

## Compiled Comments on *Consultation on ICP 4*

17-Jun-15 to 19-Aug-15

Organisation	Jurisdiction	Comments
<b>- General Comment on ICP 4:</b>		
Lloyd's	UK	<p>I am submitting these comments on behalf of Lloyd's. Lloyd's is a society of members that operates as an insurance and reinsurance market in London, UK. The Lloyd's market's aggregate premium income in 2014 was USD 41.7bn.</p> <p>Lloyd's is authorised to carry on insurance and/or reinsurance business in over 80 jurisdictions worldwide. We appreciate the opportunity to comment on the revision of ICP4 as we support IAIS's efforts to establish a globally accepted framework for the supervision of the insurance sector on a sound basis. It is important that national requirements on the licensing of insurers and reinsurers are framed to ensure the protection of policyholders and the stability of the financial system and are not used to limit the access of foreign undertakings to national markets.</p>
American International Group	USA	<p>American International Group Inc. (AIG) welcomes the opportunity to share its views with the International Association of Insurance Supervisors (IAIS) on the consultation issued for "Insurance Core Principle (ICP) 4 on Licensing".</p> <p>AIG is a leading global insurance organization serving customers in more than 100 countries and jurisdictions. AIG companies serve commercial, institutional, and individual customers through one of the most extensive worldwide property-casualty networks of any insurer. In addition, AIG companies are leading providers of life insurance and retirement services in the United States.</p> <p>We support efforts by the IAIS to ensure that ICP principles, standards and guidance are applied consistently across jurisdictions. We therefore appreciate the IAIS's decision to conduct a systematic review of the ICPs and issue proposed revisions and clarifications to assist supervisors in applying the standards on a consistent basis.</p>
National Association of Insurance Commissioners	USA	<p>As a general comment on the ongoing ICP revision process: The NAIC is aware of and appreciates the efforts underway at the IAIS to better explain the application of proportionality across all of the ICPs and to provide better clarity within individual ICPs as to what proportionality may actually mean in specific circumstances rather than over-rely on the "nature, scale and complexity" phrase. As proportionality is a key concept for how jurisdictions implement IAIS standards, it is important that both Members and stakeholders are aware of this work and its effect on all of the ICPs and the ICP Introduction, especially as this is a multi-year project that will involve a number of future consultations. Suggest the IAIS communicate on this accordingly (as part of the consultation processes or otherwise) to ensure that the intentions and work to improve and clarify proportionality are understood by the broader Membership and stakeholders.</p>

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<b>IG 4.0.1 - Comment on Introductory guidance 4.0.1:</b>		
GFIA	international	We note that throughout the ICPs, the new definition of "insurance legal entities" is used and it includes branches that may be recognized under jurisdictional laws. Accordingly, it would be helpful to provide more guidance as to what should be required and what need not be required for branch supervision, based on the IAIS paper that dealt with the issue. For example, branches of legal entities may not need to comply with all jurisdictional laws applicable to subsidiaries.
<b>IG 4.0.2 - Comment on Introductory guidance 4.0.2:</b>		
GFIA	international	We note with approval the language on avoiding undue delay.
General Insurance Association of Japan	Japan	We welcome the addition of the last sentence as it increases predictability.
Autorité des marchés financiers	Québec	Since the nature of the introductory guidance is more factual and high-level, we suggest moving the last sentence (new one added) in Guidance under 4.1.
Zurich Insurance Company Ltd.	Switzerland	As drafted the guidance would put the supervisor in an untenable position to "ensure that insurance legal entities meet their obligations". Zurich would suggest that the guidance could benefit by appending the following phrase to the first sentence: "pursuant to local law and requirements".
<b>IG 4.0.3 - Comment on Introductory guidance 4.0.3:</b>		
Insurance Europe	Europe	Second sentence: We suggest that the other requirements pertaining to company, trade or commercial law must be met (instead of should be).
<b>S 4.1 - Comment on Standard 4.1:</b>		
Lloyd's	UK	We suggest that the fifth bullet point is amended by removing the words "and form of establishment".  "Form of establishment" will be understood to mean a legal and physical presence within a jurisdiction. The insurance legislation may cover cross-border insurance activities where a foreign insurer does not have a physical presence in the host supervisor's jurisdiction. In such cases, it is not necessary to specify a foreign insurer's form of establishment.
<b>G 4.1.1 - Comment on Guidance 4.1.1:</b>		

