | US                                       | The phrase “including courts where applicable” should be added after “adequate safeguards”.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Disagree. This addition does not seem necessary.                                                                                                                                                                                                                        |
| 684. International Association of Insurance Receivers           | US Corporation, International membership | In regards to the third bullet: “recover monies from the Board, Senior Management, Key Persons in Control Functions and major risk taking staff, including claw-back of variable remuneration.”; consider clarification of term “variable remuneration”.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | See response to comment 668.                                                                                                                                                                                                                                            |
| 685. Property Casualty Insurers Association of America (PCI)    | USA                                      | The powers of a supervisory in resolution include to “restructure, limit or write down liabilities. . .” PCI again emphasizes that liabilities to policyholders should not be written down except as necessary in the context of resolving an insurer that has been found to be systemically important.<br>Also, we suggest that the phrase “such as approval or review by a court” be added after the words “adequate safeguards” in the opening paragraph. U.S. insurance insolvencies take place in the state court system and many of the power set forth in 12.7.4 would be exercised or reviewable by state courts                                                                                                                                                                                                                                                                                                                                                                                                                   | Disagree. There may be circumstances, other than financial stability, that necessitate the writing down of insurance liabilities.                                                                                                                                       |
| <b>80 - Q80 Comment on ICP 12.7.5</b>                           |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                         |
| 686. Assuris                                                    | Canada                                   | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Noted.                                                                                                                                                                                                                                                                  |
| 687. Reinsurance Advisory Board (RAB)                           | EU                                       | The RAB agrees that the choice of powers should depend on the type of business the insurer engages in. For reinsurance in resolution it is particularly important to consider the group position, as diversification plays a critical role in the management of a reinsurance group. The recovery or resolution tools applied in the case of reinsurance need to ensure that the diversification in the reinsurance business model is preserved. In this context, a point of entry at holding group level is necessary in the case of reinsurance resolution. As noted above, this is explicitly recognised in the FSB guidance which states that “where, as is the case for reinsurance, the business model is designed to benefit from diversification, it is likely that the resolution strategies for that firm will seek, as far as possible, to preserve or avoid unnecessary destruction of that diversification.” This underlines the importance of supervisory co-operation in the event that a reinsurer enters into resolution. | We acknowledge your assertion that resolution of reinsurer’s requires the supervisor and/or resolution authority to evaluate considerations different from a direct insurer. With regard to the single point of entry issue, see response to comment 373 and 553 above. |
| 688. International Forum of Insurance Guarantee Schemes (IFIGS) | International                            | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                         |

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| 690. and 691. Swiss Re & Zurich Insurance Group                 | Switzerland                              | See our comment to Q7/ ICP12.0.6 regarding proportionality.                                                                                                                                                                                                                                                                                                                                                                                                                                   | Noted                                                                                                                                                                                                                              |
| 691. Zurich Insurance Company Ltd.                              | Switzerland                              | See our comment to Q7/ ICP12.0.6 regarding proportionality.                                                                                                                                                                                                                                                                                                                                                                                                                                   | Noted.                                                                                                                                                                                                                             |
| 692. International Association of Insurance Receivers           | US Corporation, International membership | This section causes concern due to the implication that a resolution authority may appropriately allow an insolvent insurer to continue in operation due to a perceived “disruption.” Consider clarifying to make clear that the potential of disruption to the financial system or economic activity should not override the necessity of protection of policyholders.                                                                                                                       | Disagree. This is inherent in the ICP.                                                                                                                                                                                             |
| 693. American Insurance Association                             | USA                                      | Section 12.7.5 states the choice and application of authorized resolution powers by the resolution authority should take into account whether an insurer’s failure would potentially cause significant disruption to the financial system and economic activity. Due to the business nature of insurance and the financial supervision and regulation of insurers, financial stability of the economy should not be an issue in the resolution of an insurer.                                 | Disagree. Other resolution objectives may exist. Individual jurisdictions should have the ability to establish additional objectives in domestic legislation.                                                                      |
| <b>81 - Q81 Comment on ICP 12.7.6</b>                           |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                    |
| 694. Assuris                                                    | Canada                                   | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                    |
| 695. Global Federation of Insurance Associations                | Global                                   | GFIA is concerned that the situation described in this paragraph could result in a situation where the resolution authority and the “person taking control” both have authority over the insurer in resolution, and act for different purposes, to the detriment of an orderly resolution. The resolution authority should have authority over the person taking control or, for example, the ability to direct, or apply to the court for the court to direct, the person taking control.    | 12.7.6 will be amended as follows:<br>“the resolution authority should continue to <u>be responsible for the orderly resolution of the insurer. The resolution authority in particular should continue to exercise functions</u> ” |
| 696. International Forum of Insurance Guarantee Schemes (IFIGS) | International                            | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                    |
| 698. Association of British Insurers                            | United Kingdom                           | The ABI is concerned that the situation described in this paragraph could result in a situation where the resolution authority and the “person taking control” both have authority over the insurer in resolution, and act for different purposes, to the detriment of an orderly resolution. The resolution authority should have authority over the person taking control or, for example, the ability to direct, or apply to the court for the court to direct, the person taking control. | Agree. Amendment will be made. See response to comment 695.                                                                                                                                                                        |
| <b>82 - Q82 Comment on ICP 12.7.7</b>                           |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                    |
| 699. Assuris                                                    | Canada                                   | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Noted.                                                                                                                                                                                                                             |

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| 700. Global Federation of Insurance Associations                   | Global                                   | While GFIA agrees with 12.7.7, it would suggest that resolution powers should also be exercised according to the agreed hierarchy of creditors in that jurisdiction.                                                                                                                                                                                                                                                                                                                                                | The IAIS agrees with the substance of the comment but this is sufficiently specified under ICP 12.10 and elsewhere. 12.7.7 only focusses on non-geographical etc discrimination. |
| 701. International Forum of Insurance Guarantee Schemes (IFIGS)    | International                            | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                  |
| 703. Association of British Insurers                               | United Kingdom                           | While the ABI agrees with ICP 12.7.7, we would suggest the resolution powers should also be exercised according to the agreed hierarchy of creditors in that jurisdiction.                                                                                                                                                                                                                                                                                                                                          | See response to Comment 700.                                                                                                                                                     |
| 704. International Association of Insurance Receivers              | US Corporation, International membership | Consider adding: <b>"When exercising resolution powers that allocate losses, the priority of policyholder rights vis-à-vis other creditors or shareholders should be protected. The availability of protection to a subset of policyholders by a PPS mechanism does not create inappropriate discrimination."</b>                                                                                                                                                                                                   | Disagree. The roles of PPSs are well recognised in the ICPs                                                                                                                      |
| <b>83 - Q83 Comment on ICP 12.7.8</b>                              |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                  |
| 705. Assuris                                                       | Canada                                   | Assuris supports that a PPS can help ensure the continuity of coverage and provide timely payment of claims to policyholders. The best protection option for life insurance policyholders is the transfer of their policies to a solvent insurer. Transferring policies preserves values and is the most cost effective alternative for resolving an insurer. If policies are cancelled for a cash claim against the failed company, the policyholder may, due to age or illness, be unable to replace that policy. | The comment does not necessitate any drafting change.                                                                                                                            |
| 706. International Forum of Insurance Guarantee Schemes (IFIGS)    | International                            | Agreed, policyholder protection schemes play an important part in ensuring benefits continue to be paid to policyholders, thereby minimising disruption.                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                  |
| 708. and 709. Swiss Re & Zurich Insurance Group                    | Switzerland                              | See our general comment on PPS as part of our answer to Q1.                                                                                                                                                                                                                                                                                                                                                                                                                                                         | See resolution 6.b of Comment 10.                                                                                                                                                |
| 710. Institute of International Finance and the Geneva Association | United States/Switzerland                | See our general comment on PPS as part of our answer to Q1.                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Noted. See response to comment 18.                                                                                                                                               |
| <b>84 - Q84 Comment on ICP 12.7.9</b>                              |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                  |
| 711. Assuris                                                       | Canada                                   | Agree<br>However, where any varying, reducing or restructuring the transferred liabilities is required, it should not affect policyholder's protection by the PPS.                                                                                                                                                                                                                                                                                                                                                  | Noted.                                                                                                                                                                           |

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| 712. International Actuarial Association                                                                                                               | International                            | A consideration here is what capital need to be transferred (or risk margin) along with the value of the liabilities.                                                                                                                                                                                                                                                                                                                                            | Noted. This level of detail is not deemed appropriate for the ICP.                                                                                                                                                                                                                                                                                                                                                              |
| 713. International Forum of Insurance Guarantee Schemes (IFIGS)                                                                                        | International                            | Policyholder benefits should not be reduced in a way that deprives policyholders of protection afforded by the policyholder protection scheme.                                                                                                                                                                                                                                                                                                                   | Noted. The role of PPS is addressed in ICP 12.9.3 and 12.10.                                                                                                                                                                                                                                                                                                                                                                    |
| 715. and 716. Swiss Re & Zurich Insurance Group                                                                                                        | Switzerland                              | It would be worthwhile to elaborate on what the “some cases” actually are.                                                                                                                                                                                                                                                                                                                                                                                       | Such cases may be<br>a) when assets do not cover insurance liabilities,<br>b) when no PPS is available,<br>c) when no transferee insurer accepts to take over the liabilities if they are not restructured or reduced so that the transferor's assets suffice to cover the (restructured) liabilities.<br><br>Elaborating on this in the ICP would go beyond its scope but this may be done in a future IAIS application paper. |
| 717. Institute and Faculty of Actuaries                                                                                                                | UK                                       | A consideration here is what capital or risk margin needs to be transferred along with the value of the liabilities. This should consider:<br><br>• the tools to effect resolution and<br>• liquidity and working capital which are the facilitators of these tools.                                                                                                                                                                                             | Agree this is relevant to the consideration of the supervisor or resolution authority. This level of detail is however not deemed appropriate for the ICP.                                                                                                                                                                                                                                                                      |
| 718. National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF) | United States                            | In no event should insurance liabilities be varied, reduced or restructured in a way that deprives policyholders of the protection afforded by a PPS.                                                                                                                                                                                                                                                                                                            | The position of PPS is covered sufficiently in the ICP eg 12.10.                                                                                                                                                                                                                                                                                                                                                                |
| 719. ACLI                                                                                                                                              | US                                       | The phrase “including courts where applicable” should be added after “resolution authority”.                                                                                                                                                                                                                                                                                                                                                                     | Disagree. This addition does not seem necessary.                                                                                                                                                                                                                                                                                                                                                                                |
| 720. International Association of Insurance Receivers                                                                                                  | US Corporation, International membership | Clarify that restructuring liabilities in the course of a transfer is appropriate only to the extent that available PPS are insufficient to support a full transfer of liability. Consider modifying last sentence as follows: (new text is capitalized):<br>TO THE EXTENT THAT POLICYHOLDER PROTECTION SCHEMES ARE INSUFFICIENT OR INAPPLICABLE, policyholder interests may best be protected by restructuring, limiting or writing down insurance liabilities. | Disagree, the role of PPS is addressed in ICP 12.9.3 and 12.10.                                                                                                                                                                                                                                                                                                                                                                 |

