

INTERNATIONAL ASSOCIATION OF INSURANCE SUPERVISORS



GUIDANCE PAPER ON THE ROLE AND RESPONSIBILITIES OF A GROUP-WIDE SUPERVISOR

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Preamble

The IAIS Insurance Core Principles (ICPs) establish the fundamental requirement for supervision on a group-wide basis: “the supervisory authority supervises its insurers on a solo and a group-wide basis” (ICP 17). The Principles on group-wide supervision elaborate on the requirements of ICP 17, with the purpose of establishing an internationally acceptable framework that contributes to ensuring appropriate streamlining, consistency, efficiency and effectiveness of supervision on a group-wide basis.

This Guidance paper is a first stage in the IAIS’s work on the development of global standards and guidance on group-wide supervision. It is necessarily evolutionary in its approach. In light of current events it is recognised that timely development of enhanced communication and cooperation amongst supervisors involved in the supervision of a group on a group-wide basis is critical. Papers focussing on such coordination initiatives – the role of a group-wide supervisor and supervisory colleges –are therefore important foundation pieces. This work will also support the IAIS implementation of the Financial Stability Forum recommendations.

The proposed Issues Paper on group-wide solvency assessment - being developed jointly by the Insurance Groups and Cross-sectoral Issues Subcommittee and the Solvency and Actuarial Issues Subcommittee, expected February 2009 - will explore the broad issues and inform the agenda of the IAIS on group-wide solvency assessment and supervision.

As the IAIS takes forward this agenda on group-wide solvency assessment and supervision, there are many complex issues and challenges to be considered, including :

- balancing the needs and views of its 140 member jurisdictions, recognising the diversity of regulatory and supervisory approaches and frameworks*
- acknowledging that some aspects of regulation - contract, insolvency and consumer protection legislation - may extend beyond the direct control of the insurance supervisor or the IAIS.*

Contents

1.	Introduction	4
2.	Scope and purpose.....	5
	2.1 Scope of the paper.....	5
	2.2 Purpose of the paper.....	6
3.	Identification of a group-wide supervisor.....	7
4.	Responsibilities and functions of a group-wide supervisor.....	7
	4.1 Overall responsibilities	7
	4.2 The range of functions of the group-wide supervisor.....	8
	4.3 Information sharing and key contact function.....	10
5.	Powers and authorities.....	11
6.	Coordination activity with other supervisors.....	11

1. Introduction*IAIS developments on group issues*

1. Since its inception in 1994, the IAIS has developed a number of principles, standards and guidance papers to help promote the development, globally, of well-regulated insurance markets.

2. The IAIS Insurance Core Principles (ICPs) establish the fundamental requirement for supervision on a group-wide basis. ICP 17 states that “the supervisory authority supervises its insurers on a solo and a group-wide basis”. Essential criteria (d) of ICP 17 indicates minimum aspects of supervision to be covered by group-wide supervision, “as a supplement to solo supervision”. Essential criteria (b) of ICP 17 goes on to require that supervisors, in meeting this fundamental requirement, “cooperate to avoid unnecessary duplication”.

3. The IAIS *Principles on group-wide supervision* (the Principles) elaborate on the requirements of ICP 17, with the purpose of establishing an internationally acceptable framework that contributes to ensuring appropriate streamlining, consistency, efficiency and effectiveness of supervision on a group-wide basis.

4. The IAIS *Multilateral Memorandum of Understanding on Cooperation and Information Exchange* (IAIS MMoU) establishes a formal basis for cross-border cooperation and information exchange among supervisors, and hence covers the circumstances of supervision at group level.

5. This guidance paper supports the Principles, and provides guidance on one possible element of an international framework for group-wide supervision – the designation of a group-wide supervisor to promote efficient and coordinated group-wide supervision. In developing this guidance, due regard was had for the Joint Forum Coordinator Paper and the recent recommendations of the Financial Stability Forum particularly in respect of supervisory colleges.

