

IAIS Consultations

Print view of your comments on "Revised Insurance Core Principles 13 Reinsurance and Other Forms of Risk Transfer" - Date: 31.07.2017, Time: 10:24

Organisation	Insurance Europe
Jurisdiction	Europe
Role	Other (not IAIS Member)
Email	mihai@insuranceeurope.eu
Phone	0032490562487
Treat my comments as confidential	No

Question	
	Q1 General Comment on ICP 13
Answer	<p>Insurance Europe appreciates the opportunity to comment on the revised ICP 13 and generally supports the proposed changes. Overall, Insurance Europe would propose to reflect the principle of proportionality more prominently and asks for clarifications in places.</p> <ul style="list-style-type: none">• The amendments made to the Introductory Guidance are broadly appreciated and, subject to some minor proposed adjustments, reflect the characteristics of reinsurance well.• On the required reinsurance programme, Insurance Europe would doubt that there is an absolute need for the Board to approve the reinsurance programme if it has already approved the strategy.• Insurance Europe identified some smaller inconsistencies in relation to the internal control requirements for cedants and further suggests that the IAIS reconsider the list of risk mitigation tools in 13.2.4. (in particular, downgrade clauses and collateral requirements).• Insurance Europe does not consider it adequate to put “structured reinsurance” at the same level with “finite reinsurance” and proposes to update 13.3.7.• Whereas Insurance Europe broadly agrees with the link between the reinsurance programme and the cedant’s capital liquidity management (in Standard ICP 13.5), Guidance 13.5.2 should be redrafted to not imply that catastrophe reinsurers presented lack of willingness to pay claims in the past, when there is no evidence to support this in traditional reinsurance.
	Q2 Comment on Guidance ICP 13.0.1
Answer	<p>Insurance Europe is generally supportive of the revised Introductory Guidance introduced in ICP 13.0.1 to 13.0.6. In particular, the acknowledgement of key elements of the reinsurance business model, ie geographical diversification (13.0.2) and the general business-to-business nature (13.0.4), is appreciated. Furthermore, the deletions of 13.0.16 to 13.0.21 are appreciated in the interest of precision and consistency.</p>
	Q3 Comment on Guidance ICP 13.0.2

Answer	<p>In support of the added language on geographical diversification, Insurance Europe would suggest that Guidance ICP 13.0.2 could benefit from the following further additions:</p> <p>“Market development is adversely affected by limiting the use of cross-border reinsurance. By excluding or severely limiting the participation of international reinsurers in their markets, a jurisdiction forfeits the benefits of international expertise, experience and innovative insurance products. Barriers to trade in reinsurance undermine the efficiency of reinsurance markets. They lead to higher reinsurance costs and less capacity in the long term.”</p>
	Q4 Comment on Guidance ICP 13.0.3
Answer	<p>IAIS should strive for an objective description of the reinsurance contract. As the contract transfers risk in the form of an indemnity, ie as any insurance contract, it is a legally binding transfer of risk. The risk receiving party is legally liable, but, in most cases, it does not step into the legal position of the insured. Also, the primary insurer remains liable to its policyholder. Therefore, Insurance Europe would question whether the differentiation between "legal transfer" and risk transfer in an "economic sense" is necessary.</p> <p>The third sentence could further be clarified to state the following:</p> <p>“The supervisor should remain aware that while reinsurance transfers insurance risk from the ceding insurer to the reinsurer, it may also give rise to other risks.”</p> <p>The reinsurer assumes insurance, timing and operational risk. However, Insurance Europe does not see material credit risk in standard reinsurance agreements, where the liability to pay claims is contingent on the prior payment of premium. At the same time there may be transactions, where the reinsurer is also assuming credit risk, eg if a substantial overcollateralization is required. Hence the last sentence of the paragraph should read:</p> <p>“... the reinsurer assumes insurance timing, operational and, sometimes, credit risk.”</p>
	Q5 Comment on Guidance ICP 13.0.4
Answer	
	Q6 Comment on Guidance ICP 13.0.5
Answer	<p>The reference to “reinsurance programme” should be clarified to “treaty reinsurance programme” throughout ICP 13 given that the strategy of cedants is, in fact, focused on contractual arrangements.</p>
	Q7 Comment on Guidance ICP 13.0.6
Answer	
	Q8 Comment on Standard ICP 13.1
Answer	
	Q9 Comment on Guidance ICP 13.1.1
Answer	<p>This Guidance should clarify that it does not anticipate the creation of new policies or procedures or strategy documents, but that the focus of the requirements is on their substance, rather than the form that they take.</p>
	Q10 Comment on Guidance ICP 13.1.2
Answer	
	Q11 Comment on Standard ICP 13.1.3