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| 721. CNA                                                        | USA                                      | CNA has significant concerns regarding any resolution scheme that allows the courts or supervisors to “restructure, limit or write down liabilities (including insurance liabilities), and allocate losses to creditors and policyholders.” This concept is similar to the “Bail-In” concept introduced by the FSB for the resolution of banks that is not applicable to the insurance sector. In the U.S., the liquidation proceedings of an insurance entity are well defined and list priority by class where each member of an individual class receives an equal share. This framework has a similar outcome without making modifications to the contractual obligation.                                                                                                                                                                                         | Clarifying amendment has been made to the provision which omits references to bail-in.                                                       |
| 722. Property Casualty Insurers Association of America (PCI)    | USA                                      | We generally support this standard, but suggest that the last sentence be amended to clarify that insurance liabilities should never be written down in a way that deprives policyholders of the protection afforded by a PPS.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Noted. The position of PPS is covered sufficiently in the ICP.                                                                               |
| <b>85 - Q85 Comment on ICP 12.7.10</b>                          |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                              |
| 723. Assuris                                                    | Canada                                   | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                              |
| 724. International Forum of Insurance Guarantee Schemes (IFIGS) | International                            | Agreed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                              |
| 726. Institute and Faculty of Actuaries                         | UK                                       | This point should discuss measures more generally which could be put in place to expedite portfolio transfers, with the sentence currently in place provided as an example.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Disagree. The drafting is sufficient for this provision, which concerns the power. Transfers more generally are covered in ICP 6.            |
| 727. International Association of Insurance Receivers           | US Corporation, International membership | Consider addition as follows (new text all caps): “PROVIDED THAT THE SUPERVISING COURT OR AUTHORITY IS SATISFIED, FOLLOWING NOTICE TO POLICYHOLDERS AND INTERESTED PARTIES AND AN OPPORTUNITY TO BE HEARD, THAT THE INTERESTS OF ANY SUCH PARTY WHOSE RIGHTS ARE ASSUMED BY THE OTHER INSURER ARE ADEQUATELY PROTECTED,, portfolio transfers and transfers of other types of contracts of the insurer in resolution should not require the consent of each policyholder or party to the contract.                                                                                                                                                                                                                                                                                                                                                                     | Disagree. The protection of the interests of the policyholders is inherent to the exercise of a resolution power.                            |
| 728. American Insurance Association                             | USA                                      | Section 12.7.10 states portfolio transfers and transfers of other types of contracts of the insurer in resolution should not require the consent of each policyholder or party to the contract. So long as this section relates solely to involuntary resolution of an insurer that is no longer financially viable or who need resolution or recovery actions to return to viability to continue to pay claims and write business it is not problematic. However, a solvent insurer should not be permitted to engage in portfolio transfers and other run-off mechanisms without the consent of the policyholder. Policyholders must retain the right to opt-out of any resolution plan of a voluntary solvent insurer including a run-off or portfolio transfer of existing policies and anti-assignment provisions in policies and contracts should be respected. | This provision relates only to portfolio transfers of an “insurer in resolution”. Portfolios transfers more generally are covered in ICP 16. |

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| 729. Property Casualty Insurers Association of America (PCI)                                                                                           | USA                       | The standard states that “[p]ortfolio transfers and transfers of other types of contracts of the insurer in resolution should not require the consent to each policyholder or party to the contract.” In the U.S., the right to transfer portfolios without policyholder consent is generally limited to circumstances in which a company is being liquidated. Policyholder consent is generally required in rehabilitation. The guidance should be amended to accommodate this. | The concept of resolution authority is defined in ICP 12.0.2.                                                                                                                                                                                           |
| <b>86 - Q86 Comment on ICP 12.7.11</b>                                                                                                                 |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                         |
| 730. Assuris                                                                                                                                           | Canada                    | Assuris supports that when policies are written down, it should not affect policyholder's protection by the PPS. A PPS provides guarantees to policyholders up to a certain amount if their insurer becomes insolvent. Under no circumstances should policyholders lose this protection                                                                                                                                                                                          | Noted.                                                                                                                                                                                                                                                  |
| 731. Insurance Europe                                                                                                                                  | Europe                    | NCWOL is an overarching principle introduced in 12.7.1. The application of the NCWOL principle in the context of the creditor hierarchy should be described in more detail.                                                                                                                                                                                                                                                                                                      | The ICP as drafted explains what NCOWL means – namely no creditor should be worse off by the exercise of any resolution powers than they would have been if the insurer had been liquidated and the creditor hierarchy in liquidation had been applied. |
| 732. International Forum of Insurance Guarantee Schemes (IFIGS)                                                                                        | International             | Policyholder benefits should not be reduced in a way that deprives policyholders of protection afforded by the policyholder protection scheme.                                                                                                                                                                                                                                                                                                                                   | Noted. The position of PPS are sufficiently covered throughout the ICP                                                                                                                                                                                  |
| 734. and 735. Swiss Re & Zurich Insurance Group                                                                                                        | Switzerland               | NCWOL is an overarching principle introduced in 12.7.1. The application of the NCWOL principle in the context of the creditor hierarchy should be described in more detail. See comment to Q11.                                                                                                                                                                                                                                                                                  | See resolution 2 of your comment 103.                                                                                                                                                                                                                   |
| 736. National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF) | United States             | In no event should insurance liabilities be written down in a way that deprives policyholders of the protection afforded by a PPS.                                                                                                                                                                                                                                                                                                                                               | Noted. The position of PPS are sufficiently covered throughout the ICP                                                                                                                                                                                  |
| 737. Institute of International Finance and the Geneva Association                                                                                     | United States/Switzerland | NCWOL is an overarching principle introduced in 12.7.1. The application of the NCWOL principle in the context of the creditor hierarchy should be described in more detail.                                                                                                                                                                                                                                                                                                      | Noted. This may be more appropriate in a future IAIS application paper.                                                                                                                                                                                 |
| 738. ACLI                                                                                                                                              | US                        | The phrase “including courts where applicable” should be added after “resolution authority”.                                                                                                                                                                                                                                                                                                                                                                                     | Disagree. This addition is unnecessary given 12.0.3 definition of resolution authority.                                                                                                                                                                 |

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| 739. International Association of Insurance Receivers              | US Corporation, International membership | Add, after “after compensation, where necessary,” “ <b>and after consideration of the benefit that policyholders would otherwise receive from PPS.)</b> ”,                                                                                                                                                                                                                                                       | Disagree. This is inherent in the ICP.                                                                 |
| <b>87 - Q87 Comment on ICP 12.7.12</b>                             |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                        |
| 740. Assuris                                                       | Canada                                   | Agree                                                                                                                                                                                                                                                                                                                                                                                                            | Noted.                                                                                                 |
| 741. International Forum of Insurance Guarantee Schemes (IFIGS)    | International                            | Agreed                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                        |
| <b>88 - Q88 Comment on ICP 12.7.13</b>                             |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                        |
| 743. Assuris                                                       | Canada                                   | Agree                                                                                                                                                                                                                                                                                                                                                                                                            | Noted.                                                                                                 |
| 744. Insurance Europe                                              | Europe                                   | It should be clarified that the exercise of stays should not only address insurance contracts, but other financial contracts (e.g. derivatives) the insurer may have on his books. The modalities of stays on financial contracts will tend to be shorter than on insurance contracts (48 hours is a benchmark), and may have to vary by contract type to ensure the insurer remains a party to those contracts. | Agree. ICP 12.7.13 is amended: “depend on the type of insurance <b>or financial</b> contract.”         |
| 745. International Forum of Insurance Guarantee Schemes (IFIGS)    | International                            | Agreed                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                        |
| 747. and 748. Swiss Re & Zurich Insurance Group                    | Switzerland                              | It should be clarified that the exercise of stays should not only address insurance contracts, but other financial contracts, e.g. derivatives, the insurer may have on his books. The modalities of stays on financial contracts will tend to be shorter than on insurance contracts (48 hours is a benchmark), and may have to vary by contract type to ensure the insurer remains a party to those contracts. | See response to comment 744                                                                            |
| 749. Institute of International Finance and the Geneva Association | United States/Switzerland                | It should be clarified that the exercise of stays should not only address insurance contracts, but other financial contracts, e.g. derivatives, the insurer may have on his books. The modalities of stays on financial contracts will tend to be shorter than on insurance contracts (48 hours is a benchmark), and may have to vary by contract type to ensure the insurer remains a party to those contracts. | See response to comment 744.                                                                           |
| <b>89 - Q89 Comment on ICP 12.7.14</b>                             |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                        |
| 750. Assuris                                                       | Canada                                   | Agree                                                                                                                                                                                                                                                                                                                                                                                                            | Noted.                                                                                                 |
| 751. Insurance Europe                                              | Europe                                   | Insurance Europe supports the revised wording of this provision.                                                                                                                                                                                                                                                                                                                                                 | We appreciate the support.                                                                             |
| 752. Global Federation of Insurance Associations                   | Global                                   | This paragraph states the resolution authority should “have the capacity to cooperate” with relevant supervisors and resolution authorities in other jurisdictions. The precise meaning of this provision should be clarified .                                                                                                                                                                                  | 1. “to the extent necessary and appropriate” will be added at the end of the last sentence of 12.7.14. |

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|                                                                                                                                                        |                           | <p>1. If resolution of two entities in the same group is taking place in two different jurisdictions simultaneously, relevant supervisors and authorities should cooperate to the extent necessary and appropriate.</p> <p>2. GFIA would suggest replacing the word “capacity” with “ability” in the second and third sentences of the 12.7.14; and adding the phrase “to the extent necessary and appropriate” to the end of the last sentence of 12.7.14.</p>                                                                                                                                                                                                                                                    | 2. We believe that the word “capacity” is more appropriate.                                                                                |
| 753. International Actuarial Association                                                                                                               | International             | This says resolution authorities should have powers over head of insurance group and/or non-regulated entities within their jurisdiction “to the extent necessary and appropriate”. We think “extent” should be defined.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Noted, however the current drafting is considered sufficient for the ICP.                                                                  |
| 754. International Forum of Insurance Guarantee Schemes (IFIGS)                                                                                        | International             | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                            |
| 756. Institute and Faculty of Actuaries                                                                                                                | UK                        | <p>1.This paragraph explains that resolution authorities should have powers over the head of insurance group and/or non-regulated entities within their jurisdiction ‘to the extent necessary and appropriate’. We think ‘extent’ should be clarified.</p> <p>2. There is a reference to ‘head of the insurance group’ which should be updated to ‘holding company’. Please see an earlier comment regarding this.</p>                                                                                                                                                                                                                                                                                             | <p>1. See response to comment 753.</p> <p>2. terminology is consistent with that used by IAIS in regard to Group Supervision.</p>          |
| 757. Association of British Insurers                                                                                                                   | United Kingdom            | It is unclear what having ‘the capacity to cooperate’ means. If resolution of two entities in the same group is taking place in two different jurisdictions simultaneously, relevant supervisors and authorities should cooperate.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Noted. Drafting has been clarified, however capacity is considered a necessary term.                                                       |
| 758. National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF) | United States             | With the arguable exception of a group that is systemically important, we’re not sure that a resolution authority should ever need the ability to exercise resolution powers over the head of an insurance group or an intermediate holding company. In the U.S., at least, any resolution strategy should include a resolution at the operating company level, unless the operating company is solvent and able to pay claims as they come due. Absent a resolution of the operating company, PPS benefits would not be available to help protect policyholders. (In the U.S., PPS coverage obligations are triggered by an order of liquidation and a finding of insolvency for an operating insurance company.) | Disagree. Consistent with the concepts of Group Supervision, there may be a need for action in regards to the Head of the Insurance Group. |
| 759. Institute of International Finance and the Geneva Association                                                                                     | United States/Switzerland | Additionally, the guidance appears to extend the scope of resolution measures to non-regulated entities within the group. The guidance should recognize that the remit of insurance supervision will relate only to insurance entities and insurance groups.                                                                                                                                                                                                                                                                                                                                                                                                                                                       | It is indeed correct that the scope includes non-regulated entities within the group.                                                      |
| 760. Property Casualty Insurers Association of America (PCI)                                                                                           | USA                       | As with ICP 12.0.4, this standard suggests that resolution measures could be applied to the “head of the insurance group and/or non-regulated entities.” We are concerned at the suggestion that resolution might take place at the head of the group if the head is not an insolvent insurer. In the U.S., resolution generally occurs at the operating company level, and indeed PPS protection can only be made                                                                                                                                                                                                                                                                                                 | Disagree. See ICP 12.0.3 that clarifies the use of the terms “supervisor”,                                                                 |

available pursuant to a finding of insolvency and order of liquidation for the operating entity. Resolution of a non-insurer parent company should be beyond the scope of the ICPs.