Developments in the Insurance Industry

6. Most internationally active insurers are organised in the form of groups with insurers within the group incorporated according to the legal framework in their respective local jurisdiction. The financial position and the risk profile of an insurer may be affected by its belonging to a group, with the possibility of both positive and negative effects on its prudential situation.

7. In groups, risk management and control functions are often carried out at group level. Significant management and policy decisions are, generally, taken at the head of the group. Taking into account this economic reality, it is important to consider the management structure of the group and the quality of risk management and internal controls on a group-wide basis.

8. It is, therefore, important for supervisors of insurers within a group to be able to form a comprehensive view of the business strategy, financial position, legal and regulatory position, and risk exposure of the insurance group as a whole, which will enable them to assess (and react to, as necessary) the prudential situation and solvency of the respective insurers within the group. Where the insurance business of the group is carried out in a number of jurisdictions and a number of different supervisors are involved, this makes the task of supervising on a group-wide basis more complex and the coordination of supervisory activities more important.

9. The IAIS recognises that effective group-wide supervision can contribute to sound insurance markets, overall risk and capital management and enhance policyholder protection. At the same time, solo supervision will remain integral as the legal obligation to policyholders is established at the legal entity level. Therefore, to be most effective, supervision of a group should be undertaken in a manner which recognises the respective requirements for solo and group-wide supervision and avoids unnecessary duplication or inconsistency of supervision.

10. The growing internationalisation of insurance business makes it appropriate and timely to explore mechanisms to achieve more effective and coordinated supervision on a group-wide basis, as a complement to the solo supervision of each insurer within the group.

2. Scope and purpose

2.1 Scope of the paper

11. Consistent with the identified scope of the Principles, the groups covered by this paper are those whose main activity is insurance, including reinsurance groups and an insurance subgroup within a financial conglomerate. The guidance is intended to apply to internationally active groups.

12. The Principles do not establish a detailed supervisory regime for group-wide supervision, but rather establish a framework within which group-wide supervision can be undertaken in an efficient and effective manner. The Principles acknowledge that there may be different approaches to group-wide supervision. Similarly, this guidance paper presents the designation of a group-wide supervisor as one approach to group-wide supervision¹. The paper discusses the factors to consider in the identification of a group-wide supervisor and describes the range of tasks and responsibilities that a group-wide supervisor may undertake in providing for effective and efficient group-wide supervision. Further, it provides guidance on mechanisms for the required cooperation between the supervisors involved in the supervision of a group.

¹ The IAIS plans to explore other aspects of, and approaches to, group-wide supervision in further work on group issues, including in the draft *Issues paper on Group-wide solvency assessment* and draft *Guidance paper on the use of supervisory colleges*.

13. In providing guidance on the role and responsibilities of a group-wide supervisor, it is not the intention of this paper to lessen the importance of solo supervision or to replace the role of the solo supervisor in respect of insurers within its jurisdiction.

14. This guidance paper does not modify or supersede any legal or regulatory requirements in force in, or applying to, the respective jurisdictions of involved supervisors.

Application to Subgroups

15. Within a group, it is recognised that in some jurisdictions subgroups may exist or be identified to reflect various structural, operational or supervisory objectives. Such subgroups may exist within jurisdiction or on a cross-border basis. The designation of a group-wide supervisor at group level should not limit the option to carry out supplementary supervision at the level of a subgroup within that group - where considered appropriate by the involved supervisors and having due regard for avoiding unnecessary supervisory duplication and inefficiencies.

2.2 Purpose of the paper

16. As mentioned, this paper provides guidance on an international framework that contributes to ensuring appropriate consistency, efficiency and effectiveness of group-wide supervision and a streamlining of the supervisory activities on a group-wide basis.

17. Such a framework will assist supervisors to collaborate at an international level in supervising the cross-border activities of a group: this in turn will contribute to the protection of policyholders and to broader financial market stability.

18. This paper considers the situation of designating a group-wide supervisor to coordinate the supervision on a group-wide basis as a supplement to the solo level supervision of the entities within the group.