Answer	
	Q12 Comment on Guidance ICP 13.1.4
Answer	
	Q13 Comment on Guidance ICP 13.1.5
Answer	Insurance Europe believes that structurally, this point should be made towards the beginning of the Guidance to ICP 13 (ie 13.0.5) or in Standard 13.1.
	Q14 Comment on Guidance ICP 13.1.6
Answer	<p>Insurance Europe would doubt that there is an absolute need for the Board to approve the reinsurance programme if it has already approved the strategy. This would undermine the relevance of the strategy. Insurance Europe considers that the responsibility of the Board should be to ensure the programme is in line with the strategy, and Board approval of the programme would only be one means to this end. Insurance Europe would suggest rephrasing the last sentence as follows:</p> <p>“The Board is responsible for ensuring an appropriate oversight of a consistent implementation of the reinsurance strategy in the programme...”</p>
	Q15 Comment on Guidance ICP 13.1.7
Answer	
	Q16 Comment on Guidance ICP 13.1.8
Answer	
	Q17 Comment on Guidance ICP 13.1.9
Answer	The last sentence in Guidance ICP 13.1.9 should be reworded to clarify that supervisory measures can only be taken when objective criteria call for them, and not “where the supervisor feels strategy or programme are not appropriate”.
	Q18 Comment on Guidance ICP 13.1.10
Answer	<p>Insurance Europe agrees with the list of factors in ICP 13.1.10. and the addition of brokers to the list; however, given the significance of brokers in this context, brokers should be mentioned earlier in the ordering, rather than in the last bullet point.</p> <p>Furthermore, the order of bullet points 3 and 6 could be changed for structural reasons.</p>
	Q19 Comment on Guidance ICP 13.1.11
Answer	This Guidance should clarify that it does not anticipate the creation of new strategy documents, but that the focus of the requirements is on their substance, rather than the form that they take.
	Q20 Comment on Guidance ICP 13.1.12

Answer	<p>Insurance Europe would suggest that an element of proportionality, as included in the “Introduction and Assessment Methodology”, be introduced into Guidance ICP 13.1.12.</p> <p>Additionally, Insurance Europe would like to point out that reinsurance strategy does not cover all types of market risk transfer products. Therefore, Insurance Europe would propose the following rewording:</p> <p>“...including capital markets insurance risk transfer products.”</p>
Answer	<p>Q21 Comment on Standard ICP 13.2</p> <p>Standard ICP 13.2 states that the “supervisor requires ceding insurers to establish effective internal controls”. The guidance then states in 13.2.4 that there are “various ways for the ceding insurer to mitigate reinsurer credit risk” and under the subsequent bullet points 4 and 5 mentions downgrade clauses and posting collateral respectively. (please refer to Q25 for further comments). The guidance to mitigate reinsurer credit risk in these ways is then identified in paragraph 13.5.5 as “causing liquidity issues among reinsurers and may be pro-cyclical”. As a general principle, it does not seem appropriate to provide guidance in the ICP which is then subsequently identified as creating issues in this way.</p>
Answer	<p>Q22 Comment on Guidance ICP 13.2.1</p>
Answer	<p>Q23 Comment on Guidance ICP 13.2.2</p> <p>Insurance Europe would propose the below minor rewording:</p> <p>“...are adequately reflected in its capital assessment as well as its ORSA.”</p>
Answer	<p>Q24 Comment on Guidance ICP 13.2.3</p>
Answer	<p>Q25 Comment on Guidance ICP 13.2.4</p> <p>The presence of collateral or downgrade clauses is a commercial issue between the reinsurer and ceding company and regulatory guidance does not seem appropriate in this area, particularly where both the ceding company and the reinsurer are fully regulated.</p> <p>In relation to the fourth bullet point, the ICP should not encourage the incorporation of rating downgrades or other special termination clauses that could exacerbate the liquidity position of reinsurers in a stress situation. In most cases, reinsurance treaties are yearly renewable; consequently, a cedant can react in a timely manner to a deterioration of the reinsurer's rating. It is much more important for a ceding company to be very demanding with regard to the financial strength of its reinsurers at inception of a reinsurance treaty. Furthermore, the use of downgrade clauses has become less widespread since the financial crisis. Insurance Europe would therefore suggest that bullet point 4 be removed or be modified to read the following which holds as well for 13.5.4.</p> <p>“...incorporating special termination clauses into the reinsurance contract.”</p> <p>In reference to the fifth bullet point on reinsurance collateral, Insurance Europe believes it is crucial to clarify that, supervisors should not require the posting of collateral by the reinsurer where the reinsurer is subject to an appropriate, risk-based supervisory regime. As the reinsurance business model is based on asset/liability management, collateral requirements - in particular where these are linked to changes in the credit standing of the reinsurers - have the potential to create unnecessary liquidity constraints and lead to sub-optimal investment strategies. In many jurisdictions, collaterals have been abandoned in line with prudent supervisory oversight. Cooperation and coordination of insurance supervisors worldwide should make collaterals redundant in the future.</p> <p>Insurance Europe considers that the proposed approach would be aligned with the objectives of the IAIS, based on the guidance in ICP 13, and risk management principles generally. For clarification, Insurance Europe would propose</p> <ul style="list-style-type: none"> • deleting the fifth bullet point, or

