

FINANCIAL SECTOR ASSESSMENT PROGRAM
UNITED STATES OF AMERICA

IAIS INSURANCE CORE PRINCIPLES
REPORT ON STANDARDS
AND CODES (ROSC)

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GLOSSARY

AIG	American International Group
AML/CFT	Anti-Money Laundering
FATF	Financial Action Task Force
FAWG	Financial Analysis Working Group
FSAP	Financial Sector Assessment Program
IAIS	International Association of Insurance Supervisors
ICP	Insurance Core Principle
MoU	Memorandum of Understanding
NAIC	National Association of Insurance Commissioners
SEC	Securities and Exchange Commission
TARP	Troubled Asset Relief Program

I. INTRODUCTION AND METHODOLOGY

1. **Insurance regulation in the United States, which is mostly carried out by states, is generally thorough and effective, although there are areas where significant development is needed.** Strong regulation contributed to the overall resilience of the insurance sector during the financial crisis. There is generally a high level of observance of the Insurance Core Principles. Aspects of regulatory work such as data collection and analysis in relation to individual insurance companies are world-leading. There are mechanisms to ensure individual states implement solvency requirements effectively. However, there is a need for development of the policy framework in relation to insurance and financial stability and international issues; and for extensive reform to the laws governing state insurance departments, including on appointment and dismissal of commissioners, to secure the independence of regulatory work. The approach to supervision of groups needs significant development.

2. **The assessment of the U.S.'s compliance with International Association of Insurance Supervisors (IAIS) Insurance Core Principles (ICP)¹ was carried out as part of the 2010 U.S.A Financial Sector Assessment Program (FSAP).²** The assessment was carried out by Tom Karp, insurance expert and a former Executive General Manager, Australian Prudential Regulatory Authority, and Ian Tower, Monetary and Capital Markets Department, IMF.

3. **While insurance regulation is principally a responsibility of the states, the assessment addresses national compliance with the ICPs.** Regulatory responsibility is shared by 50 states, the District of Columbia and the five U.S. territories. Federal authorities have limited regulatory powers over the insurance sector. The FSAP assessment addresses insurance regulation nationally and does not assess individual state authorities.

4. **The assessment is based on information available in November 2009, the time of the FSAP mission.** It assesses compliance with the 2003 version of the IAIS Insurance Core Principles and Methodology. The National Association of Insurance Commissioners (NAIC) contributed a self-assessment and further material in response to requests before and during the mission. Documentation, including relevant laws, was supplied. The assessors met with staff from the NAIC and with selected insurance commissioners³ and their staffs; with government, insurance companies and intermediaries; and with industry and actuarial bodies. The assessors are grateful for the full cooperation extended by all.

¹ The underlying Detailed Assessment Report was published in May 2010 and is available at <http://www.imf.org/external/pubs/cat/longres.cfm?sk=23868.0>.

² For further discussion see the accompanying Financial System Stability Assessment (FSSA).

³ The term “insurance commissioner” is used to refer to the most senior official responsible for insurance regulation in each state, district, or territory. Actual titles vary.

5. **The approach to this assessment reflects the large market size and state-based system of insurance regulation.** Reliance has been placed on discussions with NAIC staff on regulatory practices across the states; and on the procedures used by the NAIC (i.e., the commissioners of insurance acting collectively and the staff of the association) in their support for state regulators; and with a selection of insurance commissioners and their staff in the states of Illinois, Iowa, New York, and West Virginia, focusing in particular on, respectively, life insurance supervision, the property and casualty sector (including brokers), coordination with foreign regulators, and challenges faced by smaller states. The assessors also met with the U.S. Department of the Treasury to discuss their overview of the system in the context of evolving plans for the reform of U.S. regulation. The assessors note that their conclusions are subject to unavoidable limitations on their ability to verify practices across the country that result from a state-based system with over 50 separate authorities.

