6 Reference ICS: Capital resources

Q48 Section 6 Are the changes to the Tier 1 Unlimited capital resources criteria appropriate for ICS Version 2.0? Please explain.

Organisation	Jurisdiction	Confidential	Answer	Answer Comments
China Banking and Insurance Regulatory Commission (CBIRC)	China	No	Yes	
European Insurance and Occupational Pensions Authority (EIOPA)	EIOPA	No	No	This would not ensure the permanence of high quality capital. In addition, this introduces an inconsistency around discretionary repurchase, making the requirement for T2 higher than that for T1.
Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Germany - BAFIN	No	No	The changes to Tier 1 Unlimited do not ensure the permanence of high quality caoutak. In addition, this introduces an inconsistency around discretionary repurchase, making the requirement for T2 higher than that for T1.
Dai-ichi Life Holdings, Inc.	Japan	No	Yes	It is appreciated that Version 2.0 counts common stocks as the Tier 1 Unlimited capital resources regardless of whether GWS's prior approval is required for share buy-back of common stocks.
General Insurance Association of Japan	Japan	No	Yes	The changes to the Tier 1 Unlimited capital resource criteria which newly include common shares are appropriate.

The Life Insurance Association of Japan	Japan	No	Yes	• The LIAJ supports the decision to treat ordinary share as the Tier 1 Unlimited capital resources, even if purchasing treasury share does not require prior supervisory approval.
Financial Supervisory Service (FSS) & Financial Services Commission (FSC)	Korea (Republic of)	No	Yes	
Legal & General	UK	No	Yes	We are comfortable with this.
Association of British Insurers	United Kingdom	No	Yes	The ABI notes the IAIS proposes to remove the requirement for supervisory approval prior to discretionary repurchases from criterion (e), and a consequential change to criterion (f) to delete reference to "prior supervisory approval". We agree with the IAIS's assessment that it is not appropriate to include such supervisory approvals within a minimum harmonising standard.
National Association of Mutual Insurance Companies	United States	No	No	NAMIC disagrees with the concept of tiered capital in general. However, if tiering is required, NAMIC also supports the inclusion of senior and subordinated debt as Tier 1.
RAA	United States and many other jurisdicitons	No	No	See response to Q51.
Prudential Financial, Inc.	United States of America	No	Yes	
Liberty Mutual Insurance Group	USA	No	Yes	Senior and subordinated debt must be Tier 1. Liberty Mutual opposes any tiering of capital. If a liability is subordinate to

				policyholder obligations it should be considered qualifying capital without any tiering or limits.
Property Casualty Insurers Association of America (PCI)	USA	No	Yes	
National Association of Insurance Commissioners (NAIC)	USA, NAIC	No	Yes	Yes.

Q49 Section 6 Are the criteria for Tier 1 Unlimited capital resources, as set out in the 2018 Field Testing Technical Specifications, appropriate for ICS Version 2.0? Please explain.

Organisation	Jurisdiction	Confidential	Answer	Answer Comments
China Banking and Insurance Regulatory Commission (CBIRC)	China	No	Yes	
European Insurance and Occupational Pensions Authority (EIOPA)	EIOPA	No	No	Please see our response to Q48.
Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Germany - BAFIN	No	No	Please see our response to Q48.
General Insurance Association of Japan	Japan	No	Yes	Please refer to our comments on Q48.

Financial Supervisory Service (FSS) & Financial Services Commission (FSC)	Korea (Republic of)	No	Yes	
Legal & General	UK	No	No	We believe that the amortisation of financial instruments over the five years leading up to the first call date is excessively prudent and would not provide an appropriate view of our capital position to meet solvency requirements as: • qualifying instruments would provide loss absorbency until called • the IAIG may choose not to call such instruments at the first call date • regulatory approval is required to call subordinated debt and discussions with supervisors would be had well in advance of any upcoming call • applying straight line amortisation over five years overestimates the risk of calling As result, we are concerned this could lead to management actions by insurers that do not reflect appropriate risk management but are driven by an excessively prudent regulatory valuation basis.
National Association of Mutual Insurance Companies	United States	No	No	NAMIC is a trade association and not a field tester for the ICS. Without more information on how this specification compares for the field testing volunteers it is difficult to answer this question with specificity. But any specification that support a one-size-fits-all prescriptive approach is not supported by

				NAMIC members and NAMIC disagrees with the concept of tiered capital in general.
RAA	United States and many other jurisdicitons	No	No	See response to Q51.
Prudential Financial, Inc.	United States of America	No	Yes	
American Property Casualty Insurance Association (APCI)	USA	No	No	As with several other questions posed in the CD, it is difficult to answer this question without the experience of being a field testing participant.
Liberty Mutual Insurance Group	USA	No	No	Senior and subordinated debt must be Tier 1. Liberty Mutual opposes any tiering of capital. If capital is available to pay policyholders and is a permissible investment under the applicable insurance investment law, there should be no limits or tiering with respect to capital composition. For example, if the proceeds of a financial instrument as 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.
MetLife, Inc	USA	No	No	We share the concern of many other stakeholders that the rational for the overall approach to determining components and limits for ICS capital resources is unclear. Limits have been proposed throughout field testing as a set of placeholders and without any explanation of how the IAIS assessed the potential loss absorbing capacity of the various components of ICS Capital Resources. For example, it would

				be helpful to understand what are --the underlying criteria for assessing loss absorbing capacity; --the concepts of Tier 1 relative to Tier 2 in an insurance context (i.e., whether meant to differentiate as “going” versus “gone” concern, or whether tiering is meant only to convey quality of loss absorption); --the attributes of the capital components themselves; and the associated limits (and sub-limits) for inclusion within Capital Resources.
Property Casualty Insurers Association of America (PCI)	USA	No	Yes	
National Association of Insurance Commissioners (NAIC)	USA, NAIC	No	Yes	Yes.

Q50 Section 6 Are the changes to the Tier 1 Limited capital resources criteria appropriate for ICS Version 2.0? Please explain.

Organisation	Jurisdiction	Confidential	Answer	Answer Comments
Office of the Superintendent of Financial Institutions (OSFI)	Canada - OSFI	No	No	Further analysis would be required prior to stating that these proposed changes are appropriate. For example, data provided may highlight the need to increase the current requirement for initial maturity of at least 10 years (to, for example, 30 years) to more clearly delineate between Tier 2 and Tier 1 Limited instrument durations. Additionally, further evidence of existing

				redemption deferrals subject to supervisory approval or lock-in features may be necessary.
China Banking and Insurance Regulatory Commission (CBIRC)	China	No	Yes	
European Insurance and Occupational Pensions Authority (EIOPA)	EIOPA	No	No	The proposed changes provide scope for the recognition of financial instruments issued by mutual IAIGs in Tier 1 capital resources if certain conditions are met. While we understand the rationale for these changes, in reality those additional conditions weaken the quality of capital of T1 Limited instruments and reduce the loss absorbency on a going concern basis. This concession results in a weaker set of requirements for mutuals and therefore provides less protection for those policyholders.
Insurance Europe	Europe	No	No	Insurance Europe welcomes the change in the criteria, to allow for recognition of financial instruments issued by mutuals in Tier 1 limited capital resources. However, Insurance Europe believes the criteria to qualify for Tier 1 are too restrictive. (An instrument can be considered as perpetual, if redemption at maturity can be deferred subject to supervisory approval or a lock-in feature, and if the instrument has an initial maturity of 10 years).
Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Germany - BAFIN	No	No	The proposed changes provide scope for the recognition of financial instruments issued by mutual IAIGs in Tier 1 capital resources if certain conditions are met. While we understand the rationale for these changes, in reality those additional conditions weaken the quality of capital of T1 Limited instruments and reduce the loss absorbency on a going

				concern basis. This concession results in a weaker set of requirements for mutuals and therefore provides less protection for those policyholders.
General Insurance Association of Japan	Japan	No	No	We do not think the change is appropriate. Allowing special treatment of dated products issued by mutual insurers (i.e., allowing such instruments to be included in Tier 1 Limited capital if their redemption at maturity can be deferred subject to supervisory approval or they have a lock-in feature, and if such instruments have an initial maturity of at least ten years) will distort fair competition with other IAIGs.
The Life Insurance Association of Japan	Japan	No	No	• The LIAJ appreciates the proposed criteria in the consultation document has enabled mutual groups to have the opportunity to raise Tier 1 capital resources from external bodies. However, it should be noted that in order to be qualified as Tier 1, an instrument needs to have an initial maturity of at least ten years or more. Since the maturity of most of Kikin issued in Japan in the past is about five years and there are little experiences of issuing the Kikin with ten years or longer, it is likely that fund-raising by mutuals would be extremely difficult with virtually no investors to purchase the Kikin bonds (i.e. unintended consequences due to unacceptable funding costs). The LIAJ proposes that certain discretion is given to the supervisor in each jurisdiction in setting the minimum maturity (at least 5 years) , taking into account the requirements or constraints under local supervisory regimes.
Financial Supervisory Service (FSS) & Financial Services Commission (FSC)	Korea (Republic of)	No	Yes	

American Council of Life Insurers	Office of General Counsel	No	Yes	While we are grateful that mutual companies will have access to at least one source of Tier 1 capital (surplus notes), it is not clear to us why the same instrument should be relegated to Tier 2 for stock companies. Nevertheless, we acknowledge that the recognition of surplus notes as Tier 1 capital for mutual notes was the result of a lengthy negotiation. In any case, the IAIS should not undo this recognition of surplus notes as Tier 1 for mutual companies by including a criteria (PLAM) that would eliminate the ability of U.S. mutual companies to get Tier 1 credit for their surplus notes.
Legal & General	UK	No	Yes	We are comfortable with this.
Association of British Insurers	United Kingdom	No	Yes	The ABI considers that it is appropriate that the ICS allows for recognition of financial instruments issued by IAIG mutuals in Tier 1 limited capital resources. The ABI agrees with IAIS's rationale that this will serve to: (1) expand the scope for mutual IAIGs to issue Tier 1 instruments during stress (given that they cannot issue ordinary shares); and (2) recognise controls within some jurisdictions that may prevent distribution of the interest and principal of certain types of financial instruments.
National Association of Mutual Insurance Companies	United States	No	Yes	NAMIC appreciates the recognition of surplus notes as limited Tier 1 capital for mutual companies. This was a helpful change for mutuals, but NAMIC would also support the addition under similar circumstances of surplus notes for all company structures. NAMIC does not believe any insurance group would favor issuing ordinary stock in times of stress. Such a stock issuance would further dilute stock prices that may already be falling, which would not raise capital efficiently. In such times, most companies see surplus note issuance as a better option to avoid spiraling stock prices. NAMIC would support the extension of all surplus note assets to limited Tier 1 capital

				resources under the same conditions as have been created for mutual insurers, and the extension of limited Tier 1 status for all senior and subordinated debt as well.
RAA	United States and many other jurisdicitons	No	No	See response to Q51.
Prudential Financial, Inc.	United States of America	No	No	We support the proposed change, however, its application should not be limited to mutual IAIGs. The criteria for recognition of capital resources should be a function of the instruments issued, not the type of structure the group has adopted.
American Property Casualty Insurance Association (APCI)	USA	No	No	As with several other questions posed in the CD, it is difficult to answer this question without the experience of being a field testing participant.
MetLife, Inc	USA	No	No	While we appreciate and support the need to expand the scope for mutual IAIGs to issue Tier 1 qualifying financial instruments during a time financial stress, we suggest that to propose this expansion for mutual IAIGs only is to offer preferential treatment to a select number of IAIGs. Accordingly, we suggest that the change should also apply to stock insurers.
Property Casualty Insurers Association of America (PCI)	USA	No	No	We support the change to criterion c which would seem to accommodate mutual IAIGs, including those in the United States that may issue surplus notes. (However, see comments at Q 64 as to the proposed capital composition limits.) Also, in order to fully achieve the stated goal of expanding the scope for mutual IAIGs to issue Tier 1 qualifying financial instruments, the following change should be made to criterion

				h: "The 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. For mutual IAIGs, this criterion can be achieved by a requirement for supervisory approval of distributions, which can be denied at the supervisor's sole discretion." We are concerned that the possible future addition of a PLAM requirement will effectively negate the negotiated resolution that now allow mutuals to qualify surplus notes as Tier 1 Limited. Please see our response to Q52.
National Association of Insurance Commissioners (NAIC)	USA, NAIC	No	Yes	Yes. In order to effectuate the change that allows mutual IAIGs to issue Tier 1 qualifying capital financial instruments, a change to criterion "h" would appear necessary (i.e., insert an addition that states that for mutual IAIGs, this criterion can be achieved by a requirement for supervisory approval of distributions).

Q51 Section 6 Are the criteria for Tier 1 Limited capital resources, as set out in the 2018 Field Testing Technical Specifications, appropriate for ICS Version 2.0? Please explain.