- adding a reference to ICP 13.4 in the fifth bullet point, and/or
 - a clarification to the fifth bullet point that reflects the last sentence of ICP 13.5.4 (ie “Use of such arrangements is a commercial matter between the ceding insurer and reinsurer”)
- Insurance Europe would propose the following bullet point be added to the list in ICP 13.2.4:
- “considering the quality of the regulatory and supervisory framework in the home country where the reinsurance entity or group operates”

Q26 Comment on Guidance ICP 13.2.5

Answer

Q27 Comment on Guidance ICP 13.2.6

Answer

Q28 Comment on Guidance ICP 13.2.7

Answer

Q29 Comment on Guidance ICP 13.2.8

Answer

There seems to be a small formatting error in the consultation documents. Insurance Europe assumes that the heading “Matching of underlying underwriting criteria” belongs to the Guidance ICP 13.2.8 instead of the second paragraph of 13.2.7.

Q30 Comment on Guidance ICP 13.2.9

Answer

Insurance Europe believes that this guidance would read better if separated into two separate sections, one dealing with criteria and the other dealing with procedures/process. Furthermore, this Guidance seems to assume that maximum net capacity and risk limits will be set by the Board as opposed to Senior Management, which is not necessarily the case.

Q31 Comment on Standard ICP 13.2.10

Answer

The term "economic and coverage terms and conditions" is ambiguous, as it is not a recognised terminology in insurance contract law. Insurance Europe would propose to modify the Standard as follows:

"In order to reduce the risk and scope of future disputes, the ceding insurer and the reinsurer should have processes and adequate controls in place to document the terms and conditions of the reinsurance contracts clearly and promptly."

Q32 Comment on Guidance ICP 13.2.11

Answer

There are no strict legal requirements on the conclusion date of reinsurance contracts, regardless of a certain practice having developed over the past. Insurance Europe would appreciate the following clarification:

“Ceding insurers and reinsurers should finalise the formal reinsurance contract without undue delay, ideally (but not necessarily) prior to the inception date of the reinsurance contract.”