II. INSTITUTIONAL AND MARKET STRUCTURE—OVERVIEW

6. **The U.S. insurance market is the largest in the world.** There were 7,948 licensed insurance companies at the end of 2008. Total premium volume in 2008 of US\$1.24 trillion accounted for 29 percent of the global market. On insurance density measures (premiums per capita), the United States ranked ninth at US\$4,078 in 2008 and thirteenth on insurance penetration (premiums as a percentage of GDP) at 8.7 percent.⁴ There are three main sectors—life, property and casualty, and health insurance. Key specialist insurance lines (i.e., those which must be written in separate companies) are: financial guaranty (bond insurance—the “monoline insurers”); mortgage insurance; and title insurance.

7. **Most U.S. insurers write primary insurance on U.S. risks.** The U.S. market is characterized by low market concentration in most sectors, indicating a high degree of competition; limited private sector capacity in certain “hard to insure” risks, such as natural catastrophes, which has led to the creation of programs provided by government; limited international insurance business and a relatively small reinsurance capacity—58 percent of all premium ceded to reinsurers by U.S. insurers is to markets in Europe and Bermuda; and relatively few groups offering insurance as well as other financial services: for example, only 17 groups are headed by a bank holding company and regulated by the Federal Reserve.

8. **Distribution of insurance products is mainly through agents and brokers.** Intermediaries distributing insurance in the United States are generally referred to as “producers.” They may act as agents of one or more insurance companies (captive agents or independent agents) or as brokers—i.e., acting on behalf of the customer.

9. **Overall, the insurance sector, and property and casualty business in particular, has been resilient through the financial crisis.** Capital and surplus, the key measure of the buffer available in case reserves prove inadequate to ensure that policyholder claims can be paid, fell by 6.7 percent in life and 8.5 percent in property and casualty between end-2007 and mid-2009. Companies whose capital adequacy, measured by the regulators’ risk-based

⁴ All data from Swiss Re: World Insurance in 2008.

capital (RBC) requirements, fell to regulatory intervention levels accounted for only 3 percent of the total in 2008. The property and casualty sector suffered from investment falls, but losses from natural catastrophes in 2009 were not as high as in some recent years.

10. **However, there have also been significant stresses in the insurance sector in the last two years.** Writers of financial guaranty business (the monoline insurers) lost their high ratings after serious losses related to impair structured finance products. The American International Group (AIG) was supported by the federal authorities after major losses at its capital markets affiliate. Two other insurance groups with federally regulated banking or thrift subsidiaries were granted federal government capital support under the Troubled Asset Relief Program (TARP) (others had applied for funds). Life insurance was particularly affected by the crisis, many strains being related to growth in non-traditional savings products such as variable annuities, many of which have generous guarantees.

11. **While pressures have eased, there remain challenges.** While the recovery in many markets since March 2009 has brought relief, life companies in particular remain exposed to possible further problems if economic recovery continues to be modest. However, as life companies have shifted to savings products, their insurance risks (mortality and longevity) have become less significant. Health insurers are subject to significant uncertainty arising from the federal government reforms to health insurance. Property and casualty risks are more dispersed. While the United States is exposed to major natural catastrophes, their impact is regional; national companies are diversified and the largest risks are carried by foreign reinsurers.

12. **Insurance is a predominantly state-regulated activity in the United States.** The 1945 McCarran-Ferguson Act reinstated the regulatory authority of the states “on matters of the business of insurance” and exempted the “business of insurance” as regulated by the states from federal anti-trust laws. The federal government has enacted various measures affecting insurance, including the Gramm-Leach-Bliley Act of 1999 and the 2002 U.S.A. PATRIOT Act, which gave examination powers in relation to anti-money laundering and specified insurance business to federal authorities.

13. **States carry out insurance regulatory functions within the state administration.** The insurance departments or similar units within state administrations carry out licensing and oversight work for insurance companies and intermediaries under powers set out in state legislation and in accordance with state budgets. A commissioner heads the department and exercises all formal powers. Some commissioners are elected, but most are appointed by the state governor. While arrangements vary among states, funding is usually raised from the insurance markets via fees and levies. Insurance departments also collect premium taxes for the states, a significant part of state governments’ total revenues.

