

Crisis Prevention, Management and Resolution Preparedness of NSAs -Survey Results-

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1. Executive summary

- 1.1 This report shows the results of a survey launched in May 2013, which was responded to by 27 EU National Supervisory Authorities (NSAs). The objective of this exercise is to obtain a better understanding of the crisis prevention, management and resolution approaches and practices in the different NSAs.
- 1.2 The main conclusions drawn from this exercise are summarised in the paragraphs below and grouped according to the different phases of a crisis management flow.

Crisis prevention

- 1.3 The majority of NSAs confirmed that some type of **crisis management group** is in place to handle a potential crisis, but the nature of these structures, their level of formality and their working procedures vary considerably.
- 1.4 Fewer than a half of the NSAs have formal **emergency plans** in place. The existing plans, however, cover all or most relevant aspects for crisis management and are updated on a regular basis.
- 1.5 In general, NSAs seem to consider specific crisis-related **scenarios and policy actions** to deal with them, but these scenarios are defined in a very broad way (e.g. operational vs. financial crisis or institution-based crisis vs. systemic crisis). This approach helps to fine-tune possible policy actions while leaving enough flexibility to cope with the particular event.
- 1.6 A narrow majority of NSAs have **secure means of communication** in place. Email services with encrypted features and web applications with enhanced security features are the most widely used secure means of communication.
- 1.7 Regarding **simulation exercises**, only a minority of the sample have engaged in such exercises in the past. Those that have carried them out have mainly focused on the banking sector, with insurance only being considered together with banks or as part of the banking group. With a few exceptions, NSAs are not planning to run simulation exercises focused on insurance in the short term.
- 1.8 In general, **recovery and resolution plans** are not drafted in a pre-emptive way, respectively, by insurers and supervisors, but rather on an ad-hoc basis, when the firm is experiencing some kind of financial distress. It has to be acknowledged, however, that this approach is actually quite new and, in fact, several NSAs pointed out that they are currently considering this issue or waiting for the regulatory changes to come as a result of the international initiatives in this field.

Crisis alert and assessment

- 1.9 NSAs use a wide variety of both quantitative and qualitative **early warning indicators**, with deteriorating capital position being the most relevant indicator among the former and adverse reports from the auditors/actuaries and failure to implement regulatory or supervisory requirements among the latter.

- 1.10 In addition, NSAs generally supplement the information provided by the early warning indicators with **other types of crisis alert mechanism**, which range from additional analysis or exchange of information with relevant parties to formal or structured crisis alert and assessment frameworks.

Crisis management and resolution

- 1.11 When asked about **triggers for intervention**, a majority of NSAs use a mixed approach, combining expert judgement (as the main trigger) with the definition of a set of financial thresholds that support the expert's assessment.
- 1.12 Only a minority of NSA have pre-defined some kind of **information requirements** or prepared templates that would ease the collection of relevant information in a crisis situation. In some cases, the information requirements defined are linked to the emergency plans the NSA has in place or the participation in the Colleges of Supervisors.
- 1.13 Resolution is one of the most important topics covered by the survey. On the **objective of resolution**, NSAs reported that a) policyholder protection is at least as important as financial stability; and b) in a majority of NSAs the protection of policyholders seems to be an overarching goal with financial stability subordinate to it.
- 1.14 On the **resolution powers**, the information provided shows that there is a variety of powers available to NSAs in a resolution process. Some of these powers are quite common and widely used in a resolution (e.g. the appointment of an administrator, run-off, portfolio transfer, etc.) and have proven adequate in dealing with individual failures of firms. In addition, the survey confirmed that there are substantial differences across jurisdictions in terms of the extent to which the different powers are available, the way in which they are exercised, the role of the NSAs and, in general, the legal frameworks that exist.
- 1.15 In terms of **resolution funding**, although there are several sources, the disposal of assets seems to be the most widely used. The recourse to the insurance guarantee scheme is only available to around half of the NSAs, and usually in a restricted way.

External communications to the public

- 1.16 The majority of NSA do have **communication agreements or procedures** in place to communicate to the public in an emergency situation. They seem to have communication manuals or plans that include a certain structure for crisis communication, an allocation of roles and responsibilities and, in some cases, permanent media monitoring and media evaluation procedures.
- 1.17 In general, NSAs do not define **communication triggers** and those who have defined them have done it in a general way (e.g. a situation that can undermine the public's confidence). The decision as to when to communicate to the public seems to be taken on an ad-hoc basis.

Cooperation on cross-sectorial issues with other national authorities

- 1.18 NSAs have formal and informal **mechanisms in place to cooperate and share relevant information** with other national authorities. Furthermore, a majority of them do it via national standing groups that often have crisis prevention and management functions.
- 1.19 Nevertheless the survey results also show that there is **room for further cross-sectorial cooperation** due to the fact that, in general:
- There is no formal cross-sectorial emergency plan in place. Two thirds of the NSAs, however, reported to have contact lists in place that cover critical staff in all relevant authorities;
 - Secure means of communication between authorities do not exist. NSAs that do have them rely, in a majority of cases, on email services with encrypted features;
 - Common databases accessible by all relevant parties are rather exceptional; and
 - Communication teams that may need to liaise in a crisis situation are not always coordinated.
- 1.20 In similar terms, in general, NSAs have not been involved in **cross-sectorial simulation exercises** to test the decision-making processes. Furthermore, the situation seems not to change in the near future.

The impact of the financial crisis on the NSAs' approach

- 1.21 Each chapter finishes with a question about the impact of the financial crisis on the NSAs' approach towards crisis prevention, management and resolution as well as towards cross-sectorial cooperation.
- 1.22 Considering all the information together, it can be stated that, overall, **the financial crisis has indeed changed the NSAs' approach** in different ways. NSAs have, in general:
- Intensified their monitoring and supervisory activities;
 - Requested more information from supervised firms;
 - Moved towards a more risk-based supervision;
 - Developed new tools or carried out further analysis or stress tests;
 - Experienced institutional changes that sometimes go beyond the authority and affect the national supervisory architecture; and
 - Improved their crisis management procedures.
- 1.23 In any case, it is clear that NSAs have drawn important lessons from the financial crisis and reacted accordingly. NSAs show that they are now more aware of the **need to cooperate and share information** with other relevant authorities within the country, but also beyond national borders.

2. Background and introduction

2.1. Context

- 2.1.1 One of the lessons learned from the recent financial crisis is the need to have proper crisis prevention, management and resolution frameworks in place in the financial sector.
- 2.1.2 The G20 and the Financial Stability Board have developed an extensive agenda for stabilising the world economy and the financial system, with the aim of preventing future crises, mainly by improving global regulation and supervision. So far, the attention has primarily been focused on the banking sector, considering its specific systemic relevance and financial interconnectedness. Insurance and other non-bank financial institutions are, however, starting to be in the sights of supervisors, regulators and policymakers.
- 2.1.3 One relevant initiative is the one initiated by the International Association of Insurance Supervision (IAIS). The IAIS has developed a methodology to identify global systemically important insurers (G-SII), whose distress or disorderly failure would cause significant disruption to the global financial system and economy activity. It has also recently published a first list of G-SII, together with a set of policy measures for G-SIIs. Lastly, the FSB published on 12 August 2013 a consultative document on the Application of the Key Attributes of Effective Resolution Regimes to Non-Bank Financial Institutions, which also includes insurance undertakings.
- 2.1.4 The European Commission, in turn, launched on 5 October 2012 a consultation on a possible framework for the recovery and resolution of financial institutions other than banks, including insurance companies. The consultation was closed on 28 December 2012. EIOPA provided a comprehensive response to the Consultation.¹ A follow-up of this work is expected in the coming months.
- 2.1.5 All these initiatives and other relevant developments suggest the need to have a good overview and a comprehensive understanding of the situation in the different jurisdictions with regard to crisis prevention, management and resolution. This will also help to proactively contribute to the policy discussions that are currently taking place in this field.

2.2. Objectives, scope and legal basis

- 2.2.1 The objective of this exercise is to obtain a better understanding of the crisis prevention, management and resolution approaches and practices in the different NSAs. It should also help to promote a common supervisory culture in this field.
- 2.2.2 The exercise is focused on the financial crisis management preparedness of NSAs with regard to the insurance sector. It covers primarily institution-based events that could, however, lead to a financial crisis on a broader sense.

¹ See EIOPA's response:

https://eiopa.europa.eu/fileadmin/tx_dam/files/publications/submissionstotheec/EIOPA_Response-COM_Consultation_on_recovery_and_resolution_for_nonbank_financial_institutions.pdf.

2.2.3 This exercise can be framed in the context of Articles 18, 25 and 29 of EIOPA's Regulation. Among other aspects, these articles refer to the role of EIOPA in emergency situations and require the Authority to contribute to and participate actively in the development and coordination of effective and consistent recovery and resolution plans, procedures in emergency situations and preventive measures to minimise the systemic impact of any failure. The Authority shall also play an active role in building a common Union supervisory culture and consistent supervisory practices, as well as in ensuring uniform procedures and consistent approaches throughout the Union.

2.3. The survey

2.3.1 The survey was prepared by EIOPA's crisis prevention, management and resolution team. It was then submitted for comments to the Task Force on Crisis Management and to the Review Panel.

2.3.2 The final version was submitted on 24 May 2013 to EIOPA's Board of Supervisor Members for their input. A total of 27 NSAs provided input in the course of June and July 2013. These were the following: Austria; Belgium; Bulgaria; Czech Republic; Germany; Denmark; Estonia; Spain; France; Greece; Croatia; Hungary; Ireland; Iceland; Italy; Liechtenstein; Luxembourg; Latvia; Malta; Netherlands; Norway; Poland; Portugal; Romania; Sweden; Slovakia; and United Kingdom.

2.3.3 The questionnaire covered the whole crisis management flow, i.e. crisis prevention, alert, assessment, management and resolution. It also included several questions on external crisis communication, cooperation with other national authorities, as well as the impact of the global financial crisis on the crisis prevention, management and resolution approach of NSAs.

2.3.4 This structure of the questionnaire and the questions asked are in line with the relevant material in this field and, especially, with the 2008 Memorandum of Understanding on cooperation between the financial supervisory authorities, central banks and finance ministries of the European Union on cross-border financial stability (the "crisis MoU").

2.3.5 Following this logic, questions were grouped in five blocks:

- i.) Crisis prevention
- ii.) Crisis alert and assessment
- iii.) Crisis management and resolution
- iv.) External communications to the public
- v.) Cooperation on cross-sectorial issues with other national authorities.

2.3.6 For each of the 37 questions, different options were given in order to restrict the answers as much as possible and enhance the comparability of information. In addition, NSAs had the opportunity to supplement the answers provided by elaborating further or clarifying certain aspects in each question, if deemed necessary.

- 2.3.7 The report usually shows the average situation, without assessing whether the average is satisfactory or not. As a next step, a set of key characteristics will be extracted, which should help NSAs to assess their relative situation.
- 2.3.8 As is the case with other surveys, this exercise relies on the judgement of the respondents and the subsequent interpretation of the responses. Even though the answers were bounded to the extent possible, the way in which the respondents understand the questions and assess the situation in their jurisdiction is reflected in the answers provided. Furthermore, the level of detail provided varies, to some extent, across countries, which sometimes make the information difficult to compare.
- 2.3.9 Overall, however, the information provided by the NSAs was quite comprehensive and can be considered as a good overview of the situation in the respective jurisdiction.