Organisation	Jurisdiction	Confidential	Answer	Answer Comments

China Banking and Insurance Regulatory Commission (CBIRC)	China	No	Yes	
European Insurance and Occupational Pensions Authority (EIOPA)	EIOPA	No	No	The criteria as stated provide an acceptable quality of capital (i.e. between Tier 1 Unlimited and Tier 2 Paid-Up). This is the case for joint-stock IAIGs, but as mentioned in Q50, the concessions for mutual IAIGs results in a lower quality of capital for that tier. The Tier 1 Limited criteria could be further strengthened with features such as PLAM described in Q54. This would permit the principal of an instrument to absorb losses in going concern. Without a PLAM, it is difficult to see how the principal of an instrument provides going concern loss absorbency.
Insurance Europe	Europe	No	No	Insurance Europe considers that the criteria are too restrictive (see the answer to Q50 above).
Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Germany - BAFIN	No	No	The criteria as stated provide an acceptable quality of capital (i.e. between Tier 1 Unlimited and Tier 2 Paid-Up). This is the case for joint-stock IAIGs, but as mentioned in Q50, the concessions for mutual IAIGs results in a lower quality of capital for that tier. The Tier 1 Limited criteria could be further strengthened with features such as PLAM described in Q54. This would permit the principal of an instrument to absorb losses in going concern. Without a PLAM, it is difficult to see how the principal of an instrument provides going concern loss absorbency.
Global Federation of Insurance Associations	Global	No	No	GFIA takes the view that the criteria to qualify for Tier 1 are too restrictive. GFIA acknowledges the refined Tier 1 Limited criterion that recognise surplus notes and Foundation Funds (Kikin) for

				mutual companies. However, the requirements make it very difficult for mutual companies to raise such capital, as the instruments are required to have an initial maturity of at least ten years. GFIA takes the view that the IAIS should allow local supervisors flexibility in determining maturity requirements.
Dai-ichi Life Holdings, Inc.	Japan	No	No	Our understanding is that it is determined from the viewpoints of ICS economic capital basis (not accounting basis and not regulation basis) whether the criteria for the Tier 1 unlimited capital resources as to whether a financial instrument may be called or not are fulfilled or not.
General Insurance Association of Japan	Japan	No	No	Please refer to our comments on Q50.
Financial Supervisory Service (FSS) & Financial Services Commission (FSC)	Korea (Republic of)	No	Yes	
Legal & General	UK	No	Yes	We are comfortable with this.
Association of British Insurers	United Kingdom	No	No	The ABI considers that the criteria are too restrictive – an instrument can be considered as perpetual if redemption at maturity can be deferred subject to supervisory approval or a lock-in feature, and if the instrument has an initial maturity of 10 years.
National Association of Mutual Insurance Companies	United States	No	Yes	NAMIC appreciates the changes made to Tier 1 unlimited capital including the addition of surplus notes for mutual companies and supports the inclusion of surplus notes in Tier 1 for all insurers, not just mutuals. Notwithstanding NAMIC's support for the addition of surplus notes to Tier 1 capital,

				NAMIC believes that the changes to the treatment of surplus notes should apply to all companies, not just mutual insurers. However, NAMIC is a trade association and not a field tester for the ICS. Without more information on how this specification compares for the field testing volunteers it is difficult to definitively answer this question. But any specification that support a one-size-fits-all prescriptive approach is not supported by NAMIC members and NAMIC disagrees with the concept of tiered capital in general.
RAA	United States and many other jurisdicitons	No	No	The ICS will result in requirements for capital resources that differ from existing national requirements. It will therefore be essential that the implementation of these are subject to an appropriate transitional period. As a consequence, the ICS should stipulate a ten-year transitional period to comply with the capital resources requirements from the date that they are implemented at a national level. Specific Comments: - The criteria to qualify for tier 1 are too restrictive - Surplus notes and senior debt should not be treated differently – both should both be tier-1 - Surplus notes should not be limited to mutual insurers - Tracing exercise is problematic in practice The current proposed capital composition limit that Tier 1 capital resources will be limited to 10% of the ICS capital requirement is too onerous, and we consider that Tier 1 capital resources being limited to 20% of total capital resources would be more appropriate.
Prudential Financial, Inc.	United States of America	No	Yes	

American Property Casualty Insurance Association (APCI)	USA	No	No	As with several other questions posed in the CD, it is difficult to answer this question without the experience of being a field testing participant.
Property Casualty Insurers Association of America (PCI)	USA	No	No	Assuming the change suggested in our response to Q 50 is made, and assuming a PLAM requirement is not added to the criteria, then yes; otherwise, no.
National Association of Insurance Commissioners (NAIC)	USA, NAIC	No	Yes	Yes. See comment to question #50.

Q52 Section 6 Is a PLAM an appropriate requirement for Tier 1 Limited financial instruments? Please explain any advantages and disadvantages of requiring a PLAM.

Organisation	Jurisdiction	Confidential	Answer	Answer Comments
Office of the Superintendent of Financial Institutions (OSFI)	Canada - OSFI	No	No	A PLAM is one option considered to assess loss absorbency in a going concern. However, OSFI's view is that PoNV (point of non viability) loss absorbency could also be considered. Specifically, the IAIS could consider loss absorbency on a going concern basis, as well as on a gone concern basis with (contractual or statutory) PoNV triggers. It is possible that an insurer could fail before a PLAM trigger occurs due to the lagging nature of PLAM triggers. Moreover, PLAM triggers could have adverse signalling effects in respect of the financial condition of the issuer, which could precipitate non-viability.

China Banking and Insurance Regulatory Commission (CBIRC)	China	No	Yes	
European Insurance and Occupational Pensions Authority (EIOPA)	EIOPA	No	Yes	Requiring a PLAM, i.e. write-down or conversion features, provides a means for the principal of a financial instrument to absorb losses on a going-concern basis. Without such mechanisms these instruments only provide going concern loss absorbency through cancellation of distributions. However, careful consideration should be given to the exact details of the workings of the PLAM: • going-concern loss absorbency of PLAM is diluted (but not removed) completely if a taxable gain is created when a PLAM is triggered; and • requiring a PLAM introduces complexity with how to apply IFRS valuation rules, particularly if the instrument is deemed a compound instrument.
Insurance Europe	Europe	No	Yes	Insurance Europe believes PLAM is an appropriate requirement for Tier 1 limited financial instruments, However, PLAM creates a number of challenges and concerns, given the complexity of the functioning of these Tier 1 limited financial instruments across jurisdictions and in particular under certain stress conditions.
Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Germany - BAFIN	No	Yes	Requiring a PLAM, i.e. write-down or conversion features, provides a means for the principal of a financial instrument to absorb losses on a going-concern basis. Without such mechanisms these instruments only provide going concern loss absorbency through cancellation of distributions. However: • going-concern loss absorbency of PLAM is diluted (but not

				removed) completely if a taxable gain is created when a PLAM is triggered; and • requiring a PLAM introduces complexity with how to apply IFRS valuation rules, particularly if the instrument is deemed a compound instrument.
Dai-ichi Life Holdings, Inc.	Japan	No	No	It is not necessary that principal and interests are distinguished in terms of considering cash flow. Therefore, capacity as to loss absorbency of a financial instrument should be determined how to reduce base cash flow (i.e. cash flow of the financial instrument under going concern situation) as a whole (i.e. principal and interests are not distinguished) by loss absorbency mechanism which the financial instrument contains.
General Insurance Association of Japan	Japan	No	Yes	
Financial Supervisory Service (FSS) & Financial Services Commission (FSC)	Korea (Republic of)	No	Yes	PLAM may improve the quality of Tier 1 Limited capital and even the level playing field with banking regualtions requiring PLAM for financial instruments of all tiers.
American Council of Life Insurers	Office of General Counsel	No	No	We oppose introducing a principal loss absorbency mechanism (PLAM) criterion for Tier 1 Limited financial instruments for three reasons. First, it could be read to require that financial instruments include specific terms that are not common in all regulatory regimes and yet are not necessary to achieve going concern loss absorbency (thus violating the principle that the ICS should aim for comparability of outcomes across jurisdictions). Surplus notes issued by insurers in the United States achieve a high level of loss absorbency in both going and gone concern scenarios because regulatory approval is required for distributions in all circumstances. Yet, because surplus notes do not include within the terms of the instrument

				a mechanism to reduce the principal amount, they would not meet a PLAM criterion. Since going concern loss absorbency may be provided by other features – such as the requirement for regulatory approval for each distribution – refusing Tier 1 Limited treatment on a PLAM criterion would result in non-comparable outcomes across jurisdictions, disadvantaging some jurisdictions and increasing the risk of arbitrage of the ICS. Second, the objective of the PLAM criterion seems to be to ensure that policyholders are protected. However, the wording and application of the criterion fails to recognize that surplus notes and protections for policyholders vary across jurisdictions. If a jurisdiction lacks policyholder protections or supervisory oversight of surplus notes, then PLAM may be appropriate. However, in jurisdictions with a variety of policyholder protection schemes, the PLAM is unnecessary and could constrain regulator's ability to preserve insurance solvency in times of stress. For example, in the US, regulators strictly control the amount of surplus notes that a company is able to issue. Typically, they will limit issuance below the level currently permitted for Tier 1 credit (and thus Tier 2) under ICS 2.0. Besides a prudent desire to limit leverage, regulators keep the level low in order to preserve potential market access to sell surplus notes in the event an insurer encounters financial distress and regulators want to prevent or initiate a rehabilitation of the insurer. Ironically, the tier 1 limit on surplus note issuance under ICS 2.0 as designed could constrain regulatory options to preserve insurer solvency, by not (fully) counting the benefit of surplus note issuance ordered by the regulator.

				Finally, more practically, the introduction of a PLAM criterion would effectively reverse the position expressed in the CD that surplus notes issued by mutual IAIGs should be recognized as Tier 1 Limited capital resources. While we believe there are merits to recognizing surplus notes for all insurers, we support the rationales expressed in paragraph 172 as to mutual insurers. A PLAM requirement would contradict those rationales.
Legal & General	UK	No	Yes	We are broadly supportive of the requirement but have a few points of clarification below. Under Solvency II Restricted Tier 1 instruments are required to have features (equity conversion or write-down) that allow these to fully absorb losses in a going-concern basis as well as in the case of winding-up. However, please consider that the PLAM would not improve the SCR coverage ratio as a result of the triggering, but would only strengthen the quality of capital in the form of higher Tier 1 Unlimited resources, subject to any tax implication. This is particularly the case if the contribution of Tier 1 Limited resources is capped on the basis of the capital requirement. In addition, please take in account level playing field considerations should the PLAM be required for IAIGs only, or waived in jurisdictions where the PLAM may not be applied due to legal or tax reasons.
Association of British Insurers	United Kingdom	No	Yes	PLAM is an appropriate requirement for Tier 1 limited financial instruments. However, it creates a number of challenges and concerns, given the complexity of the functioning of these Tier

				1 limited financial instruments across jurisdictions and, in particular, under certain stress conditions.
National Association of Mutual Insurance Companies	United States	No	No	PLAM is an addition to the discussion that NAMIC strongly opposes. NAMIC does not see any value in a PLAM requirement. It is simply a way to further complicate the ICS 2.0 providing no value. It seems to be designed to reduce the value of allowing surplus notes to qualify as Tier 1 capital resources.
Prudential Financial, Inc.	United States of America	No	No	We believe going concern loss absorbency through cancellation of distributions is adequate. Requiring a PLAM on preferred equities would unnecessarily and greatly increase the cost of issuing such equities and be prohibitive.
American Property Casualty Insurance Association (APCI)	USA	No	No	
MetLife, Inc	USA	No	No	We oppose the principal loss absorbency mechanism (PLAM) criterion proposed by the IAIS for ICS 2.0 As written the criterion appears to require that financial instruments include terms that are not common in all regulatory regimes and, more importantly, are not necessary to achieve going concern loss absorbency. As going concern loss absorbency may be provided by other features, refusing Tier 1 Limited treatment on this basis would result in non-comparable outcomes across jurisdictions, disadvantaging some jurisdictions and increasing the risk of arbitrage of the ICS. For example, all distributions of surplus notes issued by insurers in the United States are subject to regulatory oversight ensuring they achieve a high level of loss absorbency in both going and gone concern scenarios. However, they would not meet the PLAM criterion because they do not include a mechanism to

				reduce the principal amount within the terms of the instrument. The objective of the PLAM criterion appears to be policyholder protection but it fails to recognize that surplus notes and protections for policyholders vary across jurisdictions. A PLAM may be appropriate where a jurisdiction lacks policyholder protections or supervisory oversight of surplus notes. However, for jurisdictions with a well-developed practice and existing inventory on such instruments the PLAM is unnecessary and could constrain regulator's ability to preserve insurance solvency in times of stress. Lastly, there should be no difference in criteria between mutual and non-mutual insurers, and if a PLAM is introduced to ICS 2.0 the PLAM criteria should not disallow existing instruments.
Property Casualty Insurers Association of America (PCI)	USA	No	No	We are concerned that the IAIS is again adopting criteria from the legal structure of one jurisdiction that do not fit with the legal structure of others. A recent example is described in the ICS CD at paragraphs 169 and 170; after two years, the IAIS finally saw its way clear to remove the requirement for prior supervisory approval of discretionary purchases, e.g., of Treasury Stock. That decision was based on the rationale cited in paragraph 170, i.e., that "such a requirement does not feature in the regulatory regimes of all IAIS members and is therefore not appropriate to include within a minimum harmonising standard." While we applaud that change and the rationale for it, now that same rationale is ignored in putting forward a proposal to include PLAM, a current feature in some jurisdictions, but certainly not all. In addition, if the PLAM criterion were to be added, it would

				effectively undo what the IAIS just accomplished by allowing mutuals to qualify surplus notes as Tier 1 Limited. We hope that the IAIS would agree is an unacceptable outcome.
National Association of Insurance Commissioners (NAIC)	USA, NAIC	No	No	No. We have to make sure this requirement does not negate the recognition that mutual IAIGs can issue surplus notes that qualify as Tier 1 Limited (see question #50 above).

Q53 Section 6 If a PLAM requirement is not introduced, what amount should be included in ICS capital resources for instruments that qualify as Tier 1 Limited, to reflect going concern loss absorbency? Please explain.