14. **State insurance departments carry out both financial and market conduct regulation.** States set reserving and capital requirements. They carry out financial analysis and onsite examinations. Most states have some review or approval authority over policy forms and, in the case of property and casualty insurers, they also often regulate premium rates. Departments also respond directly to consumers’ complaints and requests for information. They license and oversee insurance intermediaries.

15. **The NAIC plays an important coordinating role for state regulators.** The NAIC is a not-for-profit organization established by the state insurance commissioners to centralize some functions to achieve economies and greater uniformity. The NAIC itself employs some 430 staff, which compares with nearly 12,000 employed by the states. Key functions of the NAIC include the development of model laws and regulations, which now total over 200; the Financial Regulation Standards and Accreditation Program (referred to in this report as “the accreditation program”), aimed at ensuring that states meet certain minimum standards in respect to financial regulation; and the centralized process of financial analysis operated through the NAIC’s Financial Analysis Working Group (FAWG).

16. **Insurance policyholders are protected against the insolvency of insurance companies by guaranty associations in each state.** All U.S. insurance companies are required to be members of associations covering life and health insurance and, through separate organizations, property and casualty. Payments are triggered by the insolvency of an insurer. Laws differ on the extent of coverage and maximum payable per policyholder.

III. MAIN FINDINGS

17. **Insurance regulation in the United States is generally thorough and effective, although there are areas where development is needed:**

- The preconditions for effective insurance supervision are generally met; but there is a need for development of the framework in relation to insurance and financial stability and international issues. There is a need for reform of the laws governing state insurance departments, including on appointment and dismissal of commissioners, the budgetary framework and remuneration policies, in order to secure the independence of regulatory work. While regulation is carried out transparently, there is a need for measures to foster improved stakeholder understanding of the regulatory approach.
- There is a comprehensive set of requirements and processes for insurance company licensing, but some gaps in the requirements relating to suitability of persons. Requirements in relation to governance, internal controls, and risk management are limited and should be extended.
- NAIC data collection and analysis capabilities are world-leading, although the absence of complete group-wide consolidated data for groups hinders the ability of supervisors to analyze and monitor important market-wide events.
- Examinations (i.e., onsite supervision) are generally thorough and well documented. The approach to enforcement is comprehensive and applied in practice as necessary; there is no explicit authority for supervisors to fine directors or senior managers of insurers, or to bar them from acting in responsible capacities in the future.
- The approach to supervision of groups needs significant development. Supervisors do not currently make a comprehensive and consistent assessment of the financial condition of the whole group of which a licensed insurance company is a member.

- The liability reserving methods and bases generally lead to conservative estimates and, in combination with capital requirements, provide a sizable buffer against adverse experience. However, for general transparency and for international comparison, consideration should be given to specifying a target safety level for reserving and an associated target safety level for capital.
- While producer (i.e., intermediary) regulation is less uniform than for insurance companies, states have the core requirements. There is a need to extend broker trust fund arrangements across states, to develop a uniform approach to the regulation of major brokers and to finalize a consistent approach to commission disclosure.
- Consumer protection work is moving to a more proactive approach. This transition has further to go. However, core consumer protection requirements are apparently in place in most states.
- Requirements on fraud are in place across states, and the capacity of departments to address fraud-related issues is increasing as market conduct exams are undertaken and the availability of fraud data increases. The authorities have only recently brought relevant insurance business within the scope of federal anti-money laundering regulatory requirements. There were significant gaps in the framework when the most recent Financial Action Task Force (FATF) work was undertaken in 2006.

