



IAIS

INTERNATIONAL ASSOCIATION OF
INSURANCE SUPERVISORS

**Report from Expert Review Teams Conducting the Self-
Assessment and Peer Review of ICPs 1, 2, and 23**

About the IAIS

The International Association of Insurance Supervisors (IAIS) is a voluntary membership organization of insurance supervisors and regulators from more than 200 jurisdictions in nearly 140 countries. The mission of the IAIS is to promote effective and globally consistent supervision of the insurance industry in order to develop and maintain fair, safe and stable insurance markets for the benefit and protection of policyholders and to contribute to global financial stability.

Established in 1994, the IAIS is the international standard setting body responsible for developing principles, standards and other supporting material for the supervision of the insurance sector and assisting in their implementation. The IAIS also provides a forum for Members to share their experiences and understanding of insurance supervision and insurance markets. In addition to active participation of its Members, the IAIS benefits from input in select IAIS activities from Observers representing international institutions, professional associations and insurance and reinsurance companies, as well as consultants and other professionals.

The IAIS coordinates its work with other international financial policymakers and associations of supervisors or regulators, and assists in shaping financial systems globally. In particular, the IAIS is a member of the Financial Stability Board (FSB), founding member and co-parent of the Joint Forum, along with the Basel Committee on Banking Supervision (BCBS) and the International Organization of Securities Commissions (IOSCO), member of the Standards Advisory Council of the International Accounting Standards Board (IASB), and partner in the Access to Insurance Initiative (A2ii). In recognition of its collective expertise, the IAIS also is routinely called upon by the G20 leaders and other international standard setting bodies for input on insurance issues as well as on issues related to the regulation and supervision of the global financial sector.



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This paper was prepared by the Expert Teams Conducting the Self-Assessment and Peer Reviews of ICPs 1, 2, and 23 in consultation with the Standards Observance Subcommittee.

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Contents

Foreword.....	5
1. Executive Summary	6
<i>Summary Results</i>	7
2. Assessment Methodology and Process.....	10
3. Member Participation	11
4. Detailed Assessment Results and Observations	12
<i>ICP1</i>	12
<i>ICP 2</i>	15
<i>ICP 23</i>	22
Annex 1: Participating IAIS Members.....	30
<i>ICP 1 & 2 – Participating Members</i>	30
<i>ICP 23 – Participating Members</i>	31
Annex 2: Questionnaire.....	32

Foreword

1. In October 2011, the IAIS adopted revisions to the IAIS Insurance Core Principles (ICPs), which incorporated developments in the insurance markets and reflected pertinent recommendations issued by the G20 Finance Ministers and Central Bank Governors, and the Financial Stability Board. They also included lessons learned from the financial crisis and from the World Bank / IMF Financial Sector Assessment Program (FSAP) assessments.
2. The Standards Observance Subcommittee (SOSC) was created as a Working Party of the Implementation Committee in late 2010 to contribute to enhanced observance of the revised ICPs. Specifically, SOSC was mandated to develop assessment mechanisms and oversee the conduct of peer reviews.
3. Subsequent to the adoption of the revised ICPs, the SOSC committed to conducting a Self-Assessment and Peer Review (SAPR) on all ICPs, on a thematic basis, within a five year period.
4. The first of the new ICPs subject to the SAPR process were:
 - *ICPs 1 & 2 (Mandate and Supervisory Powers)*
 - *ICP 23 (Group-wide Supervision)*.
5. To support the SAPR, two Expert Review Teams were established:
 - *ICP 1 & 2 Expert Review Team:* included Richard Walker (Guernsey) as Team Lead and assisted by Gill Birnie (Guernsey); Craig Thorburn (World Bank); Stephanie Siering (Germany, BaFin); Mamta Suri (India); Stan Strickland and Sara Waitt (USA, Texas); Michelle Mingxuan Tan (Singapore); and Nóra Kiss (Hungary).
 - *The ICP 23 Expert Review Team:* included Ekrem Sarper (USA, NAIC) and Calvin Johansson (Canada, OSFI) as co team leaders, Su Hoong Chang (IMF); Doug Slape and Danny Saenz (USA, Texas); Mamta Suri (India); and Michelle Mingxuan Tan (Singapore).
6. This report contains the high-level findings of these two SAPRs and provides recommendations on steps that Committees of the IAIS could take to enhance observance and understanding of the assessed ICPs.
7. The Expert Review Team would like to acknowledge the support, received throughout 2012 from the members of the Implementation Committee and its Chair, J. Hari Narayan (India); and the members of the SOSC and its Chair, Jonathan Dixon (South Africa). The IAIS is grateful for the significant contributions in time and effort received from the Expert Review Team members involved in the process.

