INTERNATIONAL ASSOCIATION OF INSURANCE SUPERVISORS

5 Capital resources

Q70

Q70	Section 5.3.1	Should Tier 1 Limited financial instruments be required to have a principal loss absorbency mechanism?

Organisation	Jurisdiction	Role	Confidential	Answer
Office of the Superintendent of Financial Institutions (OSFI)	Canada - OSFI	IAIS Member	No	No
EIOPA	EIOPA	IAIS Member	No	Yes
BaFin	Germany	IAIS Member	No	Yes
Financial Supervisory Service	Korea	IAIS Member	No	Yes
National Association of Insurance Commissioners	USA	IAIS Member	No	Yes
Ageas	Belgium	Other	No	Yes
Canadian Institute of Actuaries	Canada	Other	No	Yes

CLHIA	Canada	Other	No	Yes
Insurance Bureau of Canada	Canada	Other	No	No
AMICE, Association of Mutuals and CooperativesinEurope/ICMIF,International Cooperative and Mutual Insurance Federation.	Europe	Other	No	Yes
Insurance Europe	Europe	Other	No	Yes
Actuarial Association of Europe	European Union	Other	No	Yes
Allianz	Germany	Other	No	No
GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	No
Munich Re	Germany	Other	No	No
Global Federation of Insurance Associations	Global	Other	No	Yes
AIA Group	Hong Kong	Other	No	Yes
International Actuarial Association	International	Other	No	Yes
Dai-ichi Life Holdings, Inc.	Japan	Other	No	No

General Insurance Association of Japan	Japan	Other	No	Yes
The Life Insurance Association of Japan	Japan	Other	No	No
Great Eastern Holdings Ltd	Singapore	Other	No	Yes
Swiss Re	Switzerland	Other	No	Yes
Institute and Faculty of Actuaries	UK	Other	No	Yes
RAA	United States and many other jurisdicitons	Other	No	Yes
American Insurance Association	United States of America	Other	No	Yes
Prudential Financial, Inc.	United States of America	Other	No	Yes
CNA	USA	Other	No	Yes
MassMutual Financial Group	USA	Other	No	Yes

Q70.1

Q70.1 Section 5.3.1 If “no” to Q70, should the principal be considered to provide loss absorbency on a going concern basis? Please explain how the instrument demonstrates loss absorbency on a going concern basis.

Organisation	Jurisdiction	Role	Confidential	Answer	Answer Comments
Office of the Superintendent of Financial Institutions (OSFI)	Canada - OSFI	IAIS Member	No	Yes	Tier 1 Limited and Unlimited instruments provide loss absorbency on a going concern basis through the discretion the issuer has to not pay or cancel coupons on the instrument and the non-cumulative nature of such payments. The principal amount of such claims is only extinguished in resolution (regardless of accounting). OSFI does not support principal loss absorbency mechanisms whereby instruments can be written down or converted into equity under going concern/early triggers (and that are not at the discretion of the supervisory authority) due to concerns that such triggers can lead to financial instability and adverse signalling regarding the issuer’s financial condition (as observed with CoCos issued by European banks earlier this year, for example). OSFI would only support such mechanisms where they result in a full and permanent write-off of the instrument at the point of non-viability where the IAIG has entered into resolution.
EIOPA	EIOPA	IAIS Member	No	Yes	Yes. The inclusion of such a mechanism would contribute to an increase in the quality of qualifying financial instruments issued by IAIGs and offer greater policyholder protection. Since the amount of capital that such an item provides takes into account its principal, it is important that the principal should be able to absorb losses on a going-concern basis. This can be achieved by requiring a principal loss

					absorbency mechanism (PLAM) which should result in the instrument converting to share capital, able to immediately absorb losses, or the principal amount being written down. However, in order to ensure a level-playing field, it is necessary to specify more clearly the trigger event and the way the loss-absorbency mechanism operates. More generally, including a PLAM requirement in the ICS may lead to the exclusion of significant amounts of currently issued financial instruments that may not possess a PLAM feature. Therefore, our view is that a transitional period is necessary for this requirement.
BaFin	Germany	IAIS Member	No	Yes	Regarding Q70: The principal loss absorbency mechanism should result in the instrument converting to share capital, able to immediately absorb losses, or in the principal amount being written down. Further specification on the trigger event and the way the loss-absorbency mechanism operates is needed in order to create a level playing field. Since principal loss absorbency mechanisms probably are not a common feature of currently issued financial instruments a transitional period for such a requirement needs to be considered.
Insurance Bureau of Canada	Canada	Other	No	No	We believe that Tier 1 Limited financial instruments should not be required to have a principal loss absorbency mechanism as the cancellation of distributions is considered sufficient to provide going concern loss absorbency.
Allianz	Germany	Other	No	No	First, it is important to understand why Tier 1 Limited financial instruments should not require a principal loss absorbency mechanism: 1) Principal loss absorbency may reduce the ICS ratio Principal loss absorbency reduces Tier 1 Limited via e.g. write-down or equity conversion, and increases Tier 1 Unlimited at the same time. As a result, the amount of available qualifying capital resources remains unchanged, and so does the ICS Ratio (unless limit effects prevail). In many jurisdictions, principal loss

					absorbency leads to a taxable profit. It is conceivable that the resulting tax expense reduces (!) available own funds and thus the ICS ratio. It cannot be intended that the ICS ratio deteriorates further due to a "principal loss absorbency mechanism" at a time of severe stress. 2) Principal loss absorbency is not necessary for instruments to absorb losses Loss absorbency is complete if the underlying mechanism leads to the cancelation of all future cash flows to investors. If investors receive neither any coupon nor the redemption amount, the value of the instrument is zero (100% loss absorbency). It is possible to achieve such 100% loss absorbency without a "principal loss absorbency mechanism". To see that, note that Tier 1 Limited instruments must be (i) perpetual and (ii) allow for full flexibility to cancel all coupons, i.e. the instrument allows issuers to stop making payments to investors without any pre-condition. It is true that insurers that are dependent on capital market access are unlikely to make use of this right easily, since the reputational risk of doing so – i.e. the risk of not being able to refinance future redemptions in the capital market – is relevant. However, note further that regulators can prohibit redemption and coupon payments at all times in case they view it sensible that a particular insurer should stop making payments. 3) Principal loss absorbency is complex and prone to lead to unintended consequences It is not straightforward to design loss absorbency mechanisms that (i) work under all conceivable scenarios and (ii) treat investors fairly. Examples for (i) include (a) the question how the amount of a principal write-down should be calculated if the issuer also has instruments with equity conversion outstanding, or (b) what should happen if an issuer with conversion instruments is merged into another issuer that does not have listed shares (M&A scenarios). For perpetual instruments, it is unlikely that the terms and conditions can foresee all potential scenarios over the life of the instrument. Given the limited experience of loss absorbency mechanisms that are available in practice, it is also conceivable that the terms and conditions are not effective and render complex mechanisms

					ineffective. Point (ii) above refers to the hierarchy of capital, which should not be undermined by principal loss absorbency mechanisms. Tier 1 Limited is likely to foresee no upside for its investors, a disadvantage compared to shareholders (coupons are contractually fixed, equity dividends are not). To compensate for this, investors in Tier 1 Limited must therefore be protected in the downside scenario (equity must be "wiped out" before Tier 1 Limited). The downside is however identical in case of instruments in equity conversion. In case of a write-down the hierarchy of capital is turned upside down as the profit resulting from the write-down benefits equity investors at the cost of investors in Tier 1 Limited. Last but not least, equity conversion instruments may accelerate a crisis. As the stress of an insurer increases during a crisis, the likelihood of mandatory conversion increases, thus putting additional pressure on the share price. This in turn makes it harder to re-capitalise a distressed insurance company even at early stages of the crisis. We think that more work could be done on alternatives to principal loss absorbency mechanisms to ensure loss absorbency on a going-concern basis in view of market realities (i.e. negative signalling effects of "voluntary" coupon cancellation), including supervisors gaining experience on barring redemptions or coupon payments.
GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	No	A principal loss absorbency mechanism is only appropriate if it provides for an improvement of the solvency ratio taking into account all implications and side-effects of principal write-down (e.g. tax effects resulting from a write-down leading to a deterioration of the ratio). Coupon deferrals (non-cumulative or cumulative) should be considered for the purpose of providing loss absorbency.
Munich Re	Germany	Other	No	No	A principal loss absorbency mechanism is only appropriate if it provides for an improvement of the solvency ratio taking into account all implications and side-effects of principal write-down (e.g. tax effects resulting from a write-down leading to a deterioration of the ratio).

					Coupon deferrals (non-cumulative or cumulative) should be considered for the purpose of providing loss absorbency.
Global Federation of Insurance Associations	Global	Other	No	Yes	For example, it is possible to design products appropriately so that no refunds are required when loss occurs. Cancellation of distributions referred to in paragraphs 248 and 249 could also be considered to be a loss absorbency mechanism because it would decrease the IAIG´s nominal amount of paying out. Additionally, the clause that allows an issuer to defer redemption of the principal amount would also contribute to the IAIG´s loss absorbency.
Dai-ichi Life Holdings, Inc.	Japan	Other	No	No	・It is not necessary to require the article of reductions in the principal amount in the insurance sector. A life insurance contract is a product for the purpose of the long-term possession until the maturity and it has the property that is different from bank deposits and the investment trust in a point that frequent withdrawal and buying and selling are not carried out. Therefore, temporal axes before falling into the situation in going-concern basis as the article of reductions in the principal amount are different from the bank sector.
The Life Insurance Association of Japan	Japan	Other	No	No	・The clause that allows reductions in the principal amount does not have to be a compulsory requirement for the insurance sector. The nature of insurance products is different from bank deposits or investment funds as insurance products are based on the premise of long-term possession by policyholders until maturity, and they are not withdrawn or traded frequently. Therefore, the timeframe until that clause comes into effect on a going-concern basis is different for the insurance sector from the banking sector. Additionally, each jurisdictional approach should be taken into consideration. For example, in our jurisdiction, surrenders of insurance policies can be prevented through business suspension before the failure. In such cases, we think these clauses on a going-concern basis are not necessary and other loss absorbency mechanisms would work to deal with the situation.

					・For example, it is possible to design products appropriately so that no refunds are required when loss occurs. Cancellation of distributions referenced to in paragraphs 248 and 249 could also be considered to be one of a loss absorbency mechanism because it would decrease the IAIG´s nominal amount of payment. Additionally, the clause that allows issuers to defer redemption of the principal amount would also contribute to the IAIG´s loss absorbency.
RAA	United States and many other jurisdicitons	Other	No	Yes	A principle loss absorbency mechanism should be recognized to the extent that it would decrease the IAIG's obligations to repay the instrument and improve its overall solvency ratio.

Q71

Q71 Section 5.3.2 Is there an objective methodology that the IAIS could use to determine the amount of financial instruments issued by consolidated subsidiaries of the IAIG and held by third parties that is not available to the group for the protection of policyholders of the IAIG? Please explain.

Organisation	Jurisdiction	Role	Confidential	Answer	Answer Comments
China Insurance Regulatory Commission	China	IAIS Member	No	No	The financial instruments Chinese insurers reported are mostly common shares, hybrid or subodinarted debts, held by third parties (instruments held internally is not included in the group consolidated balance sheet and therefore not within the ICS scope). We view that there is no objective way to limit the recognition of these instruments, for example, an IAIG has both life and non-life insurance subsidiaries issued sub debts respectively, it is not possible to identify whether and how much of the sub debts issued by the life company can be used to absorb losses of the non-life company.
EIOPA	EIOPA	IAIS Member	No	Yes	In assessing whether financial instruments issued by consolidated subsidiaries of the IAIG and held by third parties are available to the group, the following factors should be considered on a going-concern basis: • Is the financial instrument subject to legal or regulatory requirements that limit its ability to absorb all types of losses wherever they arise within the IAIG? • Are there any legal or regulatory requirements which hinder the transferability of the financial instrument to another

					undertaking within the scope of the group? • Can the financial instrument be made available to cover the ICS capital requirement within a reasonable period of time (e.g. 9 months)? That said, we consider that some financial instruments issued by consolidated subsidiaries should be assumed to be unavailable to the group, unless the IAIG is able to demonstrate their availability. This includes: • Non-paid-up capital issued • Preference shares • Subordinated mutual members account • Subordinated debt instruments In our view, capital issued to third parties by consolidated subsidiaries is generally not available to cover losses incurred within the group beyond those which are generated within the issuing subsidiary/legal entity. In this case, third party interests should only be recognised as qualifying ICS capital resources up to the contribution of the specific subsidiary/legal entity to the total ICS capital requirements of the IAIG. Regarding the non-controlling interest (NCI) over a consolidated insurance subsidiary, the amount to be deducted from group capital should be the amount of capital in the subsidiary, above the amount to which the subsidiary contributes to the group capital requirement, multiplied by the NCI percentage. Non-controlling interest over a consolidated non-financial subsidiary should be fully deducted from group capital. If ICS field testing does not deliver the necessary information to calculate an appropriate deduction for ICS version 1.0, we recommend that the IAIS follows a prudent approach.

BaFin	Germany	IAIS Member	No	No	There are certain criteria that could be applied but even if the IAIG were required to provide proof the criteria could not really be checked as this would require in-depth knowledge about a number of jurisdictions: Are there 1) Legal or regulatory requirements that limit the ability to absorb all types of losses irrespective of where they arise in the IAIG? 2) Legal or regulatory requirements that hinder transferability within the IAIG? 3) Can the financial instrument be made available within a reasonable timeframe?
Financial Supervisory Service	Korea	IAIS Member	No	No	
National Association of Insurance Commissioners	USA	IAIS Members	No	No	This question is partly focused on fungibility of capital. This subject matter needs to be discussed holistically within the IAIS and not approached in a stand-alone fashion as this question seems to do. It is premature to ask about an objective methodology at this juncture.
Ageas	Belgium	Other	No	Yes	Like Solvency II we suggest to include financial instruments issued by consolidated subsidiaries of the IAIG at least up to the amount of the share in the coverage of the local capital requirements. A higher amount could be included only if invested capital by third parties is available for other group companies as well and this is not forbidden by law. We refer to article 330 of the Solvency II Delegated Acts that gives guidance for availability at group level of the eligible funds of related undertakings.

ABIR Association of Bermuda Insurers & Reinsurers	BERMUDA	Other	No	Yes	If the instruments count as local capital resource, then that instrument should be granted capital credit for the Group at least up to the level of the local requirement.
Canadian Institute of Actuaries	Canada	Other	No	Yes	The third-party amount to include in consolidated capital should consider the operating capital requirements of the subsidiary (i.e., solvency requirement plus the desired operating buffer). Available capital attributable to third parties in excess of this level should count as consolidated capital of the IAIG so long as the excess can be remitted up to the parent company without (legal or regulatory) constraints. A remitability test should be designed to determine eligibility for inclusion in consolidated group capital. Special purpose vehicles that are strictly for raising capital for the IAIG should be excluded from this limit.
CLHIA	Canada	Other	No	Yes	Available capital in the subsidiary up to the operating level of capital (i.e., higher than the local "PCR" level), should be included in consolidated group capital since capitalization of the group occurs from each subsidiary up. The amount that is over and above this level of capital should be eligible for inclusion into the consolidated group capital, subject to fungibility constraints. SPVs whose sole purpose is to raise capital for the group should be included in the consolidated group capital, and should be exempt from any potential limits imposed on capital issued from subsidiaries.
Ping An Insurance (Group) Company of China Ltd.	China	Other	No	Yes	Most financial instruments in China market are issued by consolidated subsidiaries and hold by third parties, including primarily subordinated debts and shares currently. As the capital qualifying criteria already reflect the risk characteristics

					of financial instruments (such as subordination and availability to absorb losses), there should not be a capping for it any more.
AMICE, Association of Mutuals and CooperativesinEurope/ICMIF,International Cooperative and Mutual Insurance Federation.	Europe	Other	No	No	
Insurance Europe	Europe	Other	No	Yes	One possible way to ensure that financial instruments issued by a consolidated subsidiary are used only for the protection of its own policyholders could be to limit the subsidiary's consolidated capital at IAIG level. Such a limit should be at least equal to the subsidiary's capital requirement. However, if the issuing entity is an intermediate holding company that is not an insurance subsidiary and so does not have a capital requirement, a more subjective measure would be required. This could be along the lines of demonstrating the assets of the entity being available to support losses elsewhere in the group.
Allianz	Germany	Other	No	Yes	It is not clear under which circumstances such instruments should not be deemed to be available. A Tier 2 instrument issued by a subsidiary to third parties that can finance a cash dividend to the ultimate parent is theoretically available for use throughout the group, similar to a Tier 2 bond issued by the ultimate parent. It may help if the IAIS provided examples where such instruments are truly not available on a group wide basis and then see whether it is possible to objectively quantify these.

GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	No	
Munich Re	Germany	Other	No	No	
AIA Group	Hong Kong	Other	No	No	
International Actuarial Association	International	Other	No	Yes	Consider reducing the diversification credit (potentially to zero) in the calculation of required capital instead of reducing the amount of available capital.
Dai-ichi Life Holdings, Inc.	Japan	Other	No	No	・It is natural for life insurance companies (Operating long-term business) to make use of the financial instruments as a loss absorbing tool in the long-term through transferring funds in the group . So, in principle, the full amount of financial instruments should be counted in the capital resource. ・If the accessibility to financial instruments that are issued by consolidated subsidiaries is strictly limited, we are concerned that the subsidiaries of IAIG will have few capital strategic options and lose their Crisis-Response Capability.
General Insurance Association of Japan	Japan	Other	No	Yes	Excluding the issue of fungibility, which will be covered in future discussions, every instrument issued by consolidated subsidiaries of IAIGs as a means of raising capital, should be counted as 100% capital.
The Life Insurance Association of Japan	Japan	Other	No	No	・There may be a portion of the total amount of these financial instruments that would not be available for the IAIG at a certain

					point of time. However, it is quite possible in the business with a long-term nature (such as insurance) that such amounts of financial instruments could ultimately be used for protection of policyholders through the transfer of funds within the group. Accordingly, the entire amount of these financial instruments should be included in the capital resources that the capital-raising instrument is classified as. ・We think the IAIS´s idea would have an adverse effect as it would significantly limit possible options for capitalisation strategy by each subsidiary of IAIGs and deteriorate the subsidiary´s capacity to deal with fiscal crisis.
Great Eastern Holdings Ltd	Singapore	Other	No	Yes	Methodology could include tests which determine whether such amount can be used to support the business in times of need. If yes, then it is available to the group.
Swiss Re	Switzerland	Other	No	Yes	Equity instruments issue by local subsidiaries should count to the consolidated economic net worth. Restrictions in the availability must be reflected in liquidity considerations. They are not related to capital.
MetLife	United States	Other	No	Yes	We suggest that in addition to capturing specifically identifiable down-streams, the IAIS should look at the parent holding company financial statement (Schedule II in the 10-K) and subtract total investments in subsidiaries from total consolidated equity of the IAIG. This approach is generally consistent with the rating agencies approach to double leverage and produces a more comprehensive accounting for all non-common equity funded investments in subsidiaries, whether or not they were funded with senior debt.

American Insurance Association	United States of America	Other	No	No	No. As stated before, this question cannot be adequately addressed through a YES/NO response. We re-emphasize our disappointment that complex issues are being reduced to YES/NO responses. The issue that should be addressed by this question is the role that fungibility of capital plays in a capital standard framework. We agree with NAIC that this matter must be viewed holistically. Based on the specifications of the field test, it is clear that the capital resource resulting from the current ICS structure does not recognize the strength of balance sheets when compared to existing globally accepted regimes such as Solvency II and the Risk-based Capital system in the U.S. The proposed restrictions on financial instruments are not in line with instruments currently in place, particularly the procedures for determining tiering, maturity and amortization. The suggested treatment is onerous and appear to collate the restrictions of all bases rather than selection of a suitable basis. The "top-down" capital process envisioned by the current ICS approach would essentially require supervisors to determine capital fungibility. This is particularly difficult where the need for fungibility is governed by the regulatory objective for holding capital. For insurance-centric groups where policyholder protection is the regulatory focus, supervisors must address capital fungibility (or the lack thereof) within the group, maintain a balance of preserving adequate capital in the insurance and insurance-related entities to fund policyholder obligations, while simultaneously determining whether additional capital at the holding company will serve as a source of strength to the enterprise or, conversely, will it draw capital away from policyholder protection and insurance availability, or reduce the

					ability of the local insurance unit to compete. Finally, we wish to emphasize NAIC's concern that development of an objective methodology is premature and inappropriate at this point in time. As we have indicated in our general comments, the IAIS should address certain foundational issues first before diving into the development of detailed standards.
CNA	USA	Other	No	Yes	In our opinion, full fungibility should be recognized for financial instruments issued by a consolidated subsidiary unless there are specific regulatory restrictions for the movement of the proceeds of the instrument or a contractual limitation within the instrument.
Liberty Mutual Insurance Group	USA	Other	No	Yes	100% of the proceeds of such financial instruments should be considered available for the protection of policyholders if the proceeds have been contributed to an insurance entity in the group, unless those proceeds are restricted by the terms of the instrument or regulatory limitations. The proceeds of these instruments are generally contributed to operating insurers and may not be returned to the holding company without supervisory notice or, often, prior supervisor approval.
MassMutual Financial Group	USA	Other	No	No	If the intent is to address the fungibility issue, it would make more sense to look at this issue holistically, opposed to this one item.

Q72

Q72 Section 5.3.3 Is there an objective methodology that the IAIS could use to determine the amount that should be added back to Tier 2 for those items deducted from Tier 1? Please explain.

Organisation	Jurisdiction	Role	Confidential	Answer	Answer Comments
Office of the Superintendent of Financial Institutions (OSFI)	Canada - OSFI	IAIS Member	No	No	We do not support adding back any amount of DTAs or computer software intangibles to Tier 2 capital due to their uncertain value in liquidation. Recognizing the long term business of life insurers and related long horizon for winding-up / restructuring or liquidation, Tier 2 capital should include elements that absorb losses on a run-off basis or a winding-up scenario, and may contribute to the claims of policyholders and creditors with a high level of probability. OSFI believes that there is a high level of probability that some DB PP surplus assets will be available to absorb losses on a run-off basis or a winding-up and we support a 50% add-back to Tier 2 capital.
EIOPA	EIOPA	IAIS Member	No	Yes	It would not be appropriate to add-back items deducted from Tier 1 (e.g. DTA, computer software intangibles and defined benefit pension plan assets) to Tier 2 capital if they do not provide loss-absorbency in a gone-concern situation. If Tier 1 deductions are added back to ICS Tier 2 capital, then only the likely 'realisable value' of those amounts that are available to absorb losses on a gone concern basis should be included in Tier 2. The 'realisable value' could be based on the amount that is expected to be recovered over a pre-defined period of time (e.g. 5 years).