Organisation	Jurisdiction	Confidential	Answer	Answer Comments
Office of the Superintendent of Financial Institutions (OSFI)	Canada - OSFI	No	Capital composition limits address the concerns related to loss absorbency of Tier 1 Limited instruments and therefore their full face amount should be included in the ICS capital resources.	
European Insurance and Occupational Pensions Authority (EIOPA)	EIOPA	No	Without a PLAM requirement, it is difficult to see how the principal of an instrument absorbs losses in a going concern basis.	
Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Germany - BAFIN	No	Without a PLAM requirement, it is difficult to see how the principal of an instrument absorbs losses in a going concern basis.	

Global Federation of Insurance Associations	Global	No	The full amount that qualifies based on the other Tier 1 Limited criteria, subject to the composition limits described in Section 6.6 of the consultation document.	
Dai-ichi Life Holdings, Inc.	Japan	No	It should be taken into account that all principal (100% of cash flow) of common stock may be utilized for loss absorbency.	
Financial Supervisory Service (FSS) & Financial Services Commission (FSC)	Korea (Republic of)	No	If a PLAM requirement is not introduced, the ICS could include the entire amount of capital. The quality of Tier 1 Limited, however, could fall. If a PLAM requirement is not introduced, the ICS could include the entire amount of capital. The quality of Tier 1 Limited, however, could fall.	
Legal & General	UK	No	We don't have any Grandfathered Tier 1 instruments outstanding and as noted in the answer to Q52 under Solvency II any new Restricted Tier 1 instruments are required to have features (equity conversion or write-down) that allow these to fully absorb losses in a going-concern basis as well as in the case of winding-up. Hence we have not developed a proposal to this.	
National Association of Mutual Insurance Companies	United States	No	Nothing needs to be included to reflect going concern loss absorbency.	
Prudential Financial, Inc.	United States of America	No	The notional or par value of the instrument should be included.	

American Property Casualty Insurance Association (APCI)	USA	No	Tier 1 Limited instruments already provide loss absorbency on a going concern loss basis through cancellation of distributions. Reducing the principal amount of these instruments is only necessary during resolution.	
Property Casualty Insurers Association of America (PCI)	USA	No	The full amount that qualifies based on the other Tier 1 Limited criteria, subject to the composition limits (however, see our response to Q64 and our concerns about the currently-proposed composition limits). In support, PCI cites the response of OSFI-Canada to a similar question in the prior ICS consultation: "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 signaling	

			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." https://www.iaisweb.org/file/63196/section-5-capital-resources-public	

Q54 Section 6 Are there other criteria that could be added to enhance the ability of financial instruments to absorb losses on a going concern and / or on a gone concern basis? Please explain.

Organisation	Jurisdiction	Confidential	Answer	Answer Comments
China Banking and Insurance Regulatory Commission (CBIRC)	China	No	No	
European Insurance and Occupational Pensions Authority (EIOPA)	EIOPA	No	Yes	• In T1, mandatory cancellation of distributions on breach of capital requirement (i.e. a lock-in feature). • In T2, mandatory deferral of distributions and redemption of principal on breach of capital requirement (i.e. a lock-in feature). • Requirement for early repurchase (within 5 years from

				issuance) to be funded out of proceeds of new issuance of same/higher quality (all tiers).
Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Germany - BAFIN	No	Yes	• In T1, mandatory cancellation of distributions on breach of capital requirement (i.e. a lock-in feature). • In T2, mandatory deferral of distributions and redemption of principal on breach of capital requirement (i.e. a lock-in feature). • Requirement for early repurchase (within 5 years from issuance) to be funded out of proceeds of new issuance of same/higher quality (all tiers).
Financial Supervisory Service (FSS) & Financial Services Commission (FSC)	Korea (Republic of)	No	No	
Legal & General	UK	No	Yes	Should PLAM be eventually required, please consider adding a reference to the supervisor's ability to waive the loss absorption should this have unintended tax consequences that would undermine the creation of Tier 1 Unlimited resources upon a trigger event, as also mentioned by the EIOPA in its second set of advice to the European Commission on specific items in the Solvency II Delegated Regulation (February 2018).
National Association of Mutual Insurance Companies	United States	No	No	Nothing needs to be included to reflect going concern loss absorbency.
Prudential Financial, Inc.	United States of America	No	No	
Property Casualty Insurers Association of America (PCI)	USA	No	No	

Q55 Section 6 If the proposed approach for the recognition of structurally subordinated financial instruments is adopted for ICS Version 2.0, are there any practical difficulties that the IAIG and its GWS may encounter in implementing this approach? Please explain.

Organisation	Jurisdiction	Confidential	Answer	Answer Comments
European Insurance and Occupational Pensions Authority (EIOPA)	EIOPA	No	Yes	Recognition of structural subordination only makes sense when looking at solvency on a legal entity basis. Within a consolidated group standard (such as the ICS), it does not really make sense as the intent is to look at the group as a single economic entity. In that case, structurally subordinated senior debt (for example) is a liability without loss absorbing properties and so should not be included in ICS capital resources. Adding additional conditions will not necessarily lead to comparable outcomes with contractually subordinated debt – in particular if the additional conditions are not well-defined, as is the case in the ICS version 2.0 consultation document. In terms of practical difficulties with the additional conditions, “tracking” of down-streamed amounts might be not possible in practice. Additionally, what is deemed as appropriate regulatory/supervisory controls will vary across jurisdictions, thereby reducing consistency and comparability.
Insurance Europe	Europe	No	Yes	Insurance Europe does not consider the proposed approach to be practical, as it will be very difficult to explicitly track the flow of cash linked with a particular funding instrument, given that cash is generally a fungible asset in the Group treasury function.

Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Germany - BAFIN	No	Yes	Recognition of structural subordination only makes sense when looking at solvency on a legal entity basis. Within a consolidated group standard (such as the ICS), it does not really make sense as the intent is to look at the group as a single economic entity. In that case, structurally subordinated senior debt (for example) is a liability without loss absorbing properties and so should not be included in ICS capital resources. Adding additional conditions will not necessarily lead to comparable outcomes with contractually subordinated debt – in particular if the additional conditions are not well-defined, as is the case in the ICS version 2.0 consultation document. In terms of practical difficulties with the additional conditions, “tracking” of down-streamed amounts might be not possible in practice. Additionally, what is deemed as appropriate regulatory/supervisory controls will vary across jurisdictions, thereby reducing consistency and comparability.
Global Federation of Insurance Associations	Global	No	Yes	GFIA recognises that senior debt used by holding companies would be treated as Tier 2 capital under certain circumstances; however, it would be required to obtain advanced permission from the supervisory authority when the subsidiary company makes dividends to the holding company. GFIA takes the view that such pre-permission is unnecessary.
Dai-ichi Life Holdings, Inc.	Japan	No	Yes	It is appreciated that Version 2.0 counts certain senior debts issued by a non-insurance holding company as Tier 2 capital. However, the requirement as to a prior approval by GWS for dividend from subsidiaries to the holding company (“Upstream dividend”) is not appropriate. The requirement should be deleted or regarded as fulfilled in certain situations where Upstream dividend may not be practically carried out under

				certain crisis situation because of GWS's local regulatory flamework.
General Insurance Association of Japan	Japan	No	Yes	The proposed approach for recognition of structurally subordinated financial instruments will increase the burden on the IAIG and the GWS. They will be required to verify whether the amounts from instrument issuance have been properly down-streamed into an insurance subsidiary of the IAIG, and whether the insurance subsidiary is located in a jurisdiction whose regulatory regime proactively enforces structural subordination through appropriate regulatory/supervisory controls over distributions from insurance subsidiaries. Also, it should be made clear under what circumstances it would be deemed that the following requirement is met: "The IAIG and the supervisor have determined that the proceeds of the instruments, which have been down-streamed into insurance subsidiaries, are being tracked and reported appropriately".
The Life Insurance Association of Japan	Japan	No	Yes	• Senior bonds issued by pure holding companies are treated as Tier 2 capital if certain requirements are met, but prior approval by the supervisors is required when dividends are distributed from subsidiary affiliated to the holding company in the consultation document. Given that it is virtually impossible to implement a dividend that would impair the soundness of each jurisdiction due to prudential regulations, the prior approval requirement is meaningless. It should be recognised as Tier 2 capital even without prior approval.
Financial Supervisory Service (FSS) & Financial Services Commission (FSC)	Korea (Republic of)	No	No	

American Council of Life Insurers	Office of General Counsel	No	No	It is essential that the ICS reflect the well-tested approach in the US of issuing financial instruments at the group level, with the proceeds down-streamed to capitalize the legal entity. For example, the provision to track downstreamed proceeds could be difficult to implement on a retroactive basis, since there previously has been no need for companies to track the push-down of debt proceeds as capital; it was clearly reflected as capital on the books of the legal entity that received the funds, and without a group capital construct in the United States, on a group basis the transaction was simply eliminated in consolidation. We do not believe tracking presents an insurmountable issue, but it would be helpful for a consistent tracking methodology to be developed. If tracking is adopted, we encourage the IAIS to consider applying tracking criteria prospectively post-implementation of the ICS in respect of new debt issuances, and providing a transitional arrangement in the form of a grandfather clause applicable to existing issuances of debt. Additionally, it is important that the ICS Capital Resources approach respects the convention in US debt capital markets of including acceleration clauses within senior debt instruments. The very same factors that the IAIS apparently considered in appropriately recognizing structurally subordinated debt to qualify as Tier 2 capital – i.e., downstreaming of proceeds to an insurance subsidiary located in a jurisdiction whose regulatory regime proactively enforces structural subordination through appropriate regulatory/supervisory controls over distributions from insurance subsidiaries, as well as the changes to criteria e) and f) – are equally effective in assuring permanence of capital and policyholder protection in the event of an attempted

				acceleration by the debt holder. The holding company would have insufficient liquidity to meet the acceleration demand and would have to seek approval of the insurance subsidiary's supervisor for an extraordinary dividend. The supervisor would consider the totality of the facts and circumstances and whether policyholder protection would be compromised if such a request was to be granted and, if so, would deny the request. The insurance subsidiaries would continue to operate on a going concern basis while the holding company's debt is reorganized while operating under protections afforded by Federal laws in the United States. There is likely no one-size-fits-all solution for all jurisdictions; in the United States, policyholder protection is assured not just due to our insurance supervisory regime, but also, in the instance of holding companies, the overlay of certain federal laws that provide for restructuring of debt as a going concern. That may be unique to the United States, but it is an overall regulatory construct that has been in place for many years and which has proven effective. The criteria in the ICS in respect of acceleration clauses needs to be changed to address that and to recognize jurisdictions that have effective policyholder protection.
Aegon NV	The Netherlands	No	No	Generally speaking, we issue financial instruments from our holding company. From there, we inject the proceeds directly into our operating entities as equity, not in the form of back-to-back financing through debt. This makes it impossible for us to track the proceeds of the issuance. Also, you could argue that back-to-back financing through debt would put a strain on policyholder protection for policyholders in the operating entity which has received the proceeds through a back-to-back debt with a coupon obligation.

				We believe policyholder protection in structural subordination is sufficiently covered through local entity capitalization and supervision. For subordinated debt which is structurally subordinate, policyholder subordination could be covered through a clause in the prospectus of the debt that indicates that coupons or redemptions are deferred when the issuing holding company has insolvent subsidiaries, which would effectively make the debt legally subordinate again. (see http://www.toezicht.dnb.nl/en/3/51-234007.jsp) For senior debt, an assessment of whether the proceeds of the debt have been down-streamed could also be assessed by aggregating the equity positions of the insurance operating entities and comparing this to the capital structure of the group as a whole. If the aggregate of the equity positions of the operating entities exceeds the shareholder equity position of the group minus the subordinated debt of the group, the proceeds of senior debt can be considered to have been downstreamed to the entities.
Legal & General	UK	No	Yes	Based on the wording in 10.1.4.5 of the 2018 IAIS Field Testing Technical Specifications, we assume that conditions provided under paragraph 391 would only apply to senior unsecured liabilities issued out of a clean holding company. In this case, please confirm whether the proceeds should be down-streamed to insurance subsidiaries in subordinated formats, and, if not, whether coupons of internal senior unsecured instruments should be considered “distributions” for the purposes of paragraph 391.
Association of British Insurers	United Kingdom	No	Yes	The ABI does not consider the proposed approach to be practical, as it will be very difficult to explicitly track the flow of

				cash linked with a particular funding instrument, given that cash is generally a fungible asset in the Group treasury function.
AIG	United States	No	Yes	Currently, the recognition of structural subordination of financial instruments as Tier 2 paid-up capital requires that "the proceeds of the instruments, which have been down-streamed into insurance subsidiaries, are being tracked and reported appropriately." Implementing this requirement on a retroactive basis is challenging since there previously has been no need for companies to track the push-down of debt proceeds as capital since it was clearly reflected as capital on the books of the legal entity that received the funds. On a group basis the transaction was simply eliminated in consolidation. We do not believe tracking presents an insurmountable issue, but it may be helpful for state insurance regulators in the U.S. to work with the industry to develop and agree on a tracking methodology or other guidance that could be more uniformly implemented by insurers and monitored by supervisors. We nonetheless encourage the IAIS to consider applying tracking criteria prospectively post-implementation of the ICS in respect of new debt issuances, and providing a transitional arrangement in the form of a grandfather clause applicable to existing issuances of debt.
National Association of Mutual Insurance Companies	United States	No	Yes	While the limitations on limited Tier 1 capital may well be reasonable under the current economic conditions, it is difficult to say what could happen if there was another crisis and insurers needed to issue more surplus notes to protect policyholders. Limitations and tiering of capital make no sense if the funds can be used to pay policyholder claims when necessary. In fact, in times of stress the one thing we know will happen is stock prices will fall and yet, they are given the