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Lloyd's	UK	<p>In the fourth bullet point, the word "entities" should be deleted, so that it reads:</p> <p>"the activities are limited to..."</p> <p>"Entities" is unnecessary and could cause confusion, as paragraph 4.1.1 sets out exclusions from insurance activities, not entities, subject to licensing.</p> <p>A further bullet point should be added:</p> <ul style="list-style-type: none"> <li>- Inclusion of the activities within the ambit of regulation would be disproportionate or would serve no useful purpose, for example because they relate to sophisticated commercial policyholders who do not require protection through regulation.</li> </ul> <p>Some jurisdictions choose not to require licensing for the provision of certain products, such as insurance covering marine, aviation and transportation risks (often referred to as MAT), on a cross-border basis. They may also permit local insurance undertakings to purchase reinsurance cross-border, without requiring the foreign reinsurers concerned to become licensed. Such practices help to spread risk acceptance internationally, to the benefit of policyholders and local insurance markets. It is appropriate for ICP4 to recognise that these practices are compatible with the overall objectives of insurance regulation, namely policyholder protection and financial stability.</p>
<b>G 4.1.2 - Comment on Guidance 4.1.2:</b>		
Zurich Insurance Company Ltd.	Switzerland	<p>In order to provide more precise guidance on licensing Zurich would suggest revising the sentence to read: "Given the principle that all insurers engaged in insurance activities <i>in a jurisdiction</i> must be licensed [or: must be subject to licensing] <i>in said jurisdiction</i>, the exclusion of limited insurance activities from licensing requirements should give due regard to having appropriate alternative safeguards in place to protect policyholders."</p>
<b>G 4.1.3 - Comment on Guidance 4.1.3:</b>		
<b>G 4.1.4 - Comment on Guidance 4.1.4:</b>		
<b>S 4.2 - Comment on Standard 4.2:</b>		
<b>G 4.2.1 - Comment on Guidance 4.2.1:</b>		
<b>G 4.2.2 - Comment on Guidance 4.2.2:</b>		

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Zurich Insurance Company Ltd.	Switzerland	<p>In the first sentence Zurich suggests deleting "might be" and substitute it with "are".</p> <p>Consistent with the current practice in some jurisdictions Zurich recommends revising the last sentence as follows: "Cross-border provision of services does not require a local establishment but may require authorization from <i>or notification</i> to the host supervisor."</p> <p>Also, in recognition of the insurance needs of global corporates, Zurich proposes the introduction of additional guidance between current §§4.2.2 and 4.2.3 as follows:</p> <p>"Where any foreign insurer is providing insurance services to a large customer with risk exposures located in a multitude of jurisdictions and local insurance contracts are issued by locally licensed insurers to the large customer's affiliated companies in their jurisdictions of domicile, the foreign insurer shall have the right to directly provide cross-border insurance services to the local affiliated company without any local licensing requirements, if and only if such insurance service is attaching on top of the locally issued insurance contract's conditions (Difference in Conditions insurance) or limits (Difference in Limits insurance) and if the large customer maintains a professional risk management and insurance purchasing unit or is consulted by a professional risk management or broking company."</p>
Lloyd's	UK	We agree with the wording of this paragraph, which recognises that foreign insurers may be allowed to conduct insurance activities by way of a local branch or subsidiary or on a cross-border provision of services basis.
<b>G 4.2.3 - Comment on Guidance 4.2.3:</b>		
Lloyd's	UK	This paragraph recognises passporting systems, such as the regulatory regime in the European Union. We suggest that the text from "Where a foreign insurer..." onwards is deleted as it is unnecessary to qualify the ability of jurisdictions to agree passporting systems with conditions. Passporting systems are set up on the basis of mutual agreement and acceptance of the adequacy of another jurisdiction's regulatory regime. These are integral features of a passporting system. Consequently, it is unnecessary for ICP4 to set them out as requirements for passporting.
<b>G 4.2.4 - Comment on Guidance 4.2.4:</b>		
Zurich Insurance Company Ltd.	Switzerland	<p>Similar to the recommended change in §4.2.2 Zurich recommends replacing the existing language with: "In some jurisdictions licensing of a foreign insurance legal entities that conduct cross-border business without a physical presence may take the form of an authorization to conduct insurance activities <i>by the host regulator or a notification by the home supervisor to the host supervisor.</i>"</p> <p>Given the similarity to 4.2.2 the IAIS should consider limiting the authorization/notification points to a single</p>