					EIOPA would support the development of a basket approach for Tier 2 add-backs, as described in paragraph 253 of the 2016 ICS CD. Our view is that the total basket amount added back to Tier 2 should be subject to a composition limit, e.g. 5% of the ICS capital requirement.
BaFin	Germany	IAIS Member	No	No	We do not support the idea of creating a new Tier 2 basket. Creating several baskets will increase the complexity of the regulation making it difficult to report and supervise the compliance with the regulation.
Financial Supervisory Service	Korea	IAIS Member	No	No	
Ageas	Belgium	Other	No	Yes	The requirements for Tier 2 capital as in Solvency II should be applied to those items. The resources should be available to absorb losses in a winding-up situation. Items that cannot be recovered in a stress situation should not be included in eligible capital resources.
Canadian Institute of Actuaries	Canada	Other	No	No	An “objective” methodology would be arbitrary and not reflect the nature of these items. There is no objective methodology to determine the adjustments to capital for realizability of items such as intangible assets and DTAs. DTAs of life insurers have high capital quality given the long-time horizon in a liquidation scenario, which is very different from banks which have a liquidity constraint and imminent need to convert capital to cash. An objective approach would not reflect that DTAs are dependent on the local tax and accounting regimes. However, the approach to adjustments should consider the nature of the insurance business (long-dated liabilities under going concern) and slow resolution which enhances the prospects of realizability of assets. DTAs should be subjected to recoverability tests under stress conditions; where recoverable, they should be added back to available capital. Software intangibles should be added back at a lower percentage of

					realizable value (e.g., 10%–20%). Net defined benefit pension surplus assets, if accessible to the company, should be included in Tier 1 capital; but where not accessible, should be included in Tier 2 capital, reflecting the position that the surplus would decrease the company's future contribution to the plan.
CLHIA	Canada	Other	No	Yes	The objective methodology would out of necessity need to be more "principles" based than "rules" based. This is particularly the case for DTAs which are highly dependent on the local tax and accounting regimes. This principle should be in general defined as realizability of items (such as intangible assets and DTAs) under a stressed environment recognizing the (realizable value enhancing) nature of the insurance business (e.g. long-duration liabilities under going concern for life insurers) and slow resolution constructs. DTAs should be subjected to recoverability tests under stress conditions. Where amounts are recoverable under these conditions, they should be added back in full to Tier 2 capital. Software intangibles should also be added back, albeit at a lower percentage of realizable value (e.g. 10% - 20%). Net pension plan surpluses should be added to Tier 1 or Tier 2 depending on respectively their availability to the insurer or not. Finally the IAIS should consider a basket approach (e.g. up to x% of Tier 1) for inclusion of add backs to Tier 2
Insurance Bureau of Canada	Canada	Other	No	Yes	On a going concern basis, DTAs have considerable value and thus should be added back to Tier 2, subject to certain limits. As outlined in paragraph 608, DTAs that are recognized on GAAP balance sheets are usually subject to a realizability test. We recommend that the realizability test for ICS purposes be based on the same principles as the statutory accounting principles. With respect to the other items deducted from Tier 1, they should be

					added back to Tier 2 only to the extent that the IAIG can clearly demonstrate that the funds would be available in a stressed situation.
Ping An Insurance (Group) Company of China Ltd.	China	Other	No	No	We have no comment for now.
AMICE, Association of Mutuals and CooperativesinEurope/ICMIF,International Cooperative and Mutual Insurance Federation.	Europe	Other	No	Yes	In principle, there should be no limit to the recognition of the three items as mentioned. The intangible software assets should only be recognised if a transfer of these amounts is possible or when it can be demonstrated that this software are critical for the operations of the insurer. The operational costs of the IT systems including possible software costs are included in the best estimate. Therefore it would be a-symmetrical to deduct these. With respect to nDTA, if a recoverability analysis can be demonstrated (also based on accounting standards) the amounts should not be restricted. If the IAIG relies too much on nDTA to cover the capital requirements, the supervisor should discuss the quality of capital within the supervisory review process and ask for sensitivity analysis within the ORSA. The quality of capital should be approached from a quantitative and qualitative perspective. The pension surpluses should also not be restricted if it can be demonstrated that these amounts are actually available without consequences.
Insurance Europe	Europe	Other	No	Yes	In principle, there should be no limit to the recognition of the three items as mentioned and the quality of capital resources should be approached from both a quantitative and a qualitative perspective. The software intangible assets should only be recognised if a transfer of the corresponding amounts is possible or when it can be demonstrated that these items are critical for the operations of the insurer. The operational costs related to the IT systems, including possible software costs, are included in the best estimate so, for symmetry reasons, it makes sense to include these in Tier 1.

					Similarly, in the case of the DTA, if a recoverability analysis can be demonstrated (also based on accounting standards) the amounts should not be restricted. For example, if DTAs could be recovered on a going concern basis, the amount of recoverable could be added to Tier 1. In the case where an IAIG relies too much on DTA to cover capital requirements, the supervisor should discuss the quality of capital in the context of the supervisory review process and ask for sensitivity analysis within the ORSA. The pension surpluses should also not be restricted if it can be demonstrated that these amounts are actually available without consequences.
Allianz	Germany	Other	No	Yes	Regarding DTA see our responses in the tax section of this consultation, in particular Q228.
GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	No	IFRS financial statements might contain some pieces of information related to these items. However, we doubt that there is an objective methodology to determine these amounts as the realisability assessment to be performed by each entity is “by nature” based on subjective assumptions.
Munich Re	Germany	Other	No	No	IFRS financial statements might contain some pieces of information related to these items. However, we doubt that there is an objective methodology to determine these amounts as the realisability assessment to be performed by each entity is “by nature” based on subjective assumptions.

AIA Group	Hong Kong	Other	No	Yes	So long as these items are recoverable they should be included in capital resources. Objectivity is established through the audit process to which IAIG's are subject.
International Actuarial Association	International	Other	No	Yes	Any objective methodology will have subjective decisions built into the method. with the subjectivity greatest under stressed conditions. A separate limit by bucket sounds reasonable. For example, DTA could be discounted (i.e. adjusted for the time value of money) and could then be limited to 50% of that value. Software could be limited to a very low percentage (10%?). Pension assets could consider 100% of the excess over wind up valuation value.
Dai-ichi Life Holdings, Inc.	Japan	Other	No	No	・The limit only for the whole of Tier2 should be assigned. However it is not necessary to assign the limit only for adding back to Tier2.
The Life Insurance Association of Japan	Japan	Other	No	No	・It would be enough to place an overall limit on the total value of the items within a Tier 2 basket. The IAIS does not have to use any methodologies to limit items to be added back to Tier 2.
Great Eastern Holdings Ltd	Singapore	Other	No	Yes	IAIS could refer to existing standards for other industries, such as Basel III, for reference.
RAA	United States and many other jurisdicitons	Other	No	Yes	Either all or some portion of Tier 1 capital resources that are limited should be counted toward Tier 2. A formula could be derived that is based on the five tiering principles, though we would weight loss absorbing capacity highest in priority. The ICS RAA believes that the question illustrates the complexity inherent in requiring tiering of capital instruments and requiring sub-limits on those tiers.

American Insurance Association	United States of America	Other	No	No	As an addendum to Q 70, and as discussed in response to Q78, tiered capital is a banking regulatory concept that is not easily adapted to U.S. financial regulation of property-casualty insurance groups. Therefore, question 70 question should not emphasize capital tiering, but should emphasize the loss absorbing capacity of financial instruments.
Prudential Financial, Inc.	United States of America	Other	No	No	Prudential believes that there is value associated with the assets excluded from Tier 1 capital. A portion of these assets should be included in Tier 2 as long as the IAIG can demonstrate a positive present value of future cash flows related to these assets, through valuation consistent with the ICS principles in base and stress conditions.
MassMutual Financial Group	USA	Other	No	No	Due to the uncertainty associated with these items, capping or limiting their impact is logical, particularly in the context of a stress scenario. We are comfortable with the methodology of devising a limit that's a function of the absolute amount of the respective item(s).

Q73

Q73 Section 5.3.4 Is structural subordination sufficient to guarantee that policyholders will be paid first in a winding up? Please explain.

Organisation	Jurisdiction	Role	Confidential	Answer	Answer Comments
Office of the Superintendent of Financial Institutions (OSFI)	Canada - OSFI	IAIS Member	No	No	There may be prudential issues with structural subordination in as claims of the subsidiary insurer's policyholders are limited to that legal entity's assets, whereas the senior creditors of the holding company can make recoveries from other assets of the holding company (i.e. the other holding company assets are unavailable to the subsidiary's policyholders). In addition, the inclusion of senior debt in capital resources reduces the quality of capital held by the insurance group and the ability to absorb losses. For example, if proceeds from senior debt issuances are down streamed to insurance subsidiaries, there will be increased pressure on the subsidiary to support the holding company's repayment of debt - which will cause the capital in the subsidiary to be paid out (to the holding company) and not be available to absorb losses in the insurance subsidiary.
EIOPA	EIOPA	IAIS Member	No	No	No, not in all cases. This type of subordination is not sufficient to guarantee that policyholders (and beneficiaries) will be paid ahead of senior creditors in a winding up. For example, in an 'insolvent insurer winding-up', the insurer's assets are insufficient to meet its liabilities to policyholders (and beneficiaries) and therefore those policyholders, and other non-subordinated creditors, would not get paid in full. However,

					holders of debt issued by a holding company could still be paid in full if the group remains solvent and contains other profitable subsidiaries that are able to distribute sufficient funds to the holding company to service the debt. In other cases where an insolvent insurer winding up does not take place, we remain concerned that it is possible to structure arrangements that undermine the subordination. For example: • An upstream guarantee whereby an insurance subsidiary acts as a guarantor to the holding company. In the event of default of the subsidiary, the assets of both the holding company and the insurance subsidiary might be considered together. As a result, the debt obligations of both the parent holding company and the insurance subsidiary would rank pari passu. • An inter-company loan to an insurance subsidiary whereby the holding company, on top of being a shareholder, becomes a creditor of the insurance subsidiary. As a result, the loan could also rank pari passu with other obligations of the insurance subsidiary.
BaFin	Germany	IAIS Member	No	No	Not unless there are additional safeguards to ensure that arrangements cannot be structured in a way that undermine subordination to policyholders.
Financial Supervisory Service	Korea	IAIS Member	No	No	Structural subordination itself does not guarantee that the policyholders will be paid first in a winding up.
National Association of Insurance Commissioners	USA	IAIS Member	No	Yes	Under the U.S. legal framework, structural subordination works similarly to contractual subordination. Insurance supervisors control the extent of dividend payments (among other activities) made by insurance companies to their holding companies. These dividend payments are generally the source of repayment for servicing the senior debt interest/principal payments. In cases of winding up, dividend payments

					to the holding company would not be allowed if policyholder obligations cannot be met, thus ensuring that policyholders are paid first, prior to making dividend payments to a holding company. In addition to structural subordination, the U.S. legal framework has a well-defined priority scheme that is invoked when insurers are in liquidation. In such cases, the prioritization scheme is aimed at ensuring that policyholders are paid first before creditors.
ABIR Association of Bermuda Insurers & Reinsurers	BERMUDA	Other	No	Yes	Debt raised at the holding company level and pushed down to subsidiaries is subject to structural subordination where the dividend distributions from the subsidiary back to the parent requires supervisory approval by the subsidiary's local regulator. In such cases there is a provision in place to ensure that the policyholders of the subsidiary will be paid first in the event of an insolvency event. We believe this produces a comparable outcome as contractual subordination.
Canadian Institute of Actuaries	Canada	Other	No	Yes	The policyholders of an operating lifeco subsidiary ("opco") will have priority over senior creditors of its holdco to the extent the proceeds of a debt issuance by the holdco are invested in opco equity. We suggest that senior loans which are qualified as capital should be included net of loans (other than temporary funding facilities) made by the opco to the holdco. We acknowledge that while the structural subordination is effective for the funds invested in an opco, senior creditors may still receive value to the extent that the holdco has assets other than the equity in the opco. We suggest that this is a reasonable result, as all downstream policyholders have first claim on the funds provided by holdco creditors, and we suggest this is reasonable even if the holdco has material assets outside of the opco. (In effect, the holdco is accessing its equity in other subsidiaries to invest in the regulatory capital of the opco.) We also acknowledge that, generally, regulatory capital is intended to be subordinated to general creditors. Holdco senior debt would rank pari

					passu with other holdco creditors but would be structurally subordinated to general creditors in the opco, which should be the desired result. Further, the additional flexibility in allowing incremental capital raising in the form of senior debt may be very advantageous, especially in a strain situation, whether market related or institution specific, where financing options may be limited. We assume such senior debt would be subject to leverage limits or other capital composition limits.
CLHIA	Canada	Other	No	Yes	Structural subordination will guarantee that policyholders of an operating life insurance subsidiary ("OpCo") are paid first in a winding up over the Holding Company ("Holdco") security holders, provided that the financing from the Holdco to OpCo is not secured or if there is a corresponding upstream loan from OpCo to Holdco.
Insurance Bureau of Canada	Canada	Other	No	Yes	We believe that structural subordination allows senior debt issued by non-operating insurance holding companies to meet the criterion the instrument is subordinated to policyholders.
EIOPA Insurance & Reinsurance Stakeholder Group	EU	Other	No	Yes	Section 5.3.4 "Structural vs contractual subordination (treatment of senior debt)" discusses the subordination, especially for those instruments issued by non-insurance parts of the group. Judging from the questions raised here in Q73 and in Q74 it seems the IAIS may want to follow the route of the structural subordination. This approach could have serious consequences for the possibility of financing non-insurance activities within a group. If all senior debt has to rank after policyholders somewhere in the group this will impact the terms and conditions of future senior debt and the required coupons to be paid. It is also unsure whether a legislation across the globe will accommodate this requirement.

AMICE, Association of Mutuals and CooperativesinEurope/ICMIF,International Cooperative and Mutual Insurance Federation.	Europe	Other	No	No	The concept of structural subordination should not be used as defining feature for senior debt issued by non-insurance entities of the group. The structural subordination will have consequences for the ability of financing these entities without the need of group interconnectedness.
Allianz	Germany	Other	No	No	Structural subordination to policyholders only works for the percentage of issuance proceeds from a senior bond issued by the holding company (“HoldCo”) that is then actually forwarded to one or more regulated operating entities with policyholders (rather than to other e.g. holding companies or ancillary services undertakings). Also, for structural subordination to work it must be ensured that the proceeds provided to the relevant operating entities are actually subordinated to policyholders. That requires that the proceeds are provided or “on-lent” to the operating entity in the form of equity or (legally or contractually subordinated) debt. In case of equity, it is unclear how the proceeds can be “repaid” by the operating company when the HoldCo’s senior debt is due. In case of “senior debt” which is technically (contractually) unsubordinated debt, it must be absolutely legally certain that this unsubordinated debt is in fact actually subordinated to policyholders at all times. In case of subordinated (and senior) debt, it must be absolutely certain that the tenor of the internal debt instrument is identical to (and definitely not shorter than) the term of HoldCo’s external bond. It is also important that there is no explicit or implicit collateral to the benefit of the loan-provider (HoldCo) which would undermine the subordination to policyholders. Further, it is possible that a US$1bn senior debt instrument issued by the HoldCo of a group with, say, $40bn insurance liabilities is forwarded to a single operating entity with only US$0.001bn insurance liabilities. In such a case, while formally the entire US$ 1.0bn would be “subordinated to policyholders”, this subordination would be economically meaningless. In other words, the “structural subordination” must also be meaningful in relation to the size of the insurance business

					of the ultimate recipient(s) of the proceeds. The transparency of the arrangements that are supposed to lead to structural subordination is insufficient from a regulatory perspective, in particular if regulation focuses on groups rather than solo entities. The transparency is also questionable from an investor perspective: even though the majority should be able to understand the consequences of structural subordination where it truly exists, the term "senior bond" is misleading if in fact the instrument is truly (structurally) subordinated to the group's (typically very sizeable) technical liabilities. It appears possible that structural subordination can be made to work where there is sufficiently stringent and extensive regulatory oversight of all relevant solo entities of the group. Importantly, however, it is clear that structural subordination alone does not guarantee that the funds raised via a senior HoldCo bond are available to support policyholders at the OpCo in a stress scenario. For a framework like ComFrame / ICS that focusses on group regulation, structural subordination alone is certainly insufficient.
Munich Re	Germany	Other	No	Yes	In Germany structural subordination is in general sufficient to guarantee that policy holders will be paid first in a winding up. In general, we would prefer contractual provisions for the subordination for transparency reasons.
Global Federation of Insurance Associations	Global	Other	No	Yes	We believe that structural subordination allows senior debt issued by non-operating insurance holding companies to meet the criterion the instrument is subordinated to policyholders.
AIA Group	Hong Kong	Other	No	Yes	Consider the mechanics of structural subordination. The insurance holding company sells senior debt to investors. The proceeds are used to subscribe to common shares issued by the insurance operating company. The insurance operating company uses the proceeds in its

					general business operations. As a matter of law the senior debt-holders claim is only attached to the resources and cash flow of the insurance holding company. The down-streamed funds cannot be transferred back up without complying with applicable regulatory tests and/or regulatory approvals. An upward distribution would take the form of a final dividend (if there are profits or retained earnings to allow for a dividend) or a return of capital in the event of dissolution of the operating company. Those excess resources from the operating company are permitted by regulators to be extracted only after policyholder obligations have been satisfied – this is structural subordination. From a loss absorbing perspective, the policyholder is fully advantaged and the senior debt holder is partially/fully disadvantaged. It can be observed that rating agencies enforce a ratings notching between operating level and holding company level – largely because of the structural subordination of senior debt holders at the holding company level. It can also be observed that for companies of similar ratings, insurance holding company senior debt is priced by the debt market at a wider spread than comparably rated holding company senior debt of non-insurance companies.
International Actuarial Association	International	Other	No	No	To the extent that the parent is an insurance company as well, it would protect the policyholders of the sub, but not those of the parent.
Dai-ichi Life Holdings, Inc.	Japan	Other	No	Yes	・Should consider contractual subordination as well as structural subordination. Especially, if a holding company issues senior debt and a substantial of the company´s asset consists of subsidiary company´s shares, the holding company´s reserves for repayment strongly depends on its subsidiary. Under this situation, the senior debt meets Tier2 requirements because the debt has strong subordination structure to creditors in the subsidiary. Moreover, some credit rating agencies conclude that creditors in holding

					company are subordinated to the policyholders in the insurance subsidiary company.
The Life Insurance Association of Japan	Japan	Other	No	Yes	・An insurance group´s choice regarding approaches to raising funds would vary depending on the group´s characteristics, and legislative and regulatory environments around the group. Given that one of the ICS Principles of "substance over form", reality should be emphasised rather than its legal structure. Accordingly, structural subordination as well as contractual subordination should be emphasised. Whether each instrument has a sufficient subordination structure should be determined with proper judgement. ・Particularly, when a pure holding company issues senior debt and assets of the holding company is largely for investments in its subsidiary (i.e. stock of the subsidiary), the senior debt of the holding company is considered to be much subordinated to creditors of the subsidiary, as the holding company's sources of repayment is heavily dependent on (the stock) the subsidiary. Therefore, it should meet the qualifying criteria for Tier 2 capital resources.
Great Eastern Holdings Ltd	Singapore	Other	No	Yes	NA
Swiss Re	Switzerland	Other	No	Yes	Yes, if the proceeds are directly invested in an insurance subsidiary as subordinated debt or equity.
American Council of Life Insurers	United States	Other	No	Yes	In the U.S., proceeds from debt issuances of holding companies, to the extent they are contributed into regulated operating insurance entities, are available to absorb losses and are subordinate to policyholder obligations. In the U.S. insurance regulatory system, policyholder protection takes priority over protecting holders of related debt instruments and other investors from financial loss. The focus of solvency regulation in the U.S. is on the individual insurance legal entity

					within a holding company system, with transactions between an insurance legal entity and its affiliates with the insurance entities subject to state insurance statutes and regulation. In determining whether a transaction, for example, an extraordinary dividend, should be approved, the domiciliary regulator considers the financial impact to the insurer. The insurance regulator has broad authority in evaluating the insurer's overall financial condition, (including actions of the non-regulated holding companies). There is precedent in U.S. law the affirms the U.S. regulatory view that available capital resources are based upon structural subordination for the inclusion of certain debt instruments as these laws were upheld in the U.S. legal system during insolvency and receivership proceedings in the early 1990s where policyholders were ultimately protected from harmful actions of the parent holding company. Capital raised via a holding company is typically infused by the holding company (who is the direct or indirect parent of the regulated insurance entity) into its wholly owned regulated insurance company subsidiary in the form of a capital contribution. This structure insulates the policyholders from the debt related obligations maintained by the holding company. Under these arrangements and corporate structures, the annual dividends from the regulated insurance company (which are subject to regulatory restrictions) are used to service the holding company debt. Simply put, if the policyholder obligations are not being met, extraordinary dividends to the holding company will not be approved by the domiciliary supervisor.
MetLife	United States	Other	No	Yes	Please see our response to Q. 74 below.
National Association of Mutual Insurance Companies	United States	Other	No	Yes	Yes. Senior debt is the preferred option for raising non-equity capital in the U.S., and in the current historically low interest rate environment it is the most cost-effective way to raise capital. Capital raised via a holding company is typically infused by the holding company (who is the direct

					or indirect parent of the regulated insurance entity) into its wholly owned regulated insurance company subsidiary in the form of a capital contribution. This structure insulates the policyholders from the debt-related obligations maintained by the holding company. Under these arrangements and corporate structures, the annual dividends from the regulated insurance company (which are subject to regulatory restrictions) are used to service the holding company debt. Simply put, if the policyholder obligations are not being met, extraordinary dividends to the holding company will not be approved by the domiciliary supervisor. If necessary, these dividends (both normal and extraordinary) can also be restricted by the regulator based on the application of the Hazardous Financial Condition Regulation in the U.S. Consequently, the debt obligations of the holding companies become structurally subordinate to the policyholder obligations of the regulated operating insurance subsidiary. As the proceeds are contributed into a regulated entity, an important element of this structure ensures that if a debt service payment is missed by the non-operating holding company this event would not result in a default by the operating insurance subsidiary as the insurance subsidiary has no legal responsibility to the bondholder and cannot be sued for payment.
RAA	United States and many other jurisdicitons	Other	No	Yes	In the United States, debt issued by the insurance holding company and invested by subsidiary insurers is structurally subordinated to policyholder obligations. This is because dividend distributions by the insurer (typically in excess of current net income) require approval by the domestic state Commissioner. Distributions will not be authorized if the insurer is in financial difficulty, therefore these funds are available to satisfy policyholder obligations. We believe that structural subordination operates in a similar manner in many other jurisdictions, the instruments are subordinated to policyholder obligations and thus should be recognized in capital resources.

American Insurance Association	United States of America	Other	No	Yes	Yes, although it is unclear what is meant by "guarantee." If intended as a reference to the U.S. guaranty fund system, that topic should be addressed in another context – perhaps with respect to resolutions. Debt raised at the holding company level, and pushed down as capital to subsidiaries at which the liability resides, is subject to structural subordination where the dividend distributions from the subsidiary back to the parent requires supervisory approval by the subsidiary's local regulator. In such cases, there are provisions in place to ensure that the policyholders of the subsidiary will be paid first in the event of an insolvency. We believe this approach produces a comparable outcome to contractual subordination. The ICS framework currently ignores this reality, though these conditions are strictly enforced in the United States. Given the statutory and regulatory bias in favor of the policyholder, debt issuance is a common source of capital in the U.S. This is true for both stock and mutual companies (although for mutual insurers, debt may be the only major source of capital other than retained earnings. The aggregation-calibration approach would appropriately recognize the local jurisdiction's legal and regulatory treatment of debt and, as a result, preserve subordinated debt as a valuable capital resource for U.S. insurers and their policyholders. Further, the introduction and description of the charge for encumbrances does not allow for the underlying liquidity/transferability of funds at the balance sheet date, and accordingly, does not reflect the level of fungibility provided by such excess assets. In order for the ICS to be globally accepted, the IAIS must address the issue of how to treat holding company debt as part of the determination of available or qualifying capital. The transparency of an aggregation

					approach aids these decisions. The aggregation-calibration approach reflects the treatment of subordinated debt in insurance groups that are regulated by jurisdictions with highly enforced structural subordination. Likewise for jurisdictions that do not highly enforce structural subordination, the aggregation-calibration approach still properly reflects subordinated debt. Thus, in the U.S. subordinated debt instruments, such as surplus notes, hybrid debt, and senior notes would be considered qualifying capital resources.
Prudential Financial, Inc.	United States of America	Other	No	Yes	Structural subordination described in the consultation document is sufficient to ensure that policyholders would be paid before creditors of the holding company in a winding up. Supervisors would be able to withhold approvals of dividends from insurance subsidiaries to holding companies until it was clear that resources were sufficient to pay off policyholders.
CNA	USA	Other	No	Yes	Yes. Structurally subordinated debt issued by a holding company parent and contributed as equity into an insurance subsidiary insulates policyholders from the debt related obligations of the parent. More specifically, a missed coupon payment by the holding company would not result in a default by the insurance subsidiary. Further, the insurance subsidiary has no legal responsibility to the bondholders and cannot be sued for payment. Therefore, the debt obligations of the holding company are insulated and structurally subordinated to the policyholder obligation of the insurance company guaranteeing that the policyholders will be paid first in a winding up situation. Senior debt proceeds contributed by a holding company parent as equity in its insurance subsidiary has historically been treated as capital by U.S. regulators based on its ability to absorb insurance losses and its structural subordination. This structural subordination is supplemented by a number of financial controls designed to ensure that policyholder

					interests are protected and satisfied over the interests of the creditors of the holding company. In particular, the U.S. regulatory system places significant restrictions on a holding company's ability to access capital from its insurance subsidiaries. These restrictions include providing prior notice to the regulator on all proposed dividends and obtaining prior approval if the dividend exceeds a maximum threshold of 10% of the company's policyholder surplus or prior year's net income. Approximately 20% of U.S. stock companies' economic capital is derived from senior debt issued by the holding company and invested as a capital contribution into a downstream insurance subsidiary. The rational for inclusion in the group´s economic capital is that the capital cannot be removed from the insurance company to repay debt holders without supervisory approval making it indirectly subordinated to policyholder claims in the event of insolvency or winding up which is consistent with Insurance Core Principle (ICP) 17 criteria. Specifically ICP 17.11.1 states that: In view of the two objectives of capital resources set out in Guidance 17.2.6, the following questions need to be considered when establishing criteria to determine the suitability of capital resources for regulatory purposes: • To what extent can the capital element be used to absorb losses on a going-concern basis or in run-off? • To what extent can the capital element be used to reduce the loss to policyholders in the event of insolvency or winding-up? It has also been referenced by the IAIS that senior debt should be disallowed due the fact that if an insurance group were to default on its senior debt it could be pushed into bankruptcy proceeding and have an impact on global financial stability. As stated in our comments to question 1 of the ICS exposure daft, CNA believes that the primary goal of the ICS, if an ICS is truly necessary, is to ensure policyholder protection. Ensuring global financial stability should be an ancillary objective of an efficient and effective regulatory system and free market

					since it has been demonstrated that non--SFII IAIG's do not pose significant risk to global financial stability on their own. In a hypothetical example, if a U.S. insurance group were to default on its senior debt the bondholders could push the group's holding company into bankruptcy proceedings. While in bankruptcy neither the U.S. Bankruptcy Courts nor the creditors can compel the operating insurance legal entities or the U.S. State insurance regulators to declare a dividend from the insurance operating entities to reimburse the bondholders. The only remedy that the bankruptcy courts have is to sell holding company assets to make the creditors whole. Typically, the primary asset in an insurance holding company is ownership of insurance operating legal entities. Sale of this ownership stake would be overseen and approved by a U.S. state insurance commissioner. Both assets and liabilities would be preserved and transferred to a third party buyer inside the insurance legal entities. There would not be a "fire sale" of insurer assets leading to any sort of market impacts or disruptions. The proceeds from the insurance operating entity sale would then be applied to the outstanding debt obligation with the shareholders and debt holders of the holding company taking the risk of loss. If the sale proceeds are insufficient to satisfy the debt holder obligations the debt holder may also incur a loss. We do not believe such an occurrence would create financial instability since the risk of such an event is already priced into the debt market. It is not the place of the insurance supervisor to remove all risks from the market because it could likely lead to market inefficiencies driving up the cost of insurance for insurance products for individual consumers and unnecessarily shielding the market against risk they are paid to assume. Finally, it seems inconsistent to disallow Senior Debt proceeds contributed to an insurance subsidiary while permitting instruments such as promissory notes and letters of credit to be included in Tier 2 capital. Functionally, senior debt is no different from U.S. Surplus Notes or other subordinated debt and therefore, at a minimum, should be allowable Tier 2 capital as those instruments appear to be.