#### 90 - Q90 Comment on ICP 12.7.15

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| 761. Assuris                                                       | Canada                    | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Noted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 762. Insurance Europe                                              | Europe                    | <p>The need for the relevant authorities to consult, cooperate and coordinate is important. Insurance Europe believes that this point should be further emphasised in the context of cross-border resolution.</p> <p>Any recovery and resolution requirements for branches should be within the supervisory remit of the home supervisory authority (i.e. the legal entity to which the branch belongs) in cooperation and coordination with the host authority: No additional resolution responsibilities of the host authorities of the branch should be established; otherwise this would create an additional layer of uncertainty and burden regarding cooperation and coordination between home and host supervisors.</p> | <p>This ICP is specific to branches and appropriately recognizes the need for cooperation and coordination. The ICP further emphasizes the need for such throughout its text, and ICPs 3 and 25 further are also applicable. Thus, no edits are needed.</p> <p>We disagree. A host jurisdiction should have the power to implement its resolution objectives with regard to a branch operating in its jurisdiction, especially with regard to the level of protection and priority of distribution given to policyholder claims. This is also consistent with § 7.3 of the FSB Key Attributes.</p> |
| 763. International Forum of Insurance Guarantee Schemes (IFIGS)    | International             | Agreed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 765. and 766. Swiss Re & Zurich Insurance Group                    | Switzerland               | Any resolution requirements for branches should be within the supervisory remit of the home supervisory authority (i.e. the legal entity to which the branch belongs) in cooperation and coordination with the host authority: no additional resolution responsibilities of the host authorities of the branch should be established; otherwise this would create an additional layer of uncertainty and burden regarding cooperation and coordination between home and host supervisors.                                                                                                                                                                                                                                       | See response to comment 762.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 767. Institute and Faculty of Actuaries                            | UK                        | The phrasing of this section could be refined to avoid ambiguity. We believe that the key message here is that where the entity and its branches operate across borders and are in different jurisdictions, and the branch (or branches) are material enough to be covered by an overseas supervisor, then co-operation is required across borders between the different supervisors.                                                                                                                                                                                                                                                                                                                                           | The understanding is consistent with the intent of the current drafting. An amendment has been made to 12.7.14.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 768. Chubb                                                         | United States             | See response to Q.12.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Noted                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 769. Institute of International Finance and the Geneva Association | United States/Switzerland | Any recovery and resolution requirements for branches should be within the supervisory remit of the home supervisory authority (i.e. the legal entity to which the branch belongs) in cooperation and coordination with the host authority: No additional resolution responsibilities of the host authorities of the branch should be established; otherwise this would create an additional layer of uncertainty and                                                                                                                                                                                                                                                                                                           | See response to comment 762.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

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|                                                                 |                                          | burden regarding cooperation and coordination between home and host supervisors.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                           |
| 770. International Association of Insurance Receivers           | US Corporation, International membership | A critical omission is that there is no provision for a “tie-breaker” if parallel authorities do not agree. Suggest addition, “IF, AFTER CONSULTATION AMONG AFFECTED AUTHORITIES, THE AUTHORITIES DO NOT AGREE, THE AUTHORITY RESPONSIBLE FOR THE INSURANCE LEGAL ENTITY SHALL ELECT THE MECHANISM THAT EQUALIZES THE IMPACT OF LIQUIDATION ON ALL POLICYHOLDERS, REGARDLESS OF THE BRANCH THROUGH WHOM THEY DERIVE THEIR RIGHTS”                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Disagree. Domestic legislation will afford relevant powers and may be exercised by the authority to who they are afforded.                                                                                                                                                                                                                                                |
| <b>91 - Q91 Comment on ICP 12.7.16</b>                          |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                           |
| 771. Assuris                                                    | Canada                                   | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Noted.                                                                                                                                                                                                                                                                                                                                                                    |
| 772. International Forum of Insurance Guarantee Schemes (IFIGS) | International                            | Agreed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                           |
| <b>103 - Q103 Comment on ICP 12.8</b>                           |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                           |
| 844. Assuris                                                    | Canada                                   | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Noted.                                                                                                                                                                                                                                                                                                                                                                    |
| 845. Insurance Europe                                           | Europe                                   | <p>1. The IAIS does not seem to articulate anywhere in the text powers of a third party in the liquidation/resolution process, rather it just recognises a role for the supervisor. This is inconsistent with FSB’s Key Attribute 2.1 where references to “resolution authority” include a reference to more than one authority where multiple authorities are responsible for exercising resolution powers. Also, FSB Key Attribute 2.3 states that resolution powers may be exercised by the resolution authority or through a special administrator, receiver, conservator or other official. Insurance Europe therefore suggests that this ICP be amended to “...the supervisor or resolution authority is involved...”.</p> <p>2. As noted in our response to 12.0.2, liquidation is an action that tends to be governed by local corporate and insolvency law rather than the insurance regulatory framework. ICP 12 should remain focused on the insurance regulatory framework, and on actions taken by the insurance supervisor and/or resolution authority to resolve the entity, protect policyholders, and preserve value.</p> | <p>1. Disagree. The concept of third parties actors is included in the definition of a resolution authority in the glossary addition. Thus, no edit is needed.</p> <p>2. See resolutions of Comment 846.2 and 850.a.</p>                                                                                                                                                  |
| 846. Global Federation of Insurance Associations                | Global                                   | 1. The ICP does not appear to articulate the powers of a third party in the liquidation/resolution process, rather it just recognises a role for the supervisor. This is inconsistent with FSB’s Key Attributes 2.1 where references to “resolution authority” include a reference to more than one authority where multiple authorities are responsible for exercising resolution powers. Also, FSB’s Key Attributes 2.3 states that resolution powers may be exercised by the resolution authority or through a special administrator, receiver, conservator or other official. GFIA                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 1. Noted but disagree. This standard aims at ensuring that the insurance supervisor is always involved in the initiation of the liquidation of an insurer. You could have legal system where (a) any creditor could petition the court to initiate the insurer’s liquidation, and (b) any court could initiate such liquidation without hearing the insurance supervisor. |

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|                                                                 |                | <p>suggests that this be amended to “...the supervisor or resolution authority is involved...”.</p> <p><b>2.</b> As noted in the response to 12.0.2, liquidation is an action that tends to be governed by local corporate and insolvency law rather than the insurance regulatory framework. ICP 12 should focus on the insurance regulatory framework, and on actions taken by the insurance supervisor and/or resolution authority to resolve the entity, protect policyholders and preserve value.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p><b>2.</b> The comment is noted but remains partly questionable. In a number of jurisdictions, liquidation is initiated when the insurance supervisor appreciates that the insurer is unviable, independently of the local corporate &amp; insolvency law.</p>                                                                           |
| 847. International Forum of Insurance Guarantee Schemes (IFIGS) | International  | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                            |
| 849. Institute and Faculty of Actuaries                         | UK             | We believe this point could be made clearer by adding ‘where that legislation provides’ at the end of the text in bold.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | We did not understand the proposal.                                                                                                                                                                                                                                                                                                        |
| 850. Association of British Insurers                            | United Kingdom | <p>a) As noted in our response to ICP 12.0.2, liquidation is an action that tends to be governed by local corporate and insolvency law rather than the insurance regulatory framework. ICP 12 on resolution should focus on the insurance regulatory framework, and on actions taken by the insurance supervisor and/or resolution authority to resolve the entity, protect policyholders, and preserve value.</p> <p>b) Aside from this, we note that ICP 12.8 only recognises a role for supervisors in liquidation. This is inconsistent with FSB’s Key Attributes 2.1 where references to “resolution authority” include a reference to more than one authority where multiple authorities are responsible for exercising resolution powers. Also, FSB’s Key Attributes 2.3 states that resolution powers may be exercised by the resolution authority or through a special administrator, receiver, conservator or other official. Therefore we suggest that ICP 12.8 be amended to ‘Legislation provides that the supervisor or resolution authority is involved...’</p> | <p>a) In many jurisdictions, liquidation of insurers is governed by the insurance regulatory framework.</p> <p>b) This is a misunderstanding. ICP 12.8 only provides that the supervisor must be involved in the initiation of liquidation. ICP 12.8 does not preclude that the resolution authority could be involved in liquidation.</p> |
| <b>104 - Q104 Comment on ICP 12.8.1</b>                         |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                            |
| 851. Assuris                                                    | Canada         | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Noted and appreciated.                                                                                                                                                                                                                                                                                                                     |
| 852. Global Federation of Insurance Associations                | Global         | <p><b>1.</b> The phrase “should be authorised to initiate” should be replaced with “should be involved in the initiation of”.</p> <p><b>2.</b> In the fourth sentence, the words “it should” should be replaced with “it may, in certain jurisdictions”.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p><b>1.</b> Draft will be amended as follows:<br/>“The supervisor should be authorised to initiate, <u>or should be involved</u> in the initiation of (...)”.</p> <p><b>2.</b> New guidance 12.8.1 clarifies this.</p>                                                                                                                    |
| 853. International Forum of Insurance Guarantee Schemes (IFIGS) | International  | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Noted                                                                                                                                                                                                                                                                                                                                      |

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| 855. Institute of International Finance and the Geneva Association | United States/Switzerland | Please see our comment in response to Q65.                                                                                                                                                                                                                                                                                                                                                                                                                                     | Noted                                                                                                                                                                                                                                                                                                         |
| 856. ACLI                                                          | US                        | <p>1. The phrase “should be authorized to initiate” should be replaced with “should be involved in the initiation of”.</p> <p>2. In the U.S., courts do not need the prior approval of the supervisor to initiate liquidation; therefore, in the 4th sentence, the words “it should” should be replaced with “it may, in certain jurisdictions”.</p>                                                                                                                           | See response to Comment 852 on both these points.                                                                                                                                                                                                                                                             |
| 857. Property Casualty Insurers Association of America (PCI)       | USA                       | The standard refers to the circumstance in which a “supervisor should be authorised to initiate the liquidation of an insurance legal entity, or a branch of a foreign insurer in its jurisdiction.” In the U.S., the courts must initiate a liquidation. The standard should be amended to reflect this.                                                                                                                                                                      | See response to Comment 852.1. The ability to file an application to court for the liquidation also constitutes “initiate”.                                                                                                                                                                                   |
| <b>105 - Q105 Comment on ICP 12.9</b>                              |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                               |
| 858. Assuris                                                       | Canada                    | Assuris strongly supports that policyholders should have a higher legal priority in liquidation. Policyholder claims should be paid ahead of all general creditors.                                                                                                                                                                                                                                                                                                            | Noted. This is supported by current drafting of ICP 12.9.                                                                                                                                                                                                                                                     |
| 859. Insurance Europe                                              | Europe                    | Paragraph 12.9.1 first notes that policyholders should rank above ordinary unsecured creditors but paragraph 12.9.2 describes current practice in some jurisdictions, where it is common that higher priority is given to other categories of claims. The latter appears to contradict the former. In order to avoid this, the ICP should be clear on what the actual requirement is and avoid describing current practice which may be better suited to an application paper. | Disagree that it is contradictory. ICP 12.9.2 notes a further example where there is high priority.                                                                                                                                                                                                           |
| 860. International Forum of Insurance Guarantee Schemes (IFIGS)    | International             | We strongly support the principle that policyholders should have a high legal priority in liquidation.                                                                                                                                                                                                                                                                                                                                                                         | Noted. This is consistent with current drafting.                                                                                                                                                                                                                                                              |
| 861. General Insurance Association of Japan                        | Japan                     | How to set a priority on policyholders’ claims is determined in consideration of policyholder protection schemes and other systems in place at the jurisdictional level. Therefore, this standard should be revised as follows: “Legislation provides an appropriate legal priority to policyholders’ claims within the hierarchy of claims in liquidation, in accordance with the nature of policyholders’ claims in each jurisdiction, etc.”                                 | <p>.</p> <p>We consider that the proposed wording of “appropriate legal priority” instead of “high legal priority”, is not protective enough for policyholders, and so the proposed change is not supported. We also note that the proposed standard is a replication (with minor edit) of current ICP 12</p> |

