

IAIS Consultations

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Q-Nr.	Reference Question
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1.	Introduction
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1.1.	Background and purpose
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Q-2	1.	Comments on paragraph 1
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Insurance Europe welcomes the opportunity to share its views on the draft application paper on approaches to conduct of business (CoB) supervision, which aims at complementing the ICP 9 on Supervisory Review and Reporting and ICP 19 on CoB. As a general comment, Insurance Europe notes that the document specifies in its introduction that the IAIS Insurance Core Principles (ICP) recognise the insurance regulatory and supervisory system's dual purposes, concerning: i) protection of policy holder's interests and ii) contribution to the stability of the financial system. We support this approach aiming to serve the policyholders' interest and like GFIA we also welcome, that the paper recognises that regulatory regimes differ from jurisdiction to jurisdiction and, quite appropriately, does not try to suggest that all jurisdictions adopt a single model or that one approach is better than another. Moreover, we support the promotion of competition as an important part of a conduct regulator's mandate, as it mentioned under section 2.2.4.

Q-3	2.	Comments on paragraph 2
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Q-4	3.	Comments on paragraph 3
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(see Insurance Europe's comment on paragraph 1)

Q-5	4.	Comments on paragraph 4
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Q-6	5.	Comments on paragraph 5
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Q-7	6.	Comments on paragraph 6
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1.2.	IAIS survey on approaches to COB supervision
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Q-8	7.	Comments on paragraph 7
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Q-9	8.	Comments on paragraph 8
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	1.3.	Structure of this application paper
Q-10	9.	Comments on paragraph 9
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	2.	Approaches to the COB supervision mandate
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	2.1.	Defining and scoping “COB supervision”
Q-11	10.	Comments on paragraph 10 (see Insurance Europe’s comment on paragraph 1)
Q-12	11.	Comments on paragraph 11
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	2.2.	Specific factors to consider in defining and scoping the COB mandate
Q-	12.	Comments on paragraph 12
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	2.2.1	Is COB supervision a sub-component of a broader “market conduct” mandate?
Q-13	13.	Comments on paragraph 13
Q-14	14.	Comments on paragraph 14
Q-15	15.	Comments on paragraph 15
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	2.2.2	Does the COB mandate include responsibility for consumer education and/or financial literacy
Q-16	16.	Comments on paragraph 16
Q-17	17.	Comments on paragraph 17
Q-18	18.	Comments on paragraph 18
Q-19	19.	Comments on paragraph 19

2.2.3

Does the COB mandate include responsibility for financial inclusion?

Q-20	20.	Comments on paragraph 20
Q-21	21.	Comments on paragraph 21
		Regarding section 2.2.3 “Does the COB mandate include responsibility for financial inclusion?” we believe that in facilitating financial inclusion it is important that the regulatory framework does not place undue barriers in the way of innovation in the provision of financial services. Therefore, the second bullet point under paragraph 21 could be enhanced to note that the regulatory framework should focus on outcomes and be sufficiently flexible to allow for innovative approaches to the provision of financial services.

2.2.4

Does the COB mandate include promotion of competition in the industry?

Q-22	22.	Comments on paragraph 22
		(see Insurance Europe’s comment on paragraph 1)
Q-23	23.	Comments on paragraph 23
Q-24	24.	Comments on paragraph 24

2.2.5

What is the COB supervisor’s responsibility in relation to combating financial crime?

Q-25	25.	Comments on paragraph 25
Q-26	26.	Comments on paragraph 26
Q-27	27.	Comments on paragraph 27

2.2.6

What is the COB supervisor’s responsibility in relation to independent dispute resolution or redress mechanisms?

Q-28	28.	Comments on paragraph 28
Q-29	29.	Comments on paragraph 29
		In relation to the different approaches to the scope and establishment of ADR mechanism set out in paragraph 29 under section 2.2.6, we believe that one additional aspect should be recommended: it is important that the regulatory framework ensures that the objectives and practice of the ADR align with the mandate/aims of the regulatory authority/framework. This would ensure consistent application of standards within the regulatory regime.
Q-30	30.	Comments on paragraph 30

Q-31	31.	Comments on paragraph 31
Q-32	32.	Comments on paragraph 32
Q-33	33.	Comments on paragraph 33