					Since the scenario outlined above meets the stated suitability criteria, CNA respectfully requests that the IAIS reconsider instruments which are indirectly subordinated as core capital.
Liberty Mutual Insurance Group	USA	Other	No	Yes	Yes, as to both of these questions, when structured properly. The proceeds from holding company debt are typically contributed to an IAIG's operating insurance companies and cannot be returned to the holding company without notice to and, often, prior approval of, the applicable insurer's supervisor. This structure insulates policyholders from debt obligations of the holding company, because the debt obligations of the holding company become structurally subordinate to the operating insurance company's policyholder obligations. Furthermore, the proceeds of holding company debt would be used to pay policyholder obligations in a liquidation event before being used to re-pay bondholders. The critical factor to recognize for purposes of determining whether debt constitutes qualifying capital is that debt can be contractually and/or structurally subordinated to policyholder obligations. In the U.S., the proceeds of debt issuances that are contributed to insurance entities are subject to regulatory oversight. Dividend payments, which are the primary means to repay debt, require notice to, and in some cases express approval by, regulators in the U.S.
MassMutual Financial Group	USA	Other	No	No	As currently drafted, the ICS is a group capital standard that eliminates all intra-group transactions and does not contemplate fungibility issues.
Property Casualty Insurers Association of America (PCI)	USA	Other	No	Yes	Yes. Paragraph 258 describes the U.S. insurance liquidation system when it states, "in a winding-up, the assets of a (insurance) subsidiary would be paid to that subsidiary's policyholders first, and any surplus would only be distributed to the holding company . . . after all of the

					subsidiary's policyholders and other creditors have been paid in full." Therefore the proceeds of senior debt distributed to a subsidiary insurer are "subordinated to policyholders and other non-subordinated creditors" (paragraph 254(a)).

Q74

Q74 Section 5.3.4 Does structural subordination produce the same outcomes as legal or contractual subordination? Please explain.

Organisation	Jurisdiction	Role	Confidential	Answer	Answer Comments
EIOPA	EIOPA	IAIS Member	No	No	No, "structural" subordination does not produce the same outcomes as legal/contractual subordination. As explained in our response to Question 73, structural subordination provides less protection to policyholders than legal/contractual subordination. The absence of a written provision (legal or contractual) outlining the subordination of an instrument within its terms and conditions may lead to an uncertain outcome in case of winding-up. Furthermore, recognising structural subordination would not be consistent with ICP 17, which references only "legal" rather than "structural" subordination. In addition, recognition of structural subordination would encourage increased use of double-leverage (i.e. issuing senior or subordinated debt and down-streaming it as equity), over which regulators from many international jurisdictions have concerns. Double-leverage undermines the quality of the solo capital of the down-stream entity (e.g. insurance operating company), and allows the holding company to be at greater risk of failing, with the reputational and contagion consequences that ensue. If such arrangements are recognised in ICS standard, we strongly suggest the IAIS consider its appetite for double leverage in defining the extent to which they contribute to qualifying capital resources. In addition, structural subordination of a financial instrument (rather than legal/contractual subordination) would be a factor to take into account when assessing whether a financial instrument may be considered free from encumbrances. For example, in our view, any financial instrument issued by a parent should be considered encumbered if the claims relating to the instrument

					rank before the claims of all policyholders of any insurance or reinsurance subsidiary within the group.
BaFin	Germany	IAIS Member	No	No	It is possible to structure the arrangement in such a way that the insurance holding company or its creditors will not have to wait for the insurance undertaking to meet its obligations towards policyholders before their obligations are satisfied but that they have the same rank as the policyholders of the insurance company.
Financial Supervisory Service	Korea	IAIS Member	No	No	In case of winding up, structural subordination does not produce the same outcomes as legal or contractual subordination as it requires further judgement and decision-making from the supervisor.
National Association of Insurance Commissioners	USA	IAIS Member	No	Yes	Structural subordination produces the same outcomes as legal or contractual subordination insofar as protection of policyholders is concerned. As explained in our response to Q73, dividend payments from insurance subsidiaries are generally the source of repayment for servicing senior debt interest/principal payments. The protection of policyholders is at the core of the U.S. legal and solvency framework. U.S. insurance supervisors closely monitor the payment of stockholder dividends and have the authority to stop the payment of any dividends if policyholder obligations are likely to be compromised or otherwise not met.
ABIR Association of Bermuda Insurers & Reinsurers	BERMUDA	Other	No	Yes	See answer to Question 73
Canadian Institute of Actuaries	Canada	Other	No	Yes	The policyholders of an operating lifeco subsidiary (“opco”) will have priority over senior creditors of its holdco to the extent the proceeds of a debt issuance by the holdco is invested in opco equity. We suggest that senior loans which are qualified as capital should be included net of loans (other than temporary funding facilities) made by the opco to the holdco.

CLHIA	Canada	Other	No	Yes	Structural subordination effectively results in conversion of Holdco senior debt into subordinated instruments of the OpCo. This provides flexibility in addition to the OpCo issuing subordinated debt.
Insurance Bureau of Canada	Canada	Other	No	Yes	We believe that structural and contractual subordination produce the same outcomes. As noted in paragraph 258, in a winding-up, the assets of a subsidiary would be paid to that subsidiary´s policyholders first, and any surplus would only be distributed to the holding company as ordinary shareholder of the subsidiary after all of the subsidiary´s policyholders and other creditors have been paid in full.
Allianz	Germany	Other	No	No	Please see our answer to 5.3.4 above.
GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	No	In Germany in general yes, however in other jurisdictions structural and contractual subordination might lead to different results. In general, we would prefer contractual provisions for the subordination for transparency reasons. In Germany nevertheless, structural subordination is in general sufficient to guarantee that policy holders will be paid first in a winding up.
Munich Re	Germany	Other	No	No	See answer to Q73. In Germany in general yes, however in other jurisdictions structural and contractual subordination might lead to different results.
AIA Group	Hong Kong	Other	No	No	Structural subordination is largely more favourable to the policyholder. Structural subordination is characterized by both contribution and use of funds sourced at the holding company level and used at the operating company level. The contribution, normally via a subscription of additional common shares, locks the funds in the operating company. This results from the foundation of company law – funds contributed as common equity to an operating company can only be returned to the holding company via a dividend (subject to profit/retain earnings and solvency tests), share buyback (subject to regulatory approval and solvency tests) and return of capital (subject to company law and regulatory test). In all

					cases the return of contributed common equity is controlled by solvency tests, regulatory approval and company law. This degree of subordination is largely more favourable to the policyholder. Legal and/or contractual subordination – essentially declaring something is subordinate to something else – is an agreement reached by parties to a contract. Recourse in the event of non-compliance is limited (in most cases) to breach of contract litigation – which may or may not result in a beneficial outcome for the claimant. Unlike structural subordination, characterized by contribution and use of funds, legal and/or contractual subordination does not have the structural mechanics of company law and regulation controlling use of proceeds. Senior debt raised by a holding company can by contract be defined as senior to all other liabilities of the holding company. In the absence of an action which results in structural subordination, senior debt proceeds may or may not retain its senior status in a stress or wind-up situation. However, senior debt raised at a holding company from which the proceeds are then contributed to the down-stream operating company benefits not from legal and/or contractual subordination but from true loss absorbing subordination.
Dai-ichi Life Holdings, Inc.	Japan	Other	No	Yes	Please refer to the answer for Q73.
The Life Insurance Association of Japan	Japan	Other	No	Yes	・Please refer to the comment(s) on Question 73.
Great Eastern Holdings Ltd	Singapore	Other	No	No	It could produce the same outcomes provided the contractual subordination is worded properly.
Swiss Re	Switzerland	Other	No	Yes	Yes, if the proceeds are directly invested in an insurance subsidiary as subordinated debt or equity, which ensures that any surplus would only be distributed to the holding company after all of the subsidiary´s policyholders and other creditors have been paid in full.

American Council of Life Insurers	United States	Other	No	No	
MetLife	United States	Other	No	No	If local rules governing the operating subsidiary require assets of an insurer to be paid to policyholders first and/or that there be supervisory approval prior to remittance of funds to the holding company, structural subordination arrangements may protect policyholders. However, it is hard to say that outcomes of structural and contractual subordination arrangements would be the same. In the event structural subordination places the holding company and its creditors behind an operating subsidiary's policyholders, the holding company may not be in a position to pay scheduled debt service, triggering an event of default and an immediate right of creditors/investors to accelerate the debt. This situation could lead to failure of the holding company and attendant consequences on operating subsidiaries.
National Association of Mutual Insurance Companies	United States	Other	No	Yes	Yes. U.S. state regulators fully accept the capital controls inherent in a structural subordination system as a result of the proven enforcement of current U.S. laws by the courts. As a result, senior debt is typically treated as capital by U.S. regulators based on its ability to absorb insurance losses and protect policyholder benefits. This long-standing treatment reflects the U.S. regulators' recognition of the structural subordination that exists between the creditors of the holding company and the policyholders of an insurance subsidiary, the protection of which is the U.S. regulators' primary concern.
RAA	United States and many other jurisdicitons	Other	No	Yes	In the United States, yes. We believe the same is true for most, though perhaps not all jurisdictions.
American Insurance Association	United States of America	Other	No	Yes	Yes. Again for jurisdictions like the U.S., protection of the policyholder is the fundamental aspect of the insurance regulatory system.

Prudential Financial, Inc.	United States of America	Other	No	Yes	See our response to question 73. We believe that structural subordination generally would produce the same outcome as contractual subordination since supervisors would be able to withhold approvals of dividends from insurance subsidiaries to holding companies.
CNA	USA	Other	No	Yes	Yes. Structurally subordinated debt issued by a holding company parent and contributed as equity into an insurance subsidiary insulates policyholders from the debt related obligations of the parent. More specifically, a missed coupon payment by the holding company would not result in a default by the insurance subsidiary. Further, the insurance subsidiary has no legal responsibility to the bondholders and cannot be sued for payment. Therefore, the debt obligations of the holding company are insulated and structurally subordinated to the policyholder obligation of the insurance company guaranteeing that the policyholders will be paid first in a winding up situation. Senior debt proceeds contributed by a holding company parent as equity in its insurance subsidiary has historically been treated as capital by U.S. regulators based on its ability to absorb insurance losses and its structural subordination. This structural subordination is supplemented by a number of financial controls designed to ensure that policyholder interests are protected and satisfied over the interests of the creditors of the holding company. In particular, the U.S. regulatory system places significant restrictions on a holding company's ability to access capital from its insurance subsidiaries. These restrictions include providing prior notice to the regulator on all proposed dividends and obtaining prior approval if the dividend exceeds a maximum threshold of 10% of the company's policyholder surplus or prior year's net income. Approximately 20% of U.S. stock companies' economic capital is derived from senior debt issued by the holding company and invested as a capital contribution into a downstream insurance subsidiary. The rational for inclusion in the group´s economic capital is that the capital cannot be removed from the insurance company to repay debt holders without supervisory approval making it indirectly subordinated to policyholder claims in the event of insolvency or winding up which

					is consistent with Insurance Core Principle (ICP) 17 criteria. Specifically ICP 17.11.1 states that: In view of the two objectives of capital resources set out in Guidance 17.2.6, the following questions need to be considered when establishing criteria to determine the suitability of capital resources for regulatory purposes: • To what extent can the capital element be used to absorb losses on a going-concern basis or in run-off? • To what extent can the capital element be used to reduce the loss to policyholders in the event of insolvency or winding-up? It has also been referenced by the IAIS that senior debt should be disallowed due the fact that if an insurance group were to default on its senior debt it could be pushed into bankruptcy proceeding and have an impact on global financial stability. As stated in our comments to question 1 of the ICS exposure daft, CNA believes that the primary goal of the ICS, if an ICS is truly necessary, is to ensure policyholder protection. Ensuring global financial stability should be an ancillary objective of an efficient and effective regulatory system and free market since it has been demonstrated that non--SFII IAIG's do not pose significant risk to global financial stability on their own. In a hypothetical example, if a U.S. insurance group were to default on its senior debt the bondholders could push the group's holding company into bankruptcy proceedings. While in bankruptcy neither the U.S. Bankruptcy Courts nor the creditors can compel the operating insurance legal entities or the U.S. State insurance regulators to declare a dividend from the insurance operating entities to reimburse the bondholders. The only remedy that the bankruptcy courts have is to sell holding company assets to make the creditors whole. Typically, the primary asset in an insurance holding company is ownership of insurance operating legal entities. Sale of this ownership stake would be overseen and approved by a U.S. state insurance commissioner. Both assets and liabilities would be preserved and transferred to a third party buyer inside the insurance legal entities. There would not be a "fire sale" of insurer assets leading to any sort of market impacts or disruptions. The proceeds from the insurance operating entity sale would then be applied to the outstanding debt obligation with the shareholders and debt holders

					of the holding company taking the risk of loss. If the sale proceeds are insufficient to satisfy the debt holder obligations the debt holder may also incur a loss. We do not believe such an occurrence would create financial instability since the risk of such an event is already priced into the debt market. It is not the place of the insurance supervisor to remove all risks from the market because it could likely lead to market inefficiencies driving up the cost of insurance for insurance products for individual consumers and unnecessarily shielding the market against risk they are paid to assume. Finally, it seems inconsistent to disallow Senior Debt proceeds contributed to an insurance subsidiary while permitting instruments such as promissory notes and letters of credit to be included in Tier 2 capital. Functionally, senior debt is no different from U.S. Surplus Notes or other subordinated debt and therefore, at a minimum, should be allowable Tier 2 capital as those instruments appear to be. Since the scenario outlined above meets the stated suitability criteria, CNA respectfully requests that the IAIS reconsider instruments which are indirectly subordinated as core capital.
Liberty Mutual Insurance Group	USA	Other	No	Yes	See response to Q73, above. U.S. state regulators fully accept the capital controls inherent in a structural subordination system as a result of the proven enforcement of current U.S. laws by the courts. As a result, senior debt is typically treated as capital by U.S. regulators based on its ability to absorb insurance losses and protect policyholder benefits.
MassMutual Financial Group	USA	Other	No	No	When looking at the group-wide exposure, structural subordination does not eliminate the debt of the group.
Property Casualty Insurers Association of America (PCI)	USA	Other	No	Yes	Yes. U.S. insurance supervisors have the authority to prevent dividends from a subsidiary insurer to a parent holding company where such payment would compromise policyholder protection, either in a going concern or winding-up situation. This outcome is the same as that provided by legal or contractual subordination.

Q75

Q75 Section 5.3.5 Is a requirement for supervisory approval prior to the redemption of a financial instrument at contractual maturity sufficient for that instrument to be considered perpetual? Please explain.

Organisation	Jurisdiction	Role	Confidential	Answer	Answer Comments
EIOPA	EIOPA	IAIS Member	No	No	No it is not. A perpetual financial instrument is one that does not have a maturity date and whereby the principal amount of the instrument is not repaid outside of winding-up, other than by means of redemption (e.g. at a contractual call date) or discretionary repurchase. Issuance of a dated financial instrument influences the pricing of the instrument and creates expectations around the period during which the instrument will contribute to capital. Investors in such an instrument will expect to be paid at the maturity date (or at the earliest point following contractual maturity where supervisory approval is granted, if not given at contractual maturity), provided the contractual conditions for redemption are met. To our knowledge, supervisory approval has not been used as a tool to substantially prolong the duration of a dated financial instrument and we are sceptical that it would provide a credible outcome. In our view, supervisory approval is important and should be required for redemption or repurchase of all financial instruments in order for them to be classified as qualifying capital resources. This requirement is a necessary feature which protects policyholders by ensuring that such an operation will not cause the insolvency of the IAIG or accelerate the process of the IAIG becoming insolvent. But it does not transform a dated financial instrument into a perpetual one.

BaFin	Germany	IAIS Member	No	No	A financial instrument is only perpetual if there is no obligation to repay the instrument unless the insurance undertaking is in winding-up. If there is a maturity date the instrument is not to be considered perpetual, regardless of whether the supervisory approval prior to redemption is needed or not. In our view it is generally not possible to prolong the duration of a dated instrument by withholding supervisory approval as denying approval requires justification.
Financial Supervisory Service	Korea	IAIS Member	No		Not applicable in Korea
National Association of Insurance Commissioners	USA	IAIS Member	No	Yes	In reference to surplus notes issued by U.S. insurance groups, supervisory approval prior to the redemption of a surplus note at contractual maturity is sufficient (in order for the instrument to be considered perpetual) for purposes of protection policyholders. U.S. insurance supervisors monitor all repayment activity and can elect to defer any interest/principal repayments for as long as necessary.
CLHIA	Canada	Other	No	Yes	
EIOPA Insurance & Reinsurance Stakeholder Group	EU	Other	No	Yes	Yes, it should be considered sufficient that a supervisory approval is required before the redemption of a financial instrument issued by a (re)insurance group for the instrument to be considered perpetual, at least if the instrument in itself has no contractual maturity. To get an approval to redeem the financial instrument, the mutual insurance company must have sufficient other capital to comply with the capital requirement.
AMICE, Association of Mutuals and CooperativesinEurope/ICMIF,International	Europe	Other	No	Yes	If the redemption is subject to prior approval by the supervisor, the IAIG is not able to redeem the instrument which basically results in

Cooperative and Mutual Insurance Federation.					perpetuality. The question would be whether the supervisor can limit the redemption ultimately or only for a distinct future period after which approval is again needed by the IAIG. The latter would be preferable.
Allianz	Germany	Other	No	No	The relevant supervisor must be in a position to prohibit redemptions without the risk of exposing the regulator to legal action from investors. We expect this risk to be low in most jurisdictions, however, it is important that no implicit or explicit promises are made by the issuer (or the banks involved in the process) in the context of the marketing of the financial instrument, as this may impact the legal enforceability of redemptions to the benefit of the investors. Other legal restrictions may apply that may mean that the need for prior regulatory approval is not sufficient to consider an instrument as perpetual.
Global Federation of Insurance Associations	Global	Other	No	Yes	We believe it is sufficient, because the redemption can be prevented through supervisory disapproval, in cases where there are concerns the redemption would have an impact on the insurer's solvency. Subsection c) in paragraph 333 of the 2016 Field Testing Technical Specifications is overly prescriptive in this context and is not consistent with the ICP 17. We would suggest the IAIS to remove the wording "i.e. it does not have a maturity date" from the criterion c) and suggest that the IAIS refers to the ICP 17.11.22 instead.
AIA Group	Hong Kong	Other	No	No	A perpetual financial instrument is one without a maturity. The majority of such instruments are issued with a call feature in favour of the issuer – a typical pattern will be perpetual non-call 5 years. This prevents the issuer from calling back the instrument before the end of the non-call period – in this example 5 years. Largely these call features have been included in these notes because the feature makes the perpetual nature of the note more attractive to investors. Though counter-intuitive, investors believe issuers have a predisposition to call the note at the

					fifth anniversary and as such investors view the maturity of the investment as five years and price accordingly. A financial instrument with a maturity is not perpetual. If redemption is limited by regulatory intervention the value of the instrument is considered impaired – from an investor perspective. Normally financial instruments which have a regulatory prohibition redemption clause are price adjusted to reflect the probability of this outcome – the financial instrument does not become perpetual.
The Life Insurance Association of Japan	Japan	Other	No	Yes	・We believe it is sufficient because the redemption can be prevented through supervisory disapproval if the IAIG's soundness becomes insufficient by redemption. ・Article 55 of the Insurance Business Act of Japan prescribes that the payment of interest or redemption of funds (Kikin) may not be made unless a specific amount of net assets is secured, which prevents cash outflow from the IAIG while its net assets based on accounting are financially inadequate. Such supervisory disapproval for Kikin would generate economic effects that are equivalent to the case where there is no maturity for that financial instrument. As no redemption would be made before a specific amount of net assets is secured, Kikin would demonstrate its loss absorbing capacity through that period. ・The idea to determine whether or not the instrument is qualified to be perpetual based on Article 55 of the Insurance Business Act is consistent with the Insurance Core Principles (ICPs), as indicated in the ICP 17.11.22. When assessing the extent of permanence of a capital element, it should be determined to contain any supervisory powers to restrict the redemption of capital resources. ・For the reasons above, we believe that Kikin should be classified as Tier 1 capital resources. ・Finally, criterion c) in paragraph 333 of the 2016 Field Testing Technical Specifications is overly prescriptive in this context and is not consistent with the ICP 17. We would suggest the IAIS remove the

					wording "i.e. it does not have a maturity date" from criterion c), and suggest the IAIS refer to the ICP 17.11.22 instead.
American Council of Life Insurers	United States	Other	No	Yes	The regulatory regime that governs the issuance and redemption of surplus notes is of paramount importance when considering whether surplus notes should be considered Tier 1 assets. Although the terms of most surplus notes have a maturity date, U.S. insurance laws give regulators the power to override this contractual term. The regulatory approval (or lack of approval) at maturity effectively makes surplus notes perpetual when needed most, i.e., when the insurance company is under financial stress. The regulator of the insurance company, when determining whether to permit the redemption of a surplus note, is typically required by law to evaluate the current financial strength of the issuing insurer. If the insurer is not in a good financial position, the regulator will not approve the redemption of the principal amount of the surplus note, leaving the funds in the hands of the insurer, effectively making the note perpetual until the financial position of the insurer improves. This integral feature of surplus notes is required by law in the United States.
National Association of Mutual Insurance Companies	United States	Other	No	Yes	Yes. Supervisory approval ensures that the instrument will not be allowed to be redeemed unless the redemption is in the best interests of the policyholders. Subordinated debt, in the form of surplus notes, is the primary means that mutual insurers have of raising capital for their operation other than retained earnings. These resources should be treated as Tier 1 resources. The perpetuity requirement for Tier 1 capital should be defined to include those instruments that require regulatory approval before they can be redeemed recognizing the regulatory control over the redemption of the instruments. Capital resources present a challenging issue for mutual insurers. The ICS preference for common stock to meet capital requirements -- a resource that is not an available option for mutuals -- creates an unfair