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| 863. and 864. Swiss Re & Zurich Insurance Group                    | Switzerland                              | With due consideration for the priority of policyholder protection in insurance, ICP12.9 could feature towards the beginning of ICP12, for instance before ICP12.3. We commented on the creditor hierarchy on several instances, e.g. with regard to Q44. The comments also apply here.                                                                                                                                                                                                         | The comment is noted. The order of the Standards in ICP 12 has been considered throughout the drafting process. It is considered the current position does not derogate from the importance of this principle.                                             |
| 865. Institute of International Finance and the Geneva Association | United States/Switzerland                | With due consideration for the priority of policyholder protection in insurance, ICP12.9 could feature towards the beginning of ICP12, for instance before ICP12.3. We commented on the creditor hierarchy on several instances, e.g. with regard to Q44. The comments would apply here.                                                                                                                                                                                                        | See response to Comment 863 and 864.                                                                                                                                                                                                                       |
| 866. International Association of Insurance Receivers              | US Corporation, International membership | Amend to include PPSs: "Liquidation provides a high legal priority to policyholders' claims AND CLAIMS OF PPS within the hierarchy of claims in liquidation."                                                                                                                                                                                                                                                                                                                                   | The role of PPS is recognised in ICP 12. It is not considered appropriate for IAIS to set standards for the interests of PPS as it is not within IAIS' purview. It is for each jurisdiction to decide how high in creditor hierarchy the PPSs should rank. |
| <b>106 - Q106 Comment on ICP 12.9.1</b>                            |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                            |
| 867. Assuris                                                       | Canada                                   | Assuris strongly supports that policyholders should have a higher legal priority in liquidation. Policyholder claims should be paid ahead of all general creditors.                                                                                                                                                                                                                                                                                                                             | Noted. The ICP afford sufficient flexibility for jurisdictions to take this approach if desired.                                                                                                                                                           |
| 868. Global Federation of Insurance Associations                   | Global                                   | <p>1. This paragraph first notes that policyholders should rank above ordinary unsecured creditors, before describing current practice in some jurisdictions where it is common that higher priority is given to other categories of claims; this appears to contradict the initial statement.</p> <p>2. The ICPs should be clear on the requirement and avoid describing current practice which may be better suited to an application paper.</p>                                              | See response to comment 859 on these points.                                                                                                                                                                                                               |
| 869. International Forum of Insurance Guarantee Schemes (IFIGS)    | International                            | <p>1. We strongly support the principle that policyholders should have a high legal priority in liquidation.</p> <p>2. Where a policyholder protection scheme provides funds to protect policyholders it should be granted the same high priority as the original policyholder claim by subrogation or other means.</p>                                                                                                                                                                         | <p>1. Noted.</p> <p>2. See response to comment 866</p>                                                                                                                                                                                                     |
| 871. Association of British Insurers                               | United Kingdom                           | <p>This paragraph first notes that policyholders should rank above ordinary unsecured creditors, before describing current practice in some jurisdictions where it is common that higher priority is given to other categories of claims; this appears contradictory.</p> <p>In general, the ICPs should be clear as to the requirement they are setting out, and avoid describing current practice; descriptions of current or best practice may be better suited to an application paper.</p> | See resolutions of Comment 859.                                                                                                                                                                                                                            |
| 872. Institute of International Finance and the Geneva Association | United States/Switzerland                | Please see our comment in response to Q65.                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Noted                                                                                                                                                                                                                                                      |

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| 873. International Association of Insurance Receivers           | US Corporation, International membership | Wording makes provision seem descriptive instead of permissive. Suggest modifying wording to "However, JURISDICTIONS MAY ALSO APPLY A HIGHER PRIORITY TO a limited number of other categories of claims.<br><br>These may include ...." (New matter in capital letters)                                                                                                                                                            | Noted. We consider the current drafting is satisfactory. The ICP provides that it is common in many jurisdictions that a higher priority is given to a limited number of other categories of claims. |
| 874. American Insurance Association                             | USA                                      | Section 12.9.1 sets forth examples of high claim priorities during resolution. Policyholder protection schemes (guaranty funds in the U.S.) should also be listed as having a high claims priority. Guaranty funds require high claims priority because they are responsible for payment of covered policyholder and third-party claims.                                                                                           | See response to comment 866.                                                                                                                                                                         |
| 875. Property Casualty Insurers Association of America (PCI)    | USA                                      | The list of entities that should receive high claims priorities should include policyholder protection schemes.                                                                                                                                                                                                                                                                                                                    | See response to comment 866.                                                                                                                                                                         |
| <b>107 - Q107 Comment on ICP 12.9.2</b>                         |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                      |
| 876. Assuris                                                    | Canada                                   | No comment                                                                                                                                                                                                                                                                                                                                                                                                                         | Noted                                                                                                                                                                                                |
| 877. Global Federation of Insurance Associations                | Global                                   | See the comment on Q106.                                                                                                                                                                                                                                                                                                                                                                                                           | See response to comment 859 and 868.                                                                                                                                                                 |
| 878. International Actuarial Association                        | International                            | This should consider the issue of reinsurance policyholders claims which may rank behind other policyholders.                                                                                                                                                                                                                                                                                                                      | The comment is noted. We consider current drafting is sufficient. Reinsurance cedents are not included in IAIS' definition of policyholders.                                                         |
| 879. International Forum of Insurance Guarantee Schemes (IFIGS) | International                            | No comment                                                                                                                                                                                                                                                                                                                                                                                                                         | Noted                                                                                                                                                                                                |
| 881. Institute and Faculty of Actuaries                         | UK                                       | This should consider the issue of claims reinsurance policyholders who rank behind other policyholders.                                                                                                                                                                                                                                                                                                                            | See resolution of this comment 878.                                                                                                                                                                  |
| 882. Association of British Insurers                            | United Kingdom                           | See our comment in response to Q106.                                                                                                                                                                                                                                                                                                                                                                                               | See response to comment 859 and 871.                                                                                                                                                                 |
| 883. International Association of Insurance Receivers           | US Corporation, International membership | Wording makes provision seem descriptive instead of permissive. Suggest modifying wording to "In jurisdictions WHERE POLICYHOLDERS receive high priority, but only on a determined part of the insurance legal entity's assets (e.g. the assets covering technical provisions), POLICYHOLDERS' CLAIMS TO THIS PORTION OF THE INSURER'S ASSETS SHOULD generally be over-ranked only by liquidation expenses." (New wording in caps) | See response to comment 873.                                                                                                                                                                         |
| <b>108 - Q108 Comment on ICP 12.9.3</b>                         |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                      |

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| 884. Assuris                                                                                                                                           | Canada        | Assuris strongly supports the role which a PPS can play in contributing to an insurance resolution and ensuring timely payment of claims to policyholders. A PPS can provide a source of expertise on resolution of an insurer and should be included in the resolution process. A PPS can ensure timely payment to policyholders and may have a bridge institution to temporarily transfer assets and liabilities.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Noted. The role of PPS is recognised and discussed throughout ICP 12.                                                                                                                                                                                                                                                    |
| 885. Global Federation of Insurance Associations                                                                                                       | Global        | In the last sentence, the words “should” should be replaced with “may” since not all jurisdictions have all the mechanism mentioned (e.g., bridge institutions).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | We understand that your comment is about the <b>last but one</b> sentence. We consider the drafting intent should remain, i.e guidance that continuity <b>should</b> be in place. This may be through a bridge mechanism or other means. Minor rewording of ICP 12.9.3 has been made for greater clarity of this intent. |
| 886. International Forum of Insurance Guarantee Schemes (IFIGS)                                                                                        | International | <p>1. We support the recognition of the important role that policyholder protection schemes can play in achieving an orderly resolution through formal liquidation process.</p> <p>2. Policyholder protection schemes are not just a source of funds but also a source of expertise in resolution. As such, they should be involved in resolvability assessments, resolution planning and crisis management groups.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p>1. Noted.</p> <p>2. The comment is noted. A wide variety of PPS exist globally. The role of a PPS will depend on the laws of its jurisdiction. We consider the role of PPS are addressed sufficiently in ICP 12.</p>                                                                                                  |
| 888. Institute and Faculty of Actuaries                                                                                                                | UK            | We note here the issues with NCWOL from our answer to Q76.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Please see response to this comment.                                                                                                                                                                                                                                                                                     |
| 889. National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF) | United States | <p>1. We support the recognition of the value provided by policyholder protection schemes. It is important to note, however, that a PPS can be much more than a payment mechanism; a PPS that has been involved in significant insurer insolvencies in its jurisdiction has valuable and often unmatched practical experience with resolutions. Accordingly, we believe that policyholder protection schemes can and should play an important role in developing resolution strategies, and therefore they should be part of crisis management groups and other coordination efforts.</p> <p>2. The U.S. guaranty system – both on its own and in conjunction with regulators and receivers – has continually planned for the contingency of large and complex receiverships. Some of that work (involving realistic, albeit hypothetical scenarios) has been done for training and preparedness reasons. More importantly, a great deal of preparatory work has been done for specific, real-world situations where regulators were preparing for the possible liquidation of large and complex multi-insurer groups that were experiencing financial challenges. Fortunately, the good work of regulators and others ultimately succeeded in resolving the problems of some of those entities (including General American in 1999, Consecro in 2002 and Security Benefit in 2009) without requiring the liquidation of their subsidiary insurers. In other instances</p> | 1 and 2. The comments are noted. A wide variety of PPS exist globally. The role of a PPS will depend on the laws of its jurisdiction. We consider the role of PPS are addressed sufficiently in ICP 12.                                                                                                                  |

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|           |    | <p>(including Fremont Indemnity in 2003 and Lumbermens Mutual in 2013), close collaboration and planning by regulators and the guaranty system ensured a smooth transition to liquidation and coverage by the guaranty system. In addition, the U.S. National Organization of Life and Health Insurance Guaranty Associations was continually in consultation with NAIC leadership throughout the 2008-9 financial crisis about resolution steps that might have been necessary, had capital levels of major life insurance companies not remained as high as they did throughout a financial crisis that did so much damage to other sectors of the financial services industry.</p> <p>Because the guaranty system has been involved in almost all of the significant U.S. insurer insolvencies over the past 4 decades, it has a collective level of practical experience that can and should be used in connection with resolution planning, including in connection with crisis management groups and other coordination efforts. That is precisely why the NAIC recently invited NOLHGA and NCIGF to attend meetings of the NAIC's Receivership Financial Analysis (E) Working Group, which is charged with assisting and advising supervisors on appropriate regulatory strategies, methods and actions with regard to insurance receiverships.</p> <p>3. With regard to the statement that "[a] PPS or other protection mechanisms could also ensure compliance with NCWOL principle by providing compensation to policyholders so that none are worse off than in liquidation," we note that in some jurisdictions, a policyholder protection scheme may act only after a liquidation order has been entered.</p> | 3. Noted. This does not call for any edit to the text of ICP 12                                 |
| 890. ACLI | US | <p>1. In the last sentence, the words "should" should be replaced with "may" since not all jurisdictions have all of the mechanisms mentioned (e.g., bridge institutions).</p> <p>2. ACLI also agrees with the following joint comments of the National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF):</p> <p>We urge recognition of the value provided by existing policyholder protection schemes (PPS). It is important to note, however, that a PPS can be much more than a payment mechanism; a PPS that has been involved in significant insurer insolvencies in its jurisdiction has valuable and often unmatched practical experience with resolutions. Accordingly, we believe that existing policyholder protection schemes can and should play an important role in developing resolution strategies, and therefore they should be part of crisis management groups and other coordination efforts .</p> <p>As support for this recognition we note that the U.S. guaranty system – both on its own and in conjunction with regulators and receivers – has continually planned for the contingency of large and complex receiverships. Some of that work (involving</p>                                                                                                                                                                                                                                                                                                                                                                                                                                              | <p>1 See the resolution to the comment 885</p> <p>2. See the resolution to the comment 889.</p> |