1. Executive Summary

8. A key strategic objective of the IAIS is implementation of the Insurance Core Principles (ICPs) by insurance supervisors around the world. In support of this objective, the IAIS has developed a program of thematic self-assessment and peer review.
9. The Self-Assessment and Peer Review (SAPR) Process assesses current levels of observance of regulatory frameworks and supervisory practices and contributes to strengthening the observance and understanding of the ICPs.
10. The SAPR provides participating authorities with a confidential assessment of their observance of the ICPs being assessed. This report can assist participating authorities to identify steps which can be taken to improve their observance and understanding of the ICPs. Further, the SAPR provides valuable feedback to the IAIS by identifying areas where IAIS Members may benefit from targeted training support and where standards may require additional clarity or guidance.
11. The SAPR is conducted on a thematic basis. The themes covered in this report are “Mandate and Supervisory Powers” (ICPs 1 & 2) and “Group-wide Supervision” (ICP 23). The objectives for the thematic self-assessment and peer review on ICPs 1 & 2 and ICP 23 are to:
 - identify the observance of the standards relating to the assessed themes;
 - assess the effectiveness of implementation of the standards in a consistent and coherent manner by independent peers;¹
 - identify findings that should be communicated to the Technical Committee (TC) providing feedback into the successes and gaps in developing strong IAIS standards and securing their effective implementation into supervisory practices;
 - complement the FSAP process of the International Monetary Fund (IMF) and the World Bank and Financial Stability Board (FSB) peer reviews; and
 - identify target areas for technical assistance and educational support.
12. This report outlines the aggregate findings of the SAPR relating to ICPs 1, 2, and 23.

¹ The SAPR process is a desktop exercise. The Expert Review Team accepts the Members’ responses in good faith.

Summary Results

ICP 1 Objectives, Powers and Responsibilities of the Supervisor

The authority (or authorities) responsible for insurance supervision and the objectives of insurance supervision are clearly defined.

ICP 2 Supervisor

The supervisor, in the exercise of its functions and powers:

- is operationally independent, accountable and transparent
- protects confidential information
- has appropriate legal protection
- has adequate resources
- meets high professional standards

13. A total of 82 authorities participated in the SAPR: 26 responses from IAIS Members in FSB jurisdictions, including 6 U.S. Member states, and the other 56 respondents from IAIS Members in non-FSB jurisdictions. Every IAIS region was represented.

14. The assessment questionnaire consisted of 116 questions covering 17 Standards in total (4 standards in ICP 1 and 13 in ICP 2).

15. Summary results, based on the final reports for FSB jurisdictions and non-FSB jurisdictions, indicate:

Table 1.1
ICP 1 and 2
results

	FSB jurisdictions		Non-FSB jurisdictions		Total participating authorities	
	ICP 1	ICP 2	ICP 1	ICP 2	ICP 1	ICP 2
Observed	9	0	15	0	24	0
Largely Observed	17	23	41	45	58	68
Partly Observed	0	3	0	11	0	14
Not Observed	0	0	0	0	0	0
Total	26	26	56	56	82	82

16. Overall, it was noted that general observance with, and awareness of, ICPs 1 & 2 was high amongst participating authorities. The Expert Review Team felt that this is, in part, due to the fact that the 2011 revisions to the standards were not very extensive.

17. However, the Expert Review Team notes there are no fully Observed participating authorities for ICP 2. To an extent, the IAIS assessment methodology contributes to this

result as, to be fully Observed, each one of the standards must be observed; something that is more difficult the more standards are under the principle (ICP 2 has 13 standards).

ICP 23: Group-wide Supervision

The supervisor supervises insurers on a legal entity and group-wide basis.

18. A total of 59 jurisdictions responded to the assessment questionnaire: 25 responses were from IAIS members in FSB jurisdictions, including 6 from U.S. Member states, and the other 34 were from IAIS members in non-FSB jurisdictions. Every IAIS region was represented.

19. The assessment questionnaire for ICP 23 consisted of 32 questions with many subsidiary questions covering 9 Standards. Summary results based on the final reports for FSB jurisdictions and non-FSB jurisdictions indicate:

Table 1.2

ICP23 results

	FSB jurisdictions	Non-FSB jurisdictions	Total participating authorities
Observed	7	0	7
Largely Observed	3	8	11
Partly Observed	13	12	25
Not Observed	1	13	14
Not Assessed (incomplete)	1	1	2
Total	25	34	59

20. Revisions to ICP 23 resulted in a much wider net of entities captured as part of the insurance group. These revisions were adopted in October 2011, only 2 months before the SAPR was launched.

21. The Expert Review Team on ICP 23 recognizes that many insurance authorities are at varying levels of observance with this ICP because observance is likely predicated upon changes to legal frameworks and supervisory powers that require time to implement.

22. The Expert Review Team also notes that the majority of participating authorities found the definition of “insurance groups” challenging. Specifically, Standard 23.2 and 23.7 were difficult to observe due to the heavy content of the standards. The content for the most part is new and covers not just upstream holding companies but also “direct or indirect participation, influence and/or other contractual obligations.”

23. Participating authorities commented that the implementation of a formal group-wide supervisory framework is in progress. Legislative proposals have been introduced in a few jurisdictions, but require legislative approval before full group-wide supervisory frameworks can be introduced.

24. The Expert Review Team communicated its findings from the ICP 23 SAPR to the Standards Observance Subcommittee (SOSC) at the end of 2012. The SOSC reported

these findings to the Implementation Committee (IC). The IC then reported to the Executive Committee (ExCo), the Technical Committee (TC) and the Insurance Groups and Cross-Sectoral Issues Subcommittee (IGSC).