					disadvantage for mutual insurers. Also the tiered approach favored by regulators creates disparate impacts on mutuals. The tiering approach to capital is a bank-centric concept that does not recognize the differences in the capital needs between these two industries. Most significantly the liabilities of insurers are generated by the filing of claims by customers and are not subject to "runs on the bank." Consequently, sound risk identification and proper pricing and management practices are more critical to an insurance organization than high levels of capital. U.S. mutual insurers will suffer under Tier 2 treatment of surplus notes – or any form of legal, structural or contractual subordinated debt. Mutual companies have limited sources of capital, and they often use surplus notes with long maturity periods when capital needs arise. Surplus notes have unique, equity-like features: they are deeply subordinated to all policyholder interests and require regulatory approval prior to issuance. Supervisory approval is also required before a note is redeemed (payment of principal) or a distribution (payment of interest) is made. The requirement that Tier 1 capital have no fixed maturity date seems to diverge from Insurance Core Principle 17's criteria for "permanence" in a way that unintentionally places U.S. mutual insurers at a competitive disadvantage. A revision to the definition of "perpetuity" to include instruments with a requirement for supervisory approval before redemption that would allow surplus notes to be granted Tier 1 status and would assist in addressing the inequality of the capital tiering. Even if this refinement to the definition of "perpetuity" is made NAMIC continues to believe that the tiering of capital resources is an unnecessary complication to the capital resource formula.
New York Life	United States	Other	No	Yes	Under U.S. law, insurance regulators retain broad discretion to withhold approval of payments of interest and principal on surplus notes, and can withhold approval for an indefinite period if the circumstances warrant,

					even while the issuing group remains a going concern. Although the terms of most surplus notes have a maturity date, the regulatory approval (or lack of approval) at maturity effectively makes surplus notes perpetual when needed most, i.e., when the insurance company is under financial stress. In the U.S., the regulator is typically required by law to evaluate the current financial strength of the issuing insurer. If the insurer is not in a good financial position, the regulator will not approve the redemption of the principal amount of the surplus note, leaving the funds in the hands of the insurer, effectively making the note perpetual until the financial position of the insurer improves. For this reason, we strongly believe that surplus notes should be considered perpetual.
Prudential Financial, Inc.	United States of America	Other	No	No	A financial instrument with a maturity will be expected to be redeemed at maturity. Supervisory approval would be expected to be received absent severe stress events.
Liberty Mutual Insurance Group	USA	Other	No	Yes	Supervisory approval prior to redemption ensures that a financial instrument will not be redeemed unless the redemption is in the best interests of the policyholders, Therefore, such an instrument should qualify as Tier 1 capital (although as discussed elsewhere, capital should not be put into tiers in the first place). The ICS preference for common stock over financial instruments of this type to meet capital requirements creates an unfair disadvantage against mutual insurers, as will any form of tiering of capital. If there is to be tiering of capital, however, revising the definition of “perpetuity” to include instruments with a requirement for supervisory approval before redemption would allow surplus notes to be granted Tier 1 status and would assist in addressing the inequality of capital tiering on mutual insurers.
MassMutual Financial Group	USA	Other	No	Yes	In the context of surplus notes issued in the U.S., supervisory approval is required before any payment (principal or interest) is made. The

					supervisor has the authority to disallow payment or cancel payments indefinitely without leading to an event of default for the group. Such features lend to the notion that in a stress scenario, surplus notes would become a perpetual source of capital.
Property Casualty Insurers Association of America (PCI)	USA	Other	No	Yes	Yes. U.S. insurance regulators can defer redemption or payments of principal or interest due on surplus notes indefinitely in order to properly protect policyholders.

Q76

Q76 Section 5.3.5 Is a requirement for supervisory approval of distributions prior to contractual maturity (eg interest payments, dividends) sufficient for the distributions to be considered non-cumulative? Please explain.

Organisation	Jurisdiction	Role	Confidential	Answer	Answer Comments
EIOPA	EIOPA	IAIS Member	No	No	No it is not. A financial instrument with non-cumulative distributions is one where non-payment (for whatever reason) leads to the immediate cancellation of the distribution, i.e. it is no longer payable (and will never be payable) and non-payment is not an event of default. The treatment of distributions under a financial instrument, whether cumulative or non-cumulative (and under what circumstances they may or may not be paid), needs to be set out in the terms and conditions of the instrument, which constitutes a legal contract between the issuing firm/group and external investors. We would expect that any requirement for supervisory approval of distributions to be explained clearly and unambiguously in the terms of an instrument. For an instrument that meets the description in the question, if supervisory approval for a distribution is not given then the distribution is not extinguished and is (eventually) payable by the firm/group on its return to solvency/profitability, i.e. it is cumulative. Also, regardless of whether or not a liability is recognised in respect of a missed distribution, if the expectation of the firm and the investor is that the distribution will likely be made upon the firm's return to profitably, or correcting a capital requirements breach, the distributions should be considered cumulative. While we accept that a distribution deferred (for example through lack of supervisory approval) could be cancelled on a winding up of the firm if it does not return to profitability, we do not

					consider this to be a compelling argument for a feature expected to provide going-concern loss absorbency. For a financial instrument to contribute to Tier 1 capital resources, the issuing firm should have full discretion over distributions, as described in paragraph 334(h) in the 2016 FT Technical Specifications. That is, dividend/coupon payments should be non-cumulative and the firm/group's obligation to pay missed distributions is forever extinguished and non-payment is not an event of default.
BaFin	Germany	IAIS Member	No	No	Where supervisory approval for a distribution is denied this is only temporary as the refusal to approve requires justification and cannot be upheld if the undertaking is no longer in breach of capital requirements and profitable. So the claim for the distribution continues to exist and is still ultimately payable and thus cumulative.
Financial Supervisory Service	Korea	IAIS Member	No		Not applicable in Korea
National Association of Insurance Commissioners	USA	IAIS Member	No	Yes	Supervisory approval of distributions prior to contractual maturity is sufficient for the distributions to be considered non-cumulative. Stated differently, supervisory approval of distributions prior to contractual maturity makes them as non-cumulative as they need to be.
CLHIA	Canada	Other	No	Yes	
EIOPA Insurance & Reinsurance Stakeholder Group	EU	Other	No	Yes	Yes, for financial instruments issued by a (re)insurance group it should be considered sufficient with a supervisory approval of distributions prior to contractual maturity for distributions to be considered non-cumulative. It could also be sufficient that payments of interest complies with jurisdictional law as regarding to the possibilities to make

					a payment. The reason for that is that the terms of the initial fund (please refer to question 77) including the terms of distributions is subject to approval of the supervisory authorities.
AMICE, Association of Mutuals and CooperativesinEurope/ICMIF,International Cooperative and Mutual Insurance Federation.	Europe	Other	No	No	This is only the case if this condition is applied jointly with the requirement for an approval for redemption by the supervisor.
Allianz	Germany	Other	No	No	“Non-cumulative” implies that coupons / dividends are cancelled and not just deferred for later payment. As a result, “supervisory approval” for payment – while sufficient for distributions to be considered “deferrable” – is not sufficient for distributions to be considered “non-cumulative”. To achieve that, it must be ensured that a supervisory prohibition to pay includes the requirement to actually cancel that payment for good. As an aside, note that “equity dividends” cannot be cancelled – therefore, equity dividends are effectively cumulative. Equity dividends reduce the remaining net assets, and hence lead to a corresponding reduction of the share price. “Cancelling” equity dividends means that equity investors have less cash in hand than otherwise, but the value of their shares is correspondingly higher. Economically, therefore, equity dividends can only be postponed. Only coupons of bonds can be cancelled for good, implying an economic loss to bond investors. A legal requirement for Tier 1 unlimited that dividends must be “non-cumulative” would therefore be impossible to fulfil
GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	No	

Global Federation of Insurance Associations	Global	Other	No	Yes	The regulatory regime that governs the issuance of surplus notes must be taken into consideration when evaluating surplus notes. When a payment is not approved, insurance laws and regulations also specify how that payment will be treated while it remains outstanding. Typically, when a payment is disapproved, interest will stop accumulating on the unpaid amount. Although the regulator retains the discretion to later allow the payment, approval can be withheld for as long as the regulator deems it necessary to preserve the insurer's financial strength. In this sense, the regulator effectively has the power to render distributions non-cumulative.
AIA Group	Hong Kong	Other	No	No	A financial instrument is classified according to its expected behaviour. Non-cumulative dividends is a structural aspect of a financial instrument at issue – it does not become non-cumulative because of regulatory action. If at issue the distribution of dividends, cumulative or non-cumulative is determined by regulatory action – the instrument will be sold and priced accordingly. A financial instrument that effectively becomes non-cumulative because of regulatory action is altered from issuance and its market price will adjust to reflect the new conditions. That same instrument might, over time, resemble a non-cumulative instrument – it does not however become one in practice.
The Life Insurance Association of Japan	Japan	Other	No	Yes	・By specifying that distributions prior to maturity are contractually non-cumulative, it would make it more explicit that Kikin meets this requirement in light of the qualifying criteria for Tier 1 capital under the ICS.
American Council of Life Insurers	United States	Other	No	Yes	As mentioned in response to question 75, the regulatory regime that governs the issuance of surplus notes must be taken into consideration when evaluating surplus notes. It is not sufficient simply to examine the contractual terms of the notes. In the United States, the most important

					factor in this regard is the regulator's obligation to disapprove payments of principal and interest in a time of financial stress for the insurance company. When a payment is not approved, insurance laws and regulations also specify how that payment will be treated while it remains outstanding. Typically, when a payment is disapproved, interest will stop accumulating on the unpaid amount. Although the regulator retains the discretion to later allow the payment, approval can be withheld for as long as the regulator deems it necessary to preserve the insurer's financial strength. In this sense, the regulator effectively has the power to render distributions non-cumulative.
National Association of Mutual Insurance Companies	United States	Other	No	Yes	Yes. The supervisory approval requirement addresses the concern as much as is needed. All interest payments and principal repayments require prior approval of the domiciliary supervisor before being paid. As a result, for U.S. statutory reporting, surplus note interest payments are not a legal obligation until the regulator authorizes the interest payment. A regulator can elect to approve all cumulative unpaid interest payments that may be due under the note agreement or approve a lesser amount. This results in the interest payments being cumulative only at the discretion of the regulator. It is important to note that such payments, cumulative or non-cumulative, will never be made until supervisors believe such payment will not affect policyholder interests. We also argue that the non-cumulative requirement for Tier 1 capital simply creates additional preference in the formula for common stock which is only issued by stock companies. NAMIC asserts that the contractual arrangement for eventual payment of interest on subordinated debt does not affect the use of the assets to address policyholder needs, it simply adds an additional liability for the company issuing the instrument to pay amounts that are owed the note holders. This contractual term of agreement should not limit the ability of the instrument to be considered Tier 1 capital.

					We suggest it is a failure in the design of the ICS that ignores the segment of the industry made up of mutual insurers and ignores the value they provide that includes such requirements. If the IAIS preferred a non-stock company structure, an argument could be made that capital resources subject to volatility in terms of their value should not be considered Tier 1. Common stock prices can rise and fall significantly and any assessment of their value is subject to daily market fluctuations. Consequently, despite their perpetual and non-cumulative nature, common stock has its own weaknesses as Tier 1 capital. NAMIC suggests that as long as the source of capital is available to address policyholder needs over the needs of the noteholder it should be considered Tier 1 capital. NAMIC suggests that the "non-cumulative" requirement should be revised as well to include situations where regulatory approval is required to pay out any amounts owed at any time.
New York Life	United States	Other	No	Yes	Because insurance regulators in the United States have broad discretion to withhold approval for distributions under surplus notes, they effectively have the power to render the notes non-cumulative. Although an IAIG may not have a contractual right to cancel distributions, the law effectively gives this power to the regulator. The end result is the same: when regulatory approval for a distribution is withheld, the IAIG is not required to make the payment, and interest does not accumulate on the unpaid distribution. Although the regulator retains the discretion to later allow the payment, approval can be withheld for as long as the regulator deems it necessary to preserve the insurer's financial strength.

Prudential Financial, Inc.	United States of America	Other	No	No	Supervisory approval does not make the distributions non-cumulative. As a result, the holders of such instruments are generally entitled to unpaid distributions once an approval those distributions is granted.
Liberty Mutual Insurance Group	USA	Other	No	Yes	The requirement for supervisory approval results in distributions to be considered non-cumulative, because a supervisor can elect to approve all cumulative unpaid interest payments that may be due under the note agreement or only approve a lesser amount. As long as a source of capital is available to address policyholder needs over the needs of noteholders that capital should be considered qualifying capital without limitation caused by tiering. The proposed “non-cumulative” requirement should be revised, as well, to include situations in which regulatory approval is required to pay out any amounts owed at any time.
MassMutual Financial Group	USA	Other	No	Yes	In the U.S., surplus note distributions can be cancelled and cancelled indefinitely by the supervisor, and failure to pay a surplus note cannot trigger an event of default for the insurer. As a result, they are in effect non-cumulative.
Property Casualty Insurers Association of America (PCI)	USA	Other	No	Yes	Yes. The unfettered discretion given state regulators in the U.S. to approve or disapprove payments of surplus note principal and/or interest effectively makes surplus notes non-cumulative.

Q77

Q77 Section 5.3.5 Do existing financial instruments issued by mutual IAIGs (for example, but not limited to surplus notes, Kikin and other forms of subordinated financial instruments) absorb losses on a going concern basis? Please identify which instrument and explain.

Organisation	Jurisdiction	Role	Confidential	Answer	Answer Comments
Office of the Superintendent of Financial Institutions (OSFI)	Canada - OSFI	IAIS Member	No	No	OSFI's view is that the focus should be on substance over form; the question should be if the instrument fully meets the ICS criteria for Tier 1 or not. Focusing on the form of an instrument may lead to unintended consequences (e.g.: allowing flexibility for existing instruments issued to accommodate insurers' preferences and incentives – for tax deductibility, for example - rather than regulatory or legal constraints) as well as an unlevel playing field. We also understand that existing financial instruments issued by mutuals could be restructured to meet the ICS Tier 1 criteria and transitioning should be considered to facilitate that restructuring.
EIOPA	EIOPA	IAIS Member	No	No	No, they do not absorb losses on a going concern basis. Those types of instruments may represent the most subordinated claim of a mutual, but subordination is only one of the key principles of ICS qualifying capital resources against which financial instruments are measured. The existing financial instruments issued by mutual IAIGs and discussed in the consultation document (e.g. surplus notes and Kikin) are dated (i.e. non-perpetual) with cumulative distributions. These features prevent those instruments from providing loss absorbency on a going concern basis. Consider first the non-perpetual nature of these instruments. We understand that the instruments are generally dated and redemption at contractual maturity is subject to prior supervisory approval and/or meeting various measures of solvency. If conditions required for redemption at contractual maturity are met and approval is granted, the IAIG redeems the instrument, thereby reducing its capital resources. If conditions required for redemption

					are not met and/or supervisory approval at maturity is not granted, the liability to pay the redemption amount is deferred and one of two things eventually happens: • the supervisor gives approval and the instrument is redeemed (in which case the deferral of the redemption liability has not provided any loss absorbency); or • supervisory approval is withheld until such time as the firm/group does into winding-up, in which case the redemption liability enters the creditor subordination hierarchy and may not be met in full. Any portion of the redemption amount not paid to investors only provides gone concern loss absorbency. The same logic can be applied to demonstrate that the cumulative nature of the distributions of such instruments only provide gone concern loss absorbency. In addition, it is not clear whether the redemption of a Kikin instrument is subject to prior supervisory approval, and whether this redemption is mandatory or not once a sufficient amount of retained earnings has been accumulated. Finally, we are concerned that classifying Kikins as capital resources might lead to a potential double counting of capital: until a sufficient amount of retained earnings has been accumulated, what amount of Kikin should be considered as capital resources, since the Kikin will have to be redeemed (out of Tier 1 retained earnings) at maturity (or the nearest point thereafter when a sufficient amount of retained earnings has been accumulated).
BaFin	Germany	IAIS Member	No	No	
Financial Supervisory Service	Korea	IAIS Member	No		Not applicable in Korea
National Association of Insurance Commissioners	USA	IAIS Member	No	Yes	Surplus notes issued by mutual IAIGs do absorb losses since the proceeds derived from issuing surplus notes are available for the payment of policyholder obligations at any point (going concern and/or transitioning to gone concern). The accounting distinction (going concern basis) being emphasized in this question is interesting, but does not diminish the relevance and use of surplus notes. U.S. insurance supervisors consider surplus notes as available for the payment of claims. U.S. insurance supervisors prior approve the payment

					of interest/principal on surplus notes; U.S. insurance supervisors can disapprove any surplus note payment for an indefinite amount of time, effectively making the surplus note available for absorbing losses.
CLHIA	Canada	Other	No	Yes	
EIOPA Insurance & Reinsurance Stakeholder Group	EU	Other	No	Yes	There is a financial instrument "initial fund" that is issued by a mutual insurer at start or if needed during operations. It shall be refunded when it is no longer needed in the company. The repayment is subject to supervisory approval. The refund requires that the capital situation in the company is satisfying with regards to complying with the capital requirements and the operations of the company generally. The instrument is therefore available for as long as the company needs it. It cannot be refunded if no other capital such as retained earnings has been accumulated. The initial fund is the most subordinated claim in liquidation. It is possible to pay interest to the holder of the initial fund. The payment of interest is subject to restrictions. The initial fund therefore has loss-absorbing capacity on a going-concern basis.
Global Federation of Insurance Associations	Global	Other	No	Yes	The definition of qualifying capital resources in ICS Version 1.0 needs to recognise and accommodate the unique needs of mutual insurance companies. We appreciate the IAIS' willingness to consider whether surplus notes and foundation funds (Kikin) should qualify as Tier 1 capital. Because mutual companies are unable to issue common shares, surplus notes and Kikin remain the most readily available source of capital to meet a mutual insurer's near-term capital needs. Surplus notes have unique equity-like features, they are deeply subordinated to all policyholders and non-regulatory capital creditors and require supervisory approval prior to issuance, redemption or distribution. These features ensure that surplus notes provide loss-absorption on a going concern basis. Kikin can offset losses as a net asset item on balance sheets. Therefore, Kikin also provide loss-absorption on a going concern basis. In light of a mutual company's inability to issue common shares – the major source of unrestricted Tier

					1 capital in the ICS, we believe it is necessary to recognize surplus notes and Kikin as Tier 1 capital in order to preserve a level playing field with non-mutual insurance companies.
The Life Insurance Association of Japan	Japan	Other	No	Yes	・In the Japanese jurisdiction, Kikin, an existing financial instrument issued by mutual IAIGs, absorbs losses on a going-concern basis. ・Kikin is included in net assets on the balance sheet. In an example where an insurer has used up retained earnings and all the other items included in net assets, retained earnings would be below zero. However, as long as the insurer can offset the negative retained earnings with Kikin, the insurer would not be deemed to have failed and can continue its business. This means that Kikin has loss-absorbing capacity on a going-concern basis. ・Additionally, we strongly support the example 2 in paragraph 264 of the CD. For Kikin, the Insurance Business Act of Japan requires the most subordination supervisory approval prior to the issuance, restrictions on payment of interest and redemption upon maturity, and accumulation of internal reserve as the same amount as redemption. These requirements, which are embedded in the Insurance Business Act of Japan to make Kikin function equally to shareholders' equity in stock companies, are intended to provide Kikin with loss absorbing capacity on a going concern basis.
American Council of Life Insurers	United States	Other	No	Yes	Surplus notes that are issued by mutual IAIGs in the United States can absorb losses on a going concern basis. If the issuing insurance company is in good financial condition, the insurer would make applicable interest and principal payments when due and as permitted by the applicable financial regulator. However, as discussed above, in times where the issuing insurance company is under financial stress, the financial regulator will disallow payments of interest and principal on the surplus notes. When payments are disallowed, the surplus notes and other obligations of the company will not go into default, there is no requirement for a receivership proceeding, and the company can continue to operate in a normal fashion, i.e., the issuing insurance company can still be solvent when the financial regulator determines that no distributions should be allowed. If the insurance company's financial condition improves, the financial regulator may permit distributions to be made, but while distributions are not permitted, the insurance company can continue to operate as a

					going concern. There are examples of this type of scenario in the marketplace today.
National Association of Mutual Insurance Companies	United States	Other	No	Yes	Yes. Since these instruments are held and available for the payment of policyholder obligations at any time they are as loss absorbing as other resources included in the Tier 1 capital category. U.S. Supervisors consider surplus notes as loss absorbing and available for the payment of claims and can defer payments of interest or principle of these notes as necessary to meet policyholder obligations.
New York Life	United States	Other	No	Yes	Under U.S. law, when a regulator withholds approval of payment under a surplus note, the IAIG's non-payment of the note does not trigger a default or a receivership proceeding. While the surplus note remains unpaid, the IAIG can continue to operate indefinitely subject to any restrictions that the regulator may impose. Receivership proceedings, if necessary, can be commenced only by the regulator, and the law imposes no obligation on the regulator to commence receivership when approval for a surplus note payment is withheld. The permanent loss absorbing capacity of surplus notes is not simply theoretical. We are aware of examples in the marketplace of surplus notes operating in this fashion.
Prudential Financial, Inc.	United States of America	Other	No	Yes	We believe they are similar to financial instruments issued by non-insurance entities.
Liberty Mutual Insurance Group	USA	Other	No	Yes	The restriction on access to the proceeds of such notes without supervisory approval, other than to pay policyholder claims, ensures such proceeds are available to absorb losses on a going concern basis.
MassMutual Financial Group	USA	Other	No	Yes	In the U.S., a supervisor can prohibit payment of principal or interest on surplus notes, allowing them to absorb loss, while the insurer remains a going concern (i.e. a default is not triggered and the insurer can continue to operate).

Property Casualty Insurers Association of America (PCI)	USA	Other	No	Yes	Yes. Surplus notes absorb losses on a going concern basis because their proceeds can be used at any time to pay claims and because regulators can disapprove payments of principal and interest for an indefinite period when necessary. Surplus notes should qualify as Tier 1 assets.

Q78

Q78 Section 5.3.5 Should the Tier 1 criteria (unlimited or limited) be changed in some way to better classify the financial instruments of mutual IAIGs? Please explain.

Organisation	**Jurisdiction**	**Role**	**Confidential**	**Answer**	**Answer Comments**
EIOPA	EIOPA	IAIS Member	No	No	No, the Tier 1 criteria should not be changed. For mutual groups, retained earnings, members' contributions and initial funds are expected to be the main components of capital resources. We recognise that the ICS capital resources framework needs to be suitable for both mutual and joint-stock IAIGs. But it also needs to deliver an appropriate quality of capital and therefore a balanced approach is necessary, rather than a material weakening of the overall standard. There are other ways to modify the framework so that it might be more suitable for mutual IAIGs. One feature of the framework that is already in place is the recognition of a limited amount of non-paid-up capital items as qualifying capital resources. Subject to appropriate safeguards and qualifying criteria, non-paid-up capital items can provide mutuals with access to capital. In some regulatory regimes, such items have been used by mutuals in the past and have historical evidence of being an effective and important source of capital resources.
BaFin	Germany	IAIS Member	No	No	The ICS capital resources framework needs to be suitable for both mutual and non-mutual IAIGs. However, the overall standard should not be lowered in order to facilitate the situation of mutuals.