3. Crisis prevention

- 3.1 This section seeks to obtain information about relevant elements that should be in place in order to enable NSAs to act timely and effectively when a potential crisis occurs. Current and past financial crisis have shown that preparation is actually the best and cheapest way to manage a real crisis.
- 3.2 Being prepared for a crisis requires having a certain organisational structure within the NSA as well as the specification of some process and procedures to deal with a potential crisis. Furthermore, there is also a need to ensure that adequate means of communications exist, in order to allow communication and information exchange among relevant parties to take place promptly and securely whenever needed.
- 3.3 Existing procedures should not only be updated on a regular basis, but also tested to see if the decision-making process would provide an adequate response in case of a crisis.
- 3.4 Lastly, adequate information about the supervisory options available in case a firm is facing difficulties is also a key element to ensure that the right decisions are taken. Recovery and resolution planning provides this information, which can be really useful, especially if the firm is judged to be systemically important.

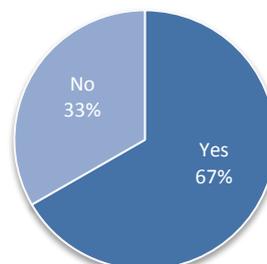
3.1 Crisis management structure

- 3.1.1 As a first relevant element, NSAs were asked whether there are formal crisis management groups set up internally and composed of staff from different relevant areas to deal with a crisis. According to the feedback provided (see chart 1), a majority of NSAs do have these groups in place. The level of formality is, however, quite patchy. Some of these groups seem to be very formal crisis management specific groups with approved mandates, while other structures are more flexible or even ad-hoc

structures. Usually these groups have both a preventative and a crisis management role.²

3.1.2 The supervisory model explains to a large extent the composition of the groups. For example, integrated authorities usually have cross-sectorial groups that go beyond insurance. Some of the jurisdictions with a more functional supervisory approach also sometimes reported cross-sectorial crisis management teams, and not insurance specific teams.³

Chart 1: Is there a formal crisis management group set up inside your institution to deal with a crisis?



3.1.3 In all cases, groups are composed of high level Members (President/Governor, Vice-president/ Deputy Governor, Director General, Director, etc.). Some NSAs also reported to have crisis teams with more technical or operational tasks that support the high level group. One NSA reported that the seniority of the composition depends on the severity of the crisis.

3.1.4 The frequency of the meetings also varies substantially, depending on the form of the crisis management team. Some NSAs report daily meetings, while others report quarterly or biannual meetings. It seems that some groups that meet very often may actually be regular management teams or financial stability teams that may turn into crisis teams in case of need.

3.1.5 According to the information provided, several NSAs are currently designing their crisis management structures and procedures which will be in place rather soon.

3.1.6 In summary, a majority of NSAs confirmed that some type of crisis management structure is in place to handle a potential crisis, but the nature of these structures, their level of formality and their working procedures vary substantially.

3.2 Emergency plan

3.2.1 NSAs were also asked to report whether they have formal emergency plans in place that may constitute a valuable instrument in case of a crisis. The majority of NSAs do not have such formal plans in place (chart 2). Some of them do, however, report informal procedures for crisis management.⁴ The extent to which the existing procedures could be considered formal or informal is a matter of interpretation or judgement.

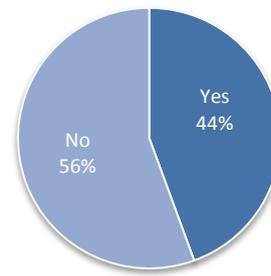
² One NSA explained that its crisis management framework is limited to credit institutions and does not cover (re)insurance undertakings.

³ This issue is addressed more deeply in chapter 7.

⁴ Two NSAs also referred to the Colleges Emergency plans.

3.2.2 Regarding those NSAs that report to have formal emergency plans in place, the level of detail varies substantially. In general, the information provided points to comprehensive plans that cover the whole crisis management process.

Chart 2: Is there a formal emergency plan in place?



3.2.3 The following elements were mentioned by some NSAs: legal basis; organisational structures in place to deal with a crisis; process and procedures for crisis alert, assessment and management; roles and responsibilities; contact lists, procedures for information exchange and cooperation with other authorities and external communication.⁵ Two NSAs also mentioned the existence of business continuity plans,⁶ and three others highlighted specific aspects, such as the inclusion of hints for employees in crisis situation, the inclusion of criteria for liquidity or capital support from the state when private solutions are deemed insufficient and the existence of several important definitions, e.g. crisis in the insurance sector, systematically important insurance undertakings, potential sources of threats and risks for insurance sector as well as their consequences.

3.2.4 Where formal plans exist, NSAs inform that they are updated on a regular basis. In general, NSAs update them as needed and/or, at least annually. Two NSAs, however, report more regular updates, either quarterly or biannually.

3.2.5 As was the case in the previous section, two NSAs report that emergency plans are being developed at this stage, with one of them providing very comprehensive information.

3.2.6 It can be concluded that, although fewer than a half of the NSAs have formal emergency plans in place, the existing ones address all or most relevant aspects for crisis management and are updated on a regular basis.

3.3 Scenarios and policy actions

3.3.1 NSAs may define scenarios and policy actions (either within or outside the emergency plan) that would facilitate a quick reaction in a real crisis. As shown in chart 3, this is the case in 45% of the NSAs that replied to the questionnaire. The definition of the scenario varies in terms of the level of detail considered. For example, one NSA considers two very broad scenarios, i.e. operational vs. financial crisis. Another refers to the taxonomy of the crisis and distinguishes between systemic crisis and

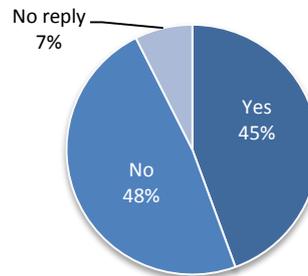
⁵ Only one NSA that is currently developing its emergency plan mentioned explicitly the existence of triggers for intervention. This is probably due to the fact that the information reported is a summary of the content of the plan.

⁶ According to the information provided by one NSA, the crisis management procedure that has been developed can be used to manage both operational and financial crisis.

institution-based crisis. Policy actions are set according to both dimensions of the crisis.

3.3.2 Other NSAs consider more operational-type scenarios, such as solvency or profitability problems in firms or recovery/resolution scenarios and tools available to act in such situations. One NSA informs that the scenarios they use are based on stress testing analysis, which captures the most salient risks for insurers (e.g. liquidity, market, insurance, etc.).⁷

Chart 3: Does your NSA consider specific scenarios and policy actions for each scenario?



3.3.3 Two other authorities point out that each crisis has specific features and, as a consequence, flexibility (instead of scenarios) is required. The need to have flexibility in a crisis situation is implicitly considered in many of the replies. The fact that some of them report the existence of specific scenario and others do not probably lies on the understanding of the term "scenario".

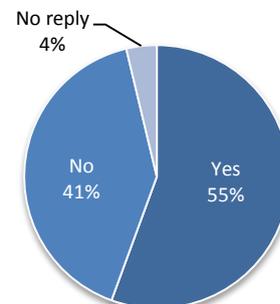
3.3.4 As a consequence, even if only 45% of the NSAs have replied affirmatively to this question, the explanations provided suggest that, in general, NSAs do consider some scenarios, but these scenarios are defined in a very broad way. This approach helps to fine-tune possible policy actions while leaving enough flexibility to cope with the particular event.

3.4 Communication means

3.4.1 Communication among relevant parties and information sharing are key elements, especially in a crisis situation. Analysis and actions are based on proper information that is transmitted across the different stakeholders within (and sometimes also outside) the institution. Furthermore, the information transmitted is usually sensitive and highly confidential.

3.4.2 In order to avoid undesired leaks or access to unauthorised individuals, institutions may implement secure means of communication, in addition to regular means like emails, video-conferencing or teleconferencing facilities. These secure means usually include higher requirements on security, authentication and access rights.

Chart 4: Are there secure means of communication in place?



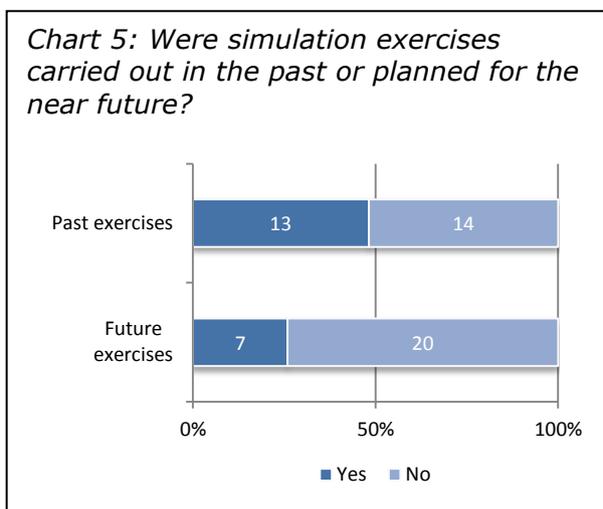
⁷ Two NSAs provided information on the scenarios considered. It should be noticed that these are business continuity/operational risk-related scenarios and not so much financial crisis-related scenario (e.g. operational problems in IT systems).

- 3.4.3 In general, NSAs use secure means of communication not only in a crisis situation, but on a day-to-day basis. Several NSAs pointed out that, although they do not have specific secure means of communication to be used in a crisis situation, they are continuously working to enhance the security features of the regular communication means. Some NSAs also referred to the existence of standards of privacy/security that the communication means have to comply with and to policies and protocols that address the use of information in a crisis situation.
- 3.4.4 NSAs that reported the existence of secure means of communication (around 55% of them, as shown in chart 4) mentioned specifically the following elements:
- Email service with encrypted features – 7 NSAs.
 - Web application with enhanced security features – 5 NSAs.
 - Secure conference call facility – 1 NSA.
 - A secure report delivery system – 1 NSA.
- 3.4.5 In conclusion a slight majority of NSAs have secure means of communication in place. Email service with encrypted features and web applications with enhanced security features are the most widely used secure means of communication.

3.5 Simulation exercises

3.5.1 NSAs were asked to report whether they have carried out simulation exercises in the past and whether there are any planned for the near future.

3.5.2 Simulation exercises involve real-life replication of a financial crisis in order to test (and ideally also enhance) the crisis management framework. As such, simulation exercises focus on the procedures for detecting, assessing and managing a financial crisis. Simulation exercises can be carried out within a single authority, between authorities within a country or between authorities in different countries.⁸



3.5.3 Around half of the NSAs have carried out simulation exercises in the recent past (see chart 5). In a majority of cases, simulation exercises were either focused on the banking sector only or on both sectors

⁸ Simulation exercises should be differentiated from stress test. Stress tests, in contrast to simulation exercises, are tools for assessing the vulnerability of a financial system (or part of it) to potential macroeconomic shocks. The main goal is to assess the likely impact of an hypothetical shock on financial institutions' balance sheets.

(banking and insurance) simultaneously. Only in a minority of cases were these exercises focused only on the insurance sector.