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		guidance in order to mitigate any potential confusion.
<b>S 4.3 - Comment on Standard 4.3:</b>		
Insurance Europe	Europe	In the 5th bullet point ("the applicant to satisfy capital requirements"), it should be clarified that this does not mandate the setting of capital requirements for branches as branches and subsidiaries should not automatically be treated in the same way.
GFIA	international	We understand that this language is not intended to authorize supervisors to mandate restructuring. However, it still might be interpreted that way. Accordingly, we suggest the addition of: "This does not imply that supervisors should mandate restructuring." In the fifth bullet point, with regard to capital requirements, subsidiaries and branches should not necessarily be treated the same.
General Insurance Association of Japan	Japan	Now that the previous ICP23.5 is to be deleted, the definition of "effective supervision" is not necessarily clear. Therefore, we suggest deleting the second bullet point. Rather than setting a requirement on complexity of an organisational structure, requiring information on a group profile as defined in 4.3.3 will suffice.
Autorité des marchés financiers	Québec	If the bullet points are not comprehensive or exhaustive, we suggest the following addition:  4.3 Licensing requirements and procedures are clear, objective and public, and are consistently applied, requiring for example (or at a minimum):
<b>G 4.3.1 - Comment on Guidance 4.3.1:</b>		
GFIA	international	The "supervisors should issue guidelines" theme has been moved from current 4.7.2. However, we miss the valuable guidance in the current text on pre-application contracts and suggest re-introducing guidance to this end: "To make the formal licensing procedure easier and prevent any unnecessary delays, the supervisor may encourage persons proposing to establish an insurer to contact the supervisor prior to applying for the license to receive advice on the licensing requirements and procedures involved in the application process."
General Insurance Association of Japan	Japan	We welcome the clarification of the entire licensing process including the timeline.
<b>G 4.3.2 - Comment on Guidance 4.3.2:</b>		
<b>G 4.3.3 - Comment on Guidance 4.3.3:</b>		
General Insurance	Japan	We suggest adding the following sentence at the end of the paragraph, to ensure implementation in accordance

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Association of Japan		with each jurisdiction's actual circumstances, rather than in an inflexible, uniform manner: "As local legislation and conditions (e.g. the size of the company and types of businesses to be written) vary, each jurisdictional supervisor should be able to decide what information is to be submitted."
<b>G 4.3.4 - Comment on Guidance 4.3.4:</b>		
General Insurance Association of Japan	Japan	We suggest adding the following sentence at the end of the paragraph, to ensure implementation in accordance with each jurisdiction's actual circumstances, rather than in an inflexible, uniform manner: "As local legislation and conditions (e.g. the size of the company and types of businesses to be written) vary, each jurisdictional supervisor should be able to decide what information is to be submitted."
Zurich Insurance Company Ltd.	Switzerland	Zurich would recommend redrafting as follows: "The applicant should also provide <i>sufficient information to demonstrate the appropriate competency with regard</i> to its systems of risk management (...)"
<b>G 4.3.5 - Comment on Guidance 4.3.5:</b>		
<b>G 4.3.6 - Comment on Guidance 4.3.6:</b>		
<b>S 4.4 - Comment on Standard 4.4</b>		
<b>G 4.4.1 - Comment on Guidance 4.4.1:</b>		
<b>G 4.4.2 - Comment on Guidance 4.4.2:</b>		
<b>G 4.4.3 - Comment on Guidance 4.4.3:</b>		
<b>G 4.4.4 - Comment on Guidance 4.4.4:</b>		
<b>S 4.5 - Comment on Standard 4.5</b>		
Insurance Europe	Europe	Second sentence: We suggest to revert to the previous statement that says: "Where the supervisor issues a license, it has the authority to impose additional requirements ..." - this would be consistent with the reference to its authority to impose additional requirements in 4.5.1.
General Insurance Association of Japan	Japan	To increase predictability and transparency, we suggest revising "where appropriate" in the second sentence as follows: "where appropriate depending on prescribed laws, regulations or guidelines"
<b>G 4.5.1 - Comment on Guidance 4.5.1:</b>		