Financial Supervisory Service	Korea	IAIS Member	No		Not applicable in Korea
National Association of Insurance Commissioners	USA	IAIS Member	No	Yes	Modifying Tier 1 criteria is one way to go about better classifying certain financial instruments (surplus notes) of mutual IAIGs, but it's not the only way. The ICS approach used in classifying financial instruments is overly prescriptive and ignores the role of insurance supervisory regimes that have strong and effective regulatory controls. The ICS needs to recognize the critical role that insurance supervisory regimes play in the regulation and oversight of financial instruments issued by mutual IAIGs. The use of strong regulatory controls over the issuance (and repayment) of surplus notes issued by mutual IAIGs can achieve similar results as the proposed ICS criteria is intended to achieve. You do not need to have both to achieve the objectives being sought.
EIOPA Insurance & Reinsurance Stakeholder Group	EU	Other	No	Yes	• According to the Public 2016 Field Testing Technical Specifications part 11.1.2.1 paragraph 333 regarding tier 1 unlimited the following criteria should be changed to better classify the financial instrument in the form of initial fund issued by a mutual: • e) and f) regards repayment of the instrument. Especially f) with the criteria that no expectation should be created to indicate the possibility of repayment is problematic. The initial fund issued by mutuals is by nature meant to be refunded as soon as it is no longer needed, subject to supervisory approval. Therefore the criteria f) should be removed or amended. • g) and h) regards distributions. It is not clear if only distributions in the form of dividends are intended or if also interest is included. Especially for h) it should be clarified that if the terms of the instrument include the possibility of payments of interest, the criteria that distributions shall reduce equity rather than profit and loss may not be relevant according to the way that the mutual accounts for the cost of interest. • Regarding paragraph 334 tier 1 limited capital there is criteria g) and i) that

					are the same as f) and h) in paragraph 333. The same comments as above are relevant.
AMICE, Association of Mutuals and CooperativesinEurope/ICMIF,International Cooperative and Mutual Insurance Federation.	Europe	Other	No	Yes	The possibility for member calls (evidenced in the past) should be considered as part of Tier 1. The possibility for member calls should be embedded in the governance of the mutual IAIG and reaffirmed at each annual meeting. The possible stress scenarios should also be mentioned in the governance in order for every member to understand his/her duties.
GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	No	No legal-form specific requirements should be defined to ensure a level-playing field. Tier 1 criteria to classify financial instruments should apply for all IAIGs.
Global Federation of Insurance Associations	Global	Other	No	Yes	Setting the Tier 1 criteria is effective when differences in approaches for capital raising between mutual companies and stock companies are taken into consideration. Therefore, we strongly support "another approach" in paragraph 261 of the CD, i.e., to consider more broadly the supervisory regime and the requirements/restrictions applicable to the mutual companies´ approach for capital raising. We strongly support the example in paragraph 264 of the CD as well.
The Life Insurance Association of Japan	Japan	Other	No	Yes	・The fact that mutual companies have different approaches for capital raising than stock companies should be properly considered when establishing the Tier 1 criteria. Therefore, we strongly support the "another approach" in paragraph 261 of the CD (i.e., to consider more broadly the supervisory regime and the requirements/restrictions applicable to mutual companies´ approaches for capital raising). We strongly support the example 2 in paragraph 264 of the CD as well.

American Council of Life Insurers	United States	Other	No	Yes	Certain of the Tier 1 criteria (limited and unlimited) should be changed in order to better classify financial instruments issued by mutual IAIGs, e.g., surplus notes, as follows: [1] The instrument is perpetual (i.e. it does not have a maturity date). **RECOMMENDATION**: This criteria should be revised to reflect that surplus notes are perpetual when the issuing insurance company is undergoing financial stress. E.g., "The instrument is perpetual (i.e., it does not have a maturity date or the issuer or its regulator has the power to prevent acceleration when the issuer is undergoing financial stress without triggering a default of the insurer or group)". [2] There are no circumstances under which a distribution is obligatory (non-payment is, therefore, not an event of default). **RECOMMENDATION**: This criteria should also reflect that if a regulator disallows distributions to be made to holders of surplus notes, the surplus note would not be in default. [3] The paid-in amount is recognized as equity capital (i.e. not recognized as a liability) where a determination that liabilities exceed assets constitutes a test of insolvency. **RECOMMENDATION**: This criteria should be revised to make clear who is required to recognize the paid in amount as equity capital. For example, "The paid-in amount is recognized as equity capital (i.e. not recognized as a liability) by the applicable financial supervisor . . ." [4] The Volunteer IAIG has full discretion at all times to forego or cancel distributions (i.e., dividends and coupon payments are non-cumulative). The IAIG's obligation to pay missed distributions is forever extinguished and non-payment is not an event of default. **RECOMMENDATION**: This criteria should be revised to reflect the regulator's full discretion to cancel distributions.

National Association of Mutual Insurance Companies	United States	Other	No	Yes	As NAMIC has suggested in prior comment letters on the ICS the tiering of capital is unnecessary and only serves to create divisions between different corporate structures that are designed to serve a variety of policyholder needs worldwide. The overly prescriptive nature of the definition of capital resources ignores the fact that jurisdictions have evolved in different ways to achieve common goals. In the U.S. the surplus note was designed to meet the needs of non-stock companies. In the U.K recently the mutual deferred share was designed for the same purpose, to provide a tool for mutual insurers that would meet the requirements of a share-centric capital structure under Solvency II. The mutual deferred shares will likely have similar characteristics to surplus notes and have been designated by the U.K. Parliament to meet the requirements of Tier 1 capital.
New York Life	United States	Other	No	Yes	Certain of the Tier 1 criteria (limited and unlimited) should be changed in order to better classify financial instruments issued by mutual IAIGs, e.g., surplus notes, as follows: - The instrument is perpetual (i.e. it does not have a maturity date). o This criteria should be revised to reflect that surplus notes are perpetual when the issuing insurance company is undergoing financial stress. E.g., “The instrument is perpetual (i.e., it does not have a maturity date or the issuer or its regulator has the power to prevent acceleration when the issuer is undergoing financial stress without triggering a default of the insurer or group)”. - There are no circumstances under which a distribution is obligatory (non-payment is, therefore, not an event of default). o This criteria should also reflect that if a regulator disallows distributions to be made to holders of surplus notes, the surplus note would not be in default. - The paid-in amount is recognized as equity capital (i.e. not recognized as a liability) where a determination that liabilities exceed assets constitutes a test of insolvency. o This criteria should be revised to make clear who is required to recognize

					the paid in amount as equity capital. For example, "The paid-in amount is recognized as equity capital (i.e. not recognized as a liability) by the applicable financial supervisor . . ." - The Volunteer IAIG has full discretion at all times to forego or cancel distributions (i.e., dividends and coupon payments are non-cumulative). The IAIG's obligation to pay missed distributions is forever extinguished and non-payment is not an event of default. o This criteria should be revised to reflect the regulator's full discretion to cancel distributions.
American Insurance Association	United States of America	Other	No	Yes	Yes. AIA believes that tiering, which is primarily a banking concept, is inappropriate for an insurance enterprise. Capital resources should reflect the net assets that are capable of absorbing losses and satisfying insurance obligations as they come due. The more fundamental issue is whether the capital is fungible. Categorizing capital into different tiers is a meaningless exercise if the capital resource cannot be moved to where the risk resides. Conversely, if the capital resource already resides in the entity in which the risk exists, capital fungibility – and tiering – do not matter. Accordingly, AIA does not express an opinion about classifying financial instruments of mutual IAIGs because we fundamentally disagree with tiering.
Prudential Financial, Inc.	United States of America	Other	No	No	The Tier 1 criteria for mutual IAIGs should be consistent with those of public IAIGs.
Liberty Mutual Insurance Group	USA	Other	No	Yes	The Tier 1 criteria should be eliminated and no tiering used whatsoever. If the proceeds of a financial instrument are structurally available only to pay policyholder claims and cannot be accessed for other purposes without supervisory approval then the financial instrument should be qualifying capital.

MassMutual Financial Group	USA	Other	No	Yes	The role of supervisory approval in the context of surplus note distributions needs to be appropriately interpreted. Taking into consideration that the regulator has the ability to prevent any and all distributions of both interest and principal, potentially on a permanent basis, the Tier 1 Unlimited criteria are effectively met. The notes can be used to absorb losses on a going concern basis, are most subordinated, can be perpetual, and the regulator has the discretion to cancel distributions. Given that it is the regulator´s authority to cancel the distributions, not the firm´s, we would suggest a change in wording in criteria to better align to the features of surplus notes.

Q79

Q79 Section 5.3.5 What would prevent mutual IAIGs from issuing other financial instruments that meet the qualifying criteria for Tier 1 capital resources as set out in the 2016 Field Testing Technical Specifications? Please explain.

Organisation	Jurisdiction	Role	Confidential	Answer
EIOPA	EIOPA	IAIS Member	No	A legal framework is necessary to define the features of financial instruments which would meet the criteria to qualify as Tier 1 capital resources. While we cannot speak for all jurisdictions, we see no reason why it would not be possible for instruments issued by mutuals to be structured in line with the ICS criteria.
Financial Supervisory Service	Korea	IAIS Member	No	Not applicable in Korea
EIOPA Insurance & Reinsurance Stakeholder Group	EU	Other	No	- Mutuals around the world are structured in different ways, according to the national jurisdictional law. It could be that national law does not permit a mutual to issue a financial instrument that fulfils all the criteria in the Technical Specifications. Therefore it is appropriate to make some adjustments in the general principles in the standard for those different circumstances. - The purpose for a mutual company is to fulfil a need of insurance, whereas a shareholders company has as an objective to generate profits for investors. Mutuals are therefore often self-financed. When external capital is raised in a mutual there are questions of how to balance the influence from external investors with that of the policyholders in the mutual. External capital is often raised when needed which means that retained earnings may be insufficient. Therefore it is important not to unduly restrict the possibility for mutual companies to classify issued financial instruments as "tier one capital unlimited". - The initial fund is by nature meant to be refunded and is issued by the mutual only for as long as it is needed. Therefore the criteria in paragraph 333 f) and paragraph 334 g) that stipulates that there must be no expectations of repurchase of the instrument does not fit with the nature of the initial

				fund and should be adjusted accordingly. Also the criteria in paragraph 333 h) and paragraph 334 i) could be too restrictive as the accounting practices may differ in different jurisdictions.
Allianz	Germany	Other	No	The requirement that coupons must be cancellable at the full discretion of the issuer may make it virtually impossible to sell Tier 1 Limited instruments issued by insurers that are not reliant on capital market access (which may include smaller insurers - mutual or other) to knowledgeable institutional investors. The reason is that the right to cancel distributions at any time (and forever), in combination with the perpetuity required for this type of instrument, allows the issuer to cancel all future cash flows to the investors (i.e. a100% loss to investors). The issuer can do so even while the insurance business is very profitable, even while the owners receive equity dividends, and even while all solvency ratios are healthy. For larger insurers that regularly need access to the capital markets, reputation risks prevent such adverse action. Coupons will be cancelled if the solvency ratio is under stress, or if the regulator requires cancellation. However, investors do not face the risk that capital market dependent insurers cancel all cash flows to Tier 1 Limited investors at times when the insurance is healthy and profitable. At the same time, knowledgeable investor aware of the risks inherent in this type of instrument are very unlikely to invest in such instruments when issued by insurers who are not reliant on capital markets access.
Global Federation of Insurance Associations	Global	Other	No	The primary capital resource for IAIGs is equity (share capital), which mutual IAIGs are unable to issue. Mutual IAIGs are owned by their policy holders and not shareholders. They are not publicly owned and are legally prohibited from issuing shares. Accordingly, mutual IAIGs are in a unique position of being unable to issue the Tier 1 capital resources as currently defined by the IAIS.
The Life Insurance Association of Japan	Japan	Other	No	·Mutual insurers have a different legal structure from stock insurers, which is reflected to the mutual insurers´ unique approaches for capital raising. Therefore, such characteristics need to be reflected in the interpretation and requirements under the ICS accordingly.

Great Eastern Holdings Ltd	Singapore	Other	No	NA
American Council of Life Insurers	United States	Other	No	In the United States, the primary instrument that is currently classified by the IAIS as Tier 1 assets, that is available to IAIGs but not mutual IAIGs, is share capital. Mutual IAIGs are owned by their policy holders and not shareholders. They are not publicly owned and are legally prohibited from issuing shares. Accordingly, mutual IAIGs are in a unique position of being unable to issue Tier 1 instruments, as currently defined by the IAIS. Changing from a mutual to a non-mutual IAIG would be an exceedingly complex transaction that fundamentally alters the rights of its policyholders. A transaction of this kind is an expensive and difficult undertaking that requires prior regulatory approval and the payment of compensation to policyholders for the loss of their ownership rights. It is a transaction that transforms the organization's character, potentially to the detriment of policyholders, and is not purely a capital raising mechanism. We do not believe the IAIS should create incentives within its capital requirements for companies to favor non-mutual organizational structures over the mutual form. The financial regulators that oversee insurance companies recognize surplus notes as capital of the issuing insurance company. This is primarily due to the deep subordination of surplus notes, the potential for distributions to be disallowed but not create a default, i.e., continue as a going concern, and the requirement for distributions to be approved in advance.
National Association of Mutual Insurance Companies	United States	Other	No	The nature of mutual insurance company ownership requires that its policyholders have an undivided, non-transferable ownership interest in the mutual insurance company. Issuing common stock and including investors in that ownership would be in opposition to that basic requirement of a mutual insurance company. The NAIC states in its report on the differences between mutual and stock insurers, "Mutual insurance companies by definition are owned entirely by their policyholders. Any profits earned are returned to policyholders in the form of dividend distributions or reduced future premiums." We would add that another common means of distributing profits is through increases in surplus for the benefit of policyholders through retained earnings, thereby increasing the value of the company the policyholders own. Mutual insurers may include additional affiliated stock companies in their corporate structure, but by

				definition the mutual insurer, the company owned by the policyholders, must be the top tier company with ownership of the stock companies in the mutual company. Mutual companies cannot issue stock as that would dilute the policyholders' membership interests in the company and would violate the requirements of a mutual company. The stock companies under a mutual parent can issue stock as long as the mutual parent owns at least 51% of the stock. In most cases affiliates stock companies within the corporate structure are 100% owned by the mutual parent organization.
New York Life	United States	Other	No	In the United States, a mutual IAIG is prohibited by law from issuing shares, preferred shares, hybrid instruments or other equity-like securities that might potentially qualify as Tier 1 capital resources under the current IAIS specifications. Under current law, to issue these kinds of instruments, a mutual IAIG would have to abandon the mutual form entirely by following a complex and drawn out demutualization procedure that would require extensive regulatory review. This type of organizational transformation is potentially harmful to policyholders, and we discourage the IAIS from designing the ICS in a way that could incentivize mutual IAIGs to pursue fundamental changes to their structure and the rights and protections afforded to their policyholders. The financial regulators that oversee insurance companies recognize surplus notes as capital of the issuing insurance company. This is primarily due to the deep subordination of surplus notes, the potential for distributions to be disallowed but not create a default, i.e., continue as a going concern, and the requirement for distributions to be approved in advance.
Liberty Mutual Insurance Group	USA	Other	No	The nature of mutual insurance company ownership requires that its policyholders have an undivided, non-transferable ownership interest in the mutual insurance company. Issuing common stock so that investors have an ownership interest would be in opposition to that inherent characteristic of a mutual insurance company. Mutual insurers may include additional affiliated stock companies in their corporate structure, but by definition the mutual insurer (or mutual holding company in the case of mutual holding companies), must be the top tier company.
MassMutual Financial Group	USA	Other	No	Mutual IAIGs are owned by contract holders, not shareholders. This structure prevents a mutual company from issuing share capital.

Q80

Q80	Section 5.3.6	Should non-paid-up items be included in ICS qualifying capital resources? Please explain.

Organisation	Jurisdiction	Role	Confidential	Answer	Answer Comments
Bermuda Monetary Authority (BMA)	Bermuda	IAIS Member	No	Yes	
Office of the Superintendent of Financial Institutions (OSFI)	Canada - OSFI	IAIS Member	No	No	OSFI's view is that instruments should be paid-up. In a stress scenario, non-paid-up instruments may not absorb losses since its availability is dependent on timely future payment by external parties who are outside the control of the IAIG. This is a fundamental requirement of capital. There can be no doubt that reported capital will be available when needed.
China Insurance Regulatory Commission	China	IAIS Member	No	No	For prudence reasons, we suggest not to recoginze non-paid-up items as qualifying capital resources.
EIOPA	EIOPA	IAIS Member	No	Yes	Yes – non-paid up capital items should be included in ICS qualifying capital resources. Non-paid up capital items may be an important source of funding for certain types of insurers and business models (e.g. mutuals) in some jurisdictions. The complete non-recognition of this source of financing would create significant pressure for these groups and place them under a significant competitive disadvantage. Non-paid up items should therefore be included in qualifying capital resources, subject to

					appropriate safeguards in the qualifying criteria and subject to a suitable composition limit (to reflect the fact that the items are not paid-up). Non-paid-up items should always be classified in a lower tier compared to the capital resources they give rise to when paid-up, e.g. non-paid up items which on call reliably provide genuine paid up going-concern Tier 1 capital should be classified as Tier 2 capital resources in their non-called up form.
BaFin	Germany	IAIS Member	No	Yes	Complete non-recognition of non-paid up capital items could create a significant competitive disadvantage for certain types of insurers or business models. Therefore, non-paid up items should be included in qualifying capital resources, subject to appropriate safeguards in the qualifying criteria. If non-paid-up items are fulfilling the requirements of the 2016 Technical Specification they can qualify as a Tier 2 item. In order to reflect that the items are not paid-up, they should also be subject to a suitable composition limit.
Financial Supervisory Service	Korea	IAIS Member	No	Yes	
National Association of Insurance Commissioners	USA	IAIS Member	No	No	Including non-paid-up items (based on the kinds of items described in the Consultation Draft) as part of capital seems inconsistent with the overall approach used for defining qualified capital financial instruments. If the financial instrument is not paid-up, then it should not count as capital.
Ageas	Belgium	Other	No	Yes	
Canadian Institute of Actuaries	Canada	Other	No	Yes	Yes, non-paid-up capital instruments (both Tier 1 and Tier 2) should be included in Tier 2 Capital if there are strong safeguards that they would

					be paid-up in the event of a call. Non- paid-up capital would be more appropriate in Tier 2 since the latter is “gone concern” capital, and the resolution timeline for an insurer is typically long enough for a call to be made on the non-paid-up capital.
CLHIA	Canada	Other	No	Yes	Yes, non-paid up capital instruments (both Tier 1 and Tier 2) should be included in Tier 2 Capital if there are strong safeguards that they would be paid up in the event of a call. Non paid up capital would be more appropriate in Tier 2 since it is “gone concern” capital, and the resolution timeline for an insurer is typically long enough for a call to be made on the non-paid up capital.
Insurance Bureau of Canada	Canada	Other	No	Yes	We believe that non-paid up capital items should be included in qualifying capital as they are an existing source of funding for certain insurers and are a form of Tier 2 capital under Solvency II. Their inclusion should be subject to an appropriate limit.
AMICE, Association of Mutuals and CooperativesinEurope/ICMIF,International Cooperative and Mutual Insurance Federation.	Europe	Other	No	Yes	The criteria are sufficient.
Insurance Europe	Europe	Other	No	Yes	Insurance Europe believes that non-paid up items should be part of tier 2, subject to appropriate qualifying criteria. Non-paid up capital items, when subject to reasonable safeguards, constitute a reliable form of capital, recognised in existing regulatory capital regimes. Prohibiting or significantly restricting their use as qualifying capital resources would be unnecessarily restrictive, reducing insurers’ capital flexibility without enhancing policyholder protection or financial stability. If the IAIS is minded to restrict the use of non-paid up capital items, it should, before taking action, conduct a detailed and transparent review

					of the use of non-paid up capital in the insurance sector, to ensure that any regulatory action is based on evidence and fully justified in the light of IAIS and ICS objectives. There should not be a closed list of non-paid up elements. Instead, the quality and diversity of capital instruments should be part of the internal scrutiny included in risk management / capital management / ORSA exercises. This section will be part of the ongoing dialogue between supervisors and insurers as part of the supervisory review process. Non-paid up tier 1 elements should be classified as tier 2 until they are paid up.
Actuarial Association of Europe	European Union	Other	No	Yes	Non-paid-up items should only be included if there is a proven liability to pay up capital if needed.
Allianz	Germany	Other	No	Yes	Strict rules are required to ensure payment on demand of the receiving insurer is both (i) legally possible at all times, (ii) economically ensured (avoidance or minimization of counterparty risk) and (iii) there are no other prohibitions to the receipt of funds on demand.
GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	Yes	Yes, the non-paid-up items should be included in the qualifying capital resources. In the event of losses, these instruments can be called up to absorb losses.
Munich Re	Germany	Other	No	Yes	
Global Federation of Insurance Associations	Global	Other	No	Yes	

AIA Group	Hong Kong	Other	No	Yes	Non-paid-up items should be included to the extent they are irrevocable in nature. For example an instrument which is supported by an irrevocable stand-by letter of credit would qualify. Instruments which have exclusions or exit characteristics would not qualify. An intercompany sub-debt credit facility is generally not irrevocable as the parent can choose to ignore the contract. Key to providing capital capacity is whether it can be counted irrevocably, not whether it has been funded or not.
International Actuarial Association	International	Other	No	Yes	We believe that only Tier 2 instruments which have strong contractual safeguards should qualify as qualifying capital resources. We agree with the need for a high level of confidence that the money will be there when needed.
Dai-ichi Life Holdings, Inc.	Japan	Other	No	Yes	・Non-paid-up items can secure the capital by the free discretion of IAIG if they meet the requirements that are higher than paid-up items. As it is substantial capital, it should be allowed as the capital resource.
General Insurance Association of Japan	Japan	Other	No	Yes	Non-paid-up capital items should be included in ICS qualifying capital resources if it is certain that the payment will be made, for example if the IAIG can enforce the obligor to pay or if it is objectively highly likely that payment will be made.
The Life Insurance Association of Japan	Japan	Other	No	Yes	・IAIGs are able to secure capital by paying up the non-paid-up financial instrument at their discretion if the instrument meets the relevant qualifying criteria to a larger extent compared to paid-up items. Accordingly, they should be included in ICS qualifying capital resources as they can substantively be considered as capital.

Great Eastern Holdings Ltd	Singapore	Other	No	No	Non-paid-up items are capital that cannot be utilised to support the business. Hence, it should not be included as a capital resource.
Swiss Re	Switzerland	Other	No	Yes	Inclusion of non paid-up capital elements should be carefully considered. Unpaid capital instruments which are designed as paid on demand and qualify as Tier 1 capital after payment, should be eligible for inclusion in Tier 2. In addition, we believe that paid-up instruments which would be available as Tier 1 prior to liquidation, e.g. a senior convertible instrument which would convert to equity at a predefined trigger point, should be included in Tier 2.
Institute and Faculty of Actuaries	UK	Other	No	Yes	These should be included provided there is a firm contractual liability to pay up capital when required.
RAA	United States and many other jurisdicitons	Other	No	No	Non-paid up items such as contingent capital notes or letters of credit are not loss absorbing at the ICS measurement date or nor may they be under stressed conditions. While the criteria for these items include that these items be callable by the IAIG, in a financial stress situation, the counterparty may be unable to perform. There were several instances of such failures to perform among bank and other non-insurance financial counterparties during the Financial Crisis of 2008. Nevertheless, such instruments are recognized in other insurance capital regimes and should be addressed during implementation through transition rules, perhaps including grandfathering of these instruments. Structurally subordinated instruments by contrast do represent capital resources available to satisfy policyholder obligations at the ICS measurement date.

Prudential Financial, Inc.	United States of America	Other	No	Yes	The main consideration for non-paid-up instruments is counterparty risk. Allowing non-paid-up instruments to qualify is appropriate since the qualifying amount is limited to 10% of the ICS.
MassMutual Financial Group	USA	Other	No	No	Counting a capital resource that is not yet 'in-hand' is overly aggressive. In the context of a stress event, this thought is further magnified.

Q80.1

Q80.1 Section 5.3.6 If "yes" to Q80, do the qualifying criteria set out in the 2016 Technical Specifications capture all the requirements that should be applied to the assessment of non-paid up items? Please explain.

Organisation	Jurisdiction	Role	Confidential	Answer	Answer Comments
Bermuda Monetary Authority (BMA)	Bermuda	IAIS Member	No	Yes	
EIOPA	EIOPA	IAIS Member	No	Yes	The qualifying criteria set out in the Technical Specifications appear to capture all of the necessary requirements that should be applied to the assessment of non-paid-up capital items. However, the amount which should be recognised to cover the ICS requirement should not necessarily be the face amount of the instrument (in particular in order to take into account counterparty risk, liquidity risk, and discount effects). A specific value or a method of calculation of that value should be subject to prior supervisory approval.
BaFin	Germany	IAIS Member	No	Yes	
Financial Supervisory Service	Korea	IAIS Member	No	Yes	
Ageas	Belgium	Other	No	Yes	The qualifying criteria in the 2016 Technical Specifications seem similar to Solvency II.