25. Based on these findings the TC agreed that clarification of ICP 23 was essential and directed the IGSC to develop a task force to review the standard and propose revisions which address issues and concerns identified through the SAPR. The process for reviewing and revising ICP 23 is scheduled to conclude in 2013.

2. Assessment Methodology and Process

26. The SAPR follows the assessment methodology set out in the introductory paragraphs of the 2011 ICPs:

“In general, an ICP will be considered **observed** whenever all the standards are considered to be observed or when all the standards are observed except for a number that are considered not applicable. An ICP will be considered to be **not applicable** when the standards are considered to be not applicable. For an ICP to be considered **largely observed**, it is necessary that only minor shortcomings exist which do not raise any concerns about the supervisor’s ability to achieve full observance with the ICP. An ICP will be considered **partly observed** whenever, despite progress, the shortcomings are sufficient to raise doubts about the supervisor’s ability to achieve observance. An ICP will be considered **not observed** whenever no substantive progress toward observance has been achieved.”² (emphasis added)

27. The process for the IAIS SAPR involves multiple steps. First, a detailed, web-enabled, assessment questionnaire is developed by an External Specialist with extensive experience in conducting similar exercises (e.g. Review of Standards and Codes, Financial Sector Assessment Program).

28. An Expert Review Team, which includes senior supervisors from IAIS Members as well as experienced World Bank and IMF participants, then refines and tests the questionnaire. The revised questionnaire is then circulated to relevant IAIS Working Parties for comment and before being approved by the relevant Working Parties of the Technical and Implementation Committees for release to all IAIS Members.

29. Once approved, the questionnaire is sent to all IAIS Members, who submit responses using an IT Tool. Responses are initially assessed based on ratings set out by the Expert Review Team, who reviews the assessments and prepares a draft report for each participating Member.

30. Similar to the process used for World Bank / IMF Financial Sector Assessment Program (FSAP), draft individual reports are sent to Members in order to provide an opportunity to submit comments for inclusion in the report. Corrections to factual misinterpretations are also accepted. The Expert Review Team reviews any comments or corrections provided by the insurance supervisory authority before issuing a final individual report.

31. The Final individual Member reports are forwarded to the respective authority on a confidential basis. The entire process takes approximately one year.

32. It is important to highlight that IAIS Members provide only responses to the questionnaires – Members do not provide their own rating (i.e. conduct their own self-assessments). The rating and assessments are undertaken by the Expert Review Team to ensure consistency and independence of the process.

² ICP <http://www.iaisweb.org/Insurance-Core-Principles-material-adopted-in-2011-795>

3. Member Participation

33. The IAIS' decision to choose ICPs 1 & 2 and ICP 23 as the first to undergo a SAPR reflect the Association's view of importance of these ICPs to a sound regulatory and supervisory regime. Relatedly, the FSB recognised and endorsed the preliminary findings of the SAPR on ICP 1 & 2 and ICP 23 in its 1 November 2012² progress report to G20 Ministers and Governors "Increasing the Intensity and Effectiveness of SIFI (Systemically Important Financial Institutions) Supervision."

34. As a result of the priority assigned to these areas, participation in the SAPR by FSB jurisdictions was quite high, as was participation by non-FSB jurisdictions for ICPs 1 & 2, reflecting the commitment of IAIS Members to enhance observance and understanding of the ICPs.

35. There was significant participation in the SAPR on ICPs 1 & 2 from IAIS Members

Table 3.1

ICP 1 & 2 IAIS Region	Authorities Participating
Sub-Sahara Africa	9
Middle East and North Africa	5
Asia and Oceania	12
Central, Eastern Europe and Transcaucasia	11
Western Europe	18
Americas	15
Offshore and Caribbean Islands	12
Total	82

36. With respect to ICP 23, 59 authorities participated in the SAPR, a lower rate of participation than that of ICPs 1 & 2.

Table 3.2

37. A number of factors could have contributed to the lower participation rate. One consideration noted anecdotally to members of the Expert Review Team is that a number of participating authorities believed that ICP 23 did not apply since they:

- had no "groups" in the region; and/or
- were only host or branch supervisors supervisors.

38. The Expert Review Team believes that in either instance, this is an erroneous conclusion. As noted in the recommendations later in this report, further guidance may be necessary in terms of identifying how ICP 23 on group-wide supervision applies to all supervisors, as noted in the introduction to the ICP.

ICP 23 IAIS Region	Authorities Participating
Sub-Sahara Africa	6
Middle East and North Africa	3
Asia and Oceania	7
Central, Eastern Europe and Transcaucasia	7
Western Europe	14
Americas	16
Offshore and Caribbean Islands	6
Total	59

4. Detailed Assessment Results and Observations

ICP1

39. This section identifies the key findings of the Expert Review Team that emerged from the SAPR process. The findings represent and reflect the views and analysis of the respective Expert Review Teams.