2.3. Monitoring COB risks

Q-34	34.	Comments on paragraph 34
Q-35	35.	Comments on paragraph 35
Q-36	36.	Comments on paragraph 36 (see Insurance Europe’s comment on paragraph 37)
Q-37	37.	Comments on paragraph 37 Paragraph 36 under section 2.3 notes the possibility of conflict between CoB and prudential regulation. While in the long-term conduct and prudential regulation do not necessarily have divergent objectives, there can be inherent tensions in the short-term. The paper does not address how these should be managed or resolved. Paragraph 37 however, may be interpreted as suggesting that conduct considerations should prevail, as a failure to manage CoB risks can ultimately threaten an insurer’s soundness. However, the reverse may also be plausible, and a failure to manage prudential risks could threaten an insurer’s capacity to uphold promises to policyholders. Therefore, we suggest that the resolution of any conflicts between conduct and prudential regulation would depend on the specific circumstances. In this context, we would like to stress the importance of close and ongoing communication between conduct and prudential supervisors to ensure any potential contradictions or disagreements are addressed.
Q-38	38.	Comments on paragraph 38
Q-39	39.	Comments on paragraph 39

2.4. Jurisdiction specific context and conditions

Q-40	40	Comments on paragraph 40
Q-41	41.	Comments on paragraph 41
Q-42	42.	Comments on paragraph 42
Q-43	43.	Comments on paragraph 43

Q-44 44. Comments on paragraph 44

2.4.1 **Level of consumer financial education**

Q-45 45. Comments on paragraph 45

2.4.2 **Role of consumer protection associations and other emerging players**

Q-46 46. Comments on paragraph 46

Q-47 47. Comments on paragraph 47

Q-48 48. Comments on paragraph 48

2.4.3 **Role of industry associations**

Q-49 49. Comments on paragraph 49

Q-50 50. Comments on paragraph 50

2.4.4 **Role and accessibility of the court system**

Q-51 51. Comments on paragraph 51

2.5. **Principles-based vs. rules-based approaches to CoB supervision**

Q-52 52. Comments on paragraph 52

Regarding section 2.5, we believe that the draft application paper should stress that an appropriate balance between the principles-based and the rules-based approaches to CoB supervision is needed in order to ensure that the regulatory framework delivers appropriate outcomes. Principles are good and we would support a rules-based approach, however, vague requirements can make it difficult for firms to know what is expected of them. On the other hand, prescriptive rules can become quickly outdated, especially with the advent of digital changes. Section 3.8.4 should also refer back to section 2.5 to highlight the need to strike the right balance between principles and rules.

Q-53 53. Comments on paragraph 53

(see Insurance Europe's comment on paragraph 52)

2.6. **Features of CoB supervision**

Q-54 54. Comments on paragraph 54

Q-55	55.	Comments on paragraph 55
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2.6.1		Comprehensive and consistent supervision
Q-56	56.	Comments on paragraph 56
Q-57	57.	Comments on paragraph 57
Q-58	58.	Comments on paragraph 58
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2.6.2		Intensive and intrusive supervision
Q-59	59.	Comments on paragraph 59
Q-60	60.	Comments on paragraph 60
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2.6.3		Risk-based and proportional supervision
Q-61	61.	Comments on paragraph 61
Q-62	62.	Comments on paragraph 62
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2.6.4		Pre-emptive and proactive supervision
Q-63	63.	Comments on paragraph 63
Q-64	64.	Comments on paragraph 64
Q-65	65.	Comments on paragraph 65
Q-66	66.	Comments on paragraph 66
<p>The purpose of the application paper on approaches to CoB is descriptive and illustrative. It is important that its text remains an inspiration tool at the disposal of policymakers and supervisors. Therefore, in order to avoid any misinterpretation, we would propose that the application paper uses more appropriate terms such as “may” instead of prescriptive terms such as “should”. In the draft application paper, these terms are used interchangeably and inconsistently, thus creating confusion. For instance, under section 2.6.4, in paragraph 66: “The supervisor should strike a balance between corrective action and enforcement action, adopting a consistent approach in this regard...” For the sake of clarity we would suggest that paragraph 66 is amended as follows: “The supervisor may strike a balance between corrective action and enforcement action, adopting a consistent approach in this regard ...”</p>		

2.6.5 Credible deterrence

Q-67	67.	Comments on paragraph 67
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2.7. Resourcing and capacity implications

Q-68	68.	Comments on paragraph 68
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Q-69	69.	Comments on paragraph 69
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Q-70	70.	Comments on paragraph 70
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Q-71	71.	Comments on paragraph 71
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Q-72	72.	Comments on paragraph 72
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3. Aspects of COB supervision with reference to ICP 9

3.1. Risk-based supervisory framework

Q-73	73	Comments on paragraph 73
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Q-74	74.	Comments on paragraph 74
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Q-75	75.	Comments on paragraph 75
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Q-76	76.	Comments on paragraph 76
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Q-77	77.	Comments on paragraph 77
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Q-78	78.	Comments on paragraph 78 (see Insurance Europe's comment on paragraph 117)
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Q-79	79.	Comments on paragraph 79
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Q-80	80.	Comments on paragraph 80
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Q-81	81.	Comments on paragraph 81
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Q-82	82.	Comments on paragraph 82
Q-83	83.	Comments on paragraph 83
Q-84	84.	Comments on paragraph 84
Q-85	85.	Comments on paragraph 85
Q-86	86.	Comments on paragraph 86
Q-87	87.	Comments on paragraph 87

3.2.

