



Finding Common Ground – Recent Developments in International Group Supervision

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As with many industries, the insurance sector has become increasingly more complex and internationally connected over the past decade. More than ever, international insurance supervisory authorities are recognizing a need to facilitate the exchange of information in order to efficiently perform regulatory functions. The International Association of Insurance Supervisors (“IAIS”), a voluntary membership organization of insurance regulators and supervisors from more than 200 jurisdictions, has worked in recent years to promulgate the Common Framework for the Supervision of Internationally Active Insurance Groups (“ComFrame”), as a set of international supervisory requirements which can provide a basis for the effective groupwide supervision of internationally active insurance groups (“IAIGs”).

Background to ComFrame

In 2011, the IAIS adopted a set of Insurance Core Principles (“ICPs”) to provide a high-level, globally accepted framework for the regulation and supervision of the insurance sector. The ICPs are intended to provide guidance for all jurisdictions and are routinely reviewed for necessary updates. One of the important aspects of the ICPs is an emphasis on group-wide supervision. The IAIS began developing ComFrame in July 2010, while still developing the ICPs, in recognition of the

specific need for an internationally coherent framework for the supervision of IAIGs. With IAIGs exerting growing influence on the global insurance marketplace, ComFrame is intended to provide insights on how IAIGs function as well as generally improve efforts at group supervision by insurance regulatory authorities.

What is an Internationally Active Insurance Group?

An IAIG is defined as an insurance group that meets two criteria: (i) the group’s premiums are written in three or more jurisdictions and gross written premiums outside of the home jurisdiction are at least 10% of the group’s total gross written premiums; and (ii) total assets of the group are at least \$50 billion or gross written premiums are at least \$10 billion (on a rolling three year average basis) (together, the “Criteria”).

One of the foundational principles of ComFrame is that home and host insurance regulatory authorities are to supervise IAIGs in a collaborative fashion. In general, the group-wide supervisor of an insurance group or an insurance legal entity operating through branches will determine if an entity meets the requirements for an IAIG in cooperation with other insurance regulatory authorities through a supervisory

college. While the Criteria for IAIGs as proposed by the IAIS focus on size and international activity, they are considered by the IAIS to have an amount of elasticity, and a significant degree of discretion is reserved to insurance regulatory authorities as to whether to consider an insurance group to be an IAIG, regardless of whether the Criteria are technically met. Accordingly, the IAIS does not itself intend to develop a list of IAIGs, but rather seeks to provide the framework for insurance regulatory authorities to periodically assess whether ComFrame should be applied to a particular insurance group.

Consistent with its desire to make the identification of IAIGs the responsibility of insurance regulatory authorities, the IAIS has refrained from producing substantial guidance to interpret the Criteria. Though field-testing has identified a number of insurance groups which may meet the Criteria and be considered IAIGs, it is unclear whether these interim results will be maintained once the actual application of ComFrame begins. Accordingly, there are a number of material operational questions with respect to the application of the Criteria which may need to wait until the implementation of ComFrame begins in earnest to be resolved.

Structure of ComFrame

ComFrame seeks to provide specific guidance to IAIGs derived from the ICPs and is organized in two categories:

- **ComFrame Standards**, which provide outcome-focused, specific requirements for insurance regulatory authorities built on the ICPs; and
- **ComFrame Guidance**, which is intended to facilitate the understanding and application of specific ComFrame Standards and does not include or represent any requirements.

As part of ComFrame, the IAIS has also been developing a risk-based, global insurance capital standard (the "ICS"). The ICS is not intended to replace any existing capital standards for legal

entity supervision in any jurisdiction, but aims to provide a comparable measure of capital across jurisdictions. The goal of the IAIS in developing the ICS is that establishing a comparable measure of capital across jurisdictions will facilitate a common understanding of IAIG capital adequacy and enhance cooperation and coordination among insurance regulatory authorities.

Adoption of ComFrame – Looking Toward 2019 and 2020

The IAIS's current timeline for ComFrame envisions its finalization and adoption in the latter half of 2019. To meet this timeline, a public consultation of ComFrame was launched by the IAIS in July 2018. In order to contextualize ComFrame with respect to the ICPs, it is envisioned that the guidance provided by ComFrame with respect to IAIGs will be embedded directly within relevant ICPs in separately demarcated blue boxes. These affected ICPs collectively make up the public consultation package issued by the IAIS. In 2019, the IAIS will review consultation comments and further refine the proposed elements in order to finalize them by the end of the year and begin implementation in 2020.

The IAIS intends for the ICS to be finalized and adopted on the same timeline as the rest of ComFrame, although it is envisioned that the ICS will be presented as a stand-alone document for adoption in 2019 and will not be immediately integrated into the ICPs at that time. In 2017, the IAIS adopted the ICS Version 1.0 for extended field testing and, following the conclusion of that testing, published the ICS Version 2.0 consultation document in 2018.

The IAIS has agreed that implementation of the ICS Version 2.0 will be conducted in two phases:

- In the first phase, referred to as the "monitoring period," which will last for five years, the ICS Version 2.0 will be used for confidential reporting to group-wide supervisors and

discussion in supervisory colleges. The ICS will not be used as a prescribed capital requirement (“PCR”) in this phase.

- The second phase will be implementation of the ICS as a group-wide PCR.

Accordingly, the next two years could see the beginning of a shift in group supervision of IAIGs

as IAIS members implement ComFrame and the ICS. Whether this regime lives up to the hopes of the IAIS will be a question for the next decade.

Endnotes

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