- 3.5.4 Some of these simulation exercises were actually triggered by the current financial distress. As a consequence, they tended to focus on the situation in the Eurozone or in the banking sector.
- 3.5.5 Overall, no information was provided on the seniority of the participants in these exercises. It is generally understood that, since simulation exercises focus on the decision-making process, senior management (i.e. those who take the decisions) should be involved.
- 3.5.6 According to the information provided, NSAs do not carry out simulation exercises regularly, but rather on an ad-hoc basis. The majority of the NSAs report 1 or 2 exercises in the recent past with only a minority of them indicating quarterly, biannually or yearly exercises.
- 3.5.7 Looking forward, only 7 NSAs reported they will carry out simulation exercises in the near future.⁹ Two of them provided the following information about the coming exercises:
- Simulation of a crisis situation in a supervised firm. The exercise will be focused on the time of reaction of the NSA.
 - Simulation of an insurer or insurance group failure to test the robustness of internal co-ordination. The exercise is in the planning stages and will probably be run in late summer 2013.
- 3.5.8 In summary, it seems that those NSAs that have carried out simulation exercises in the past (a minority of the sample) have mainly focused on the banking sector, with insurance only being considered together with banks or as part of the banking group. With a few exceptions, NSAs are not planning to run simulation exercises focused on insurance in the short term.

3.6 Recovery and resolution planning

- 3.6.1 Recovery plans drafted by firms seek to identify options to restore financial strength and viability when the firm comes under severe stress. They can be framed within the "crisis prevention" approach if they are drafted in normal times, in order to enhance crisis preparedness.
- 3.6.2 As can be seen in chart 6, a majority NSAs do not require recovery plans of insurers. Nevertheless, 3 out of 9 NSAs that responded affirmatively pointed out that these plans are requested in case the firm is experiencing difficulties (i.e. if they do not fulfil the solvency requirements or if the policyholders' interests may be compromised) and not in a pre-emptive way.¹⁰ This is probably also the case in many other countries that answered negatively to this question.

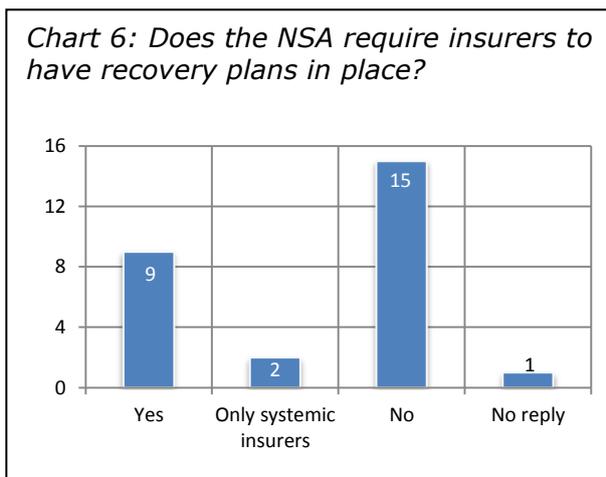
⁹ One NSA informed that it intends to engage with the Financial Services Compensation Scheme to devise and run an insurer failure simulation exercise, to test the robustness of internal co-ordination procedures in the event of the failure of an insurer or insurance group.

¹⁰ Another NSA explained that it requires financing plans in case of deterioration in the financial position of firms, as well as a definition of procedures which can promptly highlight the appearance of risks in each firm that might damage their financial and economic situation or exceed the

3.6.3 In addition, several NSAs have issued some kind of guideline or recommendation with regard to the content or structure of these plans. In this regard, 6 NSAs informed that plans are subject to revision as part of the supervisory process, even if some of them do not formally require firms to have them in place.

3.6.4 With regard to the NSAs that do generally not require recovery plans:

- Two NSAs informed that they are aware that firms (or, at least, significant firms) have this type of plans in place.
- Three other NSAs made several comments suggesting that this may change in the near future. One NSA explained that it is going to launch a pilot project on recovery planning involving one systemically important insurer and may extend it to other firms after a first evaluation of the project.¹¹ Another NSA informed that they are currently discussing the need to request recovery plans. Lastly, one authority pointed out that a newly created crisis management department will, among other crisis prevention and management actions, propose policies and clear requirements for recovery plans in 2014.
- Lastly, one NSA requires firms to undergo reverse stress testing exercises. In responses firms are expected to identify any proposed management actions they would take, trigger points for those management actions and a quantification of the impact those actions would have on the firms' position.



3.6.5 In summary, only a minority of NSAs formally require the insurers to have some kind of pre-emptive recovery plan in place. A few others are currently considering this possibility.

3.6.6 The survey also sought to provide some clarity on resolution planning. Resolution plans are, in turn, drafted by supervisors (usually in cooperation/liaison with firms) and intend to facilitate the effective use of resolution powers to protect systemically important functions, with the aim of making the resolution of any firm feasible without severe disruption and without exposing taxpayers to loss.

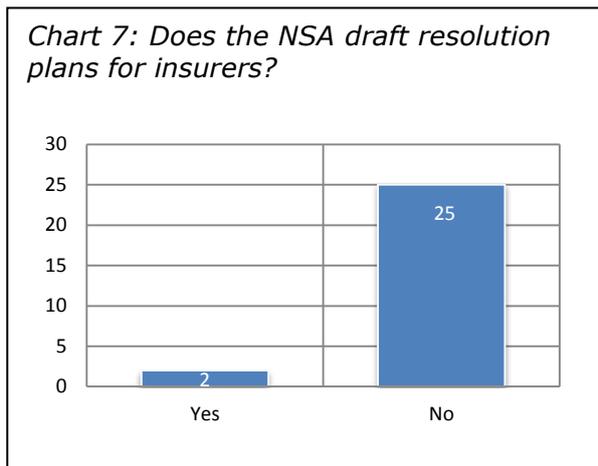
3.6.7 Only two out of the NSAs who responded to the questionnaire draft resolution plans for insurers (see chart 7). In both cases, these plans seem to be mainly drafted in a crisis situation, i.e. if the situation

established tolerance thresholds. The undertakings have to prepare adequate emergency plans in respect of the major risk sources they have identified.

¹¹ The other NSA that reported recovery plans for systemic relevant insurers explained that they require them only for Internationally Active Insurance Groups and subsidiaries of banking G-SIFIs. No legal requirements exist at this stage.

significantly deteriorates or in case of liquidation and termination of an insurer. In that situation, most likely all other NSAs would also draft these plans in order to resolve the affected firms.

3.6.8 In addition, one NSA that answered negatively to the question mentioned that it undertakes resolvability assessments for all insurers which identify potential barriers to a successful resolution.



3.6.9 In conclusion, the survey shows that resolution plans are not drafted in normal times, i.e. in a pre-emptive way. It has to be stressed, however, that this is actually quite a new approach, still subject to a significant discussions. In fact, some NSAs pointed out that they were discussing the issue internally, waiting for the EU regulatory changes to come, or drafting a new proposal for legislation regarding a resolution framework for insurers.

3.7 The impact of the financial crisis on NSAs crisis prevention approach

3.7.1 The financial crisis has changed the approach of NSAs to crisis prevention in 24 out of the 27 institutions (90% of the sample). The changes have gone along different lines, as shown in table 1.

3.7.2 In a majority of cases, NSAs have intensified their monitoring and supervisory activities. This has been done usually compounded with more information and reporting requirements.

Table 1: The impact of the financial crisis on NSAs preventative approach

	Times reported
Increased monitoring and supervision	16
• On-site inspections	1
• Higher requirements (risk management, governance, measurement of solvency, recovery and resolution, etc.)	4
• Targeted supervision (on specific items or companies)	6
• Towards more risk-based supervision	5
• More qualitative assessment of business model	1
• Impact studies and stress tests	4
Internal changes in the institution	12
• Existing procedures	7
• Clearer assignment of roles and responsibilities	2

• Establishment of risk/ crisis management teams	2
• Organisational changes	4
Higher information and reporting requirements	9
Development of new tools or frameworks	3
• Crisis manual or procedures	2
• Risk dashboard	1
• Domestic SIFI's framework	1
Increased cooperation with other authorities	3
Others	4
• Higher threshold of licensing	1
• Recommendation on distribution of dividends	2
• Pre-contractual information regarding certain products	1

3.7.3 Some NSAs have also implemented several internal changes, mostly on existing procedures, but sometimes also establishing crisis management teams¹² or implementing different organisational changes. On the latter, two NSAs seem to be undergoing (or have undergone) an in-depth revision of the supervisory set-up. One referred to a new project- and process-oriented structure with the aim of working on a more cross-market basis (in contrast to the former sectorial division), while another explained the new definition of roles and responsibilities regarding the national authorities that have financial stability responsibilities in the country with the aim of avoiding an underlap the financial crisis had revealed.

3.7.4 Only 3 NSAs referred to an increase in cooperation with other authorities, be it at national level or at supranational level.

4. Crisis alert and assessment

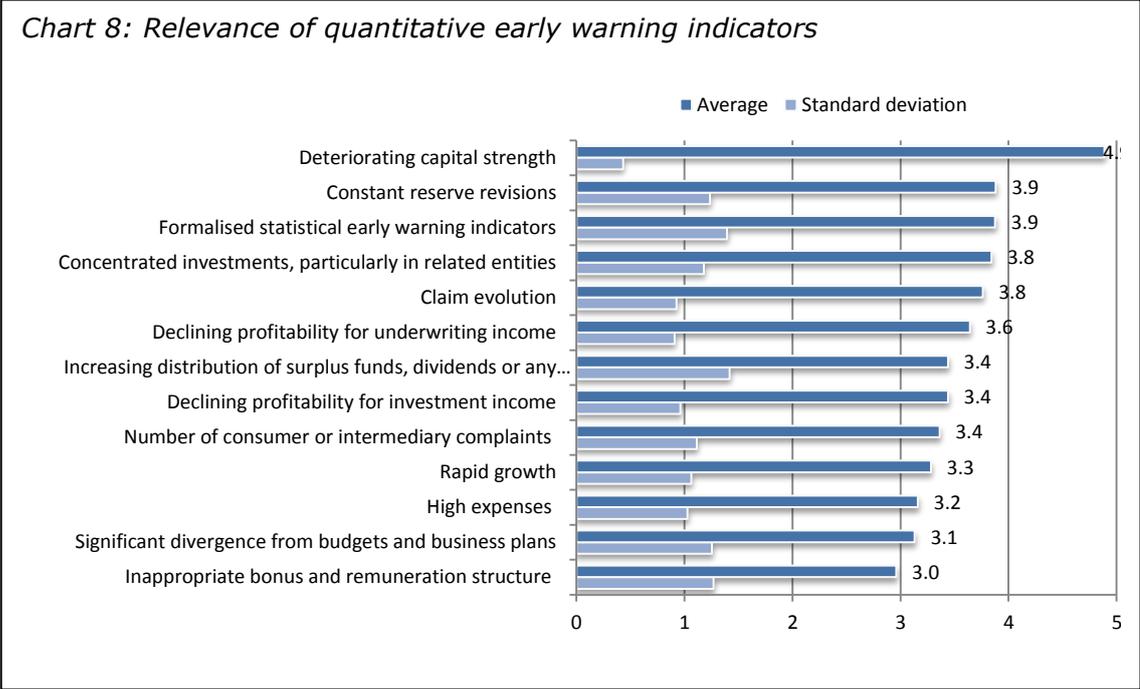
4.1 Crisis alert and assessment are usually defined as two different steps in the crisis management process. In the context of this report, however, crisis alert and crisis assessment were considered under the same phase. The reason being that, although from a pure conceptual point of view both steps can easily be distinguished, in a crisis situation they take place more like simultaneously.