ICP 1 Objectives, Powers and Responsibilities of the Supervisor

The authority (or authorities) responsible for insurance supervision and the objectives of insurance supervision are clearly defined.

40. ICP 1 was not significantly revised in 2011. The majority of jurisdictions were Largely Observed, with no findings of Partial or Non-Observance.

Table 4.1

ICP 1 results	FSB jurisdictions	Non-FSB jurisdictions	Total participating authorities
Observed	9	15	24
Largely Observed	17	41	58
Partly Observed	0	0	0
Not Observed	0	0	0
Not Assessed (incomplete)	0	0	0
Totals	26	56	82

Standard 1.1: Primary legislation clearly defines the authority (or authorities) responsible for insurance supervision.

41. All participating authorities are fully observed.

Table 4.2

Standard 1.1	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	26	0	0	0	0
Non-FSB jurisdictions	56	0	0	0	0

Standard 1.2: Primary legislation clearly defines the objectives of insurance supervision and the mandate and responsibilities of the supervisor and gives the supervisor adequate powers to conduct insurance supervision, including powers to issue and enforce rules by administrative means and take immediate action.

42. The Expert Review Team notes that guidance paragraph I.2.7 states that “it is important that legislation supports the supervisor of an insurer which is part of a group to appropriately contribute to the supervision of that group on a group-wide basis.” This is different from the requirements for ICP 23.

Table 4.3

Standard 1.2

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	19	7	0	0	0
Non-FSB jurisdictions	31	23	2	0	0

Standard 1.3: The principal objectives of supervision promote the maintenance of a fair, safe and stable insurance sector for the benefit and protection of policyholders.

43. The Expert Team notes that the phrase “fair, safe and stable insurance sector” is subject to differing interpretations. Some jurisdictions questioned whether the promotion of the maintenance of a fair, safe and stable insurance sector for the benefit and protection of policyholders should be required to be explicitly stated in the supervisor’s objectives.

Table 4.4

Standard 1.3

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	22	3	1	0	0
Non-FSB jurisdictions	34	16	6	0	0

Standard 1.4: Where, in the fulfilment of its objectives, the supervisor identifies conflicts between legislation and supervisory objectives, the supervisor initiates or proposes correction in legislation.

44. Some authorities noted that clearly specifying the extent to which the effectiveness of the initiation or proposal of correction in legislation should be taken into account would be beneficial to supervisors.

Table 4.5**Standard 1.4**

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	16	10	0	0	0
Non-FSB jurisdictions	34	21	1	0	0

ICP 2

ICP 2 Supervisor

The supervisor, in the exercise of its functions and powers:

- is operationally independent, accountable and transparent
- protects confidential information
- has appropriate legal protection
- has adequate resources
- meets high professional standards

45. The majority of participating authorities are Largely Observed, with the remaining participating authorities Partly Observed. The overall results indicated that ICP 2 posed some challenges in the area of operational independence and some areas of accountability.

Table 4.6

ICP 2 results

	FSB jurisdictions	Non-FSB jurisdictions	Total participating authorities
Observed	0	0	0
Largely Observed	23	45	68
Partly Observed	3	11	14
Not Observed	0	0	0
Not Assessed (incomplete)	0	0	0
Totals	26	56	82

Standard 2.1: The governance structure of the supervisor is clearly defined. Internal governance procedures, including internal audit arrangements, are in place to ensure the integrity of supervisory actions. There is effective communication and prompt escalation of significant issues to appropriate levels within the supervisor. The decision-making lines of the supervisor are structured in such a way that action can be taken immediately in the case of an emergency.

46. All participating authorities are either Observed or Largely Observed, with the majority being Observed.

Table 4.7

Standard 2.1

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	18	8	0	0	0
Non-FSB jurisdictions	32	24	0	0	0

Standard 2.2: There are explicit procedures regarding the appointment and dismissal of the head of the supervisor and members of its governing body, if such a governing body exists. When the head of the supervisor or members of its governing body are removed from office, the reasons are publicly disclosed.

47. The majority of participating authorities are Observed or Largely Observed; however, one third of jurisdictions were Partly Observed or Not Observed. In many authorities, explicit hiring or appointment procedures exist, but dismissal procedures are not explicitly defined.

48. Another challenge for participating authorities was that even when dismissal procedures were explicitly defined, there was no requirement to publicly disclose the reason(s) for dismissal. Moreover, some authorities note that such disclosure of the reason for dismissal could be contrary to national labour law.

Table 4.8

Standard 2.2

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	7	9	9	1	0
Non-FSB jurisdictions	11	26	15	3	1

Standard 2.3: The institutional relationships between the supervisor and the executive and judicial authorities are clearly defined and transparent. Circumstances where executive overrides are allowed are specified.

49. All but a few participating authorities are Observed or Largely Observed, with the rest falling into the Partly Observed category. No jurisdictions were found to be Not Observed. In many participating authorities circumstances under which executive overrides are allowed were not specified.

Table 4.9

Standard 2.3

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	15	10	1	0	0
Non-FSB jurisdictions	15	34	7	0	0

Standard 2.4: The supervisor and its staff are free from undue political, governmental and industry interference in the performance of supervisory responsibilities. The supervisor is financed in a manner that does not undermine its independence. The supervisor has discretion to allocate its resources in accordance with its mandate and objectives and the risks it perceives.