Insurance Bureau of Canada	Canada	Other	No	Yes	We believe that the qualifying criteria set out in the 2016 Technical Specifications capture all the relevant requirements.
AMICE, Association of Mutuals and CooperativesinEurope/ICMIF,International Cooperative and Mutual Insurance Federation.	Europe	Other	No	No	
GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	No	Financial resources qualifying as Tier2-non-paid up capital should not be callable on demand by the entity (Par 339b 2016 Field testing technical specifications), but a call should be subject to pre-defined trigger events (e.g. breach of solvency requirement).
Munich Re	Germany	Other	No	No	Financial resources qualifying as Tier2-non-paid up capital should not be callable on demand by the entity (Par 339b 2016 Field testing technical specifications) but a call should be subject to pre-defined trigger events (e.g. breach of solvency requirement).
AIA Group	Hong Kong	Other	No	Yes	
Swiss Re	Switzerland	Other	No	Yes	
Institute and Faculty of Actuaries	UK	Other	No	Yes	
Prudential Financial, Inc.	United States of America	Other	No	Yes	We believe the criteria capture all requirements. However, existing financial instruments issued should be grandfathered.

Q81

Q81 Section 5.3.6 If non-paid-up capital items are permitted, is the capital composition limit proposed in 2016 Technical Specifications appropriate? If “no”, how should the limit be set?

Organisation	Jurisdiction	Role	Confidential	Answer	Answer Comments
EIOPA	EIOPA	IAIS Member	No	Yes	While we support the introduction of a capital composition limit for non-paid-up capital items, we believe that fixing the limit at 10% of the ICS capital requirement may be overly restrictive. EIOPA is of the opinion that all capital composition limits should be defined in relation to the ICS capital requirements, including those that may apply to non-paid capital items.
BaFin	Germany	IAIS Member	No	Yes	
Financial Supervisory Service	Korea	IAIS Member	No		It is difficult to assess the appropriateness of the limit at the moment. Korean FSS plans to assess the level of limit based on Korean Insurance market in the near future and the appropriateness of the limit can be assessed afterwards.
Canadian Institute of Actuaries	Canada	Other	No	Yes	
CLHIA	Canada	Other	No	Yes	
AMICE, Association of Mutuals and CooperativesinEurope/ICMIF,International	Europe	Other	No	Yes	

Cooperative and Mutual Insurance Federation.					
Insurance Europe	Europe	Other	No	No	A limitation to 10% of the ICS capital requirement is not appropriate. No justification has been presented as to why this is the right level of restriction and there is no evidence that a higher limit would pose unacceptable risks to policyholders. Non-paid-up items will include letters of credit, which have proved a reliable source of capital. As an unconditional obligation on a bank to pay (and therefore not contingent) they are fully and immediately available and able to absorb losses. Insurance Europe believes that a separate capital composition limit should not be set for non-paid-up items. The limit on Tier 2 capital resources is sufficient. Insurance Europe also questions whether the use of non-paid-up capital by field testing participants will be on a sufficient scale for field testing to reach useful conclusions on the appropriateness of this capital composition limit.
GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	No	The limit should be higher (e.g. 20% of the ICS capital).
Munich Re	Germany	Other	No	No	The limit should be higher (e.g. 20% of total tier 2 capital).
AIA Group	Hong Kong	Other	No	Yes	
International Actuarial Association	International	Other	No	No	Please refer to answer to Q72.

General Insurance Association of Japan	Japan	Other	No	No	Non-paid-up capital items should be included in ICS qualifying capital resources if it is certain that the payment will be made, for example if the IAIG can enforce the obligor to pay or if it is objectively highly likely that the payment will be made. We do not think that any limit is necessary even if the payment is not settled.
Great Eastern Holdings Ltd	Singapore	Other	No	Yes	
Swiss Re	Switzerland	Other	No	Yes	
Prudential Financial, Inc.	United States of America	Other	No	Yes	
MassMutual Financial Group	USA	Other	No	No	We don’t believe it is appropriate to include non-paid up capital resources as a source of capital.

Q82

Q82	Section 5.3.7	What theoretical basis could the IAIS use to determine appropriate capital composition limits?

Organisation	Jurisdiction	Role	Confidential	Answer
EIOPA	EIOPA	IAIS Member	No	We have set out some considerations regarding the ICS capital composition limits below. However, irrespective of the "theoretical basis" adopted, the limits need to be set in a way so that the capital resources framework is suitable and interacts appropriately with the capital frameworks of other regimes (e.g. international banking standards and, where appropriate, other risk-sensitive jurisdictional regulatory regimes) in order to reduce the scope for regulatory arbitrage. The ICS is intended to be a going concern standard that applies to IAIGs and GSIIs. In order to deliver a meaningful level of protection, a robust capital resources framework is needed and which should require a majority (i.e. minimum of 50%) of capital resources to provide loss absorbency on a going concern basis (i.e. Tier 1). The proposed ICS Tier 1 is sub-divided into: - Tier 1 Unlimited (which is the most deeply subordinated and provides the highest quality capital); and - Tier 1 Limited (which may not be as deeply subordinated, or has characteristics of a debt security). As Tier 1 Limited is not as high in quality as Tier 1 Unlimited, a limit should be applied to those items to ensure that IAIGs hold a suitably high quantity of the highest quality capital (Tier 1 Unlimited). A Tier 2 Paid-Up limit is a natural consequence of applying a Tier 1 limit. The limit on Tier 2 Non-Paid-Up should be set as a percentage of the ICS capital requirement (see response to Question 81) and should be appropriate to reflect the non-paid up nature of the capital.

				The capital composition limits proposed for the ICS capital resources framework may prove to be appropriate. However it would not be appropriate to finalise the limits before the qualifying criteria for financial instruments have been agreed. If the financial instrument criteria for certain tiers of capital are weakened when finalising ICS 1.0,, it will be necessary to revisit the composition limits to ensure that GSIIs and IAIGs hold sufficient quantities of high-quality capital.
BaFin	Germany	IAIS Member	No	A majority of capital resources should provide loss absorbency on a going concern basis and non-paid-up items should be kept to a prudent level. The limit on non-paid-up capital items should be more stringent than the limit on limited tier 1 capital resources but a maximum of 10% of the ICS capital requirement is appropriate for non-paid-up capital items. It may however not necessarily be appropriate to always recognise the face amount of the instrument. Generaly, the IAIS should avoid becoming overly complex.
Ageas	Belgium	Other	No	We suggest to apply the same criteria as under Solvency II (article 82 of the Delegated Acts). This implies that: - there is no limit on Tier 2 non-paid up capital resources, other than the total limit on Tier 2 capital to 50% of the capital requirements. - the limit on Tier 1 limited capital resources is maximum 20% of total Tier 1 items.
Canadian Institute of Actuaries	Canada	Other	No	The approach to capital compositional limits should reflect the nature of insurance business in resolution: compared to other financial institutions (e.g., banks and investment firms), the sale, restructure, and/or ultimate resolution of insolvent (or otherwise troubled) insurers typically takes a longer time period which affords ample time for an orderly runoff through debt-type capital instruments. While limits may be established, the emphasis should be on the total ratio.

CLHIA	Canada	Other	No	The theoretical basis should be derived based on looking at hypothetical run-off scenarios using different combinations of types of financial instruments. The scenarios should recognize that insurers resolve over long time horizons (substantially longer than banks) and the loss absorbency characteristics of the various debt type instruments. The focus of the analysis should be on composition limits pertaining to the Total Ratio.
Ping An Insurance (Group) Company of China Ltd.	China	Other	No	We have not done any research on this and have no comment.
AMICE, Association of Mutuals and CooperativesinEurope/ICMIF,International Cooperative and Mutual Insurance Federation.	Europe	Other	No	The duration of the insurance liabilities, volatility of the balance sheet and liquidity issues (timing of cash outflows and their asset coverage) can be used as basis.
Allianz	Germany	Other	No	The reference of the limits to the ICS as foreseen is sensible as it helps to avoid pro-cyclical ("cliff") effects. However, it appears counterproductive to use maximum limits for capital (e.g. T2 <= 50%). Such maximum limits incentivise insurers to issue cheap "low quality" senior debt rather than more expensive "high quality" Tier 2 debt for financing purposes. Instead, the ICS could consider the use of minimum limits (e.g. Tier 1 unlimited >= 40% of the ICS) rather than maximum limits (such as Tier 2 <= 50% of the ICS). Such a limit system would require compliance with all of thee the following three limits at all times: Tier 1 unlimited >= [40%] of the ICS Total Tier 1 >= [50%] of the ICS Total capital >= [100%] of the ICS While under such a system an insurer with an ICS ratio of 150% today could be in breach of the limit system tomorrow after only a very small loss (e.g. with "pre-loss" Tier 1 ratio of just 50% and Tier 2 ratio of 100%), it is very likely though that investors and regulators would always look at the most critical ratio

				with the highest risk of being breached - in this example the very low Tier 1 ratio of 50%. In other words, it is unlikely that a small loss leading to a breach of the limit requirements would unduly "surprise" either regulators or investors - despite the relatively high pre-limit breach ICS ratio.
Coburg University of Applied Sciences (Hochschule für angewandteWissenschaften Coburg)	Germany	Other	No	Setting capital composition limits or even sublimits might be based on some theoretical assumptions. However, the quality of capital is a complex issue where economic and legal considerations interact with each other. It is an illusion to capture that complexity in a simple percentage system. From a theoretical point, the determination of the capital requirement and the quality of capital are interlinked and more strict recognition of capital components could be set off by relaxed capital requirements to ensure the desired confidence level.
GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	To our knowledge, there is no theory available to determine appropriate capital composition limits.
Munich Re	Germany	Other	No	To our knowledge there is no theory available to determine appropriate capital composition limits.
AIA Group	Hong Kong	Other	No	The limit for non-paid up capital should not be separate from the limit on the type of capital that the non-paid up capital is going to become. Hence if the capital would become Tier 2 capital, then it should simply be part of the Tier 2 limit. The reason for this is that we believe that non-paid up capital should only be allowed if it is irrevocable in nature. If it is irrevocable then no additional limits should be applied.
International Actuarial Association	International	Other	No	No comments.

The Life Insurance Association of Japan	Japan	Other	No	·It should be noted that if a limit is set (e.g. Tier 1 Limited should be less than a certain percentage of Tier 1 Unlimited), capital resources would be subject to the effect of pro-cyclicality. The capital composition limits need to be determined taking into account the feedback received from the Volunteers participating in Field Testing.
Great Eastern Holdings Ltd	Singapore	Other	No	Whether the IAIG can effectively utilise the full amount of the capital available. If capital can be utilised fully, then no limit should be imposed. If capital can only be utilised partially, IAIS could impose a limit based on the percentage of the capital that can be utilised.
Swiss Re	Switzerland	Other	No	The limits should be defined in such a way that a certain minimum of the required capital is covered by core capital.
Aegon NV	The Netherlands	Other	No	Aegon has a general concern that ICS capital composition limits for tiering purposes are based on required capital. As a consequence, risk-reducing activities that reduce required capital have the unanticipated effect of lowering capital composition thresholds and thus potentially reducing available capital. We understand that setting the limits against the capital requirement, as opposed to the total capital resources, reduces the volatility of the solvency ratio somewhat. However, this is due to not fully recognizing the capital resources that exist and continue to absorb losses but which are cut short by the level of the capital requirement. We believe this is an area that merits additional research and study.
National Association of Mutual Insurance Companies	United States	Other	No	We disagree with the concept of limits on capital composition. If capital is available for use to meet policyholder obligations, then there should be no limits or tiering based on an arbitrary limit. In fact, setting such limits will drive insurers into more uniformity in investment strategy and less diversity, possibly contributing to a future crisis instead of protecting against such a crisis. The only

				consideration should be whether the capital is available for paying policyholder obligations.
RAA	United States and many other jurisdicitons	Other	No	We are unaware of any theories to determine appropriate capital composition limits and believe the capital tiering proposed in the ICS adds significant complexity to the proposal.
Liberty Mutual Insurance Group	USA	Other	No	The ICS should not contain capital composition limits, whether on a theoretical basis or otherwise. If capital is available to pay policyholders, there should be no limits or tiering with respect to the capital composition. Evaluating theoretical differences in quality of capital resources has limited value as a practical matter for purposes of policyholder protection. Therefore, for purposes of determining qualifying capital that protects policyholders, the main consideration should be the availability of capital to pay policyholders in the event of a liquidation of the IAIG.
MassMutual Financial Group	USA	Other	No	We believe capital composition limits should not be based on capital required, but rather total capital. If the limit on Tier 2 capital is a function of capital required, it would allow more Tier 2 capital to be utilized as risk increases. Or said another way, a firm is incentivized for risk taking. A more appropriate approach would be to have the limit on Tier 2 capital be a function of total capital. Under this approach, a firm could only increase utilization of Tier 2 capital by increasing the total amount of Tier 1 capital, rather than by increasing risk/required capital.

Q83

Q83 Section 5.3.8 When should prior supervisory approval of the redemption of a financial instrument issued by an IAIG be required?

Organisation	Jurisdiction	Role	Confidential	Answer	Answer Comments
China Insurance Regulatory Commission	China	IAIS Member	No	Otherwise. Please explain	We fully agree with Paragraph 272 statements in the ICS consultation paper, that is, an instrument with an effective maturitry term of 5 years is essentially the same as an instrument with an contractual maturity term of 5 years, with all other things being equal. If ICS does not require an supervisory approval at the contractual maturity date, it should not at the effective maturity date.
EIOPA	EIOPA	IAIS Member	No	At its effective and contractual maturity date	Prior supervisory approval of the redemption of a financial instrument should be required at all times, i.e. up to and including the instrument's contractual maturity date. This requirement is an important feature to protect policyholders by allowing the supervisor to intervene to prevent such an operation from causing non-compliance with capital requirement/insolvency of an IAIG or accelerating that process. In addition, supervisory approval would serve as a tool which could resolve other issues than non-compliance of capital requirement/insolvency, and we agree with the points made in paragraph 270 of the 2016 ICS CD regarding for example the importance to consider the impact on the IAIGs medium term capital position.

BaFin	Germany	IAIS Member	No	Otherwise. Please explain	Supervisory approval should only be required if redemption is intended before the effective or the contractual maturity date. We believe that denial of the approval is not possible at the maturity date where the insurer is not in a lock-in situation or redemption would trigger a lock-in event.
Financial Supervisory Service	Korea	IAIS Member	No	At its effective maturity date	
Ageas	Belgium	Other	No	Otherwise. Please explain	We advise to foresee always supervisory approval.
ABIR Association of Bermuda Insurers & Reinsurers	BERMUDA	Other	No	Otherwise. Please explain	We are concerned that under the current construction the regulations are not wholly aligned with the capital treatment and are overly focussed on the trigger mechanisms of instruments. In particular we are concerned over deemed effective maturity dates which are treated as final maturities and seek to amortise or otherwise reduce the capital treatment of instruments to nil through amortisation. In this there are a range of options and effects at the currently deemed effective maturities and insufficient recognition of the materiality of step up features, the restrictions on redemptions and the options for reissuing instruments in the market.
Canadian Institute of Actuaries	Canada	Other	No	Otherwise. Please explain	Current lock-in and five-year grade-in factors are reasonable. Regulatory approval should be required only for instruments that are to be redeemed before their contractual or effective maturity date.

CLHIA	Canada	Other	No	Otherwise. Please explain	Regulatory approval should not be a requirement for instruments reaching either their effective or contractual maturities, rather only before such dates. We agree with, per paragraph 269, amortizing the amount recognized over five years before its effective maturity (unless the instrument contains a lock-in clause)
Ping An Insurance (Group) Company of China Ltd.	China	Other	No	Otherwise. Please explain	The natures of effective maturity date and contractual maturity date are the same, and thus we think no supervisory approval is needed for redemption on the effective maturity date.
AMICE, Association of Mutuals and CooperativesinEurope/ICMIF,International Cooperative and Mutual Insurance Federation.	Europe	Other	No	At its effective maturity date	
Insurance Europe	Europe	Other	No	Otherwise. Please explain	It should be required for both unless there is a lock in, i.e. cannot redeem where there is non-compliance with capital requirements.
Allianz	Germany	Other	No	Otherwise. Please explain	We see no reason why prior supervisory approval should not be required whenever the issuer wants to redeem an own funds qualifying instrument.
GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	At its effective maturity date	
Munich Re	Germany	Other	No	At its effective maturity date	

AIA Group	Hong Kong	Other	No	At its effective maturity date	
International Actuarial Association	International	Other	No	Otherwise. Please explain	Current lock in and 5 year grade-in factors are reasonable.
General Insurance Association of Japan	Japan	Other	No	Otherwise. Please explain	Prior supervisory approval should not be required for the redemption of a financial instrument issued by an IAIG, whether it is at its effective maturity date or at its contractual maturity date.
The Life Insurance Association of Japan	Japan	Other	No	Otherwise. Please explain	・We think it would be left to the supervisor´s discretion. We would like to note that overly early supervisory approval would pose the risk of a significant decrease in an IAIG´s soundness prior to redemption. In addition, supervisory approval immediately before a redemption would create uncertainty for investors and difficulties in redemption practically.
Great Eastern Holdings Ltd	Singapore	Other	No	At its contractual maturity date	
Swiss Re	Switzerland	Other	No	Otherwise. Please explain	At its effective maturity date if it is a call date. At its contractual maturity date if there is an uncured solvency event.
Prudential Financial, Inc.	United States of America	Other	No	At its contractual maturity date	

MassMutual Financial Group	USA	Other	No	At its effective maturity date	

Q83.1

Q83.1 Section 5.3.8	Should any other factors (eg lock-in and amortisation) be taken into consideration? Please explain.

Organisation	Jurisdiction	Role	Confidential	Answer	Answer Comments
China Insurance Regulatory Commission	China	IAIS Member	No	No	
EIOPA	EIOPA	IAIS Member	No	Yes	Other factors which may influence the redemption of a financial instrument (e.g. lock-in and amortisation) are important safeguards that improve the quality of the capital. However, a lock-in feature cannot and should not be seen as an adequate or equivalent substitute for supervisory approval; rather, lock-in and supervisory approval are complementary requirements. That said, if an instrument does not possess a lock-in feature and the amount recognised as ICS capital resources is fully amortised at contractual maturity, then the prior supervisory approval of the redemption of the instrument at contractual maturity would be desirable, but may not be necessary.
BaFin	Germany	IAIS Member	No	Yes	We Support these kinds of instruments, in particular lock-ins, which have their effects before the maturity date.
Financial Supervisory Service	Korea	IAIS Member	No	Yes	It shall be taken into consideration in case the contract includes the terms and conditions which are same level of safeguard as supervisory approval.
ABIR Association of Bermuda Insurers & Reinsurers	BERMUDA	Other	No	Yes	The primary consideration for existing IAIGS which is not being consulted is transitional arrangements. Given the range and diversity of instruments in place it is imperative that a broad based grandfathering position is adopted to bring

					companies forward into the new regime without inappropriate dislocations for those groups or for market investors who supply capital. As such early confirmation on transitional and grandfathering is key to engagement in this exercise.
Canadian Institute of Actuaries	Canada	Other	No	Yes	In the case of amortization, if fully amortized, then the instrument is at maturity and is effectively excluded from regulatory capital. The issuer should provide notice when redeeming instead of request for approval. If not fully amortized, then approval should be required from the regulator.
CLHIA	Canada	Other	No	Yes	(Prior to full amortization), the issuer should provide notice of intention to redeem (but there should not also be a request for approval).
Ping An Insurance (Group) Company of China Ltd.	China	Other	No	No	
Insurance Europe	Europe	Other	No	Yes	The local supervisor could require a delay of the redemption.
Allianz	Germany	Other	No	Yes	Regulatory amortisation (i) may lead to unwarranted incentives to redeem own funds qualifying instruments and (ii) may be inefficient as a regulatory tool. The cost for an insurer is fixed for the life of the instrument, but the value of the instrument decreases once regulatory amortisation sets in. The issuer therefore has a strong incentive to redeem the instrument (e.g. if regulatory amortisation kicks in at a time when the issuer can call the instrument for redemption). In other words, regulatory amortisation artificially reduces the expected life/term of the capital instruments, making them more short term in nature. At the same time, regulatory amortisation is inefficient, as it means that subordinated debt instruments that are costly and is actually 100% available for the issuer does not fully count as ICS capital. We do not see value from a regulatory point of view either: it appears much more sensible to prevent

					redemption if the insurer experiences significant stress at the time of the scheduled maturity via a lock-in than to artificially reduce the amount that can count as ICS capital five years earlier. We see no reason why a lock-in (ICS ratio > 100% prior to redemption and obligation to obtain prior supervisory approval even when ICS ratio > 100%) should not apply for all redemptions (ordinary calls, extraordinary calls, final maturity). We expect its relevance only in situations of severe stress for the insurer. It is true that its application will signal to the market that the insurer is stressed - a situation the market should be aware of anyhow. Importantly, such a lock-in provides an option for regulators to prevent redemption when this is deemed appropriate.
GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	Yes	
Munich Re	Germany	Other	No	Yes	
Great Eastern Holdings Ltd	Singapore	Other	No	Yes	Such factors could affect redeemability of the financial instrument.
Swiss Re	Switzerland	Other	No	Yes	If the instrument includes a lock-in clause, there should be no amortisation.
RAA	United States and many other jurisdicitons	Other	No	Yes	A major issue for existing IAIGS that is not in scope of ICS Version 1.0 is transitional arrangements. Given the range and diversity of instruments in place it is imperative that a broad based grandfathering position is adopted to bring companies forward into the new regime without inappropriate dislocations for those groups. Transitional rules and grandfathering should be considered before the ICS requirements are finalized.

Prudential Financial, Inc.	United States of America	Other	No	Yes	Other features - lock-in and amortisation - could serve as a useful mechanism in lieu of supervisory approval because of the supervisory involvement in the application of these features.
MassMutual Financial Group	USA	Other	No	No	We believe that supervisory approval is a superior control or limit relative to a lock-in. Although a lock-in, as defined as suspension of repayment or redemption where there is non-compliance with a regulatory capital requirement, adds a certain safeguard, we believe supervisory approval is a higher quality control. The provisions of a lock-in may be based on the capital position as of the last reporting date, which may not reflect certain market stresses which could be captured and analyzed using the supervisory approval approach. If the distribution is contingent on the judgement of the regulator, and they have the ability to cancel it, we do not believe it is logical to have the amount available amortize in advance of maturity. Also, to the extent that there is a plan by management to 'roll' the financial instrument that is maturing by issuing a new one, it does not seem the suggested amortization approach would align to the economics of such a strategy.

Q84

Q84 Section 5.3.8 Does a lock-in feature provide the same safeguard as supervisory approval prior to redemption of a financial instrument? Please explain.

Organisation	Jurisdiction	Role	Confidential	Answer	Answer Comments
China Insurance Regulatory Commission	China	IAIS Member	No	Yes	As stated in Paragraph 273 in the ICS consultation paper, we fully agree that the lock-in feature provides the same safeguard as the supervisory approval, which legally prevent any redemptions or payments which could jeopardize the solvency of the company.
EIOPA	EIOPA	IAIS Member	No	No	No, a lock-in feature does not provide the same safeguard as supervisory approval prior to redemption of a financial instrument. Lock-in is a powerful requirement to enhance the quality of capital, as it ensures that distributions and redemption will be automatically suspended if a firm/group is in breach of its capital requirement (or if payment would cause a breach). This enables a firm/group to retain capital when it is needed the most. However, lock-in is not a substitute for prior supervisory approval, as it is narrower in scope. Lock-in tends to be quite mechanistic and only operates at/around breach of the relevant capital requirement. In contrast, supervisory approval is more flexible and permits scope for exercise of supervisory judgement and greater consideration of the suitability of a firm’s medium term capital plans and longer-term solvency position. We consider lock-in and supervisory approval to be complementary requirements. We agree with the points made in paragraph 270 of the 2016 ICS CD.