Q33 Comment on Guidance ICP 13.2.12

Answer	It should be clarified that reporting in this context refers to information exchange between cedant and reinsurer as contractually agreed, and not regulatory reporting.
	Q34 Comment on Guidance ICP 13.2.13
Answer	
	Q35 Comment on Guidance ICP 13.2.14
Answer	The proposed wording of 13.2.14 is unclear considering that a large amount of reinsurance is underwritten cross-border. It should be clarified that the supervisor should have access to the reinsurance documentation in respect of the entity which it supervises (and not necessarily the counterparty which may be domiciled in another jurisdiction).
	Q38 Comment on Standard ICP 13.3
Answer	<p>An element of proportionality should be introduced into this requirement to assess the economic impact and provide guidance to supervisors. Information shared with the supervisor should be subject to confidentiality requirements. This Standard should reference ICP 3.</p> <p>Insurance Europe would further appreciate clarification if this is intended to be by supervisor's request only. For example, the following wording would provide more clarity: "The supervisor requires ceding insurers to give information in order to gain an understanding of the economic impact of the risk transfer originating from their reinsurance contracts."</p>
	Q39 Comment on Guidance ICP 13.3.1
Answer	
	Q40 Comment on Guidance ICP 13.3.2
Answer	Insurance Europe doubts whether the supervisor challenging the cedant's senior management on individual reinsurance contracts is an efficient addition to the Guidance ICP 13.3.2. A cedant's reinsurance programme should always be reviewed and analysed from a holistic point of view and the level of granularity should be left to the supervisor's discretion. Insurance Europe appreciates that "where appropriate" may seek to address this concern but would suggest that deleting the last sentence in the Guidance would be preferable, as it is not an objective standard.
	Q41 Comment on Guidance ICP 13.3.3
Answer	
	Q42 Comment on Guidance ICP 13.3.4
Answer	The intention and content of this Guidance are ambiguous. The term "inappropriate reporting" is not clear in a regulatory context.
	Q43 Comment on Guidance ICP 13.3.5
Answer	
	Q44 Comment on Guidance ICP 13.3.6
Answer	

	Q45 Comment on Guidance ICP 13.3.7
Answer	<p>Insurance Europe does not consider it adequate to put “structured reinsurance” at the same level with “finite reinsurance”. In fact, structured reinsurance is not equivalent to finite reinsurance because structured reinsurance arrangements usually include significant risk transfer as opposed to limited risk transfer in finite reinsurance contracts. In addition, the reference to “non-traditional reinsurance” is outdated and should be abandoned. The same is true for the terms “financial reinsurance” and “loss mitigation reinsurance” since they are neither common nor legally defined.</p> <p>In order to create more clarity, Insurance Europe would hence propose the following wording:</p> <p>“Finite reinsurance is a generic term that, for the purposes of this ICP, is used to describe a spectrum of reinsurance arrangements that transfer limited risk relative to aggregate premiums that could be charged under the contract.”</p>
	Q46 Comment on Guidance ICP 13.3.8
Answer	Insurance Europe appreciates the acknowledgment of finite reinsurance contracts being legitimate forms of reinsurance arrangements.
	Q47 Comment on Standard ICP 13.3.9
Answer	The second sentence of this Guidance is ambiguous in relation to the first statement made therein. Whereas Insurance Europe agrees that finite reinsurance contracts may in practice often only have limited levels of risk transfer, these contracts should nevertheless find consideration in the capital calculations. The term “only adequately accounted for finite reinsurance contracts” is unclear and should be rephrased.
	Q48 Comment on Standard ICP 13.4
Answer	Insurance Europe supports the added guidance on equivalence and supervisory recognition. International aspects are particularly crucial in the context of reinsurance, and the reflection in ICP 13 is therefore appreciated.
	Q49 Comment on Guidance ICP 13.4.1
Answer	
	Q50 Comment on Guidance ICP 13.4.2
Answer	
	Q51 Comment on Guidance ICP 13.4.3
Answer	
	Q52 Comment on Guidance ICP 13.4.4
Answer	
	Q53 Comment on Guidance ICP 13.4.5
Answer	
	Q54 Comment on Guidance ICP 13.4.6
Answer	