Table 1. Summary of Observance of the Insurance Core Principles

INSURANCE CORE PRINCIPLE	ASSESSMENT
ICP 1– Conditions for effective insurance supervision	The preconditions for effective insurance supervision are generally met—reflecting the highly developed legal and institutional framework within which it operates and the scale and liquidity of U.S. financial markets. But there is a need for some development of the policy framework in relation to insurance and financial stability and to international issues.
ICP 2 – Supervisory objectives	The objectives of departments are generally not established explicitly by law. There are differences in the ways individual departments view their objectives. There is also some scope for conflict of objectives. There is a need to balance objectives of achieving financial safety and soundness and consumer protection with the desirability of fostering market efficiency and competitiveness.
ICP 3 – Supervisory authority	The vesting of regulatory powers in the commissioner in principle ensures that departments are operationally independent. However, the ability of the governor in most states to dismiss commissioners at any time, and without a public statement of reasons, exposes departments to potential political influences. Elected commissioners may be subject to the pressures of the electoral cycle. In addition, departments are dependent on state legislatures in respect of principal legislation and for budgetary resources.
ICP 4 – Supervisory process	Insurance regulation is carried out openly and transparently, with clear accountability to the state administration and legislature and rights of appeal (and judicial review). But there is a need for measures to foster improved stakeholder understanding of the state-based regulatory approach.

ICP 5 – Supervisory cooperation and information sharing	Although the main focus of information exchange with other regulators has traditionally been on cooperation with other insurance departments, regulators are able to share information with relevant federal authorities and with regulators abroad. There is a need to continue developing the network of MoUs.
ICP 6 – Licensing	While approaches in individual departments vary, the core requirements adopted by all states represent a comprehensive set of requirements and processes for insurance company licensing.
ICP 7 – Suitability of persons	Departments take a view on all significant owners, Board members, senior management, auditors, and actuaries and take appropriate action where concerns arise. However, the approach is based on assessment of the fitness and propriety of key functionaries at the point of application for a license, and on an ongoing basis through the examination process, rather than the approval of individuals.
ICP 8 – Changes in control and portfolio transfers	There are extensive requirements and related reporting governing changes in control and portfolio transfers.
ICP 9 – Corporate governance	Corporate governance standards for publicly-traded U.S. companies, including insurers, are set and enforced by the Securities and Exchange Commission (SEC), while requirements for all insurance companies will be introduced from January 2010. Departments have been increasing their focus on governance issues.
ICP 10 – Internal controls	Other than controls relating to financial reporting, departments have few requirements relating to internal controls on insurers. For publicly-traded companies, the Sarbanes-Oxley provisions provide a general framework of detailed control requirements and testing of controls. From January 1, 2010, much of this framework will be extended to most other insurers but these requirements will take time to implement in full.
ICP 11 – Market analysis	The absence of complete group-wide consolidated data for insurance groups and broader financial conglomerates hinders the ability of supervisors to analyze and monitor market-wide events of importance for the stability of insurance markets. Otherwise, the NAIC data sources and analysis capabilities are world-leading.
ICP 12 – Reporting to supervisors and off-site monitoring	The NAIC data collection and analysis capabilities in relation to authorized insurance companies are world-leading. The affiliate transaction requirements provide a strong means of identifying and controlling intra-group dealings and exposures. However, there are no formal reporting requirements for complete group-wide consolidated data for insurance groups and broader financial conglomerate groups which would allow insurance regulatory style financial condition assessment.
ICP 13 – On-site inspection	Financial examinations are generally thorough and well documented. Examinations also appear to identify the important issues. The rollout of a risk-focused examination approach will require examiners to make more qualitative judgments about insurer risks and controls. Effective implementation will not be easy because of the changes it demands of examiners.
ICP 14 – Preventive and corrective measures	The structure of prompt corrective action triggers and required actions is thorough and is rigorously applied. While it could not, and should not, prevent insurers ever failing, it does lead to reduced insurer shortfall in any failure.
ICP 15 – Enforcement or sanctions	There is no clear authority for the supervisory authority to fine directors or senior managers of insurers or to bar them from acting in responsible capacities in future.
ICP 16 – Winding-up or exit from the market	There is a strong focus by the supervisors on ensuring individual policyholder obligations are met. The arrangements for insurer wind-up and exit from the market are clear, have worked effectively and in conjunction with guaranty fund arrangements provide strong protection against policyholder loss if an insurer fails.
ICP 17 – Group-wide supervision	The U.S. approach is focused on securing the financial soundness of individual insurance companies. U.S. supervisors do not currently make an assessment of the financial condition of the whole group of which a licensed insurance company is a member. Risk-focused examinations are not yet generally focusing on group issues; and supervisory colleges are not meeting for all U.S.-based international groups.
ICP 18 – Risk	While the desired outcomes for this ICP are essentially achieved in practice owing to