BaFin	Germany	IAIS Member	No	No	Supervisory approval is more flexible. Before the maturity date it leaves some scope for supervisory judgement and consideration of the suitability of an insurance undertaking’s medium term capital plans and its longer-term solvency position.
Financial Supervisory Service	Korea	IAIS Member	No	Yes	Lock-in feature is deemed to provide the same safeguard as supervisory approval as the feature corresponds to the contractual condition which has legal effect.
Ageas	Belgium	Other	No	No	Please refer to answer 83.
Canadian Institute of Actuaries	Canada	Other	No	Yes	The lock-in feature provides a safeguard only within the lock-in period; for instruments that have maturity date some years after the expiry of the lock-in period, there would be no safeguard once the lock-in period has expired.
CLHIA	Canada	Other	No	No	There are no safeguards for instruments (that have yet to reach their maturity date) that have passed their lock-in period
Ping An Insurance (Group) Company of China Ltd.	China	Other	No	Yes	As a lock-in feature ensures the company to pay out any capital or redeem the financial instrument only when its solvency is sufficient, we think it already provides enough safeguard and thus there is no need for supervisory approval. There are great variances among different countries in term of whether supervisory approval is needed and the process of supervisory approval. In China, insurance companies need to report their solvency to supervisors quarterly and the regulator CIRC can take a series of more stringent regulatory measures to the companies with solvency problems based on C-ROSS related rules, including the prohibition on redemption of financial instruments such as subordinated debts. As a result, no supervisory approval does not mean a more relaxed regulation on financial instruments but just reflects the different supervision approaches among different countries.

Allianz	Germany	Other	No	Yes	We could envisage a general lock-in applicable to all redemptions (ordinary calls, extraordinary calls, final maturity) that includes the requirements (i) ICS ratio > 100% prior to redemption and (ii) the obligation to obtain prior supervisory approval even when ICS ratio > 100%. Such a lock-in provides maximum safeguard.
GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	No	A supervisory approval offers the highest level of safety with regards to the redemption. But as lock-in clauses safeguard that no breach of applicable regulatory capital requirement is in place, they allow for a comparable level of safety and more flexibility for the capital management of an IAIG.
Munich Re	Germany	Other	No	No	A supervisory approval offers the highest level of safety with regards to the redemption.
Global Federation of Insurance Associations	Global	Other	No	Yes	We think that supervisory approval provides substantially the same economic effect as a contractual lock-in clause. Tier 2 capital resources absorb losses at gone-concern basis, and need not meet the ICS capital requirement for its repayment or redemption. We believe that meeting the MCR in each jurisdiction is enough for the repayment or redemption to assure its loss absorbance ability.
Dai-ichi Life Holdings, Inc.	Japan	Other	No	Yes	・As Tier2 is the capital for the purpose of securing loss absorbing ability of gone-concern basis and about a lock-in article, it is unnecessary to require IAIGs to sustain the sufficiency of the ICS required capital after repayment. Therefore, we think that the loss absorbing ability is secured enough if the sufficiency of the MCR standard in the supervision of each jurisdiction is required for the repayment.
General Insurance Association of Japan	Japan	Other	No	Yes	The lock-in feature provides a more objective safeguard than prior supervisory approval.

The Life Insurance Association of Japan	Japan	Other	No	Yes	・As stated in the comment(s) on Question 75, we think that supervisory approval provides substantially the same economic effect as the contractual lock-in clause. ・Tier 2 capital resources absorb losses at the gone-concern basis, and need not meet the ICS capital requirement for its repayment or redemption. We believe meeting the MCR in each jurisdiction is adequate for the repayment or redemption in order to assure its loss absorbance ability.
Great Eastern Holdings Ltd	Singapore	Other	No	Yes	NA
Swiss Re	Switzerland	Other	No	Yes	
Prudential Financial, Inc.	United States of America	Other	No	Yes	Please see our response to question 83.1.
MassMutual Financial Group	USA	Other	No	No	We believe that supervisory approval is a superior control or limit relative to a lock-in. Although a lock-in, as defined as suspension of repayment or redemption where there is non-compliance with a regulatory capital requirement, adds a certain safeguard, we believe supervisory approval is a higher quality control. The provisions of a lock-in may be based on the capital position as of the last reporting date, which may not reflect certain market stresses which could be captured and analyzed using the supervisory approval approach.

Q84.1

Q84.1 Section 5.3.8 If "yes" to Q84, should the ICS qualifying criteria be amended to remove the requirement for prior supervisory approval where a financial instrument possesses a lock-in feature? Please explain.

Organisation	**Jurisdiction**	**Role**	**Confidential**	**Answer**	**Answer Comments**
China Insurance Regulatory Commission	China	IAIS Member	No	Yes	As stated in Paragraph 273 in the ICS consultation paper, we fully agree that the lock-in feature provides the same safeguard as the supervisory approval, which legally prevent any redemptions or payments which could jeopardize the solvency of the company.
EIOPA	EIOPA	IAIS Member	No	No	
BaFin	Germany	IAIS Member	No	Yes	We believe that an approval at maturity date will be ineffective because we cannot deny the approval if the lock-in does not apply. So when the financial instrument has a lock-in feature, there is no need for a requirement for prior supervisory approval at the maturity date.
Financial Supervisory Service	Korea	IAIS Member	No	Yes	Removing the requirement is deemed more appropriate as it has same safeguard as supervisory approval.
Ping An Insurance (Group) Company of China Ltd.	China	Other	No	Yes	Please refer to Q84.

Allianz	Germany	Other	No	No	The lock-in feature should be defined to include the need to obtain prior regulatory approval. We envisage an extensive lock-in applicable to all redemptions (ordinary calls, extraordinary calls, final maturity) that includes the requirements (i) ICS ratio > 100% prior to redemption and (ii) the obligation to obtain prior supervisory approval even when ICS ratio > 100%. Such a lock-in provides maximum safeguard.
GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	Yes	As a lock-in feature provides a comparable safeguard as a supervisory approval prior to redemption, hence the supervisory approval requirement is redundant.
Munich Re	Germany	Other	No	Yes	As a lock-in feature provides the same safeguard as a supervisory approval prior to redemption, hence the supervisory approval requirement is redundant.
Dai-ichi Life Holdings, Inc.	Japan	Other	No	No	・It is not necessary to remove. It will be enough if it is specified that the lock-in in the contract is equal economic effect to prior approval in the supervision.
General Insurance Association of Japan	Japan	Other	No	Yes	We do not think that prior supervisory approval is necessary. However, if prior supervisory approval is to be incorporated into the regulation, the lock-in feature should provide exclusion.
The Life Insurance Association of Japan	Japan	Other	No	No	・We do not think the requirement needs to be removed, and it would be enough to clearly state in the ICS qualifying criteria that the contractual lock-in clause provides the same economic effect as prior supervisory approval.
Great Eastern Holdings Ltd	Singapore	Other	No	Yes	NA
Swiss Re	Switzerland	Other	No	Yes	If the lock-in feature means the automatic extension post solvency event – until the solvency event has been cured or would not be caused by redemption.

Prudential Financial, Inc.	United States of America	Other	No	Yes	Other features - lock-in and amortisation - could serve as a useful mechanism in lieu of supervisory approval because of the supervisory involvement in the application of these features.

Q85

Q85 Section 5.3.9 Do any of the above AOCI elements provide loss absorbing capacity on a going concern basis? Please provide an explanation as to how the element(s) absorbs losses.

Organisation	Jurisdiction	Role	Confidential	Answer	Answer Comments
EIOPA	EIOPA	IAIS Member	No	No	Items included in AOCI often represent valuation changes to underlying assets and liabilities that have been taken to OCI for accounting purposes (rather than the income statement/ net income). The AFS reserve, or revaluation surplus on fixed asset investments (items (a) and (e) in paragraph 274), .are examples In these cases, the amount in AOCI is often equal to the difference between a cost-based valuation and a market or current valuation of the underlying asset or liability. Given that this is the case, we consider that the question of whether or not the inclusion of an AOCI item in capital resources is appropriate is best considered in the context of the valuation of the underlying asset or liability as a whole, rather than simply the amount contained in AOCI. If it were to be concluded, for example, that an amount representing a revaluation surplus for an asset in AOCI should not be included, it follows that a cost approach to valuation would be considered as more appropriate than a market valuation for that asset in the ICS balance sheet. Since valuation of assets and liabilities is covered in section 4, we believe that such questions should also be addressed in that section. Moreover, the question of whether a valuation approach for an investment that uses OCI is adopted by a firm is often a matter of accounting policy choice. For example, firms might in practice have considerable discretion as to whether to designate an investment at AFS at initial recognition, or at fair value through profit and loss. In such cases, the result of this accounting policy choice has the potential to be highly material for its

					capital resources if the AFS reserve were to be excluded, an outcome that does not appear appropriate, and may lead to arbitrage opportunities and an unlevel playing field. In our view this provides another reason to view the valuation as a whole rather than simply with reference to the amount taken to OCI. However, certain reserves in AOCI may not be appropriate to include in capital resources for other reasons. For example, actuarial gains on defined benefit liabilities (item (b) in the list in paragraph 274) may not ordinarily be available to absorb losses in the entity as a whole. We suggest that items in AOCI should be considered separately for inclusion in capital resources. Items such as (a) and (e) in paragraph 274 should be considered as part of the valuation approach, whereas items such as (b) should be considered individually to assess loss absorbency.
Financial Supervisory Service	Korea	IAIS Member	No	Yes	On a going concern basis, AOCI provides loss absorbing capacity through gains/loss from revaluating asset or liability.
National Association of Insurance Commissioners	USA	IAIS Member	No	Yes	Translation gains and losses of foreign subsidiaries, fixed asset revaluation surplus and gains and losses on certain hedges could provide loss absorbing capacity on a going concern basis under a GAAP with adjustments approach. These surplus or gains would be available to the company and easily accessed for own use under a stressed scenario.
Canadian Institute of Actuaries	Canada	Other	No	Yes	From a Canadian GAAP perspective (IFRS), unrealised amounts based on mark-to-market behave similarly to retained earnings in that amounts may be realized to absorb losses (i.e., a bond that is classified with unrealized gains that is reported in income is available to absorb losses in the same manner as a bond that is classified as Available For Sale (AFS) with unrealized gains reported in other comprehensive income (OCI)). So we believe AFS unrealized gains and losses should be included in capital resources.

					This approach would also extend to including the following in capital resources: translation of foreign subsidiaries, cash-flow hedges, and revaluation surplus.
CLHIA	Canada	Other	No	Yes	We submit that unrealized gain/losses that are reported in AOCI (e.g. from marking to market for AFS bonds) exhibit the same loss absorbing capacity as unrealized gains/losses that are reported in retained earnings (e.g. for bonds classified as trading with mark to market reported in P&L). Different treatment of assets under the ICS should not occur solely as the result of different accounting treatment. Therefore OCI related to unrealized gains/losses on AFS bonds and equities, as well as translation of foreign subsidiaries, cash flow hedges and revaluation surplus should be included in Qualifying Capital Resources.
Ping An Insurance (Group) Company of China Ltd.	China	Other	No	Yes	We think these AOCI elements provide loss absorbing capacity. Under PRC GAAP, unrealised gains of AFS assets could not be recognised in profit and loss but be recognised in AOCI. Under MAV, all the assets are measured by market value and the movements of market value are reflected in profit and loss. So the asset classifications under accounting basis do not change the loss absorbing capacity of the assets and so AOCI elements should be included in capital resource.
AMICE, Association of Mutuals and CooperativesinEurope/ICMIF,International Cooperative and Mutual Insurance Federation.	Europe	Other	No	Yes	When assessing the loss absorbing capacity of these items the IAIS should also consider the losses themselves and the data related to these items. The treatment should be symmetrical. If these items are considered to be of a lower loss absorbency this feature should also be factored in the calculation of the capital requirements. For instance, unrealised losses of an available for sale (AFS) instrument should then not lead to a capital requirement if the unrealised gains are not accepted as part of the capital resources.

Insurance Europe	Europe	Other	No	Yes	When assessing the loss absorbing capacity of these items the IAIS should also consider the losses itself and the DTAs related to these items. The treatment should be symmetrical. If these items are considered to be of a lower loss absorbency this feature should also factor in the calculation of the capital requirement. For instance, unrealised losses of an Asset for Sale (AFS) instrument should not lead to a capital requirement if the unrealised result is not accepted as part of the capital resources.
GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	Yes	
Munich Re	Germany	Other	No	Yes	
AIA Group	Hong Kong	Other	No	Yes	Unrealized gains can provide loss absorbing capacity as the value can be realized at the point of sale and could be used to absorb other losses.
International Actuarial Association	International	Other	No	Yes	With respect to unrealized gains and losses on fixed income instruments (AFS) in surplus, we believe that they should not be counted as part of Capital Resources. With respect to unrealized gains and losses on non-fixed income instruments (AFS) in surplus, we believe that they should be counted as part of Capital Resources. We believe that the criteria used for net defined benefit pension fund assets seem appropriate and the treatment of the related AOCI amount should be consistent with the treatment of the related asset. With respect to gains and losses resulting from translating the financial statements of foreign subsidiaries, we believe that they should not be counted as part of Capital Resources unless the surplus of the subsidiary is fully fungible. With respect to gains and losses in AOCI related to hedges, in most cases

					these gains and losses represent timing differences between the fair value of the liabilities and the accounting value of the liabilities. But, since there are varying ways in which those liabilities are structured and reported, they may or may not be available as Capital Resources.
Dai-ichi Life Holdings, Inc.	Japan	Other	No	Yes	・AOCI elements are treated as common equity Tier 1 in the Basel Ⅲ.
General Insurance Association of Japan	Japan	Other	No	Yes	Loss absorbing capacity on a going concern basis should be recognized for all AOCI elements a) through e).
The Life Insurance Association of Japan	Japan	Other	No	Yes	・Under banking regulations (the Basel II framework) already implemented, those elements such as common stock are included in Tier 1 as capital resources.
Great Eastern Holdings Ltd	Singapore	Other	No	Yes	Hedges against certain market movements could be effective in mitigating certain losses, hence the losses arising from some market event could be mitigated and hence absorbed.
Prudential Financial, Inc.	United States of America	Other	No	Yes	For this question, it is helpful to distinguish between long-term and short-term risk and the loss absorption role AOCI plays with respect to each. For long-term risks, AOCI will typically not have any loss absorbing capacity. To the extent that long-term liabilities and their associated risks are supported by a by-and-hold asset strategy that is cash-flow and/or well duration matched, any change in the valuation of these assets resulting in AOCI will not be utilized to cover losses. Short-term risks are typically backed by shorter-term assets which inherently have less of an AOCI impact. To the extent that these shorter-

					term assets may need to be liquidated to cover losses, we believe it is more important to address how fungible the assets are through a liquidity risk framework. Any role AOCI plays in absorbing losses will be less material. Furthermore we believe AOCI should be excluded from the GAAP Plus balance sheet for purposes of achieving symmetry between the valuation of assets and liabilities and more appropriately measuring risks under the standard method.
MassMutual Financial Group	USA	Other	No	Yes	The unrealized gains and losses on available for sale investments, gain/loss for foreign subsidiary translation, and those related to certain hedges provide loss absorbing capacity on an ongoing basis. All of these items were established on the balance sheet as part of going concern operations, so logic would dictate they can move in the future to absorb losses.

Q86

Q86 Section 5.3.9 Are there any additional elements that are included in AOCI under specific jurisdictional GAAPs that could be considered to be loss absorbing on a going concern basis, and therefore should be included in capital resources? Please explain.

Organisation	Jurisdiction	Role	Confidential	Answer	Answer Comments
EIOPA	EIOPA	IAIS Member	No	No	We agree that the items listed in (a) – (e) of paragraph 274 show common areas across different jurisdictional accounting systems of where accumulated OCI may arise. We consider it essential that practice across jurisdictions is comprehensively understood to ensure consistency of treatment for the different items that appear in accounting equity. As an example, where an item is economically the same but different terminology is used in naming it (for example, the terms 'share premium' and 'additional paid-in capital' may refer to the same item in different jurisdictions) the IAIS should be aware of such items if material and in a position to ensure consistency.
Financial Supervisory Service	Korea	IAIS Member	No	No	
CLHIA	Canada	Other	No	No	
Ping An Insurance (Group) Company of China Ltd.	China	Other	No	No	We have no other elements to be included in in AOCI.

AMICE, Association of Mutuals and CooperativesinEurope/ICMIF,International Cooperative and Mutual Insurance Federation.	Europe	Other	No	No	
GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	No	
Munich Re	Germany	Other	No	No	
AIA Group	Hong Kong	Other	No	No	Not to our knowledge.
Dai-ichi Life Holdings, Inc.	Japan	Other	No	Yes	・The amount which is over insurance liability of MAV and GAAP+ in insurance liability of GAAP and which is adjusted after tax should be recognized as Tier 1 without limitations. It is remarkably irrational that the part recognized as liability separated with net asset to clarify purpose for policyholder protection has lower power of loss absorbing than earned surpluses with the distribution possibility to a stockholder.
The Life Insurance Association of Japan	Japan	Other	No	Yes	・We believe a portion of GAAP insurance liability amounts that exceeds insurance liability for both MAV and GAAP Plus amounts should be classified as Tier 1 capital resource at the after tax amount (without limit). However, we are concerned and find it obviously unreasonable that a portion of liability accumulated separately from capital resource (retained earnings) in order to clarify the purpose of policyholder protection is regarded with less loss absorbency element compared to retained earnings, which could be distributed to shareholders.

Great Eastern Holdings Ltd	Singapore	Other	No	No	NA
Prudential Financial, Inc.	United States of America	Other	No	Yes	Derivatives which qualify for hedge accounting under U.S. GAAP will have their Mark-To-Market impacts recorded in AOCI. To the extent that these derivatives support fair value liabilities, it is possible that they could be disposed to absorb losses if a 99.5 risk were to occur. Because derivatives used for hedging are typically used to offset the impact of changes in a fair value liability, it is appropriate to recognize the change in market value when determining available capital and required capital. Typically, all other assets that support life insurance liabilities and their associated risk capital will not utilize AOCI as a loss absorbing resource.

Q87

Q87	Section 5.3.10	Is the definition of insurance liability/reinsurance adjustment offset as described appropriate? Please explain.

Organisation	Jurisdiction	Role	Confidential	Answer	Answer Comments
China Insurance Regulatory Commission	China	IAIS Member	No	Yes	
EIOPA	EIOPA	IAIS Member	No	Yes	The definition appears appropriate to us.
BaFin	Germany	IAIS Member	No	Yes	We also support this to be classified as Tier 1.
Financial Supervisory Service	Korea	IAIS Member	No	Yes	
Canadian Institute of Actuaries	Canada	Other	No	Yes	The “insurance liability/reinsurance adjustment offset” (like the “investments adjustment offset”, the “other asset adjustment offset”, the “deferred tax adjustment offset”, and the “other liabilities adjustment offset (non-insurance)”) represents the adjustment that needs to be made to equity/surplus to offset or mirror the adjustments made to the reported assets and liabilities under the MAV or GAAP+ valuation approach. As such, we view these adjustments as necessary to maintain consistency in the balance sheet.

Ping An Insurance (Group) Company of China Ltd.	China	Other	No	Yes	We have no disagreement. These elements are related to policy liabilities and they reflect the impacts on the capital resource due to differences of liabilities under two reporting basis.
AMICE, Association of Mutuals and CooperativesinEurope/ICMIF,International Cooperative and Mutual Insurance Federation.	Europe	Other	No	Yes	
Insurance Europe	Europe	Other	No	No	Insurance Europe does not support this calculation, as it is comparing a prudential balance sheet with a financial balance sheet, which is not meaningful as the two are developed with different purposes. The difference only indicates the level of prudence in various (and not comparable) GAAP balance sheets. The difference does not imply that any of the capital under the MAV balance sheet is of an inferior quality. Moreover, the ICS requirements already capture the risk associated in the total net assets when stresses are applied to the total balance sheet.
GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	No	In our opinion, there is no direct link between insurance liabilities/reinsurance under GAAP and MAV. Especially the classification of transactions as insurance contract is different. Therefore, the offset might be misleading. Concerning the related deferred tax amounts, they are not part of the described offset.
Munich Re	Germany	Other	No	No	In our opinion there is no direct link between insurance liabilities/reinsurance under GAAP and MAV. Especially the classification of transactions as insurance contract is different. Therefore the offset might be misleading. With regards to the

					related deferred tax amounts, they are not part of the described offset.
AIA Group	Hong Kong	Other	No	No	There is no need to define such adjustment. The capital resources are a consequence the various adjustments to the IFRS balance sheet, including CC MOCE if such are included in the system.
International Actuarial Association	International	Other	No	Yes	The "insurance liability/reinsurance adjustment offset" is one of several adjustments. The others are "Investments Adjustment Offset", "Other Asset Adjustment Offset", "Deferred Tax Adjustment Offset", and "Other Liabilities Adjustment Offset (non-insurance)". These adjustments, in aggregate, represent the difference between assets and liabilities when carrying out the valuation in the GAAP+/MAV valuation approach, while leaving the GAAP equity valuation unchanged. These offsets, in their sum, are therefore a direct consequence of the GAAP+/MAV approach and cannot and should not be avoided. The naturally are a component of equity, since equity is the difference between assets and liabilities. However, as we can tell, the individual adjustments/offsets, including the "insurance liability/reinsurance adjustment offset", are never used for any other purpose, so we do not understand the need to define individual components. The sum (i.e. Investments Adjustment Offset + Other Asset Adjustment Offset + Deferred Tax Adjustment Offset + Other Liabilities Adjustment Offset non-insurance + insurance liability/reinsurance adjustment offset) would suffice.
Great Eastern Holdings Ltd	Singapore	Other	No	Yes	NA

Swiss Re	Switzerland	Other	No	Yes	The "insurance liability/reinsurance adjustment offset" is one of several adjustments. The others are "Investments Adjustment Offset", "Other Asset Adjustment Offset", "Deferred Tax Adjustment Offset", and "Other Liabilities Adjustment Offset (non-insurance)". These adjustments, in aggregate, represent the difference between assets and liabilities when carrying out the valuation in the GAAP+/MAV valuation approach, while leaving the GAAP equity valuation unchanged. These offsets, in their sum, are therefore a direct consequence of the GAAP+/MAV approach and cannot and should not be avoided. They naturally are a component of equity. However, as we can tell, the individual adjustments/offsets, including the "insurance liability/reinsurance adjustment offset", are never used for any other purpose, so we do not understand the need to define individual components. The sum (i.e. Investments Adjustment Offset + Other Asset Adjustment Offset + Deferred Tax Adjustment Offset + Other Liabilities Adjustment Offset non-insurance + insurance liability/reinsurance adjustment offset) would suffice.
Prudential Financial, Inc.	United States of America	Other	No	Yes	We believe the current adjustments are correctly designed in the ICS. The consultation document mentions that CC-MOCE may be included in these adjustments in the future, which we do not agree with for the reasons summarized in our response to question 66.
MassMutual Financial Group	USA	Other	No	No	The 'insurance liability/reinsurance adjustment offset' is not accurately defined in the Consultation Document. The text notes that it includes the change in deferred expense amounts and taxes, but this does not align to the formula in the 2016 Field Testing template. This formula only contains the respective amounts for insurance liabilities and reinsurance assets.

					Admittedly, the tax and expense impacts are encompassed in other line items on the template, and these line items mechanically have the same impact. However, the current approach indicating all items are embedded in the single line is not fully accurate.

Q88

Q88	Section 5.3.10	Are there any valuation adjustment amounts that should be included or excluded? Please explain.

Organisation	Jurisdiction	Role	Confidential	Answer	Answer Comments
China Insurance Regulatory Commission	China	IAIS Member	No	No	
EIOPA	EIOPA	IAIS Member	No		Please refer to our response to Q85. Since amounts held in offset accounts represent valuation adjustments to underlying assets and liabilities, we believe that this question is best considered in the context of valuation.
BaFin	Germany	IAIS Member	No	Yes	We suggest to include future premium receivables and insurance payables (liabilities towards policyholders) arising with respect to profit contracts.
Financial Supervisory Service	Korea	IAIS Member	No	No	
Canadian Institute of Actuaries	Canada	Other	No	No	
Ping An Insurance (Group) Company of China Ltd.	China	Other	No	No	

AMICE, Association of Mutuals and CooperativesinEurope/ICMIF,International Cooperative and Mutual Insurance Federation.	Europe	Other	No	Yes	The IAIS could consider differentiating between the impact of financial and non-financial events. The former should be part of this item line while the latter should just be included in the retained earnings.
GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	No	
Munich Re	Germany	Other	No	No	As stated above in our opinion specific valuation adjustments cannot be valued.
AIA Group	Hong Kong	Other	No	No	
International Actuarial Association	International	Other	No	No	See response to Q 87 above.
Great Eastern Holdings Ltd	Singapore	Other	No	No	NA
Swiss Re	Switzerland	Other	No	No	See response to Q87 above.
Prudential Financial, Inc.	United States of America	Other	No	No	Arriving at the appropriate measurement of best estimate liabilities and assets does forego inclusion or exclusion of specific balances given the different accounting requirements around the world.
MassMutual Financial Group	USA	Other	No	No	We believe the ultimate items included in the valuation adjustments are appropriate. However, as a mutual insurer, we want to mention that the amounts in the valuation adjustment accounts on the balance sheet are inherently different since they are changes relative to a Statutory balance sheet, opposed to GAAP. This would therefore compromise the

					comparability of our adjustments relative to other firms which begin with a GAAP balance sheet. For example, Statutory accounting presents derivatives gross by counterparty, while on a GAAP basis they are net. Additionally, Statutory has a liability related to interest and credit related realized capital gains and losses, while for GAAP these items would be components of equity. The net impact of the differences is zero, but as mentioned above, there is compromised comparability on a line item by line item basis.