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Zurich Insurance Company Ltd.	Switzerland	Additional clarification should be provided with respect to the imposition of licensing restrictions by revising the second sentence to read as follows: "The supervisor should have the authority <i>pursuant to jurisdiction law</i> to impose (...)".
<b>G 4.5.2 - Comment on Guidance 4.5.2:</b>		
GFIA	international	We strongly support the new language on transparency of reasons for licensing actions. We recommend the addition of: "And, supervisors should provide a process for correction without undue delay."
Zurich Insurance Company Ltd.	Switzerland	Zurich would suggest that there should be a formal appeal process to challenge a license denial or the imposition of conditions to licensure.
American International Group	USA	We would urge that the last sentence of this section be edited so that it reads: "Supervisors should convey their concerns with regard to an applicant's proposed insurance activities and explain the reasons for imposing licensing conditions or restrictions."
<b>S 4.6 - Comment on Standard 4.6:</b>		
<b>G 4.6.1 - Comment on Guidance 4.6.1:</b>		
<b>G 4.6.2 - Comment on Guidance 4.6.2:</b>		
<b>S 4.7 - Comment on Standard 4.7:</b>		
<b>G 4.7.1 - Comment on Guidance 4.7.1:</b>		
<b>G 4.7.2 - Comment on Guidance 4.7.2:</b>		
Office of the Commissioner of Insurance	China Hong Kong	4.7.2 specifies that If the conditions or restrictions would impact the public or any person dealing with the insurance legal entity, the supervisor should either publish these conditions or restrictions or require the insurance legal entity to disclose these conditions or restrictions accordingly. Conditions or restrictions that would impact the public could include, for example, the lines or classes of insurance business an insurance legal entity is permitted to conduct or a minimum or maximum level of premiums it is allowed to write. We have concern about the part on 'or a minimum or maximum level of premiums it is allowed to write'. Such disclosure might be wrongly interpreted by the public that the supervisor has concern over the solvency condition of the insurer concerned. We suggest this part be removed accordingly.
Autorité des marchés financiers	Québec	We consider that disclosure of conditions or restrictions should be mandatory for supervisors (not optional as drafted).



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American International Group	USA	<p>In our view, it would be valuable to provide additional guidance (or examples) in this section outlining which conditions or restrictions applied to an insurer's license would warrant the publication of the conditions or restrictions either by the supervisor or by the insurer in question.</p> <p>AIG does not object to the principle of publicizing licensing conditions or restrictions which have an impact on the public. However, we are concerned about the level of detail that is proposed in this section and disagree that publishing minimum and maximum premium levels would provide additional protection to the public. We would therefore like to suggest that this is restricted to the publishing of classes of insurance business.</p>
<b>S 4.8 - Comment on Standard 4.8:</b>		
Insurance Europe	Europe	The standard 4.8 on licenses of a branch or a subsidiary of a foreign insurer has been updated including now a reference that the host supervisor should consult the relevant supervisor(s) as necessary. We suggest to replace "relevant supervisor(s) by "home supervisor and/or the group wide supervisor" in line with the updated guidance 4.8.3.
Swiss Re	Switzerland	The standard 4.8 on licenses of a branch or subsidiary of a foreign insurer has been updated including now a reference that the host supervisor should consult the relevant supervisor(s) as necessary. We suggest to replace "relevant supervisor(s) by "home supervisor and/or the group wide supervisor" in line with the updated guidance 4.8.3.
<b>G 4.8.1 - Comment on Guidance 4.8.1:</b>		
<b>G 4.8.2 - Comment on Guidance 4.8.2:</b>		
<b>G 4.8.3 - Comment on Guidance 4.8.3:</b>		
National Association of Insurance Commissioners	USA	Standard 4.8 states, "...the supervisor consults the relevant supervisor(s) as necessary." As 4.8.3 now says, "Host supervisors should consult home supervisors..." it is important for the "as necessary" to be included for consistency but also to avoid what could potentially be read as unnecessary regulatory burden and delegation of licensing authority. Suggest this read: "Host supervisors should consult home supervisors as necessary on relevant aspects..."
<b>G 4.8.4 - Comment on Guidance 4.8.4:</b>		
<b>S 4.9 - Comment on Standard 4.9:</b>		
<b>G 4.9.1 - Comment on Guidance 4.9.1:</b>		

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Lloyd's	UK	<p>The paragraph formerly numbered 4.12.2 should be reinstated. It has been deleted because it is "covered by new 4.2.3", but new 4.2.3 deals with a particular situation, passporting, whereas 4.12.2 is wider and refers to passporting only as an example of when a foreign insurer may be allowed to operate on a cross border basis without approval from a host supervisor. The removal of 4.12.2 will therefore limit the circumstances in which a foreign insurer may operate in this way. There is no reason for ICP4 to do this, as it recognises that jurisdictions may exclude some activities from the definition of those requiring licensing.</p>