50. A majority of participating authorities are Largely Observed for this standard. Rating of less than Observed is due, primarily, to the source and conditions of funding or budgetary independence in the allocation of resources. The Expert Team notes that further guidance on this standard would assist IAIS Members in understanding the financing and independence necessary to observe this standard.

Table 4.10

Standard 2.4

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	4	16	6	0	0
Non-FSB jurisdictions	4	43	9	0	0

Standard 2.5: There are clear and transparent regulatory requirements and supervisory procedures which are appropriate for the objectives they are intended to meet. The supervisor applies them consistently and equitably, taking into account the nature, scale and complexity of insurers. These regulatory requirements and supervisory procedures are published.

51. The Expert Review Team sees this as a critically important standard as it referred to the need for supervisors to take account of the nature, scale and complexity of insurers. As a result, Insurance Supervisors would benefit from additional guidance respecting the key elements of “nature, scale and complexity” in this standard and how a supervisor could demonstrate that requirements and procedures are applied consistently and equitably.

Table 4.11

Standard 2.5

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	20	6	0	0	0
Non-FSB jurisdictions	24	30	2	0	0

Standard 2.6: Regulatory requirements and supervisory procedures are reviewed regularly. All material changes are normally subject to prior public consultation

52. It is noted by the Expert Review Team that additional guidance would be beneficial in relation to the requirement for public consultation when supranational bodies have a direct role in legislation of their members (e.g. the European Union).

Table 4.12

Standard 2.6

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	16	10	0	0	0
Non-FSB jurisdictions	16	39	1	0	0

Standard 2.7: The supervisor publishes information on the insurance sector, about its own role and how it performs its duties.

53. The majority of participating authorities were Observed or Largely Observed.

Table 4.13

Standard 2.7

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	15	11	0	0	0
Non-FSB jurisdictions	17	35	4	0	0

Standard 2.8: There are processes to appeal against supervisory decisions, including using judicial review. These processes are specific and balanced to preserve supervisory independence and effectiveness. However, they do not unduly impede the ability of the supervisor to make timely interventions in order to protect policyholders' interests.

54. Most participating authorities are Observed, with the rest Largely Observed. Some participating authorities note that they would benefit from additional guidance on what constitutes "timely interventions."

Table 4.14

Standard 2.8

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	21	5	0	0	0
Non-FSB jurisdictions	42	14	0	0	0

Standard 2.9: The supervisor, including its staff and any individual acting on its behalf (presently or in the past), are required by legislation to protect the confidentiality of information in the possession of the supervisor, including confidential information received from other supervisors. The supervisor maintains appropriate safeguards for the protection of confidential information. Wrongful disclosure of confidential information is subject to penalties. The supervisor denies any request for confidential information, other than when required by law, or when requested by another supervisor who has a legitimate supervisory interest and the ability to uphold the confidentiality of the requested information.

55. All but 3 participating authorities are Observed or Largely Observed, with the others being Partly Observed.

Table 4.15
Standard 2.9

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	24	2	0	0	0
Non-FSB jurisdictions	33	20	3	0	0

Standard 2.10: The supervisor and its staff have the necessary legal protection against lawsuits for actions taken in good faith while discharging their duties, provided they have not acted illegally. They are adequately protected against the costs of defending their actions while discharging their duties.

56. A majority of participating authorities are Observed or Largely Observed. Lower levels of observance resulted from limitations on their legal framework and protections available to supervisory staff who fulfill their duties in good faith.

Table 4.16
Standard 2.10

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	22	3	1	0	0
Non-FSB jurisdictions	27	16	4	9	0

Standard 2.11: The supervisor has adequate resources, financial or otherwise, sufficient to enable it to conduct effective supervision. Its staffing policies enable it to attract and retain highly skilled, competent and experienced staff. The supervisor provides adequate training for its staff. The supervisor has the ability to hire or contract the services of outside experts when necessary.

57. Most participating authorities are Observed or Largely Observed, with a few Partly Observed. Some participating authorities requested guidance regarding whether guidance could be provided on circumstances where, irrespective of the effectiveness of staffing policies, there are general shortages in certain skilled or experienced staff.

Table 4.17

Standard 2.11

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	5	19	2	0	0
Non-FSB jurisdictions	23	29	4	0	0

Standard 2.12: The supervisor and its staff act with integrity and observe the highest professional standards, including observing conflict of interest rules.

58. Observance of this standard was predicated on effectiveness of professional standards and clear conflict of interest rules. Some participating authorities indicated they would benefit from guidance on the effectiveness of compliance with professional standards, with particular reference to observing conflict of interest rules.

Table 4.18

Standard 2.12

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	18	6	2	0	0
Non-FSB jurisdictions	31	18	7	0	0

Standard 2.13: Where the supervisor outsources supervisory functions to third parties, the supervisor sets expectations, assesses their competence and experience, monitors their performance, and ensures their independence from the insurer or any other related party. Outside experts hired by the supervisor are subject to the same confidentiality rules and professional standards as the staff of the supervisor.