19. The designation of a group-wide supervisor is based on mutual trust and confidence among the involved supervisors. Group-wide supervision will be most effective where all involved supervisors act with a common commitment to cooperation and on a common understanding of supervisory principles which allows them to satisfy themselves that :

- the quality and level of supervision as well as
- the enforcement procedures

are at least broadly equivalent in the respective involved jurisdictions.

20. The guidance in this paper should encourage the establishment of mechanisms for enhanced cooperation and information exchange based on such mutual trust and common understanding. This can further contribute to the long-term objectives of convergence, equivalence as well as mutual recognition of supervisory practices. All involved supervisors² share the ultimate aim of ensuring optimal, effective and efficient group-wide supervision. Each supervisor shall make every reasonable effort to cooperate and coordinate in a spirit of mutual trust and to avoid unwarranted supervisory duplication and unnecessary supervisory burden for both the insurers and supervisors involved.

² The determination of the involved supervisors will depend on the circumstances of the particular group, but could be all supervisors involved in the supervision of insurers within the group.

21. Given this purpose, one benefit of designating a group-wide supervisor lies in avoiding unnecessary overlaps and duplication of work, as well as having a holistic and global view of the group. This would also alleviate unnecessary supervisory burden for industry.

3. Identification of a group-wide supervisor

22. Experience has shown that it is generally clear who should take the role of group-wide supervisor for a particular group. However, depending on the structure of a particular group, the case may arise where several supervisors fulfil the conditions to be considered as a group-wide supervisor. In such cases it is necessary to have a clear and transparent process for identifying and agreeing an appropriate group-wide supervisor.

23. In some jurisdictions, the legal or regulatory system may include provisions which allow or require the designation of a group-wide supervisor. However, this formal designation may not be recognised in all jurisdictions in which a particular group operates. The absence of a formal mechanism should not limit the extension of the group-wide supervisor to those other jurisdictions, on a de facto basis, given the agreement and cooperation of the involved supervisors.

24. In principle the supervisor in the jurisdiction where the group is based and where that supervisor has the statutory responsibility to supervise the head of the group should be first considered to take the role of the group-wide supervisor.

25. Other factors to consider in determining the group-wide supervisor would include

- the location of the group's head office, given that this is where the group's board and senior management is most likely to meet, and ready access of the group-wide supervisor to the group's board and senior management is an important factor.
- where the registered head office is not the operational head of the group, the location where:
 - i. the main business activities of the group are undertaken
 - ii. the main business decisions are taken
 - iii. the main risks are underwritten and/or
 - iv. the group has its largest balance sheet total.

26. Ultimately the involved supervisors would be expected to determine the need for a group-wide supervisor and agree the supervisor to take that role. The emphasis should be on a joint decision between all involved supervisors to reach an acceptable outcome.

4. Responsibilities and functions of a group-wide supervisor

4.1 Overall responsibilities of a group-wide supervisor

27. The group-wide supervisor, where designated, should be responsible for coordinating the input of solo supervisors in undertaking the supervision of a group on a group-wide basis, as a supplement to the solo supervision. However, all involved supervisors should recognise that group-wide supervision, and the designation of a group-wide supervisor, should not lessen the importance of solo supervision or replace the role of solo supervision in respect of the insurance entities in its own jurisdiction.

28. The group-wide supervisor should be responsible for producing an overall assessment of the risk and solvency of the group on a group-wide basis, taking into account the input of solo supervisors.

29. Group-wide supervision relies on substantial exchange of information. The exchange of detailed relevant supervisory information/data between the group-wide supervisor and the solo supervisors involved may be facilitated by the establishment of formal agreements (MoU/ IAIS MMoU) which should, necessarily, comprise compliance with a strict confidentiality regime. In establishing such agreements, involved supervisors should acknowledge that each supervisor may only provide information under the agreement to the extent permitted or not otherwise prevented under their respective jurisdictional laws, regulations and requirements.