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|                                                       |                                          | <p>realistic, albeit hypothetical scenarios) has been done for training and preparedness reasons. More importantly, a great deal of preparatory work has been done for specific, real-world situations where regulators were preparing for the possible liquidation of large and complex multi-insurer groups that were experiencing financial challenges. Fortunately, the good work of regulators and others ultimately succeeded in resolving the problems of some of those entities (including General American in 1999, Consec in 2002 and Security Benefit in 2009) without requiring the liquidation of their subsidiary insurers. In other instances (including Fremont Indemnity in 2003 and Lumbermens Mutual in 2013), close collaboration and planning by regulators and the guaranty system ensured a smooth transition to liquidation and coverage by the guaranty system. In addition, the U.S. National Organization of Life and Health Insurance Guaranty Associations was continually in consultation with NAIC leadership throughout the 2008-9 financial crisis about resolution steps that might have been necessary, had capital levels of major life insurance companies not remained as high as they did throughout a financial crisis that did so much damage to other sectors of the financial services industry. Because the guaranty system has been involved in almost all of the significant U.S. insurer insolvencies over the past 4 decades, it has a collective level of practical experience that can and should be used in connection with resolution planning, including in connection with crisis management groups and other coordination efforts. That is precisely why the NAIC recently invited NOLHGA and NCIGF to attend meetings of the NAIC's Receivership Financial Analysis (E) Working Group, which is charged with assisting and advising supervisors on appropriate regulatory strategies, methods and actions with regard to insurance receiverships. With regard to the statement that "[a] PPS or other protection mechanisms could also ensure compliance with NCWOL principle by providing compensation to policyholders so that none are worse off than in liquidation," we note that in some jurisdictions, a policyholder protection scheme may act only after a liquidation order has been entered.</p> |                                                                                                   |
| 891. International Association of Insurance Receivers | US Corporation, International membership | <p>Consider amending as follows:<br/> WHERE A PPS OR OTHER PROTECTION MECHANISMS APPLY, OR where a bridge institution is available, this can ensure continuity of insurance products in cases where no insurer present in the market takes over the portfolio of the insurance legal entity that would otherwise be liquidated. WHERE A PPS APPLIES, MECHANISMS SHOULD BE IN PLACE ALLOWING THE PPS TO PARTICIPATE IN ARRANGEMENTS FOR POLICY RESTRUCTURING OR PORTFOLIO TRANSFER THAT PLACE POLICYHOLDERS IN A POSITION, INCLUDING BOTH PPS RECOVERY AND RECOVERY FROM THE ASSETS OF THE ESTATE, EQUAL TO OR BETTER THAN THEY WOULD HAVE ENJOYED HAD THE PPS</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Existing drafting will be retained. We consider that PPSs are appropriately addressed in the ICP. |

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|                                                                 |               | PAID ELIGIBLE CLAIMS IN NORMAL COURSE. BECAUSE PPS CAN CONTRIBUTE TO OR HELP ASSESS RESOLUTION STRATEGIES, A SUPERVISOR SHOULD CONSIDER INVOLVING OR CONSULTING A PPS AS A RESOURCE TO A CRISIS MANAGEMENT GROUP. (Capitalized text is suggested addition.)                                                                                                                                                                                                                |                                                                                                                           |
| 892. Property Casualty Insurers Association of America (PCI)    | USA           | We strongly support the general recognition of the value of policyholder protection schemes. However, that value goes well beyond ensuring timely claims payments. In the U.S., guaranty funds have considerable practical experience (and thus expertise) in resolutions. They therefore can make a significant contribution to the resolution planning process and should be a part of crisis management groups.                                                         | The constitution of the crisis management group is not addressed in this ICP.                                             |
| <b>109 - Q109 Comment on ICP 12.10</b>                          |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                           |
| 893. Assuris                                                    | Canada        | Assuris supports resolution powers being exercised in a way that respects hierarchy of creditors' claims in liquidation and adheres to the NCWOL principle. However, the principle of equal treatment of all policyholders should apply. All policyholders should receive equal treatment. Treating policyholders differently is inequitable, and very difficult to explain. This could lead to loss of consumer confidence in the resolution process and in the industry. | Disagree. ICP 12.10.2 explains the scenarios where a departure would or could be justified.                               |
| 894. Insurance Europe                                           | Europe        | Insurance Europe believes that departures from general principles should require a substantive explanation.                                                                                                                                                                                                                                                                                                                                                                | We appreciate the support.                                                                                                |
| 895. Global Federation of Insurance Associations                | Global        | This standard allows different creditors within the same class to be treated differently, so long as they are not worse off if they were in liquidation. GFIA recommends amending the first sentence as follows "...and adheres to the NCWOL principle, where applicable."                                                                                                                                                                                                 | Disagree. The NCWOL principle should always be applicable.                                                                |
| 896. International Forum of Insurance Guarantee Schemes (IFIGS) | International | Policyholders covered by a policyholder protection scheme should have the same ranking in the hierarchy of creditor claims as all other policyholders.                                                                                                                                                                                                                                                                                                                     | This is for each jurisdiction to determine.                                                                               |
| 898. and 899. Swiss Re & Zurich Insurance Group                 | Switzerland   | The IAIS ought to replace "explains the reasons for such a departure" with "adequately motivates and substantiates such a departure."                                                                                                                                                                                                                                                                                                                                      | Text was modified as follows: "(...) the resolution authority <u>substantiates</u> <del>explains</del> the reasons (...)" |
| 900. Institute and Faculty of Actuaries                         | UK            | We note here the issues with NCWOL from our answer to Q76.                                                                                                                                                                                                                                                                                                                                                                                                                 | See response to this comment.                                                                                             |
| 901. National Association of Mutual Insurance Companies         | United States | Q109 Comment on ICP 12.10 In this section, there is a reference to treating creditors in the same classes differently as long as it is not worse than they would be treated under liquidation. This disparity of treatment is not often used and should not be referenced in such detail.                                                                                                                                                                                  | Noted                                                                                                                     |

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| 902. Institute of International Finance and the Geneva Association | United States/Switzerland | The IAIS may consider replacing “explains the reasons for such a departure” with “adequately motivates and substantiates such a departure.”.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Noted                                                                                                                                                                                                    |
| 903. ACLI                                                          | US                        | This standard allows different creditors with the same class to be treated differently, so long as they are not worse off if they were in liquidation. In the U.S., such treatment is only allowed in limited and extreme circumstances when financial stability is being threatened. The first sentence should begin with the phrase “In certain jurisdictions, a resolution authority may exercise resolution powers...”.                                                                                                                                                                                                                                                                                                                                                        | Noted                                                                                                                                                                                                    |
| 904. Property Casualty Insurers Association of America (PCI)       | USA                       | This standard suggests the possibility that policyholders might be treated differently where one is protected by a PPS and the other is not. The standard only requires that an explanation be provided for any departure from pari passu. PCI is concerned that this raises the possibility that a resolution authority may seek to favor policyholders not covered by a PPS over those that are. This undercuts the mission of the PPS. PCI strongly recommends that the standard be amended to state that departures from pari passu should be considered only in the context of resolving insurers designated as systemically important and that even then, in no circumstances should PPS coverage or lack thereof be a justification for treating policyholders differently. | Disagree. ICP 12.10.2 explains the scenarios where a departure would or could be justified.                                                                                                              |
| <b>110 - Q110 Comment on ICP 12.10.1</b>                           |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                          |
| 905. Assuris                                                       | Canada                    | Assuris does not support the resolution authorities treating policyholders differently. The principle of equal treatment of all policyholders should apply. Treating policyholders differently is inequitable, and very difficult to explain. This could lead to loss of consumer confidence in the resolution process and in the industry.                                                                                                                                                                                                                                                                                                                                                                                                                                        | Disagree. ICP 12.10.2 explains the scenarios where a departure would or could be justified.                                                                                                              |
| 906. International Actuarial Association                           | International             | This says that creditors “should have a right to compensation” but doesn’t identify who should pay it.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | There are various possibilities who would be able to pay the compensation, including remaining assets or a PPS. Considerations who should or can pay it, can be developed in a future Application Paper. |
| 907. International Forum of Insurance Guarantee Schemes (IFIGS)    | International             | Policyholders covered by a policyholder protection scheme should have the same ranking in the hierarchy of creditor claims as all other policyholders.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | See response to comment 896.                                                                                                                                                                             |
| 909. Swiss Re & Zurich Insurance Group                             | Switzerland               | See our comments to Q109.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | See resolution of this comment                                                                                                                                                                           |
| 910. Zurich Insurance Company Ltd.                                 | Switzerland               | See our comments to Q109.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | See resolution of this comment                                                                                                                                                                           |

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| 911. Institute and Faculty of Actuaries                                                                                                     | UK                        | This explains that creditors 'should have a right to compensation', but does not identify who should pay for it.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | See response to comment 906                                                                                                                                                                                                                                                                          |
| 912. Institute of International Finance and the Geneva Association                                                                          | United States/Switzerland | See our comments to Q109.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | See resolution of this comment                                                                                                                                                                                                                                                                       |
| 913. American Insurance Association                                                                                                         | USA                       | Section 12.10.1 states that the resolution authority may treat certain types of creditors differently from others in the same class of creditors' hierarchy. It is difficult to imagine a scenario where an authority would be justified in departing from the principle of pari passu—equal treatment of creditors of the same class.                                                                                                                                                                                                                                                                                                                                                                                                                         | Disagree. ICP 12.10.2 explains the scenarios where a departure would or could be justified.                                                                                                                                                                                                          |
| <b>111 - Q111 Comment on ICP 12.10.2</b>                                                                                                    |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                      |
| 914. Assuris                                                                                                                                | Canada                    | Assuris does not support that policyholders protected by a PPS be given a lower priority claim than unprotected policyholders.<br><br>Allocating a disproportionate share of assets to unprotected policyholders could undermine the PPS's subrogation rights and violate the NCWOL principle. A PPS should be viewed as providing protection to policyholders if the insurer's estate is unable to pay their claims. Therefore, the priority of policyholder's claims should be unaffected by whether they are protected by a PPS or not.                                                                                                                                                                                                                     | Disagree. ICP 12.10.2 explains the scenarios where a departure would or could be justified. However, NCWOL principle has to be adhered to.                                                                                                                                                           |
| 915. International Forum of Insurance Guarantee Schemes (IFIGS)                                                                             | International             | 1. It is inappropriate to give a lower priority to claims of policyholders covered by a policyholder protection scheme. If non-protected policyholders are given a higher ranking than protected policyholders, they would receive better treatment than covered policyholders at the expense of the policyholder protection scheme (Allocating a disproportionate share of estate assets to non-protected policyholders could undermine the policyholder protection scheme's subrogation rights, violate the NCWOL principle and potentially impair the policyholder protection scheme's ability to fulfill its mission).<br>2. In certain circumstances funds provided by the policyholder protection scheme could have a priority over policyholder claims. | 1. It is for each jurisdiction (or each resolution authority) to determine how they allocate available assets to policyholders, within the NCWOL principle.<br><br>2. IAIS' objective is the protection of policyholders. IAIS is sceptical that a PPS can have a priority over policyholder claims. |
| 917. National Organization of Life and Health Insurance Guaranties (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF) | United States             | 1. Resolution authorities should depart from the principle of pari passu only when necessary to maintain financial stability. Even in instances where financial stability may be an issue, policyholders should not be treated differently from each other so that payments can be made to lower priority claimants.                                                                                                                                                                                                                                                                                                                                                                                                                                           | 1. Noted                                                                                                                                                                                                                                                                                             |