59. Most participating authorities are Observed. Additional guidance and technical assistance will help some jurisdictions, particularly non-FSB jurisdictions, who need further guidance on controls for outsourced functions.

Table 4.19

Standard 2.13

	Observed	Largely Observed	Partly Observed	Not Observed	Not Applicable
FSB jurisdictions	21	2	1	0	2
Non-FSB jurisdictions	22	8	0	0	26

ICP 23

ICP 23: The supervisor supervises insurers on a legal entity and group-wide basis.

60. Revisions to ICP 23 resulted in a much wider net of entities captured as part of the insurance group. These revisions were adopted in October 2011, only 2 months before the SAPR was launched.

61. Overall, the majority of the jurisdictions that participated were Partly Observed or Not Observed. Many participating authorities commented that ICP 23 is extremely broad and difficult to implement in practice. The definition of “insurance group” could cover all groups including large industrial conglomerates and many regulatory frameworks are not set up to cover the entire group with the same intensity of supervision.

Table 4.20

ICP23 results

	FSB jurisdictions	Non-FSB jurisdictions	Total participating authorities
Observed	7	0	7
Largely Observed	3	8	11
Partly Observed	13	12	25
Not Observed	1	13	14
Not Assessed (incomplete)	1	1	2
Totals	25	34	59

62. The introduction to the ICPs states, “The ICPs and standards apply to the supervision of insurers at the legal entity and the insurance group level, unless otherwise specified.” Further, the ICPs states “Regardless of the approach (direct or indirect), the supervisor must be able to demonstrate that in effect, the outcome is similar to having the supervisory requirements applied directly on those entities within the insurance group from which the risks are emanating. This is to ensure effective group-wide supervision, which includes ensuring that all relevant group-wide risks impacting the insurance entities are addressed appropriately.”

63. The application of ICP 23 to group-wide supervision, together with the broad definition of “insurance groups,”³ is challenging for many of the participating authorities. One authority indicated that the SAPR “revealed that in spite of the detailed guidance found in ICP 23, further explanations and specifications would be useful.”

³ A group is considered to be an insurance group for the purpose of group-wide supervision if there are two or more entities of which at least one is an insurer and one has significant influence on the insurer. The significance of influence is determined based on criteria such as (direct or indirect) participation, influence and/or other contractual obligations; interconnectedness; risk exposure; risk concentration; risk transfer; and/or intra-group transactions and exposures.

64. A number of participating authorities requested elaboration on the expectations for the Group-wide Supervisor, Host supervisors, Home Supervisor, and the Branch Supervisor. This comment applied to all relevant Standards in ICP 23. The findings indicate that many participating authorities believed that ICP 23 was for Group-wide Supervisors only. Anecdotally, the Expert Review Team heard that a number of jurisdictions did not participate since they believed ICP 23 and the Standards did not apply in their role as Host Supervisors and/or Branch Supervisors.
65. The Expert Review Team communicated its findings to the SOSC at the end of 2012. The SOSC reported these findings to the Implementation Committee (IC). The IC then reported to the Executive Committee, the Technical Committee (TC) and the Insurance Groups and Cross Sectoral Issues Subcommittee (IGSC).
66. Based on these findings the TC agreed that clarification of ICP 23 was essential and directed the IGSC to establish a task force to review the standard and propose revisions which address issues and concerns identified through the SAPR. The process for reviewing and revising ICP 23 is scheduled to conclude in 2013.
67. The FSB was also briefed on the findings from the ICP 23 SAPR. Subsequently, the FSB recommended in its 1 November 2012 *Progress Report to the G20 Ministers and Governors on Increasing the Intensity and Effectiveness of SIFI Supervision*:

“The IAIS should follow-up on its findings from the self-assessment exercise against ICP 23 on group-wide supervision, including the challenges and prerequisites for effective group-wide supervision and ensuring supervisors have the powers to act at the level of the holding company. The IAIS should report to the SIE by end 2013 on the progress made toward achieving group-wide supervision and equipping supervisors with the appropriate powers to act at the level of the holding company.”

Standard 23.1: The supervisor, in cooperation with other involved supervisors as necessary, identifies the scope of the group to be subject to Group-wide supervision.

68. The majority of participating authorities are Observed. Observance is higher for the FSB jurisdictions. Cooperation between involved supervisors in the identification of the scope of the group was reasonably well understood, however, additional steps could be taken to enhance understanding amongst non-FSB jurisdictions.