4.2 The range of functions of a group-wide supervisor

30. There is a wide variety of roles and functions which a group-wide supervisor could take in meeting its overall responsibilities to coordinate and streamline group-wide supervision, depending on the circumstances of the group and the legal and supervisory structures in the involved jurisdictions.

31. Ultimately, the involved supervisors should establish among themselves the role and responsibilities of the designated group-wide supervisor and of the other involved supervisors at group level. The respective roles and responsibilities should be clearly defined to avoid unnecessary duplication of supervisory tasks.

32. The designated group-wide supervisor is expected to take the initiative in coordinating the roles of, and facilitating communication between, the involved supervisors. The group-wide supervisor should establish a supervisory plan in agreement with the involved supervisors. In carrying out its agreed functions the group-wide supervisor should ensure that it acts in consensus with other involved supervisors.

33. In establishing the responsibilities of a particular group-wide supervisor, the key functions of a group-wide supervisor which should be considered include:

Fit and proper issues

34. The group-wide supervisor assesses the propriety of significant owners at the group level .

35. The group-wide supervisor assesses the fitness and propriety of persons with managing or key functions on group level. In doing this the group-wide supervisor relies as much as possible on the fitness and propriety assessment carried out by the solo supervisors involved.

Corporate Governance

36. The group-wide supervisor assesses the overall standard and compliance of corporate governance of the group. In cases where the parent company is not itself a supervised entity (e.g. holding company) the group-wide supervisor should assess the compliance with corporate governance requirements at the head of the group. (Refer to section 4.3.)

Internal control

37. The group-wide supervisor monitors whether the group provides internal control mechanisms, including sound reporting and accounting procedures, to monitor and to manage the intra-group transactions and the risk concentration.

38. The group-wide supervisor assesses whether an insurance group has robust:

- risk management systems;
- internal control systems; and
- reporting processes

which are implemented and functioning consistently on a group-wide basis.

This will also include an assessment of the controls a group has in place around its proper and sound business practices with respect to the complexity of financial products sold to retail customers.

39. The group-wide supervisor monitors whether the group provides internal control mechanisms including adequate mechanisms with regard to group-wide solvency:

- to identify and measure all material risks incurred on a group-wide basis; and
- to appropriately allocate sufficient capital to risks.

40. The group-wide supervisor monitors whether policies on risk management within the group are laid down by written procedures and reviewed at least on an annual basis.

Group-wide risk analysis

41. The group-wide supervisor monitors the risk assessment, risk reporting as well as risk management on a group-wide basis. For this purpose, the group-wide supervisor should carry out a risk analysis of the group and its operating environment. This supervisor should be attentive to any sign for risk concentration and contagion. If the group has a centralised risk management function the group-wide supervisor should monitor its proper functioning and implementation.

Capital adequacy on a group-wide basis

42. The group-wide supervisor takes the responsibility to assess and react to, as necessary, the prudential situation and solvency on a group-wide basis.

43. The group-wide supervisor assesses the sufficiency and adequacy of allocation of capital on a group-wide basis in order to gain a balanced view of the risk-based and financial situation of the group as a whole. The group-wide supervisor may use the following commonly applied methods:

- Aggregation methods
- Consolidation methods
- Legal entity methods.

44. The group-wide supervisor ascertains that the evaluation of the adequacy of capital on a group-wide basis is preceded by taking into account any form of intra-group transactions, such as:

- participation structures
- reinsurance and other risk mitigation programmes

- transfers of assets and risks
- intra-group exposures
- guarantees
- legal liabilities

in relation to insurers or parts thereof and also in relation to persons holding a significant ownership.

4.3 Information sharing and key contact point function

45. To operate most effectively, the group-wide supervisor should receive from involved supervisors, on a timely basis, all information needed in order to form a comprehensive view of the overall group business strategy, financial situation, legal and regulatory position, and the risk exposure on a group-wide basis, in the most efficient way.

46. All involved supervisors have a responsibility to keep the group-wide supervisor updated in relation to the significant changes in the group structure and main operations.