assessment and management	comprehensive examination of insurers, it is increasingly important that the risk management function of insurers is of high quality and given significant focus and influence within insurers. There is no requirement that an insurer have in place comprehensive risk management policies and systems.
ICP 19 – Insurance activity	The relevant laws or regulations do not explicitly provide that an insurer must have in place strategic underwriting and pricing policies approved and reviewed regularly by the Board. Boards are not required to set the strategic limits on these core insurance functions within which management should operate.
ICP 20 – Liabilities	The liability reserving methods and bases generally lead to conservative estimates, which is in line with the conservative, book value nature of statutory insurance accounting in the United States. However, there is currently no particular or specified safety level which is targeted for reserving – or capital.
ICP 21 – Investments	The regulatory requirements for investments are robust and likely to have contributed to the limited number of major investment problems for insurers in the financial crisis. As insurers move to a more principles-based approach, it will be important to ensure that all aspects of investment risk, especially asset/liability mismatching risks, are well covered in the reserving and capital requirements.
ICP 22 – Derivatives and similar commitments	The requirements relating to derivatives use in insurers are robust and sensible in that they allow derivatives to be used for purposes which would enhance an insurer’s investment management and returns without exposing it to undue risk.
ICP 23 –Capital adequacy and solvency	There are no requirements to address inflation of capital through multiple gearing. Insurance company reserves are determined conservatively and the regulatory capital is then required in addition. The combination of reserving and capital provides a sizable buffer against adverse experience. In the absence of a specified safety level which is targeted for reserving plus capital, it is difficult to determine the level of adversity that the combination of reserves and capital can cover, but it appears to be commensurate with or higher than in many other jurisdictions.
ICP 24 – Intermediaries	While producer (i.e., intermediary) regulation is much less uniform than it is for insurance companies, most states have at least the core requirements. The general legal framework provides safeguards for client money where intermediaries act as agents. There is less uniformity on the safeguards applying to money held by brokers.
ICP 25 – Consumer protection	Departments have been moving to a more proactive approach to market conduct of insurers. This transition has further to go, however, particularly in respect of the ability of the departments to identify and respond quickly to wider market issues as well as problems at individual companies. As with producer licensing, there is a marked lack of uniformity across states in the market conduct area. However, core consumer protection requirements are apparently in place in most states.
ICP 26 – Information, disclosure and transparency toward markets	While there are no regulatory requirements in relation to disclosure, full financial information, including the actuarial opinion and auditor’s statement, are readily available to stakeholders. This reflects the relative ease of access and concentration of data that has resulted from financial statements being submitted directly to the NAIC. However, there is scope to improve the availability of information to policyholders without access to databases, ratings, etc.
ICP 27 – Fraud	While approaches vary by state, core requirements (such as making insurance fraud a crime) are in place across states. The capacity of departments to address fraud-related issues is increasing as market conduct exams are undertaken.
ICP 28 –Anti-money-laundering, combating the financing of terrorism	The authorities have only recently brought relevant insurance business within the scope of (federal) anti-money laundering regulatory requirements. Implementing the approach has taken time. There were significant gaps in the framework when the most recent FATF work was undertaken in 2006. The effectiveness of cooperation between state and federal regulators is limited pending the consideration of legal issues arising from their collaboration and agreement of new procedures and information sharing arrangements.