¹² One NSA provided some interesting information on the way in which the new established risk teams work. These teams focus on specific categories of risk and work according to a "four eyes" principle that combines a "vertical" approach with a "horizontal" approach to risk monitoring. Vertical analyses are conducted by micro-prudential supervision teams, which assess each financial institution as a whole. Horizontal analyses, which are conducted within the risk teams, consider each financial institution in relation to other institutions in the sector. The horizontal analyses contribute to both micro-prudential and macro-prudential supervision. To the former, because it allows supervisors of a given financial institution to compare the institution with its peers and allows for more in-depth analysis of specific risks; to the macro-prudential supervision, because they allow an assessment of the extent to which particular developments or risks are common to some or all of the financial institutions in the sector. The Risk Committee coordinates the work of the risk teams and further aids in the identification of issues relating to financial system risks and in exploiting the synergies between micro-prudential and macro-prudential supervision.

4.2 This chapter seeks to obtain information about the early warning indicators used by NSAs to signal the existence of a potential crisis, as well as about the framework in place for assessing the implications of such a crisis.

4.1 Early warning indicators

4.1.1 NSAs were asked to rate several quantitative and qualitative early warning indicators, according to the relevance that each NSA attributes to them, with "0" being not relevant at all and "5" being very relevant.¹³



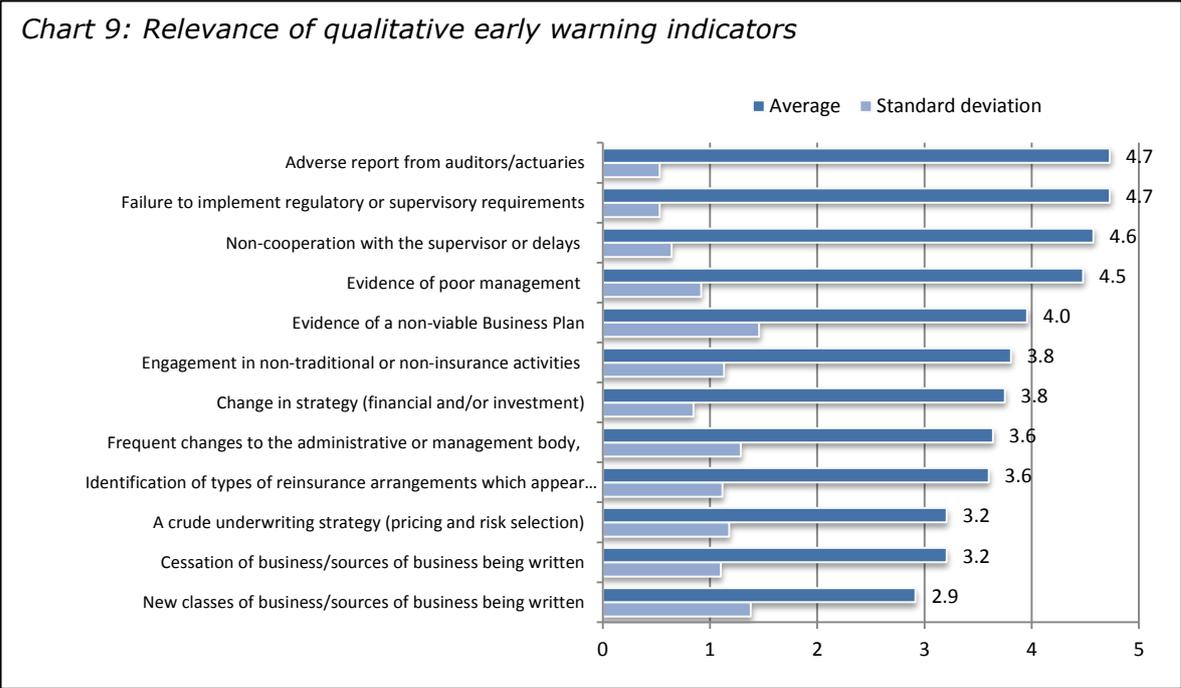
4.1.2 According to NSAs (see chart 8), deteriorating capital strength is clearly the most relevant early warning indicator, followed by constant reserve revisions and other type of formalised statistical early warning indicators they may have in place. It has to be stressed, however, that financial problems are usually well established by the time the capital strength is lost. Declining profitability for underwriting income and for investment income are respectively in place 6 and 8. Inappropriate bonus and remuneration structure is the least relevant early warning indicator. Still, it has to be acknowledged that, if deteriorating capital strength (i.e. the most relevant indicator) is taken out, the difference between the second relevant indicator and the least relevant is only of 0.9 points, which shows that, in general, all indicators proposed are quite relevant for NSAs.

¹³ One NSA pointed out that it has an integrated view of the soundness of the firms that it supervises. Accordingly it assesses both the firm's Risk Context (its external context and business risks), its operational mitigants (e.g. management and governance and risk management and controls) and its financial mitigants (capital and liquidity). Its framework does not consider the early warning indicators in isolation but instead considers them together to take a forward looking view of a firm's viability.

4.1.3 In addition to these indicators, NSAs had the opportunity to point out any other quantitative indicator they may consider relevant. The following indicators were indicated:¹⁴

- Significant intra-group transactions;
- Key capital indicators from the parent undertaking, especially when the insurance undertaking belongs to a banking group;
- Results of stress-testing done by the firm;
- Operational risks audits and indicators;
- Peer review analysis; and
- Money laundering and financing of terrorism prevention analysis.

4.1.4 With regard to qualitative early warning indicators (chart 9), NSAs primarily focus on the conclusions of the reports drafted by auditors and actuaries, as well as on the failure to implement regulatory or supervisory requirements. A related element –non- or delayed cooperation with the supervisors– and evidence of poor management (for example, poor quality internal information, or not acting on supervisors' or auditors' recommendations) are next in the ranking.



4.1.5 Engagement in non-traditional or non-insurance activities (e.g. derivatives trading or CDS transactions for non-hedging purposes), which has proven to be extremely important in the current financial crisis, is not among the most relevant early warning indicators for NSAs.

¹⁴ Several NSAs mentioned specific solvency and performance financial indicators. These are, however, not mentioned as other quantitative indicators, because they are actually included in the categories indicated in the chart.

4.1.6 As with the quantitative early warning indicators, NSAs were asked to report any other qualitative indicator they consider as relevant. The following indicators were mentioned:

- Changes in business model;
- Resignations of several senior management members over a short period of time; movements of key personnel (actuary, risk manager and internal or external auditor) and high turnover of staff;
- Annual certificate of compliance with the Corporate Governance Code; and
- Evidence of failure in governance issues such as risk management and internal control systems.

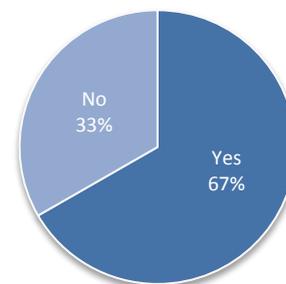
4.1.7 In summary, it can be stressed that NSAs use a wide variety of both quantitative and qualitative early warning indicators, with deteriorating capital position being the most relevant indicator among the former and adverse reports from the auditors/actuaries and failure to implement regulatory or supervisory requirements among the latter.

4.2 Other crisis alert mechanisms

4.2.1 In addition to the early warning indicators, NSAs may use other crisis alert mechanism to enable them to identify and react quickly and adequately before the outbreak of a crisis.

4.2.2 According to the answers provided, two thirds of the NSAs have other crisis alert mechanisms in place (chart 10). The type of mechanism reported, however, varies significantly. In a majority of cases, NSAs referred to additional analysis, stress tests and other thresholds or indicators (financial, macro-economic or macro-prudential). Unfortunately, not many additional details were provided.

Chart 10: Are there any other crisis alert mechanisms in place?



4.2.3 Four NSAs mentioned the regular exchange of information with auditors, policymakers and other authorities or cross-sectorial committees as other crisis alert mechanisms. Others pay special attention to the conduct and behaviour of insurers and to the interaction with Board members and key staff (e.g. actuary, risk manager, etc.).

4.2.4 Several NSAs referred to specific frameworks for crisis alert purposes. For example, one NSA mentioned that changes in the risk scores in its framework are an important crisis alert mechanism. Two other NSAs elaborated on the new frameworks they have in place:

- One is a structured risk based framework for firm supervision that assesses the potential financial impact that firms have. Based on this analysis, supervisors are requested to gather financial and non-financial information in order to judge the impact of supervisory

risk. An appropriate risk mitigation programme is then put in place to address the risks identified. In addition the supervisory team receives automatic alerts if financial information indicates a trend that needs to be investigated.

- The other framework is a new risk methodology introduced with a more forward looking approach. It includes the assessment of several “key drivers”, such as business model & strategy, and conduct, culture & governance which proved to be key indicators for the success or failure of firms in (the run-up to) the crisis. As these risk drivers become more significant (higher risk scores), the level and urgency of supervision increases accordingly. Furthermore, in response to the crisis, a specific expert centre has been established for interventions and enforcement.

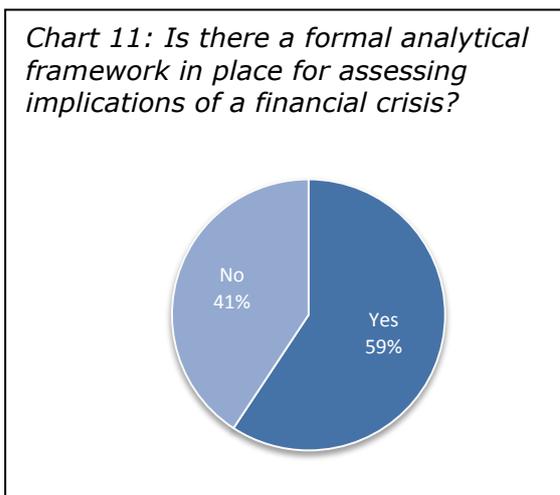
4.2.5 Lastly, a traffic light system has been implemented in two jurisdictions for the measurement of companies’ exposures to various risks. The traffic light measures how well the companies manage exposure to various financial risks and insurance risks. Companies are obliged to provide information on a regular basis. Stress tests of the companies’ assets and liabilities are then performed. The exposures and risks reported in the traffic light system is a relevant crisis alert mechanism which is used for supervisory purposes.

4.2.6 In general, it can be learned that NSAs supplement the information provided by the early warning indicators with other type of crisis alert mechanism, which range from additional analysis or exchange of information with relevant parties to formal or structured crisis alert frameworks.

4.3 Assessing the implications of a financial crisis

4.3.1 Once the authorities become aware of the emergence of a potentially serious financial disturbance, its nature and implications need to be assessed. This analysis should provide the basis for the decision of whether to intervene, and if so, how to intervene.

4.3.2 Ideally, the assessment of the crisis should be based on an analytical framework previously defined. This framework may have different degrees of formality, ranging from a regular or ad-hoc assessment to a more formalised structured analytical tool.



4.3.3 Due to the fact that there is no generally accepted definition for the term “formal”, different types of frameworks were reported by the 16 NSAs that responded affirmatively (see chart 11).