	Q55 Comment on Standard ICP 13.5
Answer	Insurance Europe generally agrees with the content of 13.5. In fact, ICP13.5 holds equally for capital management as well, so that IAIS could consider replacing "liquidity management" with "capital and liquidity management".
	Q56 Comment on Guidance ICP 13.5.1
Answer	There seems to be a contradiction between the first and the final sentence of 13.5.1. Insurance Europe would therefore propose that IAIS deletes the second sentence of 13.5.1, since a degree of liquidity risk is implied throughout all of 13.5, so that this sentence appears to be largely redundant.
	Q57 Comment on Guidance ICP 13.5.2
Answer	<p>As drafted, this provision suggests that catastrophe reinsurers presented lack of willingness to pay claims in the past, when there is no evidence to support this in traditional reinsurance. On the contrary, especially for large claim settlements (eg major catastrophes) standard reinsurance clauses are used providing for advance claim payments. Very often, payout patterns are rather long and insurers and reinsurers have first claim reserves in place that are released over time.</p> <p>Insurance Europe would ask that this language be reconsidered to not imply such negative reflection on the market. For example, the following wording would eliminate this misperception:</p> <p>"For this reason, a large claim of series of claims could give rise to cash flow difficulties, especially if there are disputes about whether a loss insured by the ceding insurer is covered by the reinsurance contract."</p>
	Q58 Comment on Guidance ICP 13.5.3
Answer	
	Q59 Comment on Guidance ICP 13.5.4
Answer	<p>Insurance Europe would propose the following clarification of the last sentence in Guidance ICP 13.5.4:</p> <p>"If such arrangements are to be used, these arrangements may include clauses [...]"</p>
	Q60 Comment on Guidance ICP 13.5.5
Answer	13.5.5 states that the supervisor should be aware of the impact of external triggers on the "overall efficiency and stability of the market". In the context of the reinsurance market it would be more appropriate to rephrase this as "overall efficiency and reinsurance cycle stage of the market".
	Q61 Comment on Guidance ICP 13.5.6
Answer	
	Q62 Comment on Standard ICP 13.6
Answer	
	Q63 Comment on Guidance ICP 13.6.1
Answer	

	Q64	Comment on Guidance ICP 13.6.2
Answer	<p>The delineation between insurance, reinsurance and other risk transfer arrangements could be made clearer. For clarity and to avoid confusion, Insurance Europe would suggest using "arrangements..." rather than "reinsurance arrangements". Also, the second sentence could read "risk is transferred..." rather than "reinsurance risk is transferred..." This would read more appropriately. Also, it would be helpful to make explicit reference to the term "insurance linked securities", which is a catch-all terminology that is well recognised and understood in the industry.</p>	
	Q65	Comment on Guidance ICP 13.6.3
Answer		
	Q66	Comment on Guidance ICP 13.6.4
Answer		
	Q67	Comment on Guidance ICP 13.6.5
Answer		
	Q68	Comment on Guidance ICP 13.6.6
Answer		
	Q69	Comment on Guidance ICP 13.6.7
Answer		
	Q70	Comment on Guidance ICP 13.6.8
Answer	<p>Insurance Europe considers these to be key structures of SPEs in insurance, not necessarily of any SPE structure. IAIS should focus on insurance structures.</p>	
	Q71	Comment on Guidance ICP 13.6.9
Answer		
	Q72	Comment on Guidance ICP 13.6.10
Answer	<p>Given the significance of credit risk in this context, IAIS could consider bringing this bullet point earlier.</p>	
	Q73	Comment on Guidance ICP 13.6.11
Answer		
	Q74	Comment on Guidance ICP 13.6.12
Answer		
	Q75	Comment on Guidance ICP 13.6.13
Answer		
	Q76	Comment on Guidance ICP 13.6.14

Answer	The considerations on basis risk in Guidance 13.6.14-13.6.17 are less relevant for the ongoing supervision of SPEs, but certainly an issue for the ceding insurer. Therefore, they should be integrated in guidance 13.6.21.
	Q77 Comment on Guidance ICP 13.6.15
Answer	
	Q78 Comment on Guidance ICP 13.6.16
Answer	
	Q79 Comment on Guidance ICP 13.6.17
Answer	
	Q80 Comment on Guidance ICP 13.6.18
Answer	
	Q81 Comment on Guidance ICP 13.6.19
Answer	
	Q82 Comment on Guidance ICP 13.6.20
Answer	
	Q83 Comment on Guidance ICP 13.6.21
Answer	Insurance Europe appreciates the added guidance acknowledging the global nature of reinsurance and risk transfer business. Please also refer to Q76/Guidance ICP 13.6.14.