Supervisory cooperation

Q-88	88.	Comments on paragraph 88
Q-89	89.	Comments on paragraph 89
Q-90	90.	Comments on paragraph 90

3.3.

Supervisory Powers

Q-91	91.	Comments on paragraph 91
Q-92	92.	Comments on paragraph 92
Q-93	93.	Comments on paragraph 93

3.4.

Sources of information

Q-94	94.	Comments on paragraph 94
Q-95	95.	Comments on paragraph 95

3.5.

Supervisory reporting and off-site monitoring

Q-96	96.	Comments on paragraph 96
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Q-97	97.	Comments on paragraph 97
Q-98	98.	Comments on paragraph 98
Q-99	99.	Comments on paragraph 99
Q-100	100.	Comments on paragraph 100
Q-101	101.	Comments on paragraph 101
Q-102	102.	Comments on paragraph 102
Q-103	103.	Comments on paragraph 103
Q-104	104.	Comments on paragraph 104
Q-105	105.	Comments on paragraph 105
Q-106	106.	Comments on paragraph 106
Q-107	107.	Comments on paragraph 107
Q-108	108.	Comments on paragraph 108

3.6.

On-site inspection

Q-109	109.	Comments on paragraph 109
Q-110	110.	Comments on paragraph 110
Q-111	111.	Comments on paragraph 111
Q-112	112.	Comments on paragraph 112

Q-113	113.	Comments on paragraph 113
Q-114	114.	Comments on paragraph 114
Q-115	115.	Comments on paragraph 115
Q-116	116.	Comments on paragraph 116
Q-117	117.	Comments on paragraph 117 Paragraph 78 under section 3.1 identifies criteria that might lead supervisors to increase supervision under a risk based approach, but it does not identify criteria that may lead to a reduction of supervision. Therefore, we would recommend that the elements set out in paragraph 117, ie culture and consideration of 'big picture' be included within a risk-based supervisory framework.
Q-118	118.	Comments on paragraph 118

3.7. **Supervisory feedback and follow-up**

3.7.1 **Forms of feedback and follow-up**

Q-119	119.	Comments on paragraph 119
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3.7.2 **Preventive or corrective action**

Q-120	120.	Comments on paragraph 120
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3.7.3 **Communicating the supervisor's position**

Q-121	121.	Comments on paragraph 121
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Q-122	122.	Comments on paragraph 122
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Q-123	123.	Comments on paragraph 123
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3.8. **Other responses to issues identified**

Q-124	124.	Comments on paragraph 124
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3.8.1 **Providing information to intermediaries**

Q-125 **125.** Comments on paragraph 125

Q-126 **126.** Comments on paragraph 126

3.8.2 **Initiating consumer outreach or education**

Q-127 **127.** Comments on paragraph 127

Q-128 **128.** Comments on paragraph 128

3.8.3 **Referral to other agencies**

Q-129 **129.** Comments on paragraph 129

3.8.4 **Requesting legislative or regulatory changes**

Q-130 **130.** Comments on paragraph 130
(see Insurance Europe’s comment on paragraph 52)

Q-131 **131.** Comments on paragraph 131
(see Insurance Europe’s comment on paragraph 52)

4. **ICP 19 and approaches to off-site monitoring and on-site inspection**

Q-132 **132.** Comments on paragraph 132

4.1. **Fair treatment policies, procedures and culture**

Q-133 **133.** Comments on paragraph 133

Q-134 **134.** Comments on paragraph 134

Q-135 **135.** Comments on paragraph 135

Q-136 **136.** Comments on paragraph 136

Q-137 **137.** Comments on paragraph 137

Q-138 **138.** Comments on paragraph 138

Q-139	139.	Comments on paragraph 139
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Q-140	140.	Comments on paragraph 140
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4.2. Product development

Q-141	141.	Comments on paragraph 141
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Q-142	142.	Comments on paragraph 142
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Q-143	143.	Comments on paragraph 143
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Q-144	144.	Comments on paragraph 144
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Q-145	145.	Comments on paragraph 145
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Q-146	146.	Comments on paragraph 146
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Q-147	147.	Comments on paragraph 147
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Q-148	148.	Comments on paragraph 148
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4.3 Product promotion and disclosure

Q-149	149.	Comments on paragraph 149
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Q-150	150.	Comments on paragraph 150
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Q-151	151.	Comments on paragraph 151
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4.3.1 Advertising

Q-152	152.	Comments on paragraph 152
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Q-153	153.	Comments on paragraph 153
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Q-154	154.	Comments on paragraph 154
Q-155	155.	Comments on paragraph 155
Q-156	156.	Comments on paragraph 156
Q-157	157.	Comments on paragraph 157
Q-158	158.	Comments on paragraph 158