4.3.4 For example, eight NSAs referred explicitly to stress tests and other type of analysis and reporting as a formal analytical crisis assessment

framework. Although these are indeed elements for assessing the implications of a financial crisis, probably all NSAs (including those who responded negatively to the question) carry out this kind of analysis.

- 4.3.5 In this line, two of the answers provided pointed to specific organisational structures for financial analysis and/or risk committees or expert groups that are in charge of carrying out this analysis.¹⁵
- 4.3.6 Two NSAs mentioned the existence of Memorandum of Understandings that include some kind of systemic assessment template. One of these MoUs was developed at national level while the other referred to the crisis MoU and the assessment template included in its Annex 2.
- 4.3.7 Last but not least, two NSAs referred to structured analytical tools they have in place, which were also reported in the previous section as they are used for both crisis alert and assessment.

4.4 The impact of the financial crisis on NSAs crisis alert and assessment approach

- 4.4.1 NSAs were also asked to report whether they have changed their approach in terms of crisis alert and assessment as a reaction to the financial crisis. 23 out of the 27 NSAs (85% of the sample) responded affirmatively to this question (see table 2). Some authorities referred to the answers provided in the previous chapter, as the developments were basically related to the ones reported in the crisis prevention part.¹⁶
- 4.4.2 Other NSAs provided some additional information that is summarised in the table below. According to the feedback received, NSAs have reacted in different ways and degree of intensity. Some institutions have refined slightly the existing frameworks by, for example, intensifying their supervisory activities or requesting more information, while others have carried out substantial reforms.
- 4.4.3 Of particular interest are some of the answers that refer to the development of new tools or frameworks, some of which have been addressed in the previous section. In particular, one NSA explained that with their new tool they have revised their approach to supervision, resulting in a deep reform programme designed to make supervision more effective and powerful. The NSA worked to instil a culture of more intrusive and decisive supervision, translated into a set of principles for more effective supervision that have changed considerably the authority's approach and also lead to several changes within the institution (including organisational changes).¹⁷

¹⁵ One country mentioned the existence of a "macro-register" with top risks deriving from macro-economic factors drafted by the NSA's Financial Stability Division. The macro register is derived from the NSA's semi-annual Financial Stability Report (FSR). The risks in the register and FSR include immediate and emerging risks that require the attention of supervisors.

¹⁶ When this was the case, the answers were not considered again in this section.

¹⁷ The set of principles, as explained by the NSA, are the following: looking beyond individual institutions; more attention for the qualitative and strategic elements in supervision; more intrusive and conclusive conduct of supervision; and better internal and external assessment and accountability. The supervisory approach puts these principles into practice both in the risk analysis – the identification and assessment of risks to which financial undertakings are exposed and the

Table 2: The impact of the financial crisis on NSAs crisis alert and assessment approach

	Times reported
Improvements in certain analysis, stress tests or early warning indicators	10
Increased monitoring and supervision	10
Higher information and reporting requirements	7
Development of new tools or frameworks or substantial enhancement of the existing ones	5
Creation of new structures (e.g. departments or working groups) for the identification and assessment of potential problems	3
Increased sensitivity to new information (e.g. from the market, auditors, etc.)	2
Others	2
• Broadening of the mandate of the institution	1
• Early intervention in distressed companies	1
• Increased participation in Colleges	1
• More attention on the transparency and accountability of the authority	1
• Increased cooperation with other authorities	1

5. Crisis management and resolution

- 5.1 This chapter on crisis management and resolution addresses the use of possible remedial measures in order to deal with a crisis. This is a sequential step that requires the definition of specific triggers for intervention and that result in a series of supervisory actions that – ideally– were previously developed or considered in the crisis prevention phase. Depending on the nature of the crisis, in case of difficulties in a cross-border group, this may also lead to information exchange and coordination with the Colleges of Supervisors.
- 5.2 Resolution would be a last resort option that should allow authorities to resolve a firm in an orderly manner, without taxpayer exposure to loss from solvency support, while maintaining continuity of its main economic functions. As stressed by the Financial Stability Board in its “Key Attributes of Effective Resolution Regimes for Financial Institutions” (October 2011), jurisdictions should have in place a resolution regime that provides the resolution authority with a broad range of powers and options to resolve a firm that is no longer viable and has no reasonable prospect of becoming so. It is therefore extremely important to have an overview of available resolution powers of NSAs, as well as the way in which the resolution framework is funded.

measures taken to control them – and in risk mitigation – the supervisory activities aimed at reducing problems and risks.

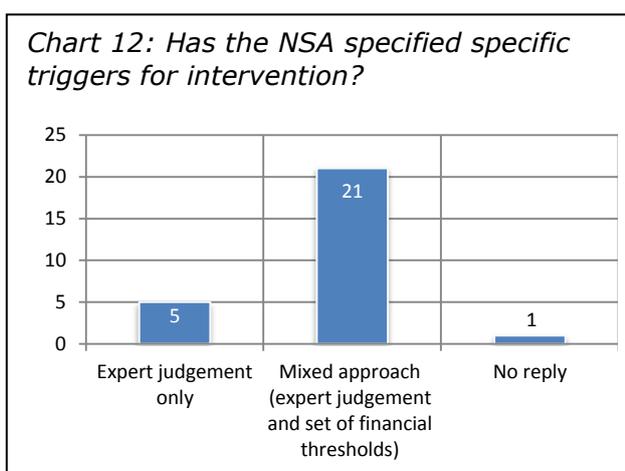
5.1 Triggers for intervention

5.1.1 NSAs were asked to report whether they have defined specific triggers for intervention. Three options were given to NSAs:

1. A set of financial thresholds are defined and their breach would trigger the intervention;
2. Intervention is triggered based on expert judgement only; and
3. A mixed approach is used.

5.1.2 In a majority of cases (21 NSAs), a mixed approach is used, combining both a set of financial thresholds and supplementing them with expert judgement, which provides certain flexibility as to when to intervene (chart 12).

5.1.3 No NSA triggers any intervention solely based on the breach of financial thresholds. On the other side, four authorities base their decision to intervene on expert judgement only. Two of these NSAs, however, indicated that they were currently discussing this issue and, consequently, may come up with a set of financial thresholds in the near future.



5.1.4 In general, not much information was provided on the different triggers for intervention, be it qualitative triggers or criteria to support the expert judgement. NSAs that mentioned them included, among other elements, the following: the breach of prudential requirements; internal controls and governance; solvency, liquidity or profitability concerns; unbalanced distribution of own funds within a group; major violation of legal requirements; unrealistic valuation of assets; major downgrading of a firms financial strength rating or group debt rating; etc.

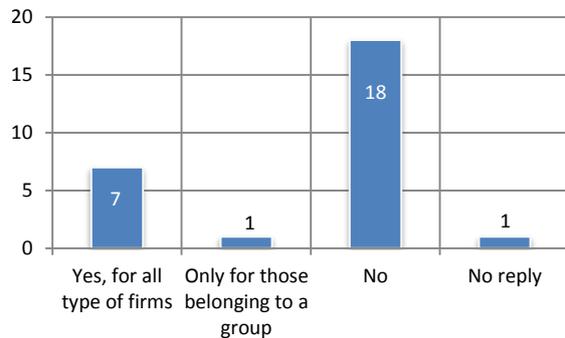
5.1.5 From the information provided it can be concluded that expert judgement, i.e. the subjective interpretation of events, is preferred and financial thresholds are basically defined to support the expert's assessment.

5.2 Information templates and requirements in a crisis

5.2.1 Considering that, in a crisis situation, events develop extremely quickly and that there is a need to have adequate information upon which decisions are taken, NSAs may have defined specific information requirements or developed information templates that would ease the collection of relevant information in a crisis situation.

5.2.2 As shown in chart 13, only 8 out of 27 NSAs (around 30% of the authorities) have defined some kind of information requirements or prepared templates to collect relevant information. One of these NSAs does it only for those firms belonging to a group, where this information is probably most needed and, at the same time, less fast to collect. In some cases, the information requirements defined are linked to the emergency plans the NSA has in place or the participation in the Colleges of Supervisors.

Chart 13: Has the NSA prepared specific information templates or requirements to be used in case of a crisis?



5.2.3 It should be understood that NSAs that do not prepare such templates prefer to tailor the collection of information to the firm or firms that are facing troubles and to the particular situation.

5.3 Informing the Colleges of Supervisors

5.3.1 The NSA who becomes aware of the emergence of a potentially serious financial disturbance or is aware of facts or events that may give rise to significant problems for an insurance group within its jurisdiction should inform the Group Supervisor as soon as possible.¹⁸ The question arises as to when a particular event becomes relevant enough to inform the Colleges of Supervisors.¹⁹

5.3.2 In order to gain more clarity on this issue, NSAs were asked to report whether they had determined specific triggers for informing or calling a meeting with Colleges of Supervisors in case of cross-border groups.

5.3.3 According to the information provided, NSAs do not define specific triggers for informing the College and basically rely on the agreements reached in the Colleges of Supervisors and refer to the Emergency Plans that the majority of Groups have in place.

5.3.4 The Emergency Plans contain a variety of triggers for alerting other authorities for both individual undertakings and groups, covering issues such as (risk of) non-compliance with the Minimum Capital Requirements or the Solvency Capital Requirements, violation of legal requirements, danger of failure of a reinsurer, negative macroeconomic and financial developments that may impact the undertaking's or group's financial soundness, threat of major claims or major mis-selling, unbalanced distribution of own funds, liquidity problems, major downgrading of the undertaking's rating or major fall in share price of the Group or one of its shareholders.

¹⁸ See the "Guidelines for the preparation and management of a financial crisis", CEIOPS-DOC-15/09, 26 March 2009.

¹⁹ Some NSAs considered that, since they are not Group Supervisors, this question did not apply to them. Still, this is actually not the case, as the information obligation exists for all Members of a College.

5.4 Objective of resolution

5.4.1 The second part of chapter 5 focuses on resolution.²⁰ Resolution is one of the final steps in the crisis management process that is triggered when problems persist and all corrective actions (including the implementation of recovery measures) have proven to be insufficient.

5.4.2 A key question, which has an impact on all other elements of the resolution strategy, refers to the objective of resolution. Two main objectives are usually cited:

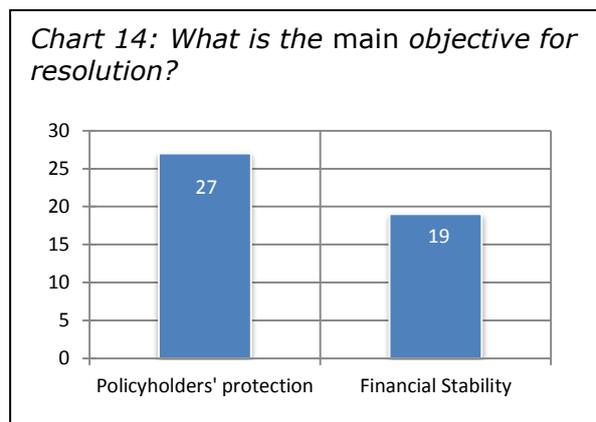
a) *Policyholder protection*: the objective is to mitigate the impact on the stakeholders of the individual undertaking, primarily the policyholders.

b) *Financial stability*: the objective is to reduce negative externalities on the financial system of a failure.