Table 4.21

Standard 23.1

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	18	5	1	0	1
Non-FSB jurisdictions	15	5	9	4	1

Standard 23.2: The identified group, regarded as an Insurance group for the purpose of Group-wide supervision by insurance supervisors, covers all relevant entities. In deciding which entities are relevant, consideration should be given to, at least:

- **operating and non-operating holding companies (including intermediate holding companies);**
- **insurers (including sister or subsidiary insurers);**
- **other regulated entities such as banks and/or securities companies;**
- **Non-regulated entities (including parent companies, their subsidiary companies and companies substantially controlled or managed by entities within the group); and**
- **special purpose entities.**

taking into account, at a minimum, the following elements related to the insurance activities:

- **(direct or indirect) participation, influence and/or other contractual obligations;**
- **interconnectedness;**
- **risk exposure;**
- **Risk concentration;**
- **risk transfer; and/or**
- **intra-group transactions and exposures.**

69. The Expert Review Team notes that due to the broad definition of insurance groups and the multiple elements that supervisors must take into account under Standard 23.2, observance is challenging for a number of participating authorities. Moreover, significant aspects of the standard are new and cover not just upstream holding companies but also “direct or indirect participation, influence and/or other contractual obligations.”

70. Some participating authorities remarked that clearer definitions (including for operating and non-operating holding companies) and guidance for many of the criteria listed under ICP 23.2 would be helpful. Further, the guidance should elaborate on the expected role for the Group-wide Supervisor, Home, Host and Branch supervisors in the overall supervision of the insurance group.

71. Many participating authorities commented that implementation of a formal group-wide supervisory framework is in progress. Some have introduced legislative bills and/or are revising their supervisory frameworks, or are awaiting legislative approval to institute and implement full group-wide supervisory frameworks. The Expert Team expects that observance of this standard will improve going forward.

Table 4.22

Standard 23.2

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	14	2	7	1	1
Non-FSB jurisdictions	7	3	14	9	1

Standard 23.3: The supervisor does not narrow the identified scope of the group due to lack of legal authority and/or supervisory power over particular entities.

72. The majority of participating authorities are Observed or Largely Observed.

73. Many participating authorities requested guidance on how this Standard applies to Host and Branch supervisors. Clarifications were also requested as to whether supervisory power can be effective without "legal authority" (i.e. through indirect means). The Expert Review Team notes that the Standard seems to mix the power to obtain information with the power to conduct inspections on upstream holding companies.

Table 4.23

Standard 23.3

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	14	5	4	1	1
Non-FSB jurisdictions	10	10	6	6	2

Standard 23.4: The scope of the group for the purpose of Group-wide supervision is flexible in order to take account of any (potential) material and relevant changes in or outside of the group, such as those regarding the structure, activities or macro-economic environment.

74. A majority of participating authorities are Observed. The Expert Review Team notes that the Standard does not seem to confer requirements upon the supervisor. Rather, it is an extension of the Standard 23.3.

75. In addition, the Expert Review Team notes that assessing flexibility in the scope of group supervision is difficult. The rationale is that supervisors are expected to have discretion and not be bound by rigid legal rules in defining the scope of a group. In practice, too much flexibility may have the unintended consequences of injecting too much subjectivity or uncertainties.

Table 4.24

Standard 23.4

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	17	1	5	0	2
Non-FSB jurisdictions	17	4	7	4	2

Standard 23.5: The supervisor requires Insurance group structures to be sufficiently transparent so that Group-wide supervision will not be hindered.

76. The majority of participating authorities are Observed. The Expert Review Team notes that technically a group structure which is transparent may meet Standard 23.5; however, it could be too complex to supervise. As such, supervisors may be expected to do more than requiring “transparency” under Standard 23.5.

77. The Expert Review Team notes that in this context, guidance would be helpful on how supervisors can ensure transparency and improve the ability to supervise. Currently, Guidance under Standard 23.5.1 states that “a complex group structure could hinder effective group-wide supervision.” Additional guidance could include what constitutes a “complex group structure” and how to deal with such structures, e.g. ask group to restructure, divest or simplify, as well as the necessary supervisory powers, for example to approve significant acquisitions and changes in structure, significant influence from upstream etc.

Table 4.25

Standard 23.5

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	16	3	5	0	1
Non-FSB jurisdictions	15	3	10	5	1

Standard 23.6: The supervisor establishes an effective and efficient Group-wide supervision framework.

78. The majority of participating authorities are Largely Observed or Partly Observed, with a number of jurisdictions in the Not Observed category?. The Expert Review Team notes that a number of jurisdictions could not comply with this standard due to the absence of a specific group wide supervision framework or an underdeveloped framework.
79. The Expert Review Team found this Standard difficult to assess as term “effective and efficient” is subjective.
80. From the responses received, a clear conclusion is that it would be helpful if guidance could take account of whether this standard is addressing all supervisors, including Group-wide Supervisor, Home, Host and/or Branch supervisors.
81. Moreover, guidance in 23.6.10 states that the supervisor should also have the necessary legal authority to carry out Group-wide supervision. If legal authority for group supervision is considered weak or resources are inadequate for group-wide supervision, there is a possibility that assessments could mark down observance of ICP 1, 2 as well as ICP 23. This could create “multiple jeopardy” in the context ICP assessments under the Financial Sector Assessment Program and Review of Standards and Codes.