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|                                          |               | 2. Furthermore, in jurisdictions where the PPS is subrogated to the rights of covered policyholders, uncovered policyholders should not be allocated a higher percentage of estate assets than covered policyholders are allocated. Allocating a disproportionate share of estate assets to uncovered policyholders could undermine the policyholder protection scheme's subrogation rights, violate the NCWOL principle and potentially impair the policyholder protection scheme's ability to fulfill its mission.                                                                                                                                                                                                                                                                                                                        | 2. The comment is noted and appreciated. The IAIS believes, however, that it is for each jurisdiction to determine how a PPS rank with respect of policyholders not covered by the PPS. |
| 918. American Insurance Association      | USA           | Section 12.10.2 states as an example of a departure from pari passu instances where there are two categories of creditors in the same class but one is covered by the policyholder protection scheme and one is not. It is not appropriate to differentiate creditors of the same class for resolution purposes based on whether some of the class has coverage via a policyholder protection scheme such as a guaranty fund. Allocating a disproportionate share of recoverable estate assets to uncovered policyholders and claimants directly impairs the mission and objectives of the policyholder protection scheme to help those policyholders most in need of coverage, potentially violates the principle of no claimant worse off than in liquidation, and may undermine the policyholder protection scheme's subrogation rights. | Disagree. ICP 12.10.4 provides that the options referred to in ICPs 12.10.2 and 12.10.3 could be used, provided this does not infringe the NCWOL principle.                             |
| <b>112 - Q112 Comment on ICP 12.10.3</b> |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                         |
| 919. Assuris                             | Canada        | Assuris does not support the principle of reducing contracts ranking pari passu at a different rate. Policyholders with the same ranking should not be settled or reduced at a different rate. This could lead to loss of consumer confidence in the resolution process and in the industry.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Disagree. ICP 12.10.2 explains the scenarios where a departure would or could be justified.                                                                                             |
| 920. International Actuarial Association | International | We note direct policyholders don't rank pari passu with cedants within the EU                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | The comment is acknowledged.                                                                                                                                                            |
| 922. Institute and Faculty of Actuaries  | UK            | We note direct policyholders do not rank on an equal footing with cedants within the EU.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | The comment is acknowledged.                                                                                                                                                            |
| <b>113 - Q113 Comment on ICP 12.10.4</b> |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                         |
| 923. Assuris                             | Canada        | Assuris supports that the NCWOL principle should be applied before considering the claims covered by a PPS. Any claims paid to policyholders by a PPS should be irrelevant to the calculation of claims paid by the insurer. A PPS may subrogate the policyholder's claim and will generally cover the policyholder's shortfall up to a guaranteed amount. The                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Noted.                                                                                                                                                                                  |

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|                                                                                                                                                        |                                          | policyholder's priority claim should be unaffected by whether it is subrogated by a PPS or not.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                 |
| 924. International Forum of Insurance Guarantee Schemes (IFIGS)                                                                                        | International                            | In a resolution in which a policyholder protection scheme is triggered, the NCWOL principle should be applied before taking into account any coverage of claims by a policyholder protection scheme. In other words, in calculating the NCWOL, the policyholder protection provided by the policyholder protection scheme should not be taken into account.                                                                                                                                                                                                                                                                                                                  | It is for each jurisdiction not for the IAIS to determine how they take account of existing PPS when implementing the NCWOL principle.                                                                                                          |
| 926. National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF) | United States                            | In some jurisdictions, policyholder protection schemes have subrogation rights.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Noted and fully acknowledged.                                                                                                                                                                                                                   |
| 927. International Association of Insurance Receivers                                                                                                  | US Corporation, International membership | Figures 2 and 3 attempt to illustrate the NCWOL principle in the context of a hypothetical restructuring. This subject does not lend itself to a simplified example, which by its nature cannot provide meaningful guidance. The failure of the example to discuss the source of the "compensation" to be received by the the "B" policyholders could render the example misleading. It is suggested that the examples be omitted. This concept should be the subject of an IAIS Application Paper, which can provide actual examples or case studies. The International Association of Insurance Receivers would be willing to assist in the development of such a document | We do not believe that the example is misleading.<br><br>Nonetheless, assistance of the International Association of Insurance Receivers will be welcome when the IAIS drafts an Application Paper, which can further expand on these examples. |
| <b>114 - Q114 Comment on ICP 12.10.5</b>                                                                                                               |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                 |
| 928. Assuris                                                                                                                                           | Canada                                   | Assuris does not support the resolution authorities taking actions which could worsen the position of only some creditors that have same priority as others. The NCWOL principle should be applied before considering the claims covered by a PPS.<br>Any claims paid to policyholders by a PPS should be irrelevant to the calculation of claims paid by the insurer. A PPS may subrogate the policyholder's claim and will generally cover the policyholder's shortfall up to a certain amount. The policyholder's priority claim should be unaffected by whether it is subrogated by a PPS or not.                                                                        | Disagree. ICP 12.10.5 explains the scenarios where a departure would or could be justified.                                                                                                                                                     |

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| 929. International Actuarial Association                                                                                                               | International                            | The example requires compensation to Portfolio A policyholders, but doesn't say how it is funded ..... although it concludes that a PPS may pay some claims. Hopefully this does not seek to imply that the NCWOL test applies only after payments to meet PPS obligations are taken into account. This may be OK if the PPS is driving the process.<br>In this example, prior agreement of the PPS should be a pre-requisite if the transfer may increase the costs of the PPS.                                 | See response to comment 915.1.                                                                                                                             |
| 930. International Forum of Insurance Guarantee Schemes (IFIGS)                                                                                        | International                            | In a resolution in which a policyholder protection scheme is triggered, the NCWOL principle should be applied before taking into account any coverage of claims by a policyholder protection scheme. In other words, in calculating the NCWOL the policyholder protection provided by the policyholder protection scheme should not be taken into account.                                                                                                                                                       | See response to comment 915.1.                                                                                                                             |
| 932. Institute and Faculty of Actuaries                                                                                                                | UK                                       | The example requires compensation to Portfolio A policyholders, but does not say how it is funded; although it does conclude that a PPS may pay for some claims. We would be grateful for clarification that this does not imply that the NCWOL test applies only after payments to meet PPS obligations are taken into account. This may be fine if the PPS is driving the process.<br>In this example, prior agreement of the PPS should be a pre-requisite if the transfer may increase the costs of the PPS. | See response to comment 915.1.                                                                                                                             |
| 933. National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF) | United States                            | In some jurisdictions, policyholder protection schemes are subrogated to the rights of covered policyholders.                                                                                                                                                                                                                                                                                                                                                                                                    | Noted                                                                                                                                                      |
| 934. International Association of Insurance Receivers                                                                                                  | US Corporation, International membership | See response to Question 113. As is Figure 2, the hypothetical presented in Figure 3 is also incomplete in that it does not explain the source of the compensation due to the participants in Portfolio B. Suggest that a more rigorous analysis of potential restructuring plans, including those described in 12.10.4 and 12.10.5 be prepared in the form of an application paper. The International Association of Insurance Receivers would be willing to assist in the development of such a document       | See response to comment 927.                                                                                                                               |
| 935. American Insurance Association                                                                                                                    | USA                                      | Section 12.10.5 sets forth illustrations of potential departures from the principle of pari passu. The illustration describes some classes of creditors being able to receive coverage from a policyholder protection scheme. It is not appropriate to differentiate creditors of the same class for resolution purposes based on whether some of the class has coverage via a policyholder protection scheme such as a guaranty fund.                                                                           | Disagree. ICP 12.10.4 provides that the options referred to in ICPs 12.10.2 and 12.10.3 could be used provided this does not infringe the NCWOL principle. |

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|                                                 |             | Allocating a disproportionate share of recoverable estate assets to uncovered policyholders and claimants directly impairs the mission and objectives of the policyholder protection scheme to help those policyholders most in need of coverage, potentially violates the principle of no claimant worse off than in liquidation, and may undermine the policyholder protection scheme's subrogation rights.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>115 - Q115 Comment on ICP 12.11</b>          |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 936. Assuris                                    | Canada      | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Noted                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 938. Swiss Re & Zurich Insurance Group          | Switzerland | With respect to loss absorption by policyholders kindly see our response to Q11.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | See response to this comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 939. Zurich Insurance Company Ltd.              | Switzerland | With respect to loss absorption by policyholders kindly see our response to Q11.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | See response to this comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>116 - Q116 Comment on ICP 12.11.1</b>        |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 940. Assuris                                    | Canada      | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Noted                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 941. Insurance Europe                           | Europe      | <p>a) Overall, Insurance Europe notes that the NCWOL is rather a restricting principle both for primary insurance and reinsurance. In both insurance and reinsurance, policyholder interests at the time of resolution will depend on whether a claim has been incurred, incurred but not reported or no claim has been incurred (yet). However, all the interests will have to be fairly accounted for, to avoid a breach of the NCWOL principle.</p> <p>b) With regard to the 6th bullet point: We must distinguish between reducing the value of reinsurance contracts and the restructuring of reinsurance contracts. In reinsurance, the relevant valuation for insolvency proceedings and the going-concern value are practically identical. As a result, restructuring (uneven intervention in individual reinsurance contract categories), cannot be carried out without violating the NCWOL principle. Therefore, we oppose restructuring reinsurance contracts as a resolution power – any intervention must be limited to a uniform reduction of reinsurance claims.</p> | <p>a) We appreciate the comment, and no edits are requested / needed. The issues raised will have to be considered in the application of the NCWOL.</p> <p>b) Your comment is noted but we do not share its conclusion: a restructure of reinsurance contract that would not be a uniform reduction of reinsurance claims could result in a departure from pari passu principle, without resulting in a violation of the NCWOL principle. However, your comment rightly points out that the current drafting suggests that “restructuring” is distinct from “reducing”, when “restructuring” rather includes “reducing”. Last bp will thus be amended as follows:<br/> “(<del>reducing the value of, or</del> restructuring (...))”.</p> |
| 943. and 944. Swiss Re & Zurich Insurance Group | Switzerland | With respect to loss absorption by policyholders kindly see our response to Q11.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Your 3 <sup>rd</sup> comment is noted but we do not share its conclusion: a restructure of reinsurance contract that would not be a uniform reduction of reinsurance claims could result in a departure from pari passu principle, without resulting in a violation of the NCWOL principle.                                                                                                                                                                                                                                                                                                                                                                                                                                              |