				highest level of tiering on an unlimited basis. This is concerning.
RAA	United States and many other jurisdicitons	No	Yes	The ICS should reflect the well-tested approach in the US of issuing financial instruments at the group level, with the proceeds down-streamed to capitalize the legal entity. The requirement to track downstream proceeds could be difficult to implement. A practical alternative should be considered.
Prudential Financial, Inc.	United States of America	No	No	The proposal, as outlined, is unnecessary and impractical as the resources down-streamed to operating subsidiaries, though funded through issuance of financial instruments by the holding company at inception, are fungible with other capital resources, and cannot be tracked on an ongoing basis and isolated in any meaningful sense from other cash flows in and out of the subsidiary. In addition, this requirement insufficiently recognizes a prudent capital management strategy of maintaining a pool of capital within the unregulated holding company that can be deployed to regulated operating entities when needed, which allows for greater capital fungibility within the group, particularly in times of stresses.
American Property Casualty Insurance Association (APCI)	USA	No	Yes	IAIGs would have practical difficulties tracking the proceeds of down-streamed debt instruments, especially retroactively. More fundamentally, a tracking requirement would not improve policyholder protection. The United States already has a robust regulatory system focused on safeguarding the capital adequacy of insurance subsidiaries. Supervisors directly regulate the insurance entities where the capital—and liabilities—resides. Most importantly, supervisors will not permit a subsidiary to make an extraordinary dividend payment to service holding company debt if the financial condition of the

				entity puts policyholder claims in jeopardy. Since tracking would not improve policyholder protection, we continue to oppose this requirement. That said, if a tracking requirement is implemented, it should apply prospectively only. It would be impractical for IAIGs to retroactively track the proceeds of down-streamed debt instruments, which have not been necessary to track in the past. Further, we are concerned that it will be difficult to develop a tracking requirement that can be uniformly implemented by IAIGs. Therefore, we also believe it would be preferable for United States regulators and insurers to work together to develop any tracking methodology or guidance that may be implemented.
Property Casualty Insurers Association of America (PCI)	USA	No	Yes	We understand that some firms have expressed that the tracking provision could be difficult to implement on a retroactive basis. Indeed, there simply has been no previous need for firms to track the push-down of debt proceeds as capital; it was clearly reflected as capital on the books of the legal entity that received the funds, and without a group capital construct in the United States, on a group basis the transaction was simply eliminated in consolidation. We do not believe tracking presents an insurmountable issue, but it may be helpful for state insurance regulators in the U.S. to develop and agree on a tracking methodology or other guidance that could be more uniformly implemented by insurers and monitored by supervisors. We nonetheless encourage the IAIS to consider applying tracking criteria

				prospectively, if at all, post-implementation of the ICS in respect of new debt issuances, and providing a transitional arrangement in the form of a grandfather clause applicable to existing issuances of debt.
National Association of Insurance Commissioners (NAIC)	USA, NAIC	No	Yes	A practical challenge will be in tracking the movement of proceeds as reflected in paragraph 175 (2nd bullet point). The view that supervisors should be able to account for the flow of funds related to each debt offering (proceeds received) is probably not realistic considering the extent of activity that some group structures might have. Supervisors may need to consider other reasonable approaches such as looking at aggregate activity on a yearly basis.

Q56 Section 6 If ICS Version 2.0 Tier 2 Paid-Up capital resources includes financial instruments with acceleration clauses that may be triggered outside of a winding up, please explain how policyholder protection is maintained and how other Tier 2 criteria can still be met (eg subordination, priority of claims, etc.).

Organisation	Jurisdiction	Confidential	Answer	Answer Comments
Office of the Superintendent of Financial Institutions (OSFI)	Canada - OSFI	No	With respect to loss absorbency of capital resources, OSFI is of the strong view that acceleration rights should be limited to events of default consisting of liquidation, wind-up, insolvency, or bankruptcy. If other events of default are permitted, they should be permitted only with generous "cure periods" for the IAIG to give IAIGs and	

			authorities an opportunity to cure the default. Consideration should also be given to the stay powers of IAIG's resolution authorities to determine whether instruments can still be exposed to losses if they have been accelerated before or after entry into resolution and remain unpaid.	
European Insurance and Occupational Pensions Authority (EIOPA)	EIOPA	No	Allowing such acceleration clauses in T2 will drastically reduce quality of capital (loss absorbency and policyholder protection) for that tier of ICS capital resources. It will also interfere with IAIG compliance with other T2 criteria such as subordination, priority of claims and permanence. So we believe acceleration clauses cannot be permitted, because it undermines adequate policyholder protection.	
Insurance Europe	Europe	No	Insurance Europe believes Tier 2 paid-up capital should not include financial instruments with acceleration clauses that may be triggered outside winding up.	
Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Germany - BAFIN	No	Allowing such acceleration clauses in T2 will drastically reduce quality of capital (loss absorbency and policyholder protection) for that tier of ICS capital resources. It will also interfere with IAIG compliance with other T2 criteria such as subordination, priority of claims and permanence. So we believe acceleration clauses cannot be permitted, because it undermines adequate policyholder protection.	

Dai-ichi Life Holdings, Inc.	Japan	No	Financial instruments with acceleration clauses are not always subordinated against policyholders.	
The Life Insurance Association of Japan	Japan	No	- The LIAJ does not support this because financial instruments with an acceleration clause are unlikely to always be subordinated to the policyholders' debt.	
Financial Supervisory Service (FSS) & Financial Services Commission (FSC)	Korea (Republic of)	No	Policyholder protection cannot be maintained, and other Tier 2 criteria (subordination, permanence) cannot be met for financial instruments with acceleration clauses that may be triggered outside of a winding up.	
American Council of Life Insurers	Office of General Counsel	No	There is likely no one-size-fits-all solution for all jurisdictions; in the United States, policyholder protection is assured not just due to our insurance supervisory regime, but also, in the instance of holding companies, the overlay of certain federal laws that provide for restructuring of debt as a going concern. That may be unique to the United States, but it is an overall regulatory construct that has been in place for many years and which has proven effective. The criteria in the ICS in respect of acceleration clauses needs to be changed to address that and to recognize jurisdictions that have effective policyholder protection. The ICS Capital Resources approach	

			should respect the convention in US debt capital markets of including acceleration clauses within senior debt instruments. The same factors that the IAIS considered in appropriately recognizing structurally subordinated debt to qualify as Tier 2 capital - i.e., downstreaming of proceeds to an insurance subsidiary located in a jurisdiction whose regulatory regime proactively enforces structural subordination through appropriate regulatory/supervisory controls over distributions from insurance subsidiaries, as well as the changes to criteria e) and f) - are equally effective in assuring permanence of capital and policyholder protection in the event of an attempted acceleration by the debt holder. The holding company would have insufficient liquidity to meet the acceleration demand and would have to seek approval of the insurance subsidiary's supervisor for an extraordinary dividend. The supervisor would consider the totality of the facts and circumstances and whether policyholder protection would be compromised if such a request was to be granted and, if so, would deny the request. The insurance subsidiaries would continue to operate on a going concern basis while the holding company's debt is reorganized while operating under protections afforded by Federal laws in the United States.	

Legal & General	UK	No	Tier 2 eligibility criteria under Solvency II does not allow for inclusion of features that may cause the insolvency of the insurance or reinsurance undertaking or may accelerate the process of the undertaking becoming insolvent. Based on that as long as the proposed changes are in line with the Solvency II requirement it should not have an impact on issuers governed by the EU, although outstanding "grandfathered' instruments may contain such clauses.	
AIG	United States	No	We believe the very same factors that the IAIS apparently considered in appropriately recognizing structurally subordinated debt to qualify as Tier 2 capital - i.e., downstreaming of proceeds to an insurance subsidiary located in a jurisdiction whose regulatory regime proactively enforces structural subordination through appropriate regulatory/supervisory controls over distributions from insurance subsidiaries, are equally effective in assuring permanence of capital and policyholder protection in the event of an attempted acceleration by the debt holder. The holding company would have insufficient liquidity to meet the acceleration demand and would need to seek approval from the insurance subsidiary's supervisor for a dividend. The supervisor would consider the totality of the facts and circumstances and whether policyholder protection would	

			be compromised if such a request was to be granted and, if so, would deny the request. The insurance subsidiaries would continue to operate on a going concern basis while the holding company's debt is reorganized while operating under protections afforded by Federal laws in the United States. In summary, the criteria in the ICS in respect of acceleration clauses needs to be changed to recognize jurisdictions that have effective policyholder protection. It is important that the ICS capital resources qualifying criteria respect the convention in US debt capital markets of including acceleration clauses within senior debt instruments.	
RAA	United States and many other jurisdicitons	No	The criteria in the ICS in respect of acceleration clauses needs to be changed to recognize jurisdictions that have effective policyholder protection. It is important that the ICS approach respects the convention in U.S. debt capital markets of including acceleration clauses within senior debt instruments. The very same factors that the IAIS apparently considered in appropriately recognizing structurally subordinated debt to qualify as Tier 2 capital - i.e., down streaming of proceeds to an insurance subsidiary located in a jurisdiction whose regulatory regime proactively enforces structural subordination through appropriate regulatory/supervisory controls over	

			distributions from insurance subsidiaries, as well as the changes to criteria e) and f) - are equally effective in assuring permanence of capital and policyholder protection in the event of an attempted acceleration by the debt holder. The holding company would have insufficient liquidity to meet the acceleration demand and would have to seek approval of the insurance subsidiary's supervisor for an extraordinary dividend. The supervisor would consider the totality of the facts and circumstances and whether policyholder protection would be compromised if such a request was to be granted and, if so, would deny the request. The insurance subsidiaries would continue to operate on a going concern basis while the holding company's debt is reorganized while operating under protections afforded by Federal laws in the U.S.	
Prudential Financial, Inc.	United States of America	No	Policyholder protection is maintained at all times through the debt being structurally subordinated to policyholders and supervisor authority to restrict certain activities in the event of a low solvency ratio at the insurance entities.	
American Property Casualty Insurance Association (APCI)	USA	No	Whether or not a financial instrument contains an acceleration clause, policyholder protection is maintained through the same mechanisms as structural	

			subordination. When holding company debt is down-streamed into an insurance subsidiary located in a jurisdiction whose regulatory regime proactively enforces structural subordination through regulatory/supervisory controls over distributions from insurance subsidiaries, the Tier 2 Paid Up capital resource specifications adequately protect policyholders and assure the permanence of capital. If a holding company's creditor triggers an acceleration clause, the insurance subsidiary where the capital resides does not have an obligation to repay the holding company's creditor. Instead, the obligation lies with the holding company. To access an insurance subsidiary's capital in the United States, a holding company with insufficient liquidity to meet an acceleration demand would be required to seek regulatory approval for an extraordinary dividend, and such approval would not be granted if the insurance entity is not adequately capitalized to meet policyholder obligations.	
Property Casualty Insurers Association of America (PCI)	USA	No	The very same factors that the IAIS apparently considered in seeing its way to enable structurally subordinated debt to qualify as Tier 2 capital - downstreaming of	

			proceeds to an insurance subsidiary located in a jurisdiction whose regulatory regime proactively enforces structural subordination through appropriate regulatory/supervisory controls over distributions from insurance subsidiaries, as well as the changes to criteria e) and f) - are equally effective in assuring permanence of capital and policyholder protection in the event of an attempted acceleration by the debt holder. The holding company would have insufficient liquidity to meet the acceleration demand and would have to seek approval of the insurance subsidiary's supervisor for an extraordinary dividend. The supervisor would consider the totality of the facts and circumstances and whether policyholder protection would be compromised if such a request was to be granted and, if so, would deny the request. The insurance subsidiaries would continue to operate on a going concern basis while the holding company's debt is reorganized while operating under protections afforded by Federal laws in the United States. We are aware that U.S. members answered this very question and provided supporting documentation to the CSFWG and the senior committees in February 2017, and suggest you revisit that documentation. There is likely no one-size-	

			fits-all solution for all jurisdictions; in the United States, policyholder protection is assured not just due to our insurance supervisory regime, but also, in the instance of holding companies, the overlay of certain federal laws and administrative processes that provide for restructuring of debt as a going concern. That may be unique to the United States, but it is an overall regulatory and legal construct that has been in place for many years and which has proven effective. The criteria in the ICS in respect of acceleration clauses needs to be changed to address that and to recognize jurisdictions like the U.S. that have effective policyholder protection.	
National Association of Insurance Commissioners (NAIC)	USA, NAIC	No	In the U.S., triggering an acceleration clause has no practical effect on the overall solvency of the insurance entities, thus the policyholders are still protected. Simply stated, debt holders that exercise an acceleration clause have a claim against the holding company, not the insurance entities. Debt holders cannot pierce the corporate structure of the insurance entities (where the debt proceeds reside).	

Q57 Section 6 Are the changes to the Tier 2 Paid-Up capital resources criteria appropriate for ICS Version 2.0? Please explain.

Organisation	Jurisdiction	Confidential	Answer	Answer Comments
China Banking and Insurance Regulatory Commission (CBIRC)	China	No	Yes	
European Insurance and Occupational Pensions Authority (EIOPA)	EIOPA	No	No	As set out in Q56, there are conceptual and practical difficulties with the recognition of structural subordination in ICS T2 capital resources. Further, if going concern acceleration clauses are permitted, the quality of Tier 2 Paid-up will be much lower. Changes to criterion e) to take into account situations where supervisory approval does not feature are deemed to be appropriate and pragmatic.
Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Germany - BAFIN	No	No	As set out in Q56, there are conceptual and practical difficulties with the recognition of structural subordination in ICS T2 capital resources. Further, if going concern acceleration clauses are permitted, the quality of Tier 2 Paid-up will be much lower. Changes to criterion e) to take into account situations where supervisory approval does not feature appear to be appropriate and pragmatic.
General Insurance Association of Japan	Japan	No	Yes	The changes which clarify the criterion on subordination to explicitly acknowledge that instruments with structural subordination will be considered for inclusion within Tier 2 Paid-Up capital resources are appropriate.
Financial Supervisory Service (FSS) & Financial Services Commission (FSC)	Korea (Republic of)	No	No	Allowing acceleration clause should be reviewed more thoroughly.