47. In particular the involved supervisors should be encouraged to provide the group-wide supervisor with relevant key information in relation to:

- the legal structure of the entities belonging to the insurance group
- any granting and withdrawal of license for a company forming part of the group
- changes on the board or senior management of any insurance company forming part of the group
- changes in organisation or senior management
- changes in risk management and internal control system
- significant developments in the financial position of the insurance group or entities belonging to the insurance group.
- location of significant business
- significant investments in group entities
- significant financial links
- transfer of risks to non supervised entities
- events which may endanger the going concern of the insurance group or major entities belonging to the insurance group.
- potential high risk factors for contagion
- operational risk including misselling claims and frauds

48. The group-wide supervisor may at any time request further information needed for the assessment on a group-wide basis.

49. An involved solo supervisor may require information in relation to the group which proves necessary for a timely solo assessment of the insurer, or part thereof, located in its jurisdiction. The group-wide supervisor should make information available to the involved solo supervisors:

- on a proactive basis;
- without delay; and
- in a full and detailed manner.

50. The group-wide supervisor has a key contact point function for all solo supervisors involved. The key contact point function is of importance both in situations of going concern and in emergency situations.

5. Powers and authorities of the group-wide supervisor

51. For efficient and effective group-wide supervision to be achievable, it is important that all involved supervisors are supported by their jurisdictional legislation to appropriately contribute to the supervision of a group on a group-wide basis – that is through information exchange and other coordination activities.

52. Where a group-wide supervisor is designated, it is particularly important for that supervisor to have adequate power and authority to undertake the determined roles and responsibilities as group-wide supervisor and to collaborate appropriately with other involved supervisors.

53. This aim may be achieved in various ways, from direct legislative means through less formal agreements among involved supervisors. As described earlier, some jurisdictions provide legislative authority and power to a group-wide supervisor over the head of the group where it is based in that jurisdiction. Alternatively, in jurisdictions where direct legislative authority is not provided, a group-wide supervisor may rely on its power and authority over the regulated insurer in its jurisdiction, to provide adequate access to information (through a follow-up approach) in respect of the head of the group.

54. However, regardless of the approach in the jurisdiction of the group-wide supervisor, this formal designation may not be recognised in all jurisdictions in which a particular group operates and reliance is placed on non legislative means - through agreements and/or other coordination activity among the involved supervisors.

55. At present, it is not generally possible to consider or establish international legislation which grants legal power and authority to a group-wide supervisor across jurisdictional borders. It is important, therefore, that there are clear agreements (formal or otherwise) between all involved supervisors in order to allow the group-wide supervisor to fulfil its tasks and to ensure support from involved supervisors.

6. Coordination activity among involved supervisors

56. A group-wide supervisor would ultimately be responsible for ensuring effective and efficient group-wide supervision. The group-wide supervisor should coordinate and disseminate essential information needed for reviewing and evaluating risks and assessing solvency on a group-wide basis. If a group-wide supervisor is to achieve this, there needs to be open and constructive relationships among the involved supervisors. Therefore, there needs to be coordination of, and collaboration by, supervisors to avoid unnecessary duplication.

57. The main benefits of increased coordination and cooperation among involved supervisors are as follows:

- Greater coordination of all involved supervisors in holistically reviewing international groups through regular face-to-face discussions and other processes;
- Provides an efficient platform for information sharing across the group and for contribution of involved supervisors to group-wide decisions;
- Broader exposure and greater influence for involved supervisors in examining group-wide situations than would be the case under solo reviews;
- Facilitates comparison of methodologies and assumptions across the group;
- Ability to share the application of group-wide methodologies and assumptions among involved supervisors.
- Facilitates the application of coordinated decisions when appropriate.

58. There are various mechanisms for fostering cooperation, promoting communication and information exchange and facilitating enhanced coordination of group-wide supervision. The benefits of designation of a group-wide supervisor can be further enhanced through mechanisms such as a memorandum of understanding (MoU) between involved supervisors and establishment of a “college” of involved supervisors³. In fact the work of a supervisory college is usually based on the conclusion of a MoU between all parties involved.