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|                                                                                                                                                        |                           | <p>Overall we note that the NCWOL principle is quite restricting both for primary insurance and reinsurance. In both insurance and reinsurance policyholder interests at the time of resolution will depend on whether a claim has been incurred, incurred but not reported or no claims have been incurred (yet). However, all the interests will have to be fairly accounted for to avoid a breach of the NCWOL principle.</p> <p>With regard to the 6th bullet point: we must distinguish between reducing the value of reinsurance contracts, and restructuring of reinsurance contracts. In reinsurance, the relevant valuation for insolvency proceedings and the going-concern value are practically identical. As a result, restructuring (uneven intervention in individual reinsurance contract categories), cannot be carried out without violating the NCWOL principle. Therefore, we oppose restructuring reinsurance contracts as a resolution power – any intervention must be limited to a uniform reduction of reinsurance claims.</p> | <p>However, your comment rightly points out that the current drafting suggests that “restructuring” is distinct from “reducing”, when “restructuring” rather includes “reducing”.</p> <p>Last bp will thus be amended as follows:<br/> “(<del>reducing the value of,</del> or restructuring (...))”.</p> |
| 945. Institute and Faculty of Actuaries                                                                                                                | UK                        | We believe this should be rephrased to: ‘Whilst restructuring is available in most cases, it is often subject to approval from the court’                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | We understand that your comment applies to the 1 <sup>st</sup> sentence of the last paragraph of ICP 12.11.1.<br>We are the view, however, that no edit is needed.                                                                                                                                       |
| 946. National Association of Mutual Insurance Companies                                                                                                | United States             | <p>Q116 Comment on ICP 12.11.1</p> <p>In the last bullet of ICP 12.11.1 the reference to restructuring reinsurance contracts is confusing. We suggest the clarification in this section that there would be no restructuring of healthy companies’ reinsurance contracts.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | This can be further developed in a future Application paper.                                                                                                                                                                                                                                             |
| 947. National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) and the National Conference of Insurance Guaranty Funds (NCIGF) | United States             | We strongly agree that restructuring should occur only if it adheres to the NCWOL principle.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Noted and appreciated.                                                                                                                                                                                                                                                                                   |
| 948. Institute of International Finance and the Geneva Association                                                                                     | United States/Switzerland | Overall we note that the NCWOL is rather a restricting principle both for primary insurance and reinsurance. In both insurance and reinsurance policyholder interests at the time of resolution will depend on whether a claim has been incurred, but not reported or not claims has been incurred (yet). However, all the interests will have to be fairly accounted for, to avoid a breach of the NCWOL principle.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Noted and see the resolution to comment 943                                                                                                                                                                                                                                                              |

|                                                         |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                         |
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|                                                         |                | With regard to the 6th bullet point: We must distinguish between reducing the value of reinsurance contracts, and restructuring of reinsurance contracts. In reinsurance, the relevant valuation for insolvency proceedings and the going-concern value are practically identical. As a result, restructuring (uneven intervention in individual reinsurance contract categories), cannot be carried out without violating the NCWOL principle. Therefore, we oppose restructuring reinsurance contracts as a resolution power – any intervention must be limited to a uniform reduction of reinsurance claims.                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                         |
| <b>117 - Q117 Comment on ICP 12.11.2</b>                |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                         |
| 949. Assuris                                            | Canada         | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Noted                                                                                                                                                                                                                                                                                   |
| <b>118 - Q118 Comment on ICP 12.12</b>                  |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                         |
| 951. Assuris                                            | Canada         | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Noted                                                                                                                                                                                                                                                                                   |
| 952. Insurance Europe                                   | Europe         | Insurance Europe notes that this paragraph could be read as promoting the single point of entry resolution strategy (known in banking) over a multiple point of entry resolution strategy. In fact, the FSB's guidance on resolution planning for systemically important insurers (of June 2016) appropriately promotes situation and institution-specific resolution strategies. Insurance Europe strongly encourages the IAIS to align its guidance to this overarching principle. The following change would help improve the current wording:<br>"Where the insurance legal entity belongs to a group and the head of the insurance group is located in the same jurisdiction as the legal entity, mechanisms are in place through which the head of the insurance group is able to be resolved according to the insurer-specific resolution strategy." | We do not agree that the text as drafted indicates a preference for any type of resolution strategy. The ICP as drafted merely states that mechanisms – like bankruptcy – should be in place to resolve the head of an insurance group in the same jurisdiction as a resolving insurer. |
| 953. Global Federation of Insurance Associations        | Global         | This paragraph, as currently written, could be interpreted as promoting the single point of entry resolution strategy over a multiple point of entry resolution strategy. The paragraph should be rewritten to promote situation and institution-specific strategies.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | See response to comment 952                                                                                                                                                                                                                                                             |
| 955. Association of British Insurers                    | United Kingdom | The ABI notes that this paragraph, as currently written, could be interpreted as promoting the single point of entry resolution strategy over a multiple point of entry resolution strategy. The ICP should not be advocating one method over another, as this will depend on the structure of the insurer. The FSB's guidance on resolution planning for systemically important insurers (as of June 2016) appropriately promotes situation and institution-specific resolution strategies.                                                                                                                                                                                                                                                                                                                                                                | See response to comment 952. It is not the intention to promote this SPE over MPE.                                                                                                                                                                                                      |
| 956. National Association of Mutual Insurance Companies | United States  | Q118 Comment on ICP 12.12                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Explanatory guidance 12.12.1 was added.                                                                                                                                                                                                                                                 |

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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |        | This section raises the question of what is it intended to address? If the head of the group is an insurer in the same jurisdiction, the supervisor would have authority over the head. If it were not an insurer then what is anticipated by this section?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                        |
| 957. ACLI                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | US     | This ICP and the related CF guidance should accommodate different jurisdictions' supervisory frameworks. An example would be the U.S. system of state based insurance regulation, where the state insurance supervisor or resolution authority would not have jurisdiction over holding or service companies, and these entities cannot be resolved within an operating insurance company's insolvency proceeding. Holding and service companies would be resolved under separate mechanisms and need not be covered by ICP 12 and CF 12. Ultimately, orderly resolution of subsidiary based insurance groups can be effectively accomplished utilizing a multiple point of entry substantive strategy with cooperation and coordination among insurance supervisors or resolution authorities and the resolution authorities for the group's non-insurance entities if and as necessary.                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Noted                                                                                                                                                                  |
| 958. Property Casualty Insurers Association of America (PCI)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | USA    | The guidance suggests that resolution measures could be applied to various separate entities in the insurance group, including, inter alia, the head of the group and an intermediate holding company. We are concerned at the suggestion that resolution might take place at the head of the group of intermediate holding company. In the U.S., resolution generally occurs at the operating company level, and indeed PPS protection can only be made available pursuant to a finding of insolvency and order of liquidation for the operating entity. Resolution of the head of an IAIG should occur only if the head is an insurance company and only if that company is insolvent. Resolution of a non-insurer head company should be beyond the scope of the ICPs. Nevertheless there are mechanisms for a U.S. subsidiary-based insurance group's holding and service companies to be resolved that make ICP 12 and CF 12 unnecessary for holding and service companies in that regulatory framework. An orderly resolution of a U.S. based insurance group can be effectively accomplished utilizing a multiple point of entry substantive strategy with cooperation and coordination among state insurance supervisors or resolution authorities and the resolution authorities for the group's non-insurance entities if and as necessary. | Disagree. See ICP 12.0.3 that clarifies the use of the terms "supervisor", "resolution authority" and "supervisor and/or resolution authority" in the text of the ICP. |
| <b>119 - Q119 ICP 12.12</b><br><b>This Standard has been created on the grounds that the revised ICP 12 addresses not only legal entity issues but also group issues like other ICPs and resolution of insurance legal entities can be complex where they belong to a group. The IAIS acknowledges that liquidation will take place in most cases on a legal entity basis. On the other hand, there might be cases where resolution actions on one entity can impact other entities within the group (e.g. resolution of the head of the insurance group can impact insurance legal entities in the group). The IAIS acknowledges that guidance needs to be provided under this Standard to help ensure appropriate implementation of the Standard. Please provide your thoughts on what guidance can help implementation of this Standard. Concrete ideas with supporting rationale are welcome.</b> |        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                        |
| 959. Assuris                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Canada | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Noted.                                                                                                                                                                 |
| 960. Global Federation of                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Global | This ICP and the related CF guidance should accommodate different jurisdictions' supervisory frameworks. In situations in which holding and service companies would                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Noted.                                                                                                                                                                 |

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| Insurance Associations                          |               | be resolved under separate mechanisms, these would not need to be covered by ICP 12 and CF 12. Ultimately, orderly resolution of subsidiary-based insurance groups can be effectively accomplished utilising a multiple point of entry substantive strategy with cooperation and coordination among insurance supervisors and/or resolution authorities and the resolution authorities for the group's non-insurance entities if and as necessary.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                           |
| 963. and 964. Swiss Re & Zurich Insurance Group | Switzerland   | We think the standard is sensible.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Noted and appreciated                                                                                                                                                                                                                                                                                     |
| 965. Chubb                                      | United States | We agree that resolution takes place at the legal entity basis. There is no guidance that we can conceive of that could dictate how to address resolution on a cross-border basis other than an agreement between supervisors that would be challenging to develop and enforce in the absence of global law. More guidance could be developed regarding supervisory cooperation agreements.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Noted. New guidance 12.12.11 was added.                                                                                                                                                                                                                                                                   |
| 966. MetLife, Inc                               | United States | This ICP and the related CF guidance should accommodate different jurisdictions' supervisory frameworks. For example under the U.S. system of state based insurance regulation, the state insurance supervisor or resolution authority would not have jurisdiction over holding or service companies, and these entities cannot be resolved within an operating insurance company's insolvency proceeding. Nevertheless, there are mechanisms for a U.S. subsidiary-based insurance group's holding and service companies to be resolved that make ICP 12 and CF 12 unnecessary for holding and service companies in that regulatory framework. An orderly resolution of a U.S. based insurance group can be effectively accomplished utilizing a multiple point of entry substantive strategy with cooperation and coordination among state insurance supervisors or resolution authorities and the resolution authorities for the group's non-insurance entities if and as necessary. | Noted.                                                                                                                                                                                                                                                                                                    |
| <b>123 - Q123 Comment on ICP 12.13</b>          |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                           |
| 994. Assuris                                    | Canada        | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Noted                                                                                                                                                                                                                                                                                                     |
| 995. Reinsurance Advisory Board (RAB)           | EU            | Any recovery and resolution requirements for branches should be within the supervisory remit of the home supervisory authority (i.e. the legal entity to which the branch belongs) and should not create new supervisory responsibilities for host supervisory authorities of the branch. Otherwise, this would create a significant extra burden of coordination between home and host supervisors which in most cases is not proportionate to the associated risks. For recovery and resolution purposes, where the supervisory system of a third country meets appropriate standards, the principle of reliance on the home supervisory authority should extend to branches of (re)insurers.                                                                                                                                                                                                                                                                                         | See response to comment 765, copy-pasted hereunder for convenience:<br><i>The comment is noted but more often than not, the home resolution authority will not have the capacity to take resolution actions in the branch jurisdiction. This is also consistent with § 7.3 of the FSB Key Attributes.</i> |
| 996. International Forum of Insurance           | International | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Noted                                                                                                                                                                                                                                                                                                     |

| Guarantee Schemes (IFIGS)                                           |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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| 998. and 999. Swiss Re & Zurich Insurance Group                     | Switzerland               | <p>1. See Q90: Any resolution requirements for branches should be within the supervisory remit of the home supervisory authority (i.e. the legal entity to which the branch belongs) in cooperation and coordination with the host authority: No additional resolution responsibilities of the host authorities of the branch should be established; otherwise this would create an additional layer of uncertainty and burden regarding cooperation and coordination between home and host supervisors.</p> <p>2. We are missing language that encourages jurisdictions, i.e. authorities within jurisdictions, to establish cooperation and coordination agreements for resolution.</p>                                                                                                                                                                                                                                                                                                                                                                            | <p>1. See response to comment 765, copy-pasted hereunder for convenience:<br/><i>The comment is noted but more often than not, the home resolution authority will not have the capacity to take resolution actions in the branch jurisdiction. This is also consistent with § 7.3 of the KAs..</i></p> <p>2. New guidance as follows was added under ICP 12.4 and 12.5:<br/><u>12.4.4. Coordination agreements should be established where multiple authorities may be involved in the resolution of an insurer.</u><br/><u>12.5.8. Cross-border coordination agreements may need to be established between relevant authorities.</u></p> |
| 1000. Institute and Faculty of Actuaries                            | UK                        | This section needs to be a bit clearer. In particular, it needs a clear definition as (a) to who is responsible for the resolution of branches and also (b) a clear definition as to the role of the supervisor versus the resolution authority.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>a) The comment is acknowledged, but we believe the text of ICP 12.13 is clear: the authority responsible for the resolution of the branch, is the resolution authority of the jurisdiction where the branch is located.</p> <p>b) Delineation between roles of supervisor vs resolution authority is expected to be the same for branches and for insurance legal entities.</p>                                                                                                                                                                                                                                                        |
| 1001. Association of British Insurers                               | United Kingdom            | There must be cooperation and coordination between the home and the host supervisor when undertaking resolution activity with respect to a branch of a foreign insurer. This should be made clear in this ICP.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | The comment has been fully appreciated and the standard has been amended accordingly.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 1002. Institute of International Finance and the Geneva Association | United States/Switzerland | <p>See Q90: Any recovery and resolution requirements for branches should be within the supervisory remit of the home supervisory authority (i.e. the legal entity to which the branch belongs) in cooperation and coordination with the host authority: No additional resolution responsibilities of the host authorities of the branch should be established; otherwise this would create an additional layer of uncertainty and burden regarding cooperation and coordination between home and host supervisors.</p> <p>We are missing language that encourages jurisdictions, i.e. authorities within jurisdictions, to establish ex-ante cooperation and coordination agreements for (recovery and) resolution.</p> <p>We understand that in some cases, legal obligations of authorities are well defined and may limit the degree of cooperation and coordination possible. However, wherever possible, supervisory cooperation and coordination should be encouraged. In this respect, the IAIS should consider including the option for jurisdictions to</p> | See response to comment 998 and 1001.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