Legal & General	UK	No	No	No comments other than those outlined in Q55 and Q56.
National Association of Mutual Insurance Companies	United States	No	Yes	
Prudential Financial, Inc.	United States of America	No	No	Including restrictive criteria such as a lock-in feature would disqualify the debt from being senior, which would adversely affect debt issuance markets as a whole.
Property Casualty Insurers Association of America (PCI)	USA	No	No	The changes made did not go far enough. There remains the as-yet unresolved issue of the acceleration clause criterion, which must be resolved satisfactorily to allow the senior debt issued by insurers (and which meet all of the other qualifying criteria) to qualify as Tier 2 Paid-Up capital resources. It is entirely consistent and appropriate for the IAIS to allow the inclusion of such clauses in conjunction with subordinated debt using the same rationale and criteria provided for subordination itself, as per our response to Q56.
National Association of Insurance Commissioners (NAIC)	USA, NAIC	No	Yes	Yes.

Q58 Section 6 Are the criteria for Tier 2 Paid-Up capital resources, as set out in the 2018 Field Testing Technical Specifications, appropriate for ICS Version 2.0? Please explain.

Organisation	Jurisdiction	Confidential	Answer	Answer Comments
China Banking and Insurance Regulatory Commission (CBIRC)	China	No	Yes	
European Insurance and Occupational Pensions Authority (EIOPA)	EIOPA	No	No	Overall, the T2 criteria are deemed to be appropriate to meet the aims of ICS version 2.0. The criteria for Tier 2 Paid-Up could be enhanced with features such as mandatory deferral of distributions and principal repayment on breach of capital requirement, and early repurchase permitted only if funded out of proceeds of new issuance of same/higher quality. The points raised in Q57 are also relevant for this question.
Insurance Europe	Europe	No	No	Insurance Europe notes that the restriction in tier 2 financial resources for residual maturities less than 5 years is very restrictive and can lead to uncertainty. According to residual maturity at closing date, this would cause own funds movements and disturb refinancing plans. Therefore, Insurance Europe suggests the removal of the criterion (d)(i). d) The instrument's availability to absorb losses as it nears its effective maturity is captured by either:
Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Germany - BAFIN	No	No	Overall, the T2 criteria appear to be appropriate to meet the aims of ICS version 2.0. The criteria for Tier 2 Paid-Up could be enhanced with features such as mandatory deferral of distributions and principal repayment on breach of capital requirement, and early repurchase permitted only if funded out of proceeds of new issuance of same/higher quality. The points raised in Q57 are also relevant for this question.
General Insurance Association of Japan	Japan	No	Yes	Please refer to our comments on Q57.

Financial Supervisory Service (FSS) & Financial Services Commission (FSC)	Korea (Republic of)	No	No	Allowing acceleration clause should be reviewed more thoroughly.
The Life Insurance Association of the Republic of China	CHINESE TAIPEI	No	Yes	
Legal & General	UK	No	Yes	We are broadly supportive of the requirement but have a few points of clarification below. Regarding the effective maturity date defined as the earlier of: (i) first occurrence of a call option together with a step-up or other incentive to redeem; and (ii) contractual maturity date: The text is not clear on what may constitute an incentive to redeem and whether any step-up would be viewed as an incentive or only above a certain threshold. Under Solvency II a step-up does not constitute an incentive to redeem if it takes the form of a single increase in the coupon rate and results in an increase in the initial rate that is no greater than the higher of: (a) 100 basis points, less the swap spread between the initial index basis and the stepped-up index basis; (b) 50 % of the initial credit spread, less the swap spread between the initial index basis and the stepped-up index basis.
National Association of Mutual Insurance Companies	United States	No	Yes	Yes, to the best of our knowledge. NAMIC is not a field testing entity and does not have detailed information about the differences in specifications from test to test.
Prudential Financial, Inc.	United States of America	No	No	We believe the criteria are overly restrictive. For example, we do not believe it is appropriate to require prior supervisory approval when calling or repurchasing instruments (e.g. senior notes, hybrids, etc.).

American Property Casualty Insurance Association (APCI)	USA	No	No	As with several other questions posed in the CD, it is difficult to answer this question without the experience of being a field testing participant.
Property Casualty Insurers Association of America (PCI)	USA	No	No	With the exception of the as-yet unresolved acceleration clause criterion, yes, but if that is not satisfactorily resolved, then no. It is entirely consistent and appropriate for the IAIS to allow the inclusion of such clauses in conjunction with subordinated debt using the same rationale and criteria provided for subordination itself, as per our response to Q56. It is critical however, that this negotiated treatment for Tier 1 limited qualifying instruments not be defeated either by criteria h regarding the IAIG's discretion to forego or cancel distributions, or by the addition of a new PLAM requirement (see our response to Q50, 52 and 53).
National Association of Insurance Commissioners (NAIC)	USA, NAIC	No	Yes	Yes.

Q59 Section 6 Is the proposal to restrict the recognition of Tier 2 non-paid-up capital resources to mutual IAIGs appropriate for ICS Version 2.0? Please explain.

Organisation	Jurisdiction	Confidential	Answer	Answer Comments
Office of the Superintendent of Financial Institutions (OSFI)	Canada - OSFI	No	Yes	OSFI's view is that a prudent approach only allows for paid-up instruments to be included within capital resources. Non-paid-up instruments may not absorb losses in a stress scenario;

				availability to do so would be dependent on timely future payments by external parties who are outside the control of the IAIG. That being said, mutual IAIGs are unique in that they may have access to non-paid-up capital in the form of, for example, mutual member calls. Imposing a restriction whereby only mutual IAIGs may include non-paid-up capital resources within capital resources (subject to certain conditions) would be more prudent than to broadly allow non-paid-up capital within capital resources.
China Banking and Insurance Regulatory Commission (CBIRC)	China	No	Yes	
European Insurance and Occupational Pensions Authority (EIOPA)	EIOPA	No	No	In order to guarantee a level playing field, the recognition of Tier 2 non-paid-up capital should not be limited to mutual IAIGs.
Insurance Europe	Europe	No	No	Insurance Europe does not agree, It believes the recognition of Tier 2 non-paid-up capital resources should not be restricted to mutuals only. These should form a part of the tier 2 capital resources, and it should be subject to the normal capital composition limits. The rationale provided – that mutual IAIGs are the only insurers that have access to non-paid-up capital that is external to the group – is erroneous. Other insurers also have access to non-paid-up capital that is external to the group or the entity, such as letters of credit. The IAIS should be wary of drawing conclusions from Field Testing and assuming that they have general application. Participants in Field Testing may not be representative of the wider global insurance industry. Non-paid-up items should be included in ICS qualifying capital

				resources, provided appropriate safeguards are set out in the qualifying criteria. Recognition of such items in relation to mutual IAIGs, and the fact that no changes are proposed to the qualifying criteria in the 2016 ICS consultation, suggest that the IAIS accepts this. As non-mutual insurers are in a similar position to mutuals of using external non-paid-up capital as Tier 2 capital, restricting recognition of such capital to mutuals would clearly be wrong.
Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Germany - BAFIN	No	No	In order to guarantee a level playing field, the recognition of Tier 2 non-paid-up capital should not be limited to mutual IAIGs.
Global Federation of Insurance Associations	Global	No	No	Paragraph 182 of the consultation paper justifies this restriction by stating that “mutual IAIGs are currently the only insurers that have access to non-paid-up capital that is external to the group”. This is not correct – other, non-mutual insurers also have access to external non-paid-up capital. GFIA agrees with the IAIS that non-paid-up capital should be included in Tier 2 capital resources provided they meet qualifying criteria; however, restricting this to mutual IAIGs is based on a false premise and makes no sense. Hence GFIA does not accept that the recognition of Tier 2 non-paid-up capital resources should be restricted to mutuals only. They should form a part of Tier 2 capital resources, and should be subject to the normal capital composition limits.

General Insurance Association of Japan	Japan	No	No	Allowing particular instruments issued only by mutual insurers to be included in the capital will distort fair competition with other IAIGs and is therefore inappropriate.
Financial Supervisory Service (FSS) & Financial Services Commission (FSC)	Korea (Republic of)	No	Yes	
Legal & General	UK	No	No	The EU Solvency II framework permits the recognition of Ancillary Own Funds, which can include (among other items) non-paid-up own funds callable on demand and legally binding commitments to either subscribe for own funds or provide guarantees clear of encumbrances, on demand. The availability of these non-paid up capital resources can provide additional flexibility for insurers to manage internal and external capital resources more effectively.
Association of British Insurers	United Kingdom	No	No	Paragraph 182 of the consultation paper justifies this restriction by stating that “mutual IAIGs are currently the only insurers that have access to non-paid-up capital that is external to the group”. This is not correct – other, non-mutual insurers also have access to external non-paid-up capital. The ABI agrees with the IAIS that non-paid-up capital should be included in Tier 2 capital resources provided they meet qualifying criteria; however, restricting this to mutual IAIGs is based on a false premise and makes no sense. Hence, we do not accept that the recognition of Tier 2 non-paid-up capital resources should be restricted to mutuals only. They should form a part of Tier 2 capital resources, and should be subject to the normal capital composition limits.

RAA	United States and many other jurisdicitons	No	No	We do not support the recognition of non-paid up capital resources as their realization is uncertain in times of financial stress. We would support it if an improved treatment for structurally subordinated debt, of the nature issued in the U.S., were given the more favorable treatment that it deserves given that these resources are held in the insurance legal entities and remain available to satisfy policyholder obligations. Additionally, we disagree with restricting non-paid up capital resources to mutual IAIGs.
Prudential Financial, Inc.	United States of America	No	No	We disagree that recognition of Tier 2 non-paid-up capital resources should be limited to mutual IAIGs. The criteria for recognition of capital resources should be a function of the instruments issued, not the type of structure the group has adopted. Therefore, other insurers should also be able to recognize non-paid-up capital resources they have issued, particularly if they are recognized by their local solvency regime.
Property Casualty Insurers Association of America (PCI)	USA	No	Yes	
National Association of Insurance Commissioners (NAIC)	USA, NAIC	No	Yes	We are not proponents of allowing non-paid up capital resources, but we are proponents of being more inclusive and, therefore, are willing to recognize jurisdictional practices that work well outside of our jurisdiction and meet a stated regulatory goal.

Q60 Section 6 Are the changes to Tier 1 and Tier 2 capital elements other than financial instruments appropriate for ICS Version 2.0? Please explain.

Organisation	Jurisdiction	Confidential	Answer	Answer Comments
China Banking and Insurance Regulatory Commission (CBIRC)	China	No	Yes	
European Insurance and Occupational Pensions Authority (EIOPA)	EIOPA	No	Yes	Changes to T1 CEOFI are rather presentational. Changes to T2 CEOFI seem appropriate for inclusion in a minimum harmonising global standard. The T2 basket is a pragmatic and flexible way of providing limited capital recognition for some elements that are important in some jurisdictions but provide limited loss absorbing capacity. The full add-back to T2 for amounts deducted from T1 in respect of encumbered assets recognises that those assets are available in a winding-up to extinguish the liability against which they are pledged. The simplification for calculating the deduction for encumbered assets is appropriate as it provides a good approximation for the actual incremental capital requirements of encumbered assets and secured liabilities. It also is simpler for IAIGs to implement.
Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Germany - BAFIN	No	Yes	Changes to T1 CEOFI are just presentational. Changes to T2 CEOFI seem appropriate for inclusion in a minimum harmonising global standard. The T2 basket is a pragmatic and flexible way of providing limited capital recognition for some elements that are important in some jurisdictions but provide limited loss absorbing capacity. The full add-back to T2 for amounts deducted from T1 in

				respect of encumbered assets recognises that those assets are available in a winding-up to extinguish the liability against which they are pledged. The simplification for calculating the deduction for encumbered assets is appropriate as it provides a good approximation for the actual incremental capital requirements of encumbered assets and secured liabilities. It also is simpler for IAIGs to implement.
General Insurance Association of Japan	Japan	No	No	With regard to the changes to Tier 1 and Tier 2 capital elements other than financial instruments, the treatment of assets with encumbrance is not appropriate. Including all collateralised assets in encumbered assets and deducting them from Tier 1 capital resource altogether is too conservative. We believe the following assets should not be regarded as encumbered assets. - An asset granted as collateral to the counterparty in finance market transactions, such as derivatives trading and call loan deals (i.e., the balance amount of coverage for a loss). These assets should not be treated as encumbered assets since they can be recovered by unwinding the position. - Other collateralised assets which can be recovered upon a unilateral request of the party pledging the collateral. For example, when the borrower grants collateral in excess of the transaction amount, such collateral can be recovered upon a unilateral request by the borrower. Therefore, the amount can be expected to be recovered with certainty and should be excluded from encumbered assets. Also, apart from the issue of fungibility of capital to be discussed later, the collateral required by supervisory regulation with the purpose of securing a certain amount for policyholder protection (such as claim payments) as a contingency strategy, should be excluded from deductions from