Q89

Q89 Section 5.3.10 Would the inclusion of insurance liability/reinsurance adjustment offset generate significant volatility in capital resources? If "yes", how should the volatility be addressed?

Organisation	Jurisdiction	Role	Confidential	Answer	Answer Comments
EIOPA	EIOPA	IAIS Member	No		Please refer to our response to Q85. Since amounts held in offset accounts represent valuation adjustments to underlying assets and liabilities, we believe that this question is best considered in the context of valuation.
BaFin	Germany	IAIS Member	No	Yes	The volatility needs to be addressed only if it leads to procyclical effects or if it is not reflecting the real risks.
Financial Supervisory Service	Korea	IAIS Member	No	No	It would not generate significant volatility in capital resources if the adjustments are not significant.
Ping An Insurance (Group) Company of China Ltd.	China	Other	No	Yes	We think such volatility is inevitable, which comes from the different policy liability valuation methods under GAAP and MAV basis, and volatility of the policy liability valuation method itself under MAV basis. So it is difficult to avoid such volatility through other ways.
AMICE, Association of Mutuals and CooperativesinEurope/ICMIF,International	Europe	Other	No	Yes	Basically, whether inclusion would result in a higher volatility depends on whether the valuation approach reflects the business model of insurers in

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Cooperative and Mutual Insurance Federation.					an adequate manner. It will also depend on the ALM of the distinct IAIG and the choices made by the management.
Insurance Europe	Europe	Other	No	Yes	The IAIS should recognise that increased volatility will be inherent in any economic balance sheet and there is no reason to link it to the difference with an accounting balance sheet. The volatility should be addressed by an appropriate valuation basis for assets and liabilities.
GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	No	
AIA Group	Hong Kong	Other	No	Yes	See our response to Q87
International Actuarial Association	International	Other	No	Yes	See response to Q 87 above.
General Insurance Association of Japan	Japan	Other	No	Yes	Volatility will likely be generated mainly due to revaluation of liabilities. If "occurrence of volatility" can be deemed to be temporary, it would be necessary to take measures, such as putting in place a transition period before applying remedial actions.
Great Eastern Holdings Ltd	Singapore	Other	No	No	
Swiss Re	Switzerland	Other	No	No	
Institute and Faculty of Actuaries	UK	Other	No	Yes	The volatility would depend upon the nature of the liabilities and the valuation basis.

Prudential Financial, Inc.	United States of America	Other	No	No	Provided these adjustments result in symmetric accounting treatment of the assets and liabilities, their inclusion eliminates volatility of capital resources.
MassMutual Financial Group	USA	Other	No	Yes	The 'root cause' of any potential volatility is the discount rate used for the insurance liability valuation. This topic is covered in depth in another section of this document, and 2016 Field Testing was appropriately expanded to further address this issue. There was minimal volatility related to this item between 2015 and 2016 Field Testing, as there was minimal movement in the discount curve, due to market conditions. However, we remain concerned that this item would become volatile as market conditions change, and encourage the IAIS continue testing outcomes, encompassing a broader range of scenarios than those considered for 2016 Field Testing.

Q90

Q90 Section 5.4 Are there any further comments on capital resources that the IAIS should consider in the development of ICS Version 1.0? If “yes”, please explain with sufficient detail and rationale.

Organisation	Jurisdiction	Role	Confidential	Answer	Answer Comments
Bermuda Monetary Authority (BMA)	Bermuda	IAIS Member	No	Yes	Notwithstanding the need of having consistent robust criteria for owns fund and irrespectively of the decision to be taken on whether senior debt fulfils all current criteria or will fulfil alternative criteria, we acknowledge senior debt as material source of financing for insurers especially in North America. As such we recommend the development of sensible and sufficiently long dated grandfathering provisions for senior debt in order to avoid undesirable pro-cyclical behaviour and market impacts resulting from sudden refinancing needs caused by ICS rules. The current ICS proposal which requires capital resources to be absent of encumbrances to be deemed eligible (in either Tier 1 or Tier 2) is too punitive. In practice certain of these assets are held well in excess of the liabilities they are backing and may be readily available to be withdrawn and deployed around the IAIG if needed. We suggest that where assets are pledged in excess of the liabilities, it would be appropriate to include the excess of the pledged assets over the liabilities within the capital resources.
China Insurance Regulatory Commission	China	IAIS Member	No	No	
Financial Supervisory Service	Korea	IAIS Member	No	Yes	1.Requiring prior supervisory approval for repurchase for all the jurisdictions is not appropriate as they may have different regulations in their own jurisdiction with

					respect to repurchase. It is suggested to include specific condition like "discretionary repurchases or other means of effectively reducing capital in a discretionary manner that is allowable under relevant law" in Basel III framework, which is similar to prior supervisory approval. 2.It is not appropriate to require "no maturity" for permanence condition as regulation with respect to determining the maturity of the bond could be different in each jurisdiction. It is therefore suggested to allow the financial instruments to meet the permanent condition if the regulation under that jurisdiction recognizes it as equivalent as no maturity. (e.g. 30-year or longer bonds (w/ renewability with original condition) to meet the condition for "permanence" for capital resources)
Ageas	Belgium	Other	No	Yes	Under Solvency II payment of foreseeable dividend is deducted from eligible own funds. We advise to include a similar deduction in ICS. A foreseeable dividend is declared or approved by the administrative, management or supervisory body or when payment becomes likely. See Delegated Acts art. 70 and EIOPA guideline "Classification of own funds BoS 14/168". If a certain capital resource is eligible with a certain quality (e.g. tier 1) for the own funds under local regulation (including application of locally permitted grandfathering rules), this should also be the case under ICS.
ABIR Association of Bermuda Insurers & Reinsurers	BERMUDA	Other	No	Yes	Based on ABIR member internal assessments, the capital resources resulting from the current specifications do not reflect the strength of balance sheets when compared to existing globally accepted regimes such as Bermuda BSCR, Solvency II and US RBC. In particular, the restrictions on financial instruments are not in line with existing regulatory treatment and the procedures for determining tiering, maturity and amortisation are still too immature and onerous as they appear to collate the most restrictive approach of all bases rather than selection of a suitable basis. Preference shares provide an important source of capital but are not considered

					eligible under ICS. In general if capital instruments can be easily accessed and able to be deployed to absorb losses within the group, they should be considered eligible. Issues around the treatment of step-up features and incentives to redeem on these instruments need to be given further consideration, particularly where redemption is at the control of the regulator or where there is mandatory roll over or replacement. We regard the current ICS proposal which requires capital resources to be absent of encumbrances to be deemed eligible (in either Tier 1 or Tier 2) as too punitive. In practice certain of these assets are held well in excess of the liabilities they are backing and are readily available to be withdrawn and deployed around the group if needed. We suggest that where assets are pledged in excess of the liabilities, it would be appropriate to include the excess of the pledged assets over the liabilities and associated capital requirements within the capital resources. The key considerations for determining the eligibility of encumbered asset should be fungibility, liquidity and transferability. We note that certain existing regimes incorporate mechanisms to allow recognition of encumbered assets given certain criteria. Suitable rules around eligibility and tiering of capital could be constructed for ICS based on the general terms of instruments used as capital resources. For example the term of debt could be considered such that perpetual debt is eligible in higher tiers of capital whereas shorter term debt would be eligible in a lower tier. The primary consideration around capital resources which is not being consulted is transitional arrangements. Given the range and diversity of instruments in place it is imperative that a broad based grandfathering position is adopted to bring companies forward into the new regime without inappropriate dislocations for those groups or for market investors who supply capital. As such early confirmation on transitional and grandfathering is key to engagement in this exercise.

Canadian Institute of Actuaries	Canada	Other	No	Yes	With regards to deductions from capital resources in respect of encumbered assets, we suggest that the following should not be deducted: 1) Collateral for derivatives. The excess is due to haircuts. For liquidity risk management purposes, insurers generally pledge the most liquid-eligible assets for derivative collateral, regardless of haircut. As a result, the market value of pledged assets is greater than the derivative liability (e.g., haircuts may be as high as 20% for corporate bonds). With a deduction for excess, liquidity management is at odds with capital management as pledge of more liquid assets would reduce the amount of deduction. Cost of capital deduction would make hedging more expensive. As such, we suggest that collateral for derivatives should be exempt from encumbered asset deduction. The excess belongs to the insurer, and pledged assets are mostly government bonds and investment-grade corporate bonds where the value is readily determinable 2) Encumbered assets—Government-sponsored secured borrowing programs (e.g., Federal Home Loan Banks). While overcollateralization requirements exist, the excess collateral is ultimately returned to the insurer and the risk is the government's. Therefore, there is no reason to exclude this collateral from capital.
CLHIA	Canada	Other	No	Yes	We recommend the IAIS revisit three aspects of deductions related to encumbered assets 1. The deduction related to mortgages on real estate. The deduction is counter-intuitive as there is a higher deduction for low loan to value and vice versa. 2. There should not be a deduction for derivatives collateral as insurers should not be penalized for over collateralization by pledging illiquid assets for prudent liquidity risk management purposes.

					3. There should not be a deduction for government-sponsored secured borrowing since the government, not the insurer, is exposed to risk.
Insurance Bureau of Canada	Canada	Other	No	Yes	ICS version 1.0 does not address certain elements of the regulatory and supervisory frameworks for reinsurance activities currently in place in some jurisdictions (e.g., registration/licensing, location of business, collateralization, excess collateralization). These elements should be addressed in the consultations on ICS version 2.0.
Ping An Insurance (Group) Company of China Ltd.	China	Other	No	No	
Insurance Europe	Europe	Other	No	Yes	As a more general comment, the IAIS should consider transitional arrangements to allow companies to adapt to new requirements without major distortions in their capital and risk management. The period over which transitional measures would apply should extend substantially beyond the planned introduction of ICS and should be a subject of future consultation.
GDV - Gesamtverband der Deutschen Versicherungswirtschaft	Germany	Other	No	Yes	Transitional arrangements for a period of 10 years are needed to ensure a smooth transition into the new supervisory system. Own funds items issued before the application of the ICS, which fulfil the current supervisory requirements (e.g. Solvency II including grandfathering for financial instruments), have to be recognized as capital resources under ICS.
Global Federation of Insurance Associations	Global	Other	No	Yes	GFIA would like to make the following comments in relation to capital resources: • It is not appropriate to compare the net assets under MAV or GAAP+ balance sheets with net assets under accounting balance sheets as these are two distinct valuation bases; • The treatment of assets should be consistent: currently, the proposals treat Tier 1 and 2 debt instruments at market value as a liability on the balance sheet, but at

					book value as capital; • Capital resources should include Legal, contractual and structural subordinated debt; • The setting of limitations (such as the ratio of Tier 1 Limited capital to Tier 1 Unlimited) could lead to procyclicality concerns; • Transitional measures should be considered sooner rather than later, as uncertainty would create difficulties in making management decisions; • We appreciate the IAIS' consideration of the unique characteristics of mutual insurers' capital resource requirements. Surplus notes and Kikin are the most readily available sources of capital for mutual insurers. • We think that one possible way may be the introduction of principle-based approach which would enable IAIGs to determine their shock absorbing capacity considering the economic reality and the practical implementation aspect of capital funding methods in each jurisdiction, so that the IAIGs´ shock absorbing capacity using those methods would be appropriately evaluated at going-concern basis. • From the view of ensuring fairness in regulatory/supervisory practices, the requirements/restrictions on the applicable supervisory regime should be broadly considered. Regarding capital requirements, if new capital-raising financial instruments appear in the future, it should be allowed that equivalent Tier would be given to those instruments, considering their similarities to other existing financial instruments.
AIA Group	Hong Kong	Other	No	No	
International Actuarial Association	International	Other	No	No	
Dai-ichi Life Holdings, Inc.	Japan	Other	No	Yes	・The sentence in Tier 1 Limited requirement i ,"i.e. distributions should reduce equity rather than the profit / loss of the current year " should be deleted. This binds the main rule too much, and the regulation to banks (Basel regulation) does not require it.

					・Financing condition should be leveled among the all of IAIGs. If there would be new financing methodology which has same ability in loss absorbency, it would be in the same Tier for keeping level playing field.
General Insurance Association of Japan	Japan	Other	No	Yes	As they are regarded as assets with encumbrances, current technical specifications require the deduction of assets such as collateralized assets from Tier 1 capital resources. However, such treatment would be difficult in practice as it would require IAIGs to clarify their asset breakdowns and calculate any increase in capital requirements. If such a requirement is to be introduced, the current treatment required by such technical specifications is overly conservative and certain items should be excluded from deductions. In particular, the following points require revisions: - The collateral required by supervisory regulation should be excluded from deductions because the purpose of such collateral is to secure a certain amount for policyholder protection (such as claim payments) in a contingency. - Collateral associated with financial market transactions should be excluded from deductions because it can easily be recovered in a contingency by settling such transactions. - In cases where assets can be recovered upon a unilateral request by the party pledging collateral, the amount that can be expected to be recovered with certainty should be excluded from deductions.
The Life Insurance Association of Japan	Japan	Other	No	Yes	・An approach that limits assets pledged as collateral has not been adopted in either the already implemented banking regulation (the Basel II framework) or in the EU Solvency II Directive. Thus, we think assets pledged as collateral should not be limited. We are concerned incentives to pledge conservative collateral might be reduced under this approach, thereby resulting in adverse impacts on the stability of the financial system. We expect the IAIS to adequately consider our concerns based on the data collected during the field testing. ・We believe the latter part of the Tier 1 Limited criteria stated in the 2016 Field

					Testing Technical Specifications i) (i.e. distributions should be reduce equity rather than the profit/loss of the current year) should be deleted. This part might significantly restrict the application of the beginning part of this criterion for the classification of financial instruments, and such an approach has not been adopted in preceding banking regulation (the Basel II framework). ・We believe one possible way may be the introduction of a principle-based approach, which would enable IAIGs to determine their loss absorbing capacity considering the economic reality and the practical implementation aspect of capital funding method for each jurisdiction. Therefore the IAIGs´ loss absorbing capacity using those methods would be appropriately evaluated at going-concern basis. ・From the view of ensuring fairness in regulatory/supervisory practices, the requirements/restrictions on the applicable supervisory regime should be broadly considered. Regarding capital requirements, if new capital-raising financial instruments appear in the future, it should be allowed that an equivalent Tier is given to those instruments considering their similarities to other existing financial instruments.
Great Eastern Holdings Ltd	Singapore	Other	No	No	
Swiss Re	Switzerland	Other	No	No	
Aegon NV	The Netherlands	Other	No	Yes	Aegon has two additional comments, one specific and one more general. Our specific comment is that we believe that the treatment of encumbered assets in 2016 Field Testing is punitive. By requiring capital for 100% of the value of encumbered assets that exceeds the sum of the liability and capital requirements related to the encumbered assets, the IAIS approach ignores the probability of a call on the pledged assets. While such a simplified approach might be acceptable in a modestly calibrated standard as we advocate, it produces inappropriate outcomes and incentives in the highly calibrated approach pursued by the IAIS. More generally, we are concerned that the proposed standards for capital instruments are being developed without a thorough understanding of the potential

					impacts on markets. In many instances, it appears that prudence is being introduced via restricting the eligibility of capital instruments. There also is a lack of field testing, lack of market impact analysis and alignment with accepted market practices as well as a lack of comparison to existing local approaches to determining available capital. We believe this highlights the flawed process the IAIS is taking by rushing critical decisions without acknowledging the importance of these decisions and the potential impact that they may have on the ability of insurers to serve markets and consumers.
Association of British Insurers	United Kingdom	Other	No	Yes	In relation to the treatment of insurance liability/reinsurance adjustment offset (questions 87-89) we would note the following: • The IAIS should not compare the net assets under the MAV or GAAP Plus balance sheet with the net assets under accounting (GAAP) balance sheets. This comparison is not meaningful as one is an economic balance sheet and the other is a prudent balance sheet. The difference only indicates the level of prudence in various (and not comparable) GAAP balance sheets. The difference does not imply that any of the capital under the MAV balance sheet is of an inferior quality. Moreover, the ICS requirements already capture the risk associated in the total net assets when stresses are applied to the total balance sheet. The IAIS has further asked whether inclusion of the difference between net assets on GAAP and MAV balance sheets creates volatility on the MAV balance sheet. The IAIS should recognise that increased volatility will be inherent in any economic balance sheet and there is no reason to link it to the difference with an accounting balance sheet. The volatility should be addressed by appropriate choice of discount rates. • While market value of Tier 1 and 2 debt instruments is considered a liability in the balance sheet, only the book value of these instruments is added back as capital. This creates an inconsistency. • The current proposals on capital resources do not adequately reflect the strengths of balance sheets. In particular, the restrictions on financial instruments for determining tiering, maturing and amortisation still need further development, and the layering of the various restrictions results in an overly stringent approach.

American Council of Life Insurers	United States	Other	No	Yes	ACLI believes that existing instruments should be grandfathered. They were issued to meet a different set of regulatory standards during a higher interest rate environment. Current field test guidance requires a capital deduction for encumbered assets in excess of liabilities. The deduction is in addition to existing capital requirements on pledged assets and related secured liabilities. A capital requirement, not a capital deduction, is the appropriate treatment for excess collateral. The current approach is overly conservative, does not reflect the true economics of the balance sheet, and implies loss is certain, and it may discourage insurers from maintaining sources of secured liquidity, reducing flexibility in a crisis. We recommend the IAIS develop guidance for the “deduction from capital for total secured (encumbered) assets”. We recommend that the guidance contemplate that an excess of restricted assets over related liabilities can exist but should not be treated as a deduction from capital, when such amounts are in excess of the permitted recovery by the third party against such pledged assets and the IAIG has the legal right to such amounts.
MetLife	United States	Other	No	Yes	MetLife offers the following additional comments on capital resources: a) MetLife urges the IAIS to consider grandfathering existing instruments for the following reasons: --Existing instruments were issued to meet a different set of regulatory standards during a higher interest rate environment --Repurchase or redemption of existing high coupon securities may lead to significant losses by institutions --IAIS should establish a transitional timeframe no shorter than seven years and grandfather securities that meet the stated purpose of capital

					b) MetLife does not support the inclusion of senior debt as a qualifying capital resource. -- Although, senior debt issued at the holding company is structurally subordinated to the liabilities of policyholders of operating insurance entities, we think it is difficult to take that structural subordination into account in developing a group capital standard. -- Since senior debt is not able to be deferred, if the company does not pay scheduled debt service, an event of default is triggered and investors have the right to immediately accelerate the debt. Not counting senior debt in the calculation of liabilities impacting the group capital standard assumes that senior debtholders would not have to be paid. We believe this proposal significantly reduces the credibility of the group solvency calculation. The proposal creates a situation where bondholders could drive the company into bankruptcy even as the group solvency ratios are sufficient. c) MetLife proposes that current field test treatment of encumbered assets is inappropriate: -- IAIS standard requires a capital deduction for encumbered assets in excess of liabilities: a) Deduction is in addition to existing capital requirements on pledged assets and related secured liabilities -- Capital requirement, not capital deduction is the appropriate treatment for excess collateral a) Current approach implies loss is certain b) Current approach may discourage insurers from maintaining sources of secured liquidity, reducing flexibility in a crisis We recommend the IAIS develop instructions within the technical specifications to provide guidance for the “deduction from capital for total secured (encumbered)

					assets". We recommend that the guidance contemplate that an excess of restricted assets over related liabilities can exist but should not be treated as a deduction from capital, when such amounts are in excess of the permitted recovery by the third party against such pledged assets.
National Association of Mutual Insurance Companies	United States	Other	No	Yes	We object to the concept of capital tiering. This is a bank-centric concept that is not appropriate in an insurance capital formula. Tiering does not serve the general goal of policyholder protection, and generally drives insurers into more similar investment portfolios and less investment diversity in a way that could lead to a future crisis. The only objective for capital should be whether it is available for the payment of policyholder obligations. This should also hold true with surplus notes and senior debt that may be seen as liabilities. If they are legally, contractually or structurally subordinate to policyholder obligations they should be included in the capital resources.
RAA	United States and many other jurisdicitons	Other	No	Yes	Based on the Consultation and Field Test Specifications, we do not believe the capital resources appropriately recognize the strength of potential IAIG's balance sheets compared to existing capital regimes. This is particularly true for subordinated debt which is structurally subordinated to policyholder obligations and not currently eligible under the ICS. The definition and treatment of encumbrances does not recognize the liquidity, transferability and fungibility of these excess assets. The measurement and recognition of the MOCE on a basis consistent with the measurement approach is critically important. For example, consideration of a CoC MOCE with US GAAP basis reserving is inappropriate as there is prudence implicit in the measurement basis. The tiering of capital and associated limits adds further complexity to the proposal. We believe that a simpler, more principled based approach that looks through to the economic reality of capital funding methods and their ability to meet obligations on a going concern basis would be an improvement. Finally, with respect to non-paid up or similar capital funding instruments that may not qualify as capital resources, transition measures and grandfathering treatment must be considered.

American Insurance Association	United States of America	Other	No	Yes	Yes. The primary consideration for existing IAIGs is transitional arrangements. Given the range and diversity of instruments in place, it is imperative that a broad based grandfathering position is adopted to bring companies forward into the new regime without inappropriate dislocations for those groups or for market investors who supply capital. As such, early confirmation on transitional arrangements and grandfathering is key to engagement in this exercise.
Prudential Financial, Inc.	United States of America	Other	No	Yes	Instruments that match material criteria even if they were not pre-approved by supervisors should qualify as a capital resource. The IAIS should consider including Minority Interest (i.e. Non Controlling Interest) as Tier 2 Capital. In addition, for GAAP Plus, reflecting the AOCI adjustment in the ICS Base Balance Sheet would improve the alignment of available capital and required capital. Currently the AOCI adjustment is only applied to available capital and interest rate risk, however it should also be applied to other risks such as currency and credit risk where holding assets at book value would result in a more accurate measure of risk.
Liberty Mutual Insurance Group	USA	Other	No	Yes	There should be no tiering of capital. The use of a generalized system of tiered capital is simply unnecessary for purposes of policyholder protection. All capital should be treated equally for purpose of the ICS, because as long as the capital is available in liquidation to pay policyholder claims, it should be considered in the calculation. Only one principle is necessary for purposes of determining whether capital should be qualifying and that is to what extent it is available to pay policyholder liabilities in the event the IAIG is being liquidated. If a liability is subordinate to policyholder obligations, as is the case with holding company debt, it should be considered as part of qualifying capital. Factors that are inconsistent with this analysis and purport to evaluate whether capital is available on a going-concern basis should be ignored. If the purpose of the ICS is to ensure that a company has enough capital to pay policyholder claims, it should not matter what its capital level is relative to another

					IAIG. Capital assessment should not be meant to see which insurer has the most capital cushion, but to ensure that each insurer will be able to pay its policyholders in a liquidation event, based on an analysis of each insurer's unique risk profile and risk management capabilities. As such, comparability should not be critical to the ICS, and the focus should be on achieving consistency in the evaluation of an insurer's capital and its related risk management strategy.
MassMutual Financial Group	USA	Other	No	Yes	As a mutual insurer, we appreciate the focus that has been given to surplus notes, and the progression to date. We believe further consideration/analysis is needed. Specifically, the classification as Tier 1 Unlimited capital would be appropriate, as the supervisory approval aspect inherently drives characteristics consistent such classification. The notes can be used to absorb losses on a going concern basis, are most subordinated, can be perpetual, and the regulator has the discretion to cancel distributions. Given that it is the regulator´s authority to cancel the distributions, not the firms, we would suggest a change in wording in criteria to better align to the features of surplus notes.

End of Section 5