5.4.3 In order to obtain some clarity on this important question, NSAs were asked to report the main objective for resolution. When confronted with this question, all NSAs indicated that policyholder protection is the main objective for resolution.

5.4.4 Although only the *main* objective was asked, 19 NSAs decided to mark both objectives at the same time. Some NSAs explicitly mentioned that both are equally important in their national law.

5.4.5 Based on the answers received (see chart 14), it is reasonable to conclude that a) policyholder protection is, at a minimum, as important as financial stability; and b) In a majority of NSAs the protection of policyholders seems to be an overarching goal with financial stability being subordinated to it.



5.4.6 These results are in line with the approach and stance taken by EIOPA in the sense that policyholder protection is a key objective that should be considered as part of the resolution framework for insurance, together with financial stability.²¹ Further work may be useful, however, to determine the hierarchy of objectives and when each one would be addressed.

5.5 Resolution powers

5.5.1 A crucial question with regard to resolution refers to the powers that NSAs have at their disposal. Proper and adequate resolution powers should enable them to resolve an undertaking in an orderly manner,

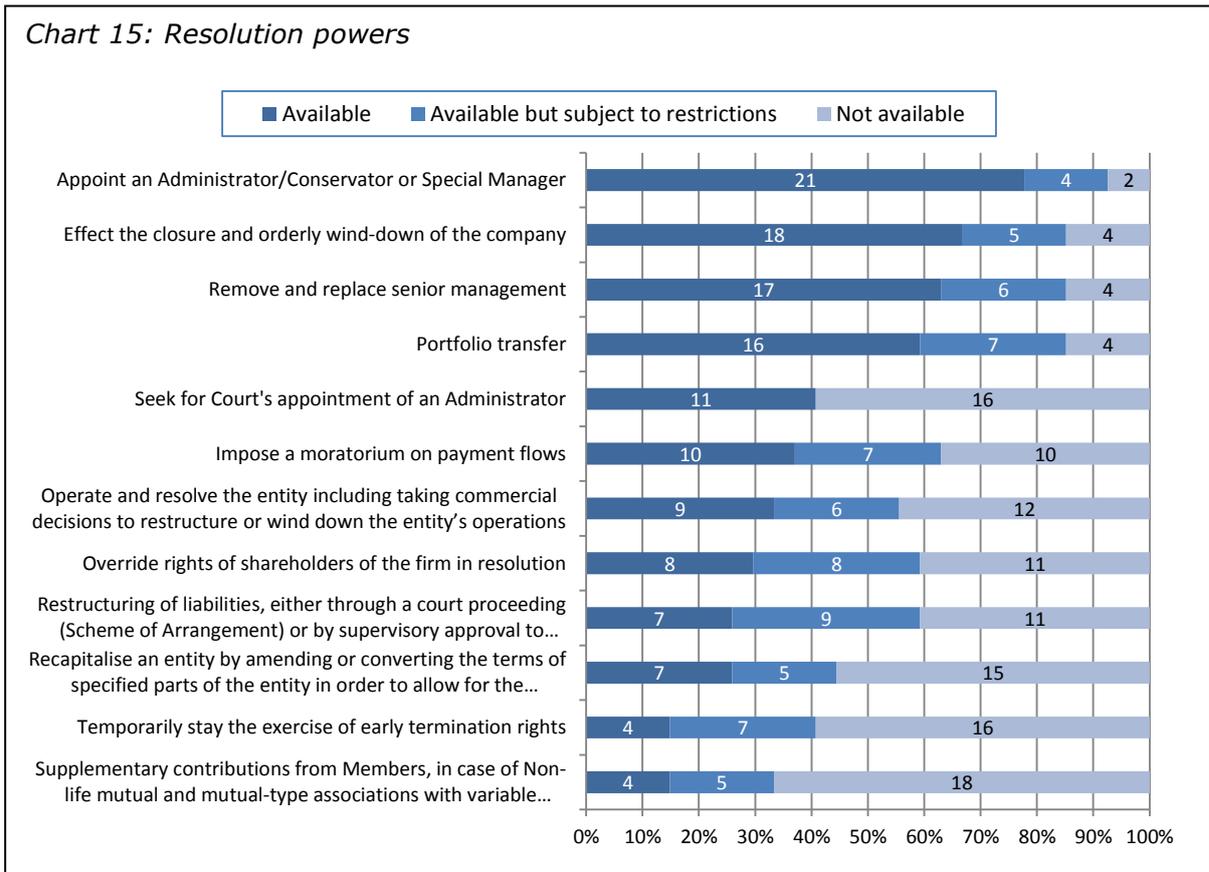
²⁰ One NSA mentioned that resolution is not considered in the national law. The law only foresees two regimes for the insurance company that is about to become insolvent, i.e. the reorganization and the liquidation.

²¹ "EIOPA's response to EC Consultation on a possible recovery and resolution framework for financial institutions other than banks", 5 December 2012.

without taxpayer exposure to loss from solvency support, while maintaining continuity of its main economic functions.

5.5.2 As shown in chart 15, there is a wide range of resolution powers that may be available for NSAs. Some of these powers are quite spread and widely used in a resolution. Examples are the appointment of an administrator, conservator or special manager; the power to close and wind-down a company in an orderly way (e.g. run-off); the removal and replacement of senior management; and the transfer of a portfolio. Overall these tools have been regularly used in the past and have proven adequate in dealing with individual failures of firms.

Chart 15: Resolution powers



5.5.3 Other powers are less widespread. This is the case, for example, of some powers that aim at recapitalising an entity by amending or converting the terms of specified parts of the entity in order to allow for the continuity of essential functions or temporarily stay the exercise of early termination rights.

5.5.4 In any case, it is important to mention that the fact that a particular power is available in certain jurisdictions does not mean at all that this power is available to the same extent or exercised in the same manner. There are substantial differences across countries in terms of the extent to which such powers are available, the way they are used and the role played by NSAs. This can already be observed from the indications provided by some NSAs, in that the availability of some powers is "subject to restrictions".

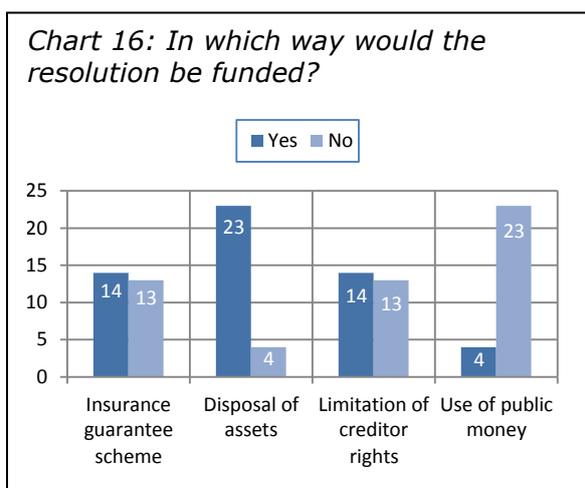
5.5.5 This is confirmed by the additional information provided by some NSAs that help to understand the context and the extent to which certain powers can be used. These clarifications, which are exposed in Annex 1, should be considered as examples that give an indication of the potential differences and nuances that exist across countries.

5.5.6 In summary, the information provided shows that a) there is a variety of powers available to NSAs in a resolution process; and b) there are substantial differences in terms of the extent to which the different powers are available, the way in which they are exercised, the role of the NSAs and, in general, the legal frameworks that exist.

5.6 Sources for resolution funding

5.6.1 There is a range of ways in which resolution may be funded, which may include recourse to an insurance guarantee scheme, disposal of assets, and limitation of creditor rights among other options. NSAs were asked about these options. They were also given the opportunity to specify other funding mechanisms.

5.6.2 The information provided shows that NSAs have several sources available for resolution funding (see chart 16). The disposal of assets is one of these sources in a majority of NSAs (85% of the sample). The recourse to the insurance guarantee scheme is only possible in 14 jurisdictions, whereas the 13 others do not have this possibility. The same result is achieved with regard to the limitation of creditors' rights. Only 4 out of the 27 NSAs (15% of the sample) have access to public money to fund the resolution. A possible explanation is that, although the use of public money (as last resort) may not be prohibited in some of these countries, an objective of resolution is precisely to avoiding recourse to public funds and, as such, this option is not included as a source of resolution funding.



5.6.3 The majority of the comments and clarifications made by NSAs revolved around the insurance guarantee scheme option and illustrate that IGSS vary in terms of protection and eligibility.

- Several NSAs explained that recourse to insurance guarantee scheme is only available under certain conditions, limited to certain amounts and –sometimes– restricted to certain types of contracts, which are usually compulsory. They specified several business lines, such as MTPL, insurance related to hunting activities, working compensation insurance, but also life insurance.
- One NSA that has the option to have recourse to the insurance guarantee scheme also mentioned the existence of a specific resolution fund. As explained by this NSA, both funds are pre-funded

and managed by a special entity of the Ministry of Finance. The insurance guarantee scheme covers bank deposits and life insurance contracts. It is funded by both banks and insurance companies. The resolution fund, in turn, is only funded by banks. It is primarily set up to address a case of bank failure. Yet, given that its tasks are only very broadly defined by the law (in order to preserve constructive ambiguity), and the existence of the bank insurance model in that country, the NSA could envisage that the resolution fund could also be used to address problems arising in an insurance company as well. Nothing seems to prevent this option.

- One country mentioned the existence of two rescue companies, one for the life insurance sector and another for the private health insurance sector, which have some common features or functions of IGSs.
- In another country, a scheme was set up which does not guarantee a certain amount for insurance policy creditors, but offers the acquisition of a percentage of their insurance credits to the policyholders of the insurance company under liquidation. It is a pre-funded system, financed through a fee that is paid by the policyholder together with the premium of the insurance contract.

5.6.4 In addition to that, one NSA (who answered negatively to the disposal of assets' option) mentioned that it is actually the administrator or the provisional liquidator who may use this option to fund the resolution of an insurance company and not the NSA itself. It may well be the case that other NSAs who answered affirmatively to this question are in a similar situation, but still decided to answer in this way because of the link between the appointed administrator and the NSA.

5.6.5 Overall it can be concluded that, although there are several sources of funding resolution, the disposal of assets seems to be the most widely used.

5.7 The impact of the financial crisis on NSAs crisis management and resolution approach

5.7.1 In line with the information reported in other chapters, the financial crisis has had an impact on the crisis management and resolution approach of several NSAs (15 out of the 27 authorities). Table 3 summarises the reported changes.

5.7.2 As can be seen in chart 18, six NSAs reported new legislation which are directly or indirectly a consequence of the financial crisis. Two of them are focused specifically on resolution.²²

5.7.3 One NSA mentioned that it has adopted a more pro-active attitude in detecting crisis situation and allowing —if need be— earlier intervention.

²² In one country, the new law gives resolution powers to the government. The government may, either at the NSAs request, or on its own initiative after a consultation with the NSA, adopt any measure providing for the transfer, sale of contributions relating to assets, liabilities or one or more fields of activity or all part of the rights and obligations of an insurance undertaking as well as securities or shares issued by all such institutions and undertakings in favour of the State or any other person or entity.