Memorandum of Understanding

59. A MoU could take the form of a bilateral (between two jurisdictions) or multilateral (between more than two jurisdictions) agreement. The scope of the memorandum of understanding could also vary, to reflect the circumstances of the particular group and involved supervisors. The MoU may relate to the exchange of information, based on formal request and/or in particular circumstances, such as emergency circumstances. In order for a MoU to work effectively, it is important that a strict confidentiality regime is ensured among all involved jurisdictions.

60. The IAIS MMoU is an example of a multilateral memorandum of understanding for cooperation and the exchange of information between insurance supervisors in relation to all issues related to the lawful supervision of insurance companies covering also insurance groups. All signatories to the IAIS MMoU have to undergo a validation of their laws and regulations to guarantee compliance with the strict confidentiality regime.

61. A MoU may extend to the allocation of identified aspects of group-wide assessment to particular involved supervisors or the allocation of all aspects of group-wide assessment to the designated group-wide supervisor. A MoU may indicate a level of accepted reliance by one supervisor on the work of another supervisor (a limited form of mutual recognition). Such an arrangement may be an initial stage in the negotiation of a more formal mutual recognition arrangement, as the level of cooperation and trust between involved supervisors grows. (Refer to the IAIS *Guidance paper on Mutual Recognition of Reinsurance Supervision*.) In particular, a MoU may indicate a level of accepted reliance on the part of other involved supervisors on the work of the group-wide supervisor. Such an arrangement contributes to the objectives of streamlined group-wide supervision and avoidance of unwarranted supervisory duplication.

³ In advancing its work on group issues, the IAIS may develop more detailed guidance on mechanisms for coordination, including MoUs and Supervisory Colleges.

Supervisory college

62. A mechanism for coordination of activities and cooperation among involved supervisors is through the establishment of a supervisory college. A supervisory college could take various forms, depending on the structure and organisation of the group, the activities of the group and the jurisdictions involved in its supervision.

63. Members of the supervisory college would comprise supervisors involved in the supervision of insurers which are part of the group.

64. Where designated, the group-wide supervisor would normally act as the chair or key coordinator of the supervisory college. The group-wide supervisor could be responsible for initiating a supervisory college, inviting the involved supervisors to be members and arranging supervisory college meetings. Members of the supervisory college could agree procedures for the allocation of responsibilities among the group-wide supervisor and other involved supervisors in relation to group-wide supervision.

65. Through regular supervisory college meetings, greater interaction and exchange of relevant information among involved supervisors can be facilitated. The supervisory college also provides an opportunity for supervisors from different jurisdictions to meet and build contacts that might not otherwise be readily available. In times of stress, when the effectiveness of supervisory collaboration is most likely to be tested, the contacts that have been built through participation in a supervisory college may be of great benefit.

66. The primary purpose of a supervisory college would be to discuss supervisory issues and exchange information that is relevant to a group. Typically a supervisory college would focus on the following:

- Agree on the cooperation and coordination process including the planning and setting of procedures for supervisory cooperation during emergency situations;
- Produce an overview of the group in question setting out its formal and operational structure;
- Carry out a risk analysis on a group-wide basis, identifying the most relevant entities and the most important relationships in the group;
- Discuss issues supervisors have found within the entities they supervise that they believe could be systemic throughout the group;
- Where practicable, agree on areas of supervisory work to avoid unnecessary duplication;
- Agree the information supervisors should gather from the group and exchange with other members of the supervisory college, including the form and the frequency with which this happens;
- Agree on whether the supervisory college should set out any arrangements in respect of group-wide supervision in written form (bilateral or multilateral agreements).

67. On request, the members of a supervisory college should communicate to one another all relevant information which may allow or facilitate supervision on a group-wide basis. Members of a supervisory college should also consider whether to communicate, on their own initiative, information which appears to be essential for other involved supervisors. The extent to which information can be exchanged will clearly be dependent on the cooperation agreements concluded between the involved supervisors, including for instance whether the supervisors involved in the supervisory college have signed the IAIS MMoU.