Table 2. Recommended Action to Improve Observance of the Insurance Core Principles

PRINCIPLE	RECOMMENDED ACTION
ICP 1 – Conditions for effective insurance supervision	The authorities should increase information-sharing and coordination between state regulators and federal authorities, agree policies and procedures for the regulation of systemically important institutions, markets and instruments in the insurance sector and make new arrangements to increase the authority of federal authorities in relation to the implementation of international agreements.
ICP 2 – Supervisory objectives	Insurance departments, the NAIC and state legislatures should develop a clear, joint statement of the objectives of insurance regulation, taking into account good practice internationally, and align the objectives of individual state departments with these objectives.
ICP 3 – Supervisory authority	The NAIC and state legislatures should make reforms including providing for fixed terms to be standard for commissioner appointments, with dismissal mid-term to be possible only for prescribed causes and with publication of reasons; and making departments fully self-funding.
ICP 4 – Supervisory process	To further improve the transparency of its work, the NAIC should make publicly available some information that is currently available only on payment of a fee or by subscription; and publish summary information on their assessment of states’ compliance with accreditation standards.
ICP 5 – Supervisory cooperation and information sharing	The states and NAIC should continue to develop the network of MoUs. All state insurance departments should ensure that laws are updated to enable them to protect information received from foreign regulators. This will ensure that overseas regulators are not deterred from sharing information freely.
ICP 7 – Suitability of persons	Specific requirements in relation to individuals’ fitness and propriety should be adopted. Gaps in the requirements of departments should be filled.
ICP 9 – Corporate Governance	As examiners gain experience, the NAIC and/or departments should consider issuing more guidance on good and bad practices in corporate governance for insurers.
ICP 10 – Internal controls	As examiners gain experience, the NAIC and/or departments should consider the scope for issuing guidance on good and bad practices in internal control. They should also make it a formal requirement for insurers to have an internal audit function.
ICP 11 – Market analysis	Regulators should collect more complete group-wide consolidated data for insurance groups and broader financial conglomerates. They should develop further their analysis of developments outside the U.S. markets.
ICP 12 – Reporting to supervisors and off-site monitoring	Collection of group-wide consolidated data for insurance groups and broader financial conglomerate groups should be introduced.
ICP 15 – Enforcement or sanctions	The insurance laws should be changed to provide the supervisory authority with powers to fine individual directors and senior managers of insurers, and to bar them from acting in responsible capacities in the future.
ICP 17 – Group-wide supervision	U.S. supervisors should include fuller assessment of the financial condition of the whole group of which a licensed insurance company is a member, extend the risk-focused approach to examinations of solo insurance companies to groups and ensure that colleges of supervisors for the U.S. groups with major international operations are established and functioning effectively—and led by U.S. regulators with appropriate insurance expertise.

PRINCIPLE	RECOMMENDED ACTION
ICP 18 –Risk assessment and management	The relevant laws, regulations or standards should be changed to include a requirement that an insurer must have in place comprehensive risk management policies and systems capable of promptly identifying, measuring, assessing, reporting and controlling their risks.
ICP 19 – Insurance activity	The relevant laws or regulation should explicitly provide that an insurer must have in place strategic underwriting and pricing policies approved and reviewed regularly by the Board.
ICP 23 – Capital adequacy and solvency	For general transparency and for comparison, it is recommended that consideration be given to specifying a target safety level for reserving and an associated target safety level for capital. Requirements to address inflation of capital through multiple gearing should be included in the law, regulation or rules.
ICP 24 – Intermediaries	Some strengthening of the approach to producer regulation is recommended to extend broker trust fund arrangements across states (where not already in place), to develop a uniform approach to the regulation of major brokers and to complete the current work on a consistent approach to the regulation of commission disclosure.
ICP 28 - Anti-money-laundering, combating the financing of terrorism	It is recommended that a timetable is set for the agreement and implementation of new arrangements between state insurance departments and federal authorities that will deliver greater resourcing of supervisory activities as well as necessary information exchange.