Table 3: The impact of the financial crisis on NSAs crisis management and resolution approach

	Times reported
New legislation enacted (or in process)	6
New tools, processes and procedures; revision of the existing ones	6
Stronger solvency or crisis management-related requirements	3
Higher awareness or more pro-active attitude	2
Institutional changes	2
Others	
• Introduction of IGS	1
• Higher reporting requirements	1

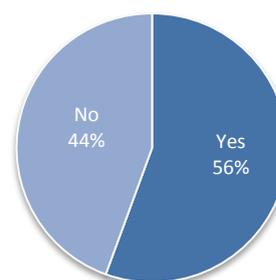
6. External communications to the public

- 6.1 It is common in crisis situations for market rumours to circulate that may cause panic and confusion for the public, as well as generating adverse developments for firms. In such circumstances, all stakeholders such as the insurance industry, investors, the media and the political sector typically look to supervisory authorities for reassurance that there is no immediate danger and/or that matters are under control.
- 6.2 In crisis situations, the existence of a clear communication strategy is crucial in order to mitigate the general level of uncertainty. This section revolves around the strategy that NSAs may have in place to adequately communicate to the public in a crisis situation.

6.1 Communication agreement or processes

- 6.1.1 NSAs were asked to report whether there are clear agreement or processes in place (e.g. crisis communication plans, agreed messages, guidance for public communication, etc.) to communicate to the public.
- 6.1.2 As shown in chart 17 out of 27 NSAs that replied to this questionnaire informed that they do have these agreements and procedures in place, and another explained that a comprehensive communication strategy, which will include a communication plan, is in the development phase.
- 6.1.3 In general, NSAs seem to have communication manuals or plans that include a certain communication structure (e.g. a communication team), an allocation of roles and responsibilities and, in some cases, permanent media monitoring and media evaluation procedures. One NSA explained that the communication strategy is part of the emergency plan while in another country, the

Chart 17: Are there clear communication agreements or processes in place?



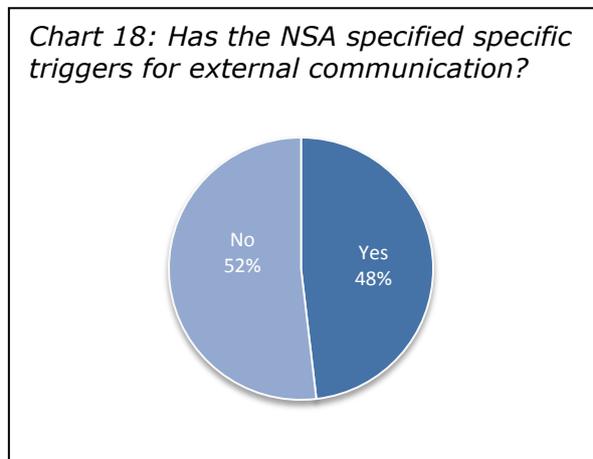
communication plan is mainly for business continuity, but also incorporates crisis communication.²³ Two NSAs mentioned the existence of public statements which could be deployed in a crisis situation.

- 6.1.4 Several NSAs referred to plans and communication actions that are coordinated with other authorities or MoUs between national authorities that include crisis communication plans and guidance for public communication.²⁴
- 6.1.5 A last issue mentioned by one NSA is that the communication strategy includes both communication with external parties as well as internal communication.
- 6.1.6 The lack of cases of crisis events in the past decades or the need to have enough flexibility in place lead several NSAs to consider that there is no real need to standardise the communication procedures, at least not at this stage.

6.2 Triggers for external communication

6.2.1 A very sensitive issue regarding external communications is when to communicate to the public. Communicating too early may unnecessarily increase market rumours that may cause confusion to policyholders, as well as generate adverse developments for particular insurance companies or the insurance sector as a whole. Communicating too late, in turn, may leave the transmitted message completely useless, undermine the credibility of the authority and lead to legal actions against it. Establishing clear triggers for external communication may help solving this dilemma.

6.2.2 When asked about communication triggers, around 50% of NSAs (14 out of 27 authorities) informed that they have not defined such triggers (see chart 18). According to the explanation provided by some of them, the communication policy is decided on a case by case basis, depending on the event and the communication needs.



6.2.3 Regarding those NSAs that responded affirmatively, several authorities informed that triggers are laid down in the internal procedures. Some NSAs provided additional information on the specific triggers, which are defined in a general way, e.g. in case of supervisory actions that lead to license withdrawal, restriction in certain activities, etc. or situations that can undermine the public's confidence, threaten the reputation of the NSA, or prevent the authority to fulfil its mandate.

²³ This NSA explains that the crisis communication plan is reviewed on an annual basis and includes details of trigger events, incident categories and communication policies.

²⁴ This issue is addressed in more detail in the next chapter.

6.2.4 Lastly, as mentioned by one NSA, due to the fact that insurance-related crisis do not take place so often, external communication to the public is usually done in a non-crisis environment, for example, by issuing alerts, warnings or recommendations.

6.3 The impact of the financial crisis on NSAs external communication's approach

6.3.1 Only 50% of the NSAs (14 out of 27) consider that the financial crisis has changed their external communication's approach. When asked about the concrete impact, NSAs reported changes in different areas, as shown in table 4.

Table 4: The impact of the financial crisis on NSAs external communication's approach

	Times reported
Clearer definitions of roles and responsibilities, new procedures or revision of the existing ones	6
Institutional changes	4
Increased transparency and accountability	3
Increased cooperation with other authorities or information sharing	3
Use of social media (e.g. Facebook or Twitter) or new informative web(s)	2
Increased awareness or sensitivity to information	2

6.3.2 Several NSAs reported significant changes in the existing procedures, such as an integration of the communication policy into the emergency plan, the inclusion of different ways of communication in the internal procedures, an update and adaptation of the communication plan/manual to take account of the lessons learned, or the establishment of a contingency plan which includes the rules of external communication in a crisis situation.

6.3.3 The NSAs that reported several institutions changes informed about different types of changes, ranging from the appointment of a Head of Communication or Communication Officer, to other changes in the organisational chart or even the creation of a new institution (that is a consequence of the financial crisis) which obviously has an impact on the overall communication strategy.

7. Cooperation on cross-sectorial issues with other national authorities

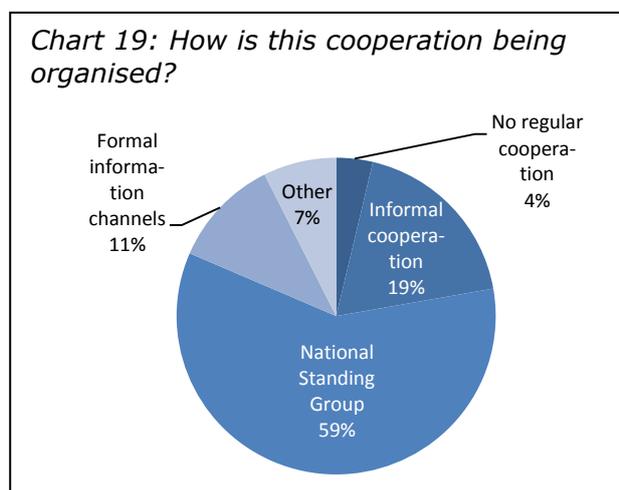
7.1 Cooperation both in normal times and crisis situations is usually seen as one of the key elements for an adequate crisis prevention and crisis management. The effects of a crisis usually go beyond one institution or sector in the financial system. When this is the case, cooperating with other authorities can contribute to adopting the right course of action.

- 7.2 Cooperation among relevant parties at a national level is especially useful because it helps to reach common views on the nature and the effects of a crisis and ensures a coordinated response. Depending on the type of event, cooperation at national level may be a first step towards an effective cooperation with other international parties.
- 7.3 This last chapter seeks to provide information on the existing cooperation arrangements with other national authorities. It covers not only the organisation of this cooperation, but also the exchange of information and the means to do it as well as the existence of emergency plans at national level.

7.1 Cooperation and information sharing with other national authorities

7.1.1 Almost all NSAs have some degree of cooperation with other national authorities (see chart 19). This cooperation may adopt different forms, ranging from an informal cooperation to more formal agreements and the set-up of a National Standing Group.

7.1.2 16 out of the 27 NSAs that responded to the questionnaire reported the existence of a National Standing Group, which should be understood as a formal committee composed of the different national authorities that is responsible for the overall coordination of activities in order to enhance preparedness in normal times and facilitate the management and resolution of a crisis at the national level



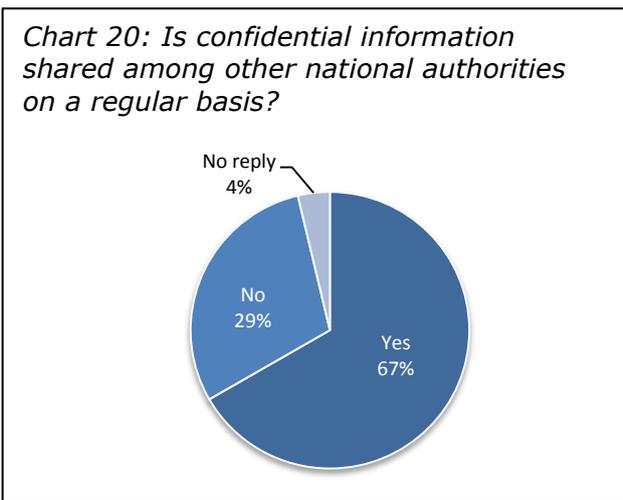
in a particular crisis situation. According to the information provided, usually all supervisory authorities and other institutions responsible for financial stability are represented at a very high level. This includes most of the times the Minister of Finance, who sometimes also chairs the National Standing Group. Occasionally, these national committees are supported by more operational groups, also composed of representatives from all institutions.²⁵

- 7.1.3 Three NSAs that did not report the existence of national standing groups stressed, however, that there are formal cooperation and information channels, usually via national Memorandum of Understandings or other types of agreements.
- 7.1.4 Informal cooperation was reported by five NSAs. Unfortunately, not much information was provided on the way this cooperation takes place.

²⁵ One NSA informed that the current architecture is under revision, in order to frame the new role of the central bank as a national macro-prudential authority, following the implementation of the recent ESRB recommendation addressed to all Member States.

7.1.5 Several NSAs in each category (including one NSA grouped under “other”²⁶) linked this question with the fact that they are integrated supervisors. Integrated supervisors usually have internal procedures in place to make sure that all areas involved in supervision and/or financial stability do cooperate and share information.²⁷

7.1.6 In addition to this, NSAs were also asked whether there is a formal cross-sectorial crisis management team to deal with a crisis. Integrated supervisors usually have these crisis management teams in place, where all areas are represented. In addition, generally when there is a national standing group set up for cooperation between authorities, this structure is also used for crisis management purposes.²⁸ The crisis management teams meet on a regular basis and are usually in charge of both crisis prevention and crisis management. Unfortunately, not many NSAs provided comprehensive information on the working procedures of the crisis management teams (tasks allocated, roles and responsibility, legal powers, etc.) and, consequently, no relevant conclusion could be drawn.



7.1.7 Cooperation with other authorities and information sharing are actually two sides of the same coin and, therefore, a related question is whether confidential information is shared among other national authorities on a regular basis. As can be seen in chart 20 two thirds of the NSAs seem to share confidential information with other national authorities on a regular basis.

7.1.8 NSAs were also asked to report which of the following crisis-related information they exchange:

- Qualitative assessments of potential emergency situations;
- Systemic implications of a potential crisis for the domestic financial system and the systemic impact on other countries;
- Channels of contagion; and
- Economic and budgetary implications of a crisis situation.