Table 4.26

Standard 23.6

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	8	6	8	2	1
Non-FSB jurisdictions	1	11	11	10	1

Standard 23.7: At a minimum, the Group-wide supervision framework includes, as a supplement to legal entity supervision,

- **extension of legal entity requirements, as applicable according to the relevant ICPs, on:**
 - **Solvency assessment (group-wide Solvency)**
 - **governance, Risk management and Internal controls (group-wide governance)**
 - **market conduct (group-wide *market conduct*)**
- **requirements related to Group-wide supervision on:**
 - **complexity of group structure**
 - **cross-border/cross-sectoral issues**
 - **interplay with legal entity supervision**
 - **Non-regulated entities.**

82. The majority of participating authorities are Partly Observed.

83. The Expert Review Team notes that the Standard is also prescriptive as it begins with “At a minimum” but does not indicate how Home and Host/Branch supervisors are expected to work with the Standard. The use of “legal entity” suggests that multiple branches may not be captured as an insurance group. Given the potential for regulatory arbitrage, considerations should be given to establishing a clear policy stance and alignment with the proposed definition of internationally active insurance groups under the ComFrame.

84. The Expert Review Team found that a number of participating authorities did not apply all standards, e.g. capital adequacy or investment rules, to all entities in the group.

85. Additional guidance on how this would apply for market conduct versus prudential regulators was also requested by the participants. Guidance provided may have some repetition and needs a review of the overlapping information in ICP 25. The Guidance under Standard 23.7.19 calls for a Group-wide Supervisor; however, this is addressed in Standard 25.3. It was noted that the role and responsibilities of a Group-wide supervisor are important for the framework to be “effective.”

Table 4.27

Standard 23.7

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	8	2	12	2	1
Non-FSB jurisdictions	2	7	13	11	1

Standard 23.8: The supervisor provides for Group-wide supervisory review and reporting of an Insurance group’s adherence to the group-wide regulatory requirements.

86. A significant number of participating authorities are Partly Observed. The Expert Review Team believes that this standard should only be assessed for Group-wide Supervisors and not for Host or Branch supervisors as it may go beyond the full powers of the host jurisdiction.

Table 4.28

Standard 23.8

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	13	5	6	0	1
Non-FSB jurisdictions	2	8	19	4	1

Standard 23.9: The supervisor requires that insurance groups have reporting systems in place that adequately meet the supervisory demands.

87. Most participating authorities are Observed, with a small number of jurisdictions with varying levels of observance. Many jurisdictions interpreted “reporting systems” to include wide variety of filings.

Table 4.29

Standard 23.9

	Observed	Largely Observed	Partly Observed	Not Observed	Not Assessed
FSB jurisdictions	22	1	1	0	1
Non-FSB jurisdictions	16	4	7	5	2

Annex 1: Participating IAIS Members

ICP 1 & 2 – Participating Members

(*FSB jurisdictions)

Albania	Iceland	Peru
Australia-PHI*	India *	Poland
Austria	Ireland	Portugal
Belgium	Isle of Man	Qatar
Belize	Italy*	Québec (Canada) *
Bermuda	Japan *	Republic of Lithuania
Bhutan	Jersey	Romania
Brazil*	Jordan	Serbia
British Virgin Islands	Kenya	Singapore *
Canada *	Korea*	South Africa *
Cayman Islands	Latvia	Spain*
Chile	Lebanon	Sri Lanka
China, Hong Kong*	Liechtenstein	Swaziland
Chinese Taipei	Luxembourg	Switzerland *
CIMA	Macau, China*	Tanzania
Colombia	Macedonia	The Bahamas
Costa Rica	Malawi	Turkey*
Croatia	Malaysia	Uganda
Curacao and Sint Maarten	Malta	United Kingdom*
Denmark	Mexico *	USA - California*
Egypt	Moldova	USA - Connecticut*
Finland	Morocco	USA - Missouri*
France*	Namibia	USA - Nebraska*
Germany-BaFin *	The Netherlands*	USA - Ohio*
Ghana	New Zealand	USA – Texas*
Gibraltar	Nigeria	Vanuatu
Guatemala	Norway	
Guernsey		
Hungary		

ICP 23 – Participating Members

(*FSB jurisdictions)

Australia – Private Health Insurance (PHI) *	Latvia
Austria	Liechtenstein
Belgium	Lithuania
Bermuda	Malta
Brazil*	Mexico*
British Virgin Islands	Morocco
Canada *	Namibia
Canada - Québec*	The Netherlands*
Chile	Nigeria
China, Hong Kong SAR*	Norway
Chinese Taipei	Peru
Colombia	Poland
Costa Rica	Singapore*
Croatia	Slovakia
Denmark	South Africa*
Egypt	Spain*
France*	Switzerland*
Germany*	Turkey*
Ghana	UAE – Dubai
Gibraltar	Uganda
Guatemala	UK*
Hungary	Uruguay
India*	USA - California*
Ireland	USA - Connecticut*
Isle of Man	USA - Missouri*
Italy*	USA - Nebraska*
Jamaica	USA - Ohio*
Japan*	USA -Texas*
Kenya	Vanuatu
Korea*	

Annex 2: Questionnaire

ICP 1 & 2 Questionnaire: <https://extranet.iaisweb.org/index.cfm?pageID=724>

ICP 23 Questionnaire : <https://extranet.iaisweb.org/index.cfm?pageID=72>