IV. AUTHORITIES' RESPONSE

18. The U.S. authorities welcomed the opportunity to take part in the U.S. FSAP and the IMF's assessment of a high level of observance of the IAIS Insurance Core Principles (ICPs). It has provided insurance regulators in the United States with a timely opportunity to undertake a comprehensive self-assessment of the U.S. insurance regulatory system against international standards, and has contributed to ongoing internal reviews and assessments of regulatory practices. In addition, the FSAP has served as a useful platform for providing an overview of the U.S. insurance regulatory system and its multi-jurisdictional structure. The authorities appreciate the recognition by the IMF of the strengths in the regulatory system including areas that the IMF itself has coined as "world leading."

19. As recognized by the Report, it is important to consider the U.S. assessment in context. The assessment of the U.S. supervisory framework was undertaken in the wake of a severe financial crisis, and movements toward significant changes in supervisory practices have gained momentum as a result of the financial crisis and circumstances emanating from the crisis, including with respect to group-wide supervision. The IMF's assessment of U.S. compliance with ICP 17, the group-wide supervision standard, goes beyond the scope of the current ICP assessment in that it assesses compliance with a group supervision structure, which is still under discussion and development in most jurisdictions and within the IAIS, where revision of the insurance ICPs that may reflect these changes may not be finalized until 2011.

20. Insurance regulators in the United States are working with regulators around the world on initiatives to enhance group supervision, and have in place inter-regulatory

cooperation processes, such as the use of lead state supervisory structures and the Financial Analysis Working Group of the National Association of Insurance Commissioners (NAIC). In addition, the Report acknowledges the comprehensive review underway with the Solvency Modernization Initiative which takes into account international and cross-sectoral practices in the analysis of possible additions or modifications to current insurance regulatory practices.

21. U.S. authorities remain strongly committed to prudential regulatory independence and accountability, including continually striving to improve ways to effectively balance these two objectives. Transparent rulemaking with opportunity for stakeholder involvement, for example, has proven a particularly effective way to provide accountability and improve the regulatory environment, while respecting regulatory independence. As reflected in the assessment of ICP 3, the Supervisory Authority standard, the assessment appears to rely on structural characteristics while failing to fully recognize the effective operational independence of state insurance regulators. In practice, the U.S. multijurisdictional approach to insurance regulation holds regulators accountable to each other in a peer review process that includes on-going nation-wide monitoring through the NAIC, regular dialogue among all regulators, and the ability of states to question the actions of fellow state insurance regulators.

22. Within the assessment, there appear to be philosophical preferences for a principles-based, rather than rules-based, approach to regulation, yet assessment recommendations inconsistently apply those preferences by variously seeking more, as well as fewer, rules. Further, there appears to be no empirical evidence to suggest that one approach is superior to the other or that the choice of approach affects the U.S. regulators' ability to meet the standards set out in the various ICPs. U.S. authorities fully support a regulatory environment based on principles and made operational by rules that can provide consistent standards throughout the marketplace, yet remain flexible enough to adapt to new developments.

23. The IMF's assessment of ICP 28, the AML and CFT standard, identified some areas where U.S. AML requirements may be improved upon, but fails to fully recognize the robust protection provided U.S. citizens against money laundering activities. Of note, the United States has a bifurcated regulatory scheme regarding AML regulation. As noted, the federal government has primary jurisdiction of AML statutes while the regulation of insurance and expertise in financial examination of insurance is the responsibility of the states. Although both state and federal authorities have agreed to work together to review the current examination process, it is important to note and remember that an in-depth legal analysis has yet to be undertaken on this subject.

24. U.S. Authorities appreciate the assessment and will thoroughly review the Report's recommendations and take them into account when initiating and implementing any insurance regulatory reforms. We look forward to engaging in continuing ongoing dialogues with the IMF on how to best collectively improve international financial stability and supervision of the global financial services sector.