²⁶ The other NSA grouped under “other” informed about the existence of an expert group that meets on a regular basis but is actually not a crisis team. This is probably the situation in other countries that reported the existence of a national standing group and, consequently, this answer could probably also be included in this category.

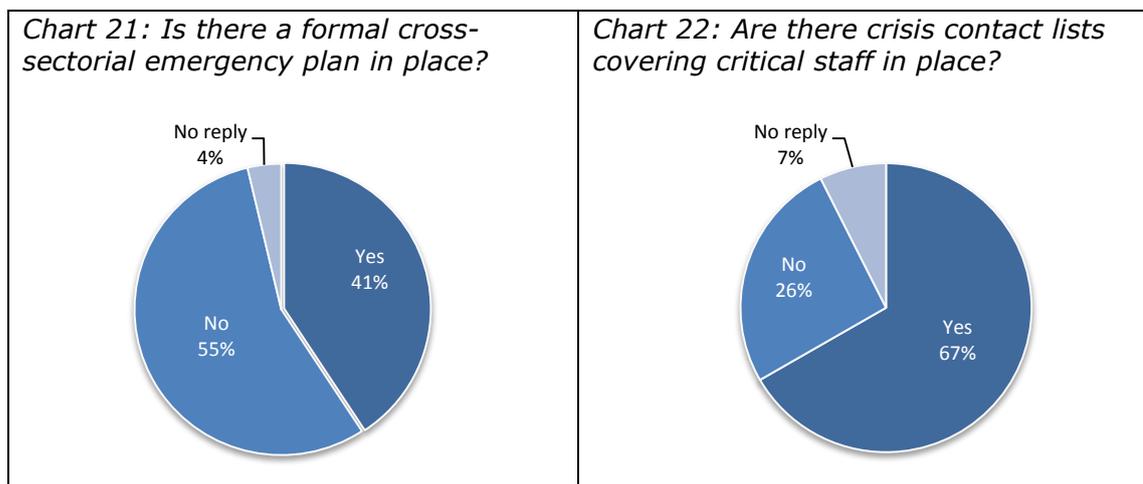
²⁷ Still, even integrated supervisors may need to cooperate with or report to other national authorities, e.g. ministries of finance or central banks (when they do not have supervisory responsibilities).

²⁸ Only three NSAs reported the existence of a national standing group and answered negatively to the question about the existence of a cross-sectorial crisis management team.

- 7.1.9 As a general rule, the confidential information shared by those NSAs that responded affirmatively covers all these items. Some authorities clarified that information is shared on a “need to know” basis. As was stressed above, the institutional model has also an impact in terms of information sharing.
- 7.1.10 Overall it can be concluded that NSAs have formal and informal mechanisms in place to cooperate and share relevant information with other national authorities. Furthermore, a majority of them do it via national standing groups that often have crisis prevention and management functions.

7.2 Cross-sectorial emergency plans and contact lists

- 7.2.1 Cross-sectorial emergencies may benefit from the existence of comprehensive plans to handle potential crisis. These plans do not only provide guidance and assign roles and responsibilities in an emergency; the drafting process may also reveal other (unexpected) hazardous conditions that may aggravate an emergency situation, thereby providing very useful information.



- 7.2.2 As shown in chart 21, only 11 out of the 27 NSAs do have these plans in place. Those NSAs that provided additional information show that, in general, these plans cover all relevant elements (composition, scope, roles and responsibilities, crisis management teams, external communication, etc.).
- 7.2.3 The type of cooperation reported in section 7.1 seems not to have a relation with the existence of emergency plans. From the 16 NSAs that reported the existence of national standing groups, only 7 do have emergency plans in place. 3 out of the 5 NSAs that reported informal cooperation with other NSAs, in turn, have emergency plans in place.
- 7.2.4 A related question is whether cross-sectorial contact lists covering critical staff have been established. Two thirds of the NSAs reported to have such contact lists in place (see chart 22). Still, in view of the comments made by some of them, it seems that a several NSAs (including non-integrated supervisors) were actually referring to contact lists within their institution, and not to cross-sectorial contact lists.

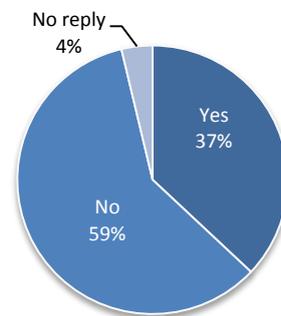
7.3 Communication means

7.3.1 The importance of having secure communication means in order to avoid undesired leaks or access by unauthorised individuals was already highlighted in section 3.4. That section showed that a majority of NSAs do have specific security features in place such as higher requirements on security, authentication and access rights for communicating.

7.3.2 This section explores the same issue, but is focused on cross-sectorial communication. In several integrated supervisors, where the authority is fully responsible for the supervision and stability of the financial system, this issue is not relevant. But as soon as there is more than one authority involved, the situation may change.

7.3.3 According to the information provided by NSAs, a majority of authorities do not have secure means of cross-sectorial communication in place for communications between them (chart 23). It has to be assumed that they basically rely on regular communication means (e.g. emails, video-conferencing, tele-conferencing facilities). When compared with the results of section 3.4, only 8 out of the 15 that reported

Chart 23: Are there secure means of cross-sectorial communication in place?



secure means of communication within the institution, have them also in place for cross-sectorial communications.²⁹ On the contrary, two NSAs that informed that they do not have secure means of communication within the institution do have them for communicating with other authorities, which may suggest that the level of security is improved when the risk of access to the information by unauthorised individuals increases.

7.3.4 NSAs that answered affirmatively to this question reported the following secure means of cross-sectorial communication:

- Email service with encrypted features – 7 NSAs.
- Web application with enhanced security features accessible for relevant institutions – 4 NSAs.
- Secure conference call facility – 1 NSA.
- Secure IT channel for data exchange with the statistical office – 1 NSA.

7.3.5 Lastly, some NSAs also mentioned the existence of strict confidentiality rules and protocols for information sharing, which is also a relevant security element that contributes to avoiding undesired leakages.

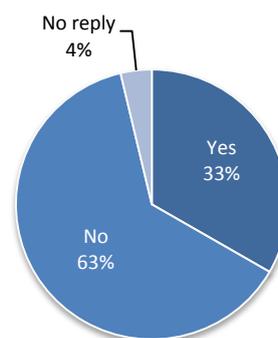
²⁹ Some of these NSAs are, however, integrated supervisors.

7.4 Information database

7.4.1 Relevant parties are expected to exchange information within their respective competencies both in normal times and in a crisis situation. In case the authorities share financial stability concerns, a common database consisting of publicly available actual data could be useful a useful instrument.

7.4.2 As shown in chart 24, only 9 out of 27 NSAs do have common databases in place. Furthermore, from the information that was sometimes included in the replies, it can be learned that some of the 9 NSAs that reported the existence of such a database are integrated supervisors. The following information was provided:³⁰

Chart 24: Is there a common database in place?



- One of the integrated supervisor informed that there is a common database with data on both banking and insurance. A large part of this database (e.g. balance sheets, banks international exposures, etc.) is shared with the central bank. Conversely, this NSA can access the central bank's financial and economic databases, which comprise cross-sectorial items of supervisory interest (e.g. CDS activity).
- One country is developing a common database for exchange of knowledge, incidents and response management, which is expected to be in place in 2015, coordinated by a new specialised department within the NSA.

7.4.3 Other NSAs that responded affirmatively were actually referring to keeping record of the information and data exchange that take place as a result of the regular cooperation with other authorities.

7.4.4 Consequently, it can be concluded that common databases accessible by all relevant parties are rather exceptional in the surveyed countries. Only a few of them seem to have this tool in place.

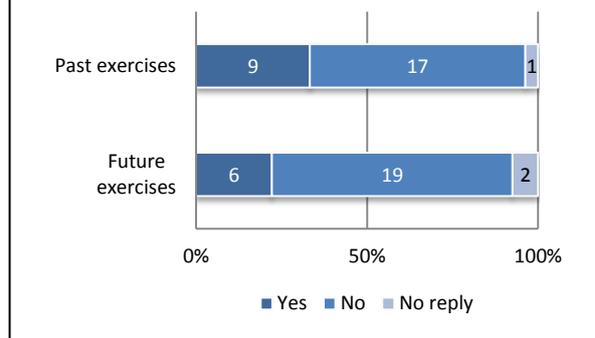
7.5 Cross-sectorial simulation exercises

7.5.1 Simulation exercises conducted on a cross-sectorial basis should enhance the preparedness of relevant authorities for handling potential financial crisis situations with cross-sectorial implications by simultaneously testing the coordination agreements and the respective decision-making processes.

³⁰ One NSA that responded negatively informed that there is a Financial Expertise Centre (a multidisciplinary cooperation between a number of organisations in this country, such as the police, the central bank, the authority for the financial markets, and tax authorities) that has a shared database in place.

7.5.2 As shown in chart 25, one third of the respondents informed about past cross-sectorial exercises carried out. The type of exercise, the scenario considered and the authorities involved are quite varying. Some NSAs provided additional information on the exercise:³¹

Chart 25: Were simulation exercises carried out in the past or planned for the near future?



- One country informed about periodical exercises carried out by a cross-sectorial crisis management organisation. Members in this organisation are financial institutions, Ministry of Finance, the central bank and the authority for the financial markets. An exercise on cybercrime and its consequences for the markets was run his year.
- Another country reported a simulation exercise carried out in 2012, under the coordination of the World Bank. The parties involved covered the whole financial sector, i.e. banking, securities, insurance and pensions, together with the Ministry of Finance. The NSA was invited to take part as observer.
- One NSA informed about six market wide exercises carried out by the three national authorities to assess the resilience of the financial services sector to specific stress scenarios. The last exercise was carried out in November 2011 with 87 participants' organisations, engaging 3,500 people. The scenario involved a concerted cyber-attack upon the financial sector, which caused significant disruption to wholesale and retail payments and online services. This tested how organisations communicate and coordinate with one another during sector-wide disruption. Telecommunications and the internet were impacted to test remote working strategies and the simulation date was set for 3 August 2012.
- Lastly, an exercise was carried out in 2007 by the central bank, the prudential supervisor the Banking, Finance and Insurance Commission and the Ministry of Finance in another country. The main features of this exercise are summarised in Box 1.³²

³¹ With some exceptions, the exercises reported seem to be more related to operational crisis than to financial crisis. Still, they are of interest because the approach and methodology of the exercises are very similar. In addition, generally it will be the same critical staff who have to deal with both types of crisis.

³² Another cross-sectorial exercise was organised in 2009 which revolved around an operational disruption.

Box 1: Example of cross-sectorial financial crisis exercise carried out in Belgium

NBB, the CBFA and the Ministry of Finance took part in a simulation exercise on 30 November 2007. The objective of the exercise was to test the functioning of the individual crisis management frameworks and the coordinating procedures established between the three participating authorities. The scenario revolved around a financial crisis triggered by a fraud in a fictitious banking group, the characteristics of which were inspired by those of one of the major bank-insurance companies operating in the country.

The exercise was prepared by an organising team made up of NBB and CBFA representatives. The actual date of the exercise was not announced in advance