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|                                                                     |                           | establish ex-ante cooperation and coordination agreements for recovery and resolution to the extent permitted by law.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                     |
| <b>124 - Q124 Comment on ICP 12.13.1</b>                            |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                     |
| 1003. Assuris                                                       | Canada                    | Agree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Noted.                                                                                                                                                                                                                                                                                                                                              |
| 1004. International Forum of Insurance Guarantee Schemes (IFIGS)    | International             | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Noted                                                                                                                                                                                                                                                                                                                                               |
| 1006 and 1007. Swiss Re & Zurich Insurance Group                    | Switzerland               | See our response to Q123.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | See response to this comment                                                                                                                                                                                                                                                                                                                        |
| 1008. Institute of International Finance and the Geneva Association | United States/Switzerland | See our response to Q123.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | See response to this comment                                                                                                                                                                                                                                                                                                                        |
| <b>125 - Q125 Comment on ICP 12.13.2</b>                            |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                     |
| 1009. Assuris                                                       | Canada                    | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Noted.                                                                                                                                                                                                                                                                                                                                              |
| 1010. Insurance Europe                                              | Europe                    | <p>a) Insurance Europe would support more emphasis on the need for mandatory cooperation and coordination between supervisors. Unilateral decisions should be explicitly discouraged, as they would not ensure best conditions for orderly resolutions.</p> <p>b) Insurance Europe notes that paragraphs 12.13.3 and 12.12.4 could be merged into a single paragraph. Insurance Europe proposes the following change:</p> <p>"Where the resolution authority of the insurance legal entity which owns the branch or the resolution authority responsible for the resolution of the insurance group to which the branch belongs are not taking action, or are acting in a manner that does not take sufficient account of the objectives of resolution in the branch jurisdiction, the resolution authority responsible for the branch should duly notify the supervisor of the insurance legal entity which owns the branch and/or the supervisor responsible for the resolution of the insurance group to which the branch belongs. Unilateral actions in resolution must be the exception and should only be carried out as a measure of last resort."</p> | <p>a) See response to comment 1001.</p> <p>b) While it is acknowledged that the suggested merged paragraph may have some benefits as it results in a slightly shorter text, it also implies a change in substance (especially in the last sentence). The current wording is deemed appropriate and is also in line with the FSB Key Attributes.</p> |
| 1011. International Forum of Insurance                              | International             | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Noted                                                                                                                                                                                                                                                                                                                                               |

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| Guarantee Schemes (IFIGS)                                           |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                       |
| 1013. Swiss Re & Zurich Insurance Group                             | Switzerland               | See our response to Q123.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | See response to this comment                                                                                                                                                                                                                                                                                          |
| 1014. Zurich Insurance Company Ltd.                                 | Switzerland               | See our response to Q123.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | See response to this comment                                                                                                                                                                                                                                                                                          |
| 1015. Association of British Insurers                               | United Kingdom            | The differences in the resolution process highlight the need for cooperation and coordination between home and host supervisors and resolution authorities.                                                                                                                                                                                                                                                                                                                                                                                                                  | See response to comment 1001.                                                                                                                                                                                                                                                                                         |
| 1016. Institute of International Finance and the Geneva Association | United States/Switzerland | See our response to Q123.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Noted                                                                                                                                                                                                                                                                                                                 |
| <b>126 - Q126 Comment on ICP 12.13.3</b>                            |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                       |
| 1017. Assuris                                                       | Canada                    | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Noted.                                                                                                                                                                                                                                                                                                                |
| 1018. Insurance Europe                                              | Europe                    | See our response to Q122                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | See response to this comment                                                                                                                                                                                                                                                                                          |
| 1019. GDV - German Insurance Association                            | Germany                   | Unilateral resolution actions taken by the supervisor/resolution authority responsible for a branch should be prevented as a general rule. Guidance 12.13.3 should require the supervisor/resolution authority responsible for the branch to consult with the supervisor/resolution authority responsible for the legal entity. If diverging views cannot be settled, the supervisor/resolution authority responsible for the branch should only be allowed to initiate resolution und exceptional circumstances as a measure of last resort.                                | We believe the current language sufficiently addresses your concerns.<br>Actually, guidance 12.13.4 provides that when the RA for a branch takes action, it should give prior notification and consult the [home authority], and guidance 12.13.3 limits the taking of resolution action to specific circumstances. . |
| 1020. Global Federation of Insurance Associations                   | Global                    | The implications of the use of such broad powers by the branch resolution authority should be considered. Any unilateral decision by the resolution authority responsible for the branch would appear contrary to the aim of coordinated resolution actions. This paragraph should emphasise the need for cooperation and coordination and clarify that as the actions described in the final sentence of this paragraph should be a last resort, and that the branch resolution authorities do not take actions that are inconsistent with the home supervisors' authority. | Your comment is noted, see also response to comment 1001 and 1019.<br>However, 12.13.3 will be amended as follows:<br>“(…) may <u>need to</u> take actions of its own initiative.” To highlight this is only used when needed.                                                                                        |
| 1021. International Forum of Insurance Guarantee Schemes (IFIGS)    | International             | No comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Noted                                                                                                                                                                                                                                                                                                                 |

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| 1023. Swiss Re & Zurich Insurance Group                             | Switzerland               | See our response to Q123.                                                                                                                                                                                                                                                                                                                                  | See response to this comment                                                                                                                                                                 |
| 1024. Zurich Insurance Company Ltd.                                 | Switzerland               | See our response to Q123.                                                                                                                                                                                                                                                                                                                                  | See response to this comment                                                                                                                                                                 |
| 1025. Association of British Insurers                               | United Kingdom            | Any unilateral decision by the resolution authority responsible for the branch would appear contrary to the aim of coordinated resolution actions. Instead, this paragraph should emphasise the need for cooperation and coordination and clarify that a unilateral action, as described in the final sentence of this paragraph, should be a last resort. | See response to comment 1001                                                                                                                                                                 |
| 1026. Institute of International Finance and the Geneva Association | United States/Switzerland | See our response to Q123.                                                                                                                                                                                                                                                                                                                                  | See response to this comment                                                                                                                                                                 |
| 1027. ACLI                                                          | US                        | The implications of these broad powers by the branch supervisor should be considered, and should come with safeguards that ensure that the branch supervisors do not take actions that are inconsistent with the home supervisors' authority.                                                                                                              | Noted, see response to comment 1019.                                                                                                                                                         |
| <b>127 - Q127 Comment on ICP 12.13.4</b>                            |                           |                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                              |
| 1028. Assuris                                                       | Canada                    | Agree                                                                                                                                                                                                                                                                                                                                                      | Noted.                                                                                                                                                                                       |
| 1029. International Forum of Insurance Guarantee Schemes (IFIGS)    | International             | No comment                                                                                                                                                                                                                                                                                                                                                 | Noted                                                                                                                                                                                        |
| 1031 and 1032. Swiss Re & Zurich Insurance Group                    | Switzerland               | See our response to Q123.                                                                                                                                                                                                                                                                                                                                  | See response to this comment                                                                                                                                                                 |
| 1033. Institute of International Finance and the Geneva Association | United States/Switzerland | See our response to Q123.                                                                                                                                                                                                                                                                                                                                  | See response to this comment                                                                                                                                                                 |
| <b>128 - Q128 Comment on Appendix</b>                               |                           |                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                              |
| 1034. Assuris                                                       | Canada                    | On proposed definition for Recovery Plans:<br><br>Consideration should be given to ensuring there is sufficient information routinely produced that will allow the assessment of the resolvability of the insurer. This                                                                                                                                    | Noted and appreciated. Please note that the definition on recovery plans has been deleted from this ICP and the term "resolution plan" is only used in the ComFrame material and not ICP 12. |

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|                                                        |                                          | <p>information could be included in regular supervisory reports, in recovery plans or in special resolvability information requests.</p> <p>Some jurisdictions may request the information in the form of a resolution plan, however for most insurers, all that is required is key resolution focused information. For example, exit valuations which is the realizable value of assets and liabilities, may be significantly different than the going concern valuation recorded on the financial statements.</p>                                                                                                                                                                                     |                                                                                                                                                                             |
| 1035. Global Federation of Insurance Associations      | Global                                   | In "Resolution", the phrase "or for other reasons under local legislation that can no longer be permitted to continue its business" should be added.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Please see response to comment 619.1.                                                                                                                                       |
| 1037. MetLife, Inc                                     | United States                            | <p>For "Recovery plans" please see discussion of types of recovery plan in response to Q.188 (Comment on CF 10.3a).</p> <p>Please also see our recommendation in response to Q.12 (Comment on Paragraph 11. Terminology) of the Introduction to the effect that that the ICPs and ComFrame would benefit from standardized terminology defined in a central Glossary.</p>                                                                                                                                                                                                                                                                                                                               | Noted.                                                                                                                                                                      |
| 1038. ACLI                                             | US                                       | In "Resolution," the phrase "or for other reasons under local legislation that can no longer be permitted to continue its business" should be added.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Please see response to comment 619.1.                                                                                                                                       |
| 1039. International Association of Insurance Receivers | US Corporation, International membership | The definition of "Liquidation" incorrectly assumes that corporate existence is necessarily terminated at the conclusion of the process. Some jurisdictions allow the sale of corporate shells and intellectual property associated with the corporate entity. If such a transaction is contemplated, termination of the insurer's corporate existence may not be in its creditors' best interest. Suggest delete "and corporate existence " in the first sentence. Add following first sentence, "THE CORPORATE EXISTENCE OF THE INSURER MAY BE TERMINATED OR THE CORPORATION AND ANY USEFUL INTELLECTUAL PROPERTY MAY BE TRANSFERRED TO UNRELATED OWNERS ..." (suggested new text in capital letters) | Disagree to add suggested text. However, agree such a potential transaction as described exist but would go beyond a simple definition. Also, the end-result is the same.   |
| 1040. American Insurance Association                   | USA                                      | <p>a) The Appendix contains a definition of "run-off" that includes a description of "solvent run-off." We do not believe the definition is necessary and believe it should be deleted.</p> <p>b) Resolution processes should apply only to insurers who are no longer viable or who need resolution or recovery actions to return to viability to continue to pay claims and write business. Resolution efforts should not apply to insurers who are solvent and still able to pay the claims of its policyholders and the debts to its creditors.</p>                                                                                                                                                 | <p>a) Disagree. A solvent run-off is an appropriate mechanism for voluntary exit from the market.</p> <p>b) Noted. We believe that nothing in the draft contradicts it.</p> |