				Tier 1 capital resources since such collateral has the characteristics of a resource to cover risk, which should be taken into account in solvency regulation.
Financial Supervisory Service (FSS) & Financial Services Commission (FSC)	Korea (Republic of)	No	Yes	
American Council of Life Insurers	Office of General Counsel	No	No	The holistic treatment of taxes within the ICS is another important area where greater clarity, coherence, and consistency is needed. While the ICS approach to both Valuation and Capital Requirements is based on a forward-looking economic assessment, its construct for taxes is notably less risk-sensitive in that it relies on hard-wired limits and restrictions that do not take into account a company's projected ability to monetize tax attributes post-stress. We believe the current proposal remains largely a placeholder solution, which appears to be aligned from a conceptual standpoint to the rationale applied under the Basel Accord for banks. While Basel restricts DTA (based on temporary differences) to 10% of a bank's Tier 1 common equity capital, the IAIS is proposing a conceptually comparable 10% limit of the ICS capital requirement as part of the "Tier 2 basket". It is unclear to us how this 10% cap was calibrated, other than as a simple placeholder and its potential relation to the Basel framework. Furthermore, the IAIS acknowledges that further analysis is required since "DTAs for most Volunteer Groups are near historic lows and thus, this analysis may not be reflective of the impact of limits in a less favorable environment where DTAs could be much higher" (Source: March 2018 Field Testing Workshop Presentation). However, the potential realization of DTA under conditions of economic stress could

				differ for an insurance group with diversified financial and non-financial risks, relative to a banking organization concentrated in financial risk whose earnings might, in turn, be more volatile under stress. While we agree that it would be undesirable and inappropriate for DTAs to comprise an inordinate amount of an insurer's capital base, it is also important to recognize that, particularly in a going concern context, DTA generated by financial losses provide a pathway to rebuilding capital after a stress event. From a financial stability standpoint, overly restrictive limits on DTA could potentially be pro-cyclical, if such limits were to artificially constrain an insurer's ability to recapitalize after incurring significant but survivable losses. Notably, we encourage the IAIS to allow for a more economically-based, forward-looking view of the loss absorbing capacity of DTA – relating to both its role within existing Capital Resources as well as the ICS approach to tax-effecting ICS Capital Requirements (which is essentially a reflection of the degree to which the prospective DTAs generated in an ICS loss scenario would be recognized as loss absorbing). The restriction of permitting the tax-effecting of required capital only to the extent that the insurer is in a net DTL position would, in a practical sense, not provide recognition for DTA loss absorption on a go-forward basis after a stress event. The valuation of deferred taxes should build on the same principles as the valuation of other assets, i.e. it should be based on an economic valuation on a going concern basis, based on its loss absorbing capacity. Insurance Groups will already have detailed approaches and information regarding tax included in GAAP and existing regulatory reporting or well

				defined internal capital frameworks. The ICS tax treatment should build as far as possible on these existing approaches and information and should not require new and different approaches. Finally, while we disagree with the MOCE concept, it is not logical for MOCE to be considered as a component of the insurance liability valuation but excluded from the calculation of deferred tax assets. Any MOCE should generate a DTA.
Aegon NV	The Netherlands	No	No	We have classified our legal reserves as restricted reserves in the ICS balance sheet. These reserves are for foreign currency translation impacts and for the net asset value of subsidiaries and associates since their first inclusion, less any amounts that can be distributed without legal restrictions. As a restricted reserve it is classified as Tier 2. We believe alignment with Solvency II should be sought, where such reclassifications do not take place. Similarly, for ring-fenced funds (e.g. with-profit sub funds in the UK), alignment with Solvency II should also be sought in terms of capital resources that are not available to cover losses elsewhere in the group.
Legal & General	UK	No	Yes	We are comfortable with these.
National Association of Mutual Insurance Companies	United States	No	No	There have been some positive changes but much needs to be done. The elimination of tiering would be the best approach. Adding jurisdictional flexibility and eliminating the prescriptive approach now a significant part of the ICS would also be an improvement.

Prudential Financial, Inc.	United States of America	No	Yes	
Property Casualty Insurers Association of America (PCI)	USA	No	No	PCI´s yes or no response was simply required in order to open the text box and file comments. We believe this question to be best addressed by field test volunteers who have the ability to do so with the benefit of actual data for support and context. The absence of a response by PCI should not be taken one way or the other with respect to the subject of the question.
National Association of Insurance Commissioners (NAIC)	USA, NAIC	No	Yes	Yes.

Q61 Section 6 Are the Tier 1 and Tier 2 capital elements other than financial instruments, as set out in the 2018 Field Testing Technical Specifications, appropriate for ICS Version 2.0? Please explain.

Organisation	Jurisdiction	Confidential	Answer	Answer Comments
China Banking and Insurance Regulatory Commission (CBIRC)	China	No	Yes	
European Insurance and Occupational Pensions Authority (EIOPA)	EIOPA	No	Yes	Broadly speaking the T1 and T2 CEOFI appear to be appropriate. But as CEOFI makes up the majority of qualifying ICS capital resources, the IAIS needs to ensure fair and consistent treatment of those items across jurisdictions. This is

				particularly relevant for T1 CEOFI item d) unrestricted reserves and T2 CEOFI item b) restricted reserves. T1 CEOFI item e) fair value of equity settled employee stock options – it is not clear to us that this should be included as a separate equity item.
Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Germany - BAFIN	No	Yes	Broadly speaking the T1 and T2 CEOFI appear to be appropriate. But as CEOFI makes up the majority of qualifying ICS capital resources, the IAIS needs to ensure fair and consistent treatment of those items across jurisdictions. This is particularly relevant for T1 CEOFI item d) unrestricted reserves and T2 CEOFI item b) restricted reserves. T1 CEOFI item e) fair value of equity settled employee stock options – it is not clear to us that this should be included as a separate equity item.
General Insurance Association of Japan	Japan	No	No	Please refer to our comments on Q60.
Financial Supervisory Service (FSS) & Financial Services Commission (FSC)	Korea (Republic of)	No	No	ICS adjustments flow into capital resources, but there are no criteria to assess their quality. There could be some restrictions in loss-absorbing capacity. Some examples include cash surrender value, participating policyholders' equity, and regulatory reserves not recognized in consolidated B/S. - Cash surrender value: There may be an amount to be paid to policyholders when contracts lapse. Even though the ICS captures such a lapse risk, contracts other than the lapse scenario may also lapse. So insurers must keep that amount in the capital, meaning they may not be able to dispose of an amount in equity without restriction. There may be restrictions in the loss-absorbing capacity.

				We suggest that ICS reclassify the amount (cash surrender value- current estimate-MOCE-Lapse risk capital requirement) to Tier 2 capital. - Participating policyholders' equity: In some jurisdictions, participating policyholders' equity is accounted as liabilities on the statutory B/S or local GAAP B/S, but part of that (such as AOCI allocated to policyholders for future dividend) should be classified as equity in IFRS 17 or ICS B/S. Some volunteers accounted that amount as equity in ICS B/S equity item separately, but others didn't and it was put to the ICS adjustment. Participating policyholders' equity can be allocated only to with-profit contracts' losses, so there is a restriction on loss absorbency. We suggest that the ICS deduct participating policyholders' equity from Tier 1 capital and add it back to Tier 2 capital with the limit of capital requirement arose from with-profit contracts. - Regulatory reserve: Regulations and treatment in balance sheets of regulatory reserves are very different by jurisdictions. If ICS classifies regulatory reserves merely regarding to whether it is accounted on balance sheets or not, it may not fair to certain jurisdictions. For this reason, ICS needs to clarify the definition and treatment of regulatory reserves which are reclassified to T2 capital.
Aegon NV	The Netherlands	No	No	We respectfully disagree with the approach taken for encumbered assets. We do not believe that capital is the appropriate tool to address every supervisory concern, including the risk of a call on encumbered assets. Encumbered

				assets should be subject to normal capital requirements and any excess should remain at Tier 1. The ICS effectively assumes that a call on pledged assets is certain.
Legal & General	UK	No	Yes	We are comfortable with these.
National Association of Mutual Insurance Companies	United States	No	No	There have been some positive changes but much needs to be done. The elimination of tiering would be the best approach. Adding jurisdictional flexibility and eliminating the prescriptive approach now a significant part of the ICS would also be an improvement.
Prudential Financial, Inc.	United States of America	No	Yes	
American Property Casualty Insurance Association (APCI)	USA	No	No	As with several other questions posed in the CD, it is difficult to answer this question without the experience of being a field testing participant.
Property Casualty Insurers Association of America (PCI)	USA	No	No	PCI´s yes or no response was simply required in order to open the text box and file comments. We believe this question to be best addressed by field test volunteers who have the ability to do so with the benefit of actual data for support and context. The absence of a response by PCI should not be taken one way or the other with respect to the subject of the question.
National Association of Insurance Commissioners (NAIC)	USA, NAIC	No	Yes	Yes.

Q62 Section 6 Is the proposal to limit third party capital appropriate for ICS Version 2.0? Please explain.

Organisation	Jurisdiction	Confidential	Answer	Answer Comments
Office of the Superintendent of Financial Institutions (OSFI)	Canada - OSFI	No	Yes	Capital issued by a consolidated subsidiary and held by third parties should only be included in the consolidated capital resources of the IAIG parent up to the amount that the capital supports the risks in the IAIG's subsidiaries. If an IAIG were to rely too heavily on third party capital to support its consolidated exposures, the parent would likely be undercapitalized on a standalone basis and the IAIG could experience challenges in re-deploying capital to the parent or other affiliates of the subsidiary in the event that capital is trapped in the subsidiary. The proposed third party capital limit appropriately measures this exposure and limits recognition of capital resources issued by subsidiaries to third parties.
China Banking and Insurance Regulatory Commission (CBIRC)	China	No	Yes	
European Insurance and Occupational Pensions Authority (EIOPA)	EIOPA	No	No	This item should be included within a wider discussion on fungibility of capital within the ICS. The goal of potentially excluding some capital resources that are not available to absorb losses in other parts of the group makes sense. But any such limit should not exclude capital resources that are used to support risks that are recognised within an IAIG for ICS purposes. The IAIS must consider the practical difficulties that may arise in the proposed calculation and application of the limit, given that it is proposed to operate at the subsidiary level whereas the ICS is a consolidated group standard.

				The TPC limit as proposed is based on local measures rather than ICS-derived figures; hence limits are unlikely to be comparable between jurisdictions due to differing regulatory standards. We question the proposal to include a parameter Y based on the average ratio of ICS capital requirement to total liabilities for all IAIGs within the calculation of the limit; it seems that it would be more appropriate to set the value of Y specifically for each individual IAIG.
Insurance Europe	Europe	No	No	Insurance Europe believes no limit should apply to this, since it will be available to support a group's capital requirements.
Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Germany - BAFIN	No	No	This item should be included within a wider discussion on fungibility of capital within the ICS. The goal of potentially excluding some capital resources that are not available to absorb losses in other parts of the group makes sense. But any such limit should not exclude capital resources that are used to support risks that are recognised within an IAIG for ICS purposes. In addition, it is not clear that the IAIS has fully considered the practical difficulties that may arise in the proposed calculation and application of the limit, given that it is proposed to operate at the subsidiary level but the ICS is a consolidated group standard. The TPC limit as proposed is based on local measures rather than ICS-derived figures; hence limits are unlikely to be comparable between jurisdictions due to differing regulatory standards. We question the proposal to include a parameter Y based on the average ratio of ICS capital requirement to total liabilities for all IAIGs within the calculation of the limit; it seems that it

				would be more appropriate to set the value of Y specifically for each individual IAIG.
Global Federation of Insurance Associations	Global	No	No	GFIA does not consider that any limits should apply to third-party capital, since it will be available to support the Group's capital requirements.
Dai-ichi Life Holdings, Inc.	Japan	No	No	The proposal to limit third party capital should be deleted in ICS because it is not appropriate: (i) how to treat third party capital issued by subsidiaries under certain crisis situation has been determined under local regulation (domestic situation) and agreements between local authorities (international situation). Therefore, there may be various country-by-country treatments. In that situation, it is inappropriate that ICS provides a unified treatment as a double standard; (ii) Insurance is long-term business, in particular insurance liabilities are long-term liabilities (it is different from commercial banks.). That means there may be a lot of funds in subsidiaries' level which may be utilized by group companies through intra-group finance for other group companies' policyholder protection; and (iii) the proposal strongly limits subsidiaries' level capital strategy. That situation may cause unexpected results (e,g, there are to be a lot of insufficient capital subsidiaries.). In addition, if the limitation of third party capital in subsidiaries' level was implemented in ICS, the proposed formula would be inappropriate: (i) "capital elements of the subsidiary held by third parties as a % of total capital elements of of subsidiary" in the proposed formula should be deleted because which financial instruments between third party Tier 2 Capital and own (non-third party; i.e. from parent company) Tier 2 Capital is prioritized for absorbing loss in crisis situation is determined

				by individual terms of the Tier 2 financial instruments (e.g. structure of subordination clauses); (ii) Y% = 10% is also inappropriate. The % must be “average % of IAIG (10%) + certain margin” because (a) insurance liabilities in subsidiaries’ level may not represent the subsidiaries’ risk contributing to IAIG (group level), therefore, there must be certain margin; (b) subsidiaries’ risk contributing to IAIG may be different by individual entities’ characteristics (including its incorporated jurisdiction). Therefore, average % of IAIG may not represent appropriate %, thus, there must be certain margin; and (c) if there is no margin, IAIG may intend to set no allowance above 10% in each subsidiary, including the subsidiaries’ risk may be above average; and (iii) it may be unclear how to use the formula for an intermediate holding company.
General Insurance Association of Japan	Japan	No	No	We understand that the intent behind part “6.5.2 Recognition of capital resources arising from a consolidated subsidiary of an IAIG attributable to third party investors” is to calculate required capital (proxy) of the consolidated subsidiary using simplified assumptions (total liabilities of the subsidiary * Y%) and to cap addition of minority/non-controlling interest (Sheet FT18. BCR & ICS Balance sheet [88]) of the subsidiary capital elements on the capital resources of the IAIG only up to the third party capital limit, thereby, limiting the use of subsidiary capital held by the third party which does not absorb the losses of the IAIG. With regard to the above-mentioned proxy to calculate the required capital of the consolidated subsidiary, instead of using the factor (Y%), the amount of required capital of the consolidated subsidiary held by third party investors should be used when such a figure is available. Also, the reference to “capital elements of the subsidiary held by third parties as a % of total capital elements of the subsidiary” in paragraph 196 should be revised as follows to