4.3.2

Understandable pre-contractual information

Q-159	159.	Comments on paragraph 159
Q-160	160.	Comments on paragraph 160
Q-161	161.	Comments on paragraph 161 Under section 4.3.2 “Understandable pre-contractual information”, we would recommend that the examples in paragraph 161 be reduced and also mentioned as more generic, ie pre-contractual information could include the insurers contact details, the products main features and risks, reference to how to make a complaint and details of cover under any insurance guarantee scheme. Specific point such as ‘remuneration caps’ which seem to be examples of product features of certain products which may not be generally applicable to all products should be removed from the examples.
Q-162	162.	Comments on paragraph 162
Q-163	163.	Comments on paragraph 163

4.3.3

Mandatory contract forms and standardised disclosure documents

Q-164	164.	Comments on paragraph 164
Q-165	165.	Comments on paragraph 165

4.4.

Advice and conflicts of interest

Q-166	166.	Comments on paragraph 166
Q-167	167.	Comments on paragraph 167

Q-168 **168.** Comments on paragraph 168

Q-169 **169.** Comments on paragraph 169

Q-170 **170.** Comments on paragraph 170

Q-171 **171.** Comments on paragraph 171

Q-172 **172.** Comments on paragraph 172

Q-173 **173.** Comments on paragraph 173

Q-174 **174.** Comments on paragraph 174

4.5. **Post-sale servicing and information**

Q-175 **175** Comments on paragraph 175

Q-176 **176.** Comments on paragraph 176

Q-177 **177.** Comments on paragraph 177

Q-178 **178.** Comments on paragraph 178

Q-179 **179.** Comments on paragraph 179

Q-180 **180.** Comments on paragraph 180

Q-181 **181.** Comments on paragraph 181

4.6. **Claims**

Q-182 **182.** Comments on paragraph 182

Q-183 **183.** Comments on paragraph 183

Q-184	184.	Comments on paragraph 184
Q-185	185.	Comments on paragraph 185
Q-186	186.	Comments on paragraph 186
Q-187	187.	Comments on paragraph 187
Q-188	188.	Comments on paragraph 188
Q-189	189.	Comments on paragraph 189
Q-190	190.	Comments on paragraph 190

4.7.

Complaints

Q-191	191.	Comments on paragraph 191
Q-192	192.	Comments on paragraph 192
Q-193	193.	Comments on paragraph 193
Q-194	194.	Comments on paragraph 194
Q-195	195.	Comments on paragraph 195
Q-196	196.	Comments on paragraph 196
Q-197	197.	Comments on paragraph 197
Q-198	198.	Comments on paragraph 198
Q-199	199.	Comments on paragraph 199

Q-200	200.	Comments on paragraph 200
Q-201	201.	Comments on paragraph 201
Q-202	202.	Comments on paragraph 202
Q-203	203.	Comments on paragraph 203
Q-204	204.	Comments on paragraph 204

4.8. **Privacy protection**

Q-205	205.	Comments on paragraph 205
Q-206	206.	Comments on paragraph 206
Q-207	207.	Comments on paragraph 207
Q-208	208.	Comments on paragraph 208
Q-209	209.	Comments on paragraph 209
Q-210	210.	Comments on paragraph 210
Q-211	211.	Comments on paragraph 211

5. **Other supervisory tools and approaches to COB supervision**

5.1 **Behavioural economics**

Q-212	212.	Comments on paragraph 212 Regarding the reference to behavioural economics under section 5, we note that behavioural economics may in certain circumstances be a useful tool for supervisors. However, it is unclear how this would work in practice and whether insurers could ultimately be made liable for consumers' choices, mistakes and/or biases.
Q-213	213.	Comments on paragraph 213 (see Insurance Europe's comment on paragraph 212)
Q-214	214.	Comments on paragraph 214

(see Insurance Europe's comment on paragraph 212)

5.2

Communication with industry and consumers

Q-215 **215.** Comments on paragraph 215

Q-216 **216.** Comments on paragraph 216

Q-217 **217.** Comments on paragraph 217

Q-218 **218.** Comments on paragraph 218

Q-219 **219.** Comments on paragraph 219

Q-220 **220.** Comments on paragraph 220

Q-221 **221.** Comments on paragraph 221

5.3

Other approaches

Q-222 **222.** Comments on paragraph 222

Q-223 **223.** Comments on paragraph 223

Q-224 **224.** Comments on paragraph 224

Q-225 **225.** Comments on paragraph 225

Q-226 **226.** Comments on paragraph 226

Q-227 **227.** Comments on paragraph 227

Q-228 **228.** Comments on paragraph 228

Q-229 **229.** Comments on paragraph 229

Q-230 **230.** Comments on paragraph 230

Q-231 **231.** Comments on pararaph 231