				eliminate the possibility of any misunderstanding: “qualifying capital elements of the subsidiary attributable to third parties (i.e. non-controlling interest (only the portion that qualifies as the criteria of ICS qualifying capital) related to the subsidiary) as a % of total qualifying capital elements of the subsidiary”. We understand that, for example, a subordinated debt (Tier 2 qualifying resource) issued by the subsidiary and held by a third party does not generate minority/non-controlling interests and is therefore not included in capital elements. On the other hand, retained earnings of the subsidiary generate minority/non-controlling interests and are therefore included in capital elements. However, the original draft is not clear on these points and should be revised.
The Life Insurance Association of Japan	Japan	No	No	• The possibility of using capital resources of consolidated subsidiaries attributable to third parties at the group level should be discussed at supervisory colleges. This issue should not be uniformly restricted in the ICS because it depends on how the cooperation framework is established among supervisors in the event of a crisis in the IAIG. • In addition, in long-term businesses such as insurance, it may be fully assumed that funds will be transferred within the group to protect policyholders in the future. Therefore, the full amount should be included in the capital resources as capital-raising instruments. • The concept proposed by the IAIS is likely to have unintended consequences because it severely limits the capital strategy options of each IAIG subsidiary and impairs its ability to respond to crises at the subsidiary level. • In addition, even if the risks of the entire subsidiary are

				calculated regardless of the equity ratio, where the inclusion limit is set for the margin, the scope of measurement would be different for the risk and the margin and may not be an appropriate indicator of soundness.
Financial Supervisory Service (FSS) & Financial Services Commission (FSC)	Korea (Republic of)	No	Yes	
Aegon NV	The Netherlands	No	No	We do not understand the rationale for the additional limit.
Legal & General	UK	No	Yes	We are comfortable with these.
Association of British Insurers	United Kingdom	No	No	The ABI does not believe any limits should apply to third-party capital, since it will be available to support the Group's capital requirements.
National Association of Mutual Insurance Companies	United States	No	No	
Prudential Financial, Inc.	United States of America	No	No	The concept works for an insurance subsidiary, where insurance liabilities include additional loss absorption capacity. However, for non-insurance subsidiaries, the additional loss absorption does not exist and the fact the proposal to give more qualifying capital for entities with more liabilities would not be appropriate. We suggest using this methodology only for non-controlling interest (NCI) in insurance subsidiaries. For all other subsidiaries, none of the NCI should be included in capital.
MetLife, Inc	USA	No	No	Please see our response to Q63 below.

Property Casualty Insurers Association of America (PCI)	USA	No	No	PCI´s yes or no response was simply required in order to open the text box and file comments. We believe this question to be best addressed by field test volunteers who have the ability to do so with the benefit of actual data for support and context. The absence of a response by PCI should not be taken one way or the other with respect to the subject of the question.

Q63 Section 6 In relation to the proposed limit on third party capital within ICS capital resources, what approach should the IAIS take if the information required to calculate and apply the limit is not available? Please explain.

Organisation	Jurisdiction	Confidential	Answer	Answer Comments
Office of the Superintendent of Financial Institutions (OSFI)	Canada - OSFI	No	If Volunteers do not provide the data required to complete a fulsome analysis, a conservative approach, for example a full deduction within ICS capital resources, should be taken.	
European Insurance and Occupational Pensions Authority (EIOPA)	EIOPA	No	This is an area where the IAIS needs to ensure fair and consistent treatment of IAIGs, not only within a single regulatory jurisdiction but also between different jurisdictions. It would not be adequate to "penalise" one IAIG (and apply a limit on TPC) for which the relevant information is available but to take no action on another IAIG for which the information is not available (i.e. to not apply a TPC limit).	

			If the relevant information for a subsidiary which gives rise to TPC is available but not submitted, then it would seem appropriate to take a prudent approach and exclude the capital resources of that subsidiary within ICS capital resources for the group. However, the IAIS must consider any practical difficulties that may be encountered with such an approach (i.e. applying subsidiary-level adjustments to an ICS based on consolidated group accounts).	
Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Germany - BAFIN	No	This is an area where the IAIS needs to ensure fair and consistent treatment of IAIGs, not only within a single regulatory jurisdiction but also between different jurisdictions. It would not be fair to "penalise" one IAIG (and apply a limit on TPC) for which the relevant information is available but to take no action on another IAIG for which the information is not available (i.e. to not apply a TPC limit). If the relevant information for a subsidiary which gives rise to TPC is available but not submitted, then it would seem appropriate to take a prudent approach and exclude the capital resources of that subsidiary within ICS capital resources for the group. However, it is not clear that the IAIS has considered any practical difficulties that may be encountered with such an approach	

			(i.e. applying subsidiary-level adjustments to an ICS based on consolidated group accounts).	
The Life Insurance Association of Japan	Japan	No	No - The possibility of using capital resources of consolidated subsidiaries attributable to third parties at the group level should be discussed at supervisory colleges. This issue should not be uniformly restricted in the ICS because it depends on how the cooperation framework is established among supervisors in the event of a crisis in the IAIG. - In addition, in long-term businesses such as insurance, it may be fully assumed that funds will be transferred within the group to protect policyholders in the future. Therefore, the full amount should be included in the capital resources as capital-raising instruments. - The concept proposed by the IAIS is likely to have unintended consequences because it severely limits the capital strategy options of each IAIG subsidiary and impairs its ability to respond to crises at the subsidiary level. - In addition, even if the risks of the entire subsidiary are calculated regardless of the	

			equity ratio, where the inclusion limit is set for the margin, the scope of measurement would be different for the risk and the margin and may not be an appropriate indicator of soundness.	
Financial Supervisory Service (FSS) & Financial Services Commission (FSC)	Korea (Republic of)	No	The required information is not difficult to submit, and the approach that the ICS has applied seems the best effort proxy. So the GWS should cooperate in submitting the data.	
Legal & General	UK	No	No response provided.	
Prudential Financial, Inc.	United States of America	No	Please see our response to question 62.	
MetLife, Inc	USA	No	We agree that subsidiary capital included in the IAIG qualifying capital resources should be limited. However, the proposed design of calculation which relates the credit to the average ratio of ICS capital to liabilities for all IAIGs is somewhat confusing and a potential incentive to arbitrage in that it could encourage issuing third party capital in subsidiaries subject to lower capital requirements with a view to grossing up.	
Property Casualty Insurers Association of America (PCI)	USA	No	PCI´s yes or no response was simply required in order to open the text box and file comments. We believe this question to be best addressed by field test volunteers	

			who have the ability to do so with the benefit of actual data for support and context. The absence of a response by PCI should not be taken one way or the other with respect to the subject of the question.	

Q64 Section 6 Are the proposed capital composition limits appropriate for ICS Version 2.0? Please explain.

Organisation	Jurisdiction	Confidential	Answer	Answer Comments
CLHIA	Canada	No	No	It is more reasonable to limit the Tier 1 Limited resources and Tier 2 capital resources as a percentage of Net Tier 1 capital resources instead of the ICS capital requirement.
China Banking and Insurance Regulatory Commission (CBIRC)	China	No	Yes	
European Insurance and Occupational Pensions Authority (EIOPA)	EIOPA	No	Yes	Broadly speaking, the limits for non-mutual IAIGs seem to be appropriate for ICS version 2.0. If the quality of Tier 1 Limited was improved through requirement of a PLAM (as indicated in our response to Q52), we think there could be some scope to increase the limit, e.g. from 10% to 15-20% of the ICS capital requirement. For mutual groups, the limit for Tier 1 Limited (30%) seems rather high considering that the proposed concessions lower the quality of capital of those instruments. A mutual T1L limit of 20% might be more appropriate when combined with a T1L + T2 limit of 60% (note that, even on that basis, an IAIG could end up backing its ICS capital requirement

				with less than 50% capital that is loss absorbent on a going-concern basis).
Insurance Europe	Europe	No	No	While Insurance Europe welcomes the specification of capital composition limits in ICS 2.0, it believes there should be no distinction in the capital compositions limits for mutuals and non-mutuals. To avoid an unlevel-playing field created by a different treatment of mutuals and non-mutuals the capital composition limits for both types should be the same. Aside from this, Insurance Europe considers the 10% limit for Tier 2 non-paid-up capital resources to be overly restrictive. No evidence is presented on why higher levels would pose unacceptable risks to policyholders. A separate limit for non-paid-up items is unnecessary: the limit on Tier 2 capital resources is sufficient Furthermore, Insurance Europe notes that the current proposed capital composition limit that Tier 1 limited capital resources will be limited to 10% of the ICS capital requirement is too onerous. Insurance Europe considers that Tier 1 limited capital resources being limited to 20% of total unlimited capital resources would be more appropriate.
German Insurance Association	Germany	No	No	We believe there should be no distinction in the capital compositions limits for mutuals and non-mutuals. To avoid an unlevel-playing field created by a different treatment of mutuals and non-mutuals, the capital composition limits for both types should be the same. In any case, for non-mutuals the composition limits are too restrictive. Furthermore, non-mutuals also should have the possibility to use non paid-up instruments.

Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Germany - BAFIN	No	Yes	Broadly speaking, the limits for non-mutual IAIGs seem to be appropriate for ICS version 2.0. If the quality of Tier 1 Limited was improved through requirement of a PLAM (as indicated in our response to Q52), we think there could be some scope to increase the limit, e.g. from 10% to 15-20% of the ICS capital requirement. For mutual groups, the limit for Tier 1 Limited (30%) seems a bit high considering that the proposed concessions lower the quality of capital of those instruments. A mutual T1L limit of 20% might be more appropriate when combined with a T1L + T2 limit of 60% (note that, even on that basis, an IAIG could end up backing its ICS capital requirement with less than 50% capital that is loss absorbent on a going-concern basis).
Global Federation of Insurance Associations	Global	No	No	GFIA does not accept there should be different limits for mutual and non-mutual IAIGs. The consultation does not provide a clear rationale of why the particular limits have been proposed, nor for the differentiation between mutual and non-mutual IAIGs. As noted in the response to Q59, GFIA does not agree that recognition of Tier 2 non-paid-up capital resources should be restricted to mutual IAIGs. The proposed capital composition limit that Tier 1 Limited capital resources (for non-mutual IAIGs only) will be limited to 10% of the ICS capital requirement is too onerous. GFIA considers that Tier 1 Limited capital resources for non-mutuals should be limited to 30% of total unlimited capital resources (the same as the proposed limit for mutual IAIGs).
Financial Supervisory Service (FSS) & Financial Services Commission (FSC)	Korea (Republic of)	No	Yes	

American Council of Life Insurers	Office of General Counsel	No	No	It is unclear what the IAIS' overall philosophy and approach is to determine the components of, and limits within ICS Capital Resources. It appears that the proposed limits have been little more than a placeholder throughout the years of field testing, without a clear and coherent rationale for assessing potential loss absorbing capacity of the various components of ICS Capital Resources. For example, we are not aware of any "ground-up" fundamental analysis of: (1) the underlying criteria for assessing loss absorbing capacity; (2) concepts of Tier 1 relative to Tier 2 in an insurance context (i.e., whether meant to differentiate as "going" versus "gone" concern, or whether tiering is meant only to convey quality of loss absorption); (3) the attributes of the capital components themselves; and (4) the associated limits (and sub-limits) for inclusion within Capital Resources. We think that some of the ICS Capital Resources criteria and composition limits were possibly derived from members' jurisdictional rules, and thus might be appropriate for particular local markets but not necessarily for others. To date, the IAIS has not provided analysis or data to stakeholders that would better clarify the decision-making process for the design of ICS Capital Resources. Without this information, it is difficult to know whether composition limits are appropriate because we don't know how the ICS ratio compares existing jurisdictional requirements. We also don't know how much capital has been "disallowed" in field testing because of the composition limits or the impact such a disallowance has had on a company's final ratio. It seems like there has not been as much testing of capital

				resources in general, at least when compared to the rigorous testing that has been done for the capital requirement part of ICS. Given the foregoing, we consider that the information provided in the current consultation is insufficient to enable stakeholders to provide meaningful feedback, both as to the proposed individual and aggregate limits, as well as the applicable tiering. This raises the likelihood that the ICS Version 2.0 may need to be substantially modified during the monitoring period, and we encourage the IAIS to provide other opportunities for consultation that will include enough information for stakeholders to make an informed judgment. Additionally, while we are grateful that mutual companies will have access to at least one source of Tier 1 capital (surplus notes), it is not clear to us why the same instrument should be relegated to Tier 2 for stock companies. Nevertheless, we acknowledge that the recognition of surplus notes as Tier 1 capital for mutual notes was the result of a lengthy negotiation. In any case, the IAIS should not undo this recognition of surplus notes as Tier 1 for mutual companies by including a criteria (PLAM) that would eliminate the ability of U.S. mutual companies to get Tier 1 credit for their surplus notes.
Legal & General	UK	No	No	We are primarily concerned that the capital composition limits are set in a way that is consistent (or at least no more restrictive) than local capital regimes (Solvency II in our case). The limit of 10% of the ICS capital requirement for Tier 1 Limited capital resources is significantly lower than what is currently allowable under Solvency II. Solvency II limits Restricted Tier 1 capital as a proportion of Tier 1 own funds

				(rather than SCR), with a limit currently set at 20%. As most European insurers' own funds are significantly higher than SCR the amount of Restricted Tier 1 that could be used is currently much higher than what is outlined in the ICS Version 2.0 proposal. This could lead to issues with the legal framework and contractual wording for debt issues once ICS becomes a PCR.
Association of British Insurers	United Kingdom	No	No	The ABI does not accept there should be different limits for mutual and non-mutual IAIGs. The consultation does not provide a clear rationale of why the particular limits have been proposed, nor for the differentiation between mutual and non-mutual IAIGs. As noted in the response to Q59, the ABI does not agree that recognition of Tier 2 non-paid-up capital resources should be restricted to mutual IAIGs. The proposed capital composition limit that Tier 1 Limited capital resources (for non-mutual IAIGs only) will be limited to 10% of the ICS capital requirement is too onerous. The ABI considers that Tier 1 Limited capital resources for non-mutuals should be limited to 30% of total unlimited capital resources (the same as the proposed limit for mutual IAIGs).
National Association of Mutual Insurance Companies	United States	No	No	There have been some positive changes but much needs to be done. Limitations on the application of capital are unreasonable if the capital can be used to pay policyholder claims. The elimination of tiering would be the best approach. Adding jurisdictional flexibility and eliminating the prescriptive approach now a significant part of the ICS would also be an improvement.
RAA	United States and	No	No	We do not agree that there should be different limits for mutual and non-mutual IAIGs. The consultation does not provide a clear rationale of why the limits have been proposed, nor a

	many other jurisdicitons			reason for the differentiation between mutual and non-mutual IAIGs. The proposed capital composition limit that Tier 1 Limited capital resources (for non-mutual IAIGs only) will be limited to 10% of the ICS capital requirement is too onerous. We believe that Tier 1 Limited capital resources for non-mutuals should be limited to 30% of total unlimited capital resources, which is the same as the proposed limit for mutual IAIGs.
Prudential Financial, Inc.	United States of America	No	Yes	
American Property Casualty Insurance Association (APCI)	USA	No	No	No, AIA continues to believe that tiering, which is primarily a banking concept, is inappropriate for measuring the capital adequacy of 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 capital is fungible and available to meet policyholder obligations. 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, the distinctions between Tier 1 and Tier 2 capital—and the associated limitations on those capital resources—do not have a practical effect on an insurer's ability to meet policyholder obligations. Furthermore, we do not believe there is justification for the

				disparate treatment of surplus notes issued by mutuals (which receive Tier 1 Limited capital treatment) and stock companies (which receive Tier 2 capital treatment). Regardless of an insurance entity's corporate form, the proceeds from surplus notes are capital resources that are available to meet policyholder claims. The limited recognition of this capital resource for stock companies is particularly problematic during periods of economic stress. During the 2008 financial crisis, for example, equity markets were not an adequate source of funding, so stock companies in the United States relied on surplus notes for readily available capital. Policyholder protection is not furthered when recognition of such a critical source of funding is constrained by the Tier 2 capital limitations during the time when available capital is needed most. Any capital composition limits should be specifically tailored to further the fundamental role of insurance supervision: policyholder protection.
Liberty Mutual Insurance Group	USA	No	No	This idea should be dropped. Capital which results from an investment that complies with applicable local rules regarding permissible investments should not be subject to arbitrary limits in the ICS regarding the type of capital that an otherwise well managed IAIG uses to conduct its business. All capital should be treated equally for the purpose of the ICS as long as it is available in liquidation to pay policyholder claims. Evaluating theoretical differences in quality of capital resources has limited value as a practical matter for purposes of policyholder protection. In addition, the statement in Paragraph 201 that the IAIS would "specify" how supervisors should respond if these arbitrary limits are exceeded usurps the statutory power of supervisors and breaches the IAIS's own position that it is not a regulator.

Property Casualty Insurers Association of America (PCI)	USA	No	No	No. In some cases, it is not apparent to us as to why there should be a limit at all. For example, Tier 1 Limited instruments issued by mutuals would be subject to a limit of 30% of the ICS capital requirement, which could result in part of the otherwise-qualifying capital resulting from issuance of such an instrument being disallowed (if the portion in Tier 2 went over that limit). That's illogical in our view.. The first dollar of capital from that instrument is subject to the same quality characteristics as the last dollar; there simply is no objective way to determine a portion that is better than the other, one to be recognized, one to be placed in a lower tier where at least a portion could then be disallowed. As to the limits taken more broadly, for a stakeholder, it is impossible to answer this question since we have not been provided any information by the IAIS to indicate where the ICS appears to "land" relative to existing jurisdictional requirements or proxy calculations in the baseline testing. We would like to know what the impact of the proposed limits is based on field testing: how much of what capital resources would be disallowed based on the suggested composition limits? How might that change over time, in particular, for resources other than capital instruments such as DTAs? It is especially problematic since it appears that the proposed limits have been little more than a placeholder throughout the years of field testing, without serious challenge with debate deferred until the underlying criteria was more fully developed. Further, we are unaware of any "ground-up" analysis that may have been independently performed, much less consulted on, to support the limits. Very possibly they were derived from those applied in a member's jurisdiction and thus some members have some comfort with them, but no analysis or data has yet been shared with stakeholders to establish any basis for a similar degree of

				comfort, much less to inform a possible answer to this question. Even before the stated limits are applied, the proposed criteria itself limits capital treatment of some instruments, i.e., in the case of surplus notes issued by stock companies. While we appreciate the result of recent negotiations which have permitted Tier 1 limited capital treatment by mutuals for surplus notes, there is no distinction whatsoever between mutuals and stock companies, either in the surplus notes they issue, or in the capital regime in the U.S. under which surplus notes are regulated. We are reminded of data submitted by stakeholders several years ago demonstrating that, in the throes of the crisis, the equity markets proved suboptimal as an available and affordable means to shore up capital in such a time of extreme stress. Rather, stock companies in the U.S. turned to interest bearing instruments such as surplus notes and senior debt which could be readily funded even in such adverse market conditions. It is not only inconsistent to deny stock companies similar treatment for surplus notes as mutuals, but by tagging them (and senior debt) as Tier 2, it places them in a category that is subject to limit and introduces the risk that, when capital is needed most by an insurer, prudential supervisory rules will disallow large amounts of paid-in capital. We fail to see the logic in such an outcome, either from the standpoint of the supervisor, the insurer, or its policyholders. It does not appear intuitively obvious to us that, for non-mutual IAIGs, Tier 1 Limited capital resources (which absorb losses on a going concern basis and in winding up) should be limited to 10% of the ICS capital requirement, whereas Tier 2 capital resources (which absorb losses only in winding up) could account for up to 50% of the ICS capital requirement.

National Association of Insurance Commissioners (NAIC)	USA, NAIC	No	No	No. It is difficult to ascertain the impact of these composition limits when the information provided lacks the necessary context. Further empirical analysis is necessary to see what the impact of these capital composition limits would be over time (including stressful periods).

Q65 Section 6 Are there any further comments on capital resources that the IAIS should consider in the development of ICS Version 2.0? If "yes", please explain with sufficient detail and rationale.

Organisation	Jurisdiction	Confidential	Answer	Answer Comments
China Banking and Insurance Regulatory Commission (CBIRC)	China	No	No	
European Insurance and Occupational Pensions Authority (EIOPA)	EIOPA	No	Yes	As mentioned in our response to Q62, the IAIS should consider more widely the treatment of fungibility within the ICS. Some of the measures currently proposed for inclusion in ICS version 2.0 (e.g. T1 deduction and T2 add-back for encumbered assets and potential limit on third party capital) address specific cases of fungibility, but development of those should not preclude a more general consideration of fungibility of capital within the ICS.
Insurance Europe	Europe	No	Yes	Insurance Europe notes the following: • With respect to own funds Insurance Europe encourages the IAIS to consider issues of own funds transferability.

				• The partial - 50% - deduction of assets assigned to defined benefit pension plans from Capital resources is not appropriate and should be corrected. An approach where pension plan assets are netted against benefit obligations is more suitable. • Transitional measures on tiering for own funds are needed in ICS. This would allow subordinated loans to be eligible for capital coverage.
German Insurance Association	Germany	No	Yes	The partial (i.e. 50%) deduction of assets assigned to defined benefit pension plans from Capital resources is not appropriate and should be corrected. An alignment with IFRS or/and Solvency II provisions, where pension plan assets are netted against benefit obligations is more suitable. It should be discussed if it is necessary to introduce a system of grandfathering. The principle of grandfathering is to have a soft transition from one system to the new system. Maybe some IAIGs need grandfathering rules to make sure that all capital instruments are considered under ICS.
Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Germany - BAFIN	No	Yes	As mentioned in our response to Q62, the IAIS should consider more widely the treatment of fungibility within the ICS. Some of the measures currently proposed for inclusion in ICS version 2.0 (e.g. T1 deduction and T2 add-back for encumbered assets and potential limit on third party capital) address specific cases of fungibility, but development of those should not preclude a more general consideration of fungibility of capital within the ICS.
Global Federation of Insurance Associations	Global	No	Yes	GFIA notes the IAIS has indicated in Paragraph 76 that it will consider transitional arrangements (for example in respect of qualifying capital resources) that may help jurisdictions with implementation of the ICS as a PCR, following the end of the monitoring period. As the ICS may result in capital resource requirements that differ from existing national requirements, it

				will be essential that the implementation is subject to an appropriate transitional period, permitting instruments that comply with the relevant national level requirements to qualify as ICS capital during this time. The transitional period would ideally be for 10 years but, as a minimum, should be effective until the end of 2025. GFIA welcomes consultation on this in the future.
Dai-ichi Life Holdings, Inc.	Japan	No	Yes	Please note that, because of lack of clear guidance as to grandfathering and grace period, insurance companies may struggle how to manage their capital strategy. Please publish such guidance as soon as possible, including a clear opinion that outstanding financial instruments when ICS is implemented shall be treated under ICS the same as under current local regulatory frameworks.
General Insurance Association of Japan	Japan	No	Yes	Technical Specifications stipulate different treatment for joint stock companies and mutual companies depending on their characteristics. In order to maintain fair competition, it should be duly noted that one party does not enjoy competitive advantages over the other.
The Life Insurance Association of Japan	Japan	No	Yes	• For financial instruments already issued by IAIGs, the treatment of current regulations in each jurisdiction should be maintained. • The lack of provisions for grandfathering and transitional measures has hampered the development of insurer's capital strategies because it is not clear how the current financing practices of insurers will be treated in the ICS.
Financial Supervisory Service (FSS) & Financial Services Commission (FSC)	Korea (Republic of)	No	No	

Legal & General	UK	No	No	No further comments provided.
Association of British Insurers	United Kingdom	No	Yes	The ABI notes the IAIS has indicated in Paragraph 76 that it will consider transitional arrangements (for example in respect of qualifying capital resources) that may help jurisdictions with implementation of the ICS as a PCR, following the end of the monitoring period. As the ICS may result in capital resource requirements that differ from existing national requirements, it will be essential that the implementation is subject to an appropriate transitional period, permitting instruments that comply with the relevant national level requirements to qualify as ICS capital during this time. The transitional period would ideally be for 10 years but, as a minimum, should be effective until the end of 2025. The ABI welcomes consultation on this in the future.
National Association of Mutual Insurance Companies	United States	No	Yes	There have been some positive changes but much needs to be done. Limitations on the application of capital are unreasonable if the capital can be used to pay policyholder claims. The elimination of tiering would be the best approach. Adding jurisdictional flexibility and eliminating the prescriptive approach now a significant part of the ICS would also be an improvement.
RAA	United States and many other jurisdicitons	No	Yes	The IAIS has indicated in Paragraph 76 that it will consider transitional arrangements (for example in respect of qualifying capital resources) that may help jurisdictions with implementation of the ICS as a PCR, following the end of the monitoring period. As the ICS may result in capital resource requirements that differ from existing national requirements, it will be essential that the implementation is subject to an appropriate transitional period, permitting instruments that comply with the relevant national level requirements to qualify

				as ICS capital during this time. The transitional period would ideally be for 10 years but, as a minimum, should be effective until the end of 2025.
Prudential Financial, Inc.	United States of America	No	No	
MetLife, Inc	USA	No	Yes	ICS credit risk and other capital charges on invested assets and the encumbered assets charge result in an unnecessary additional reduction in capital where a counterparty does not have rights to excess pledged assets. Certain counterparties require overcollateralization of the secured liability to protect against potential decline in the market value of the asset. However, should the counterparty "foreclose" on the asset, and by contractual agreement only have rights to an amount of assets equal to the liability, the counterparty can never obtain the excess collateral. We suggest that where the counterparty does not have rights to the excess pledged assets, the ICS credit risk and other capital charges on the invested assets are a sufficient capital charge for these assets and that the encumbered assets charge is unnecessary. We recommend the ICS 2.0 exempt assets from the encumbered assets capital deduction where a counterparty does not have rights to the excess collateral in the event of default and foreclosure.
Property Casualty Insurers Association of America (PCI)	USA	No	Yes	We note the IAIS has indicated in Paragraph 76 that it will consider transitional arrangements (for example in respect of qualifying capital resources) that may help jurisdictions with implementation of the ICS following the end of the monitoring period. As the ICS may result in capital resource requirements that differ from existing national requirements, it will be

				essential that the implementation is subject to an appropriate transitional period, permitting instruments that comply with the relevant national level requirements to qualify as ICS capital during this time
National Association of Insurance Commissioners (NAIC)	USA, NAIC	No	No	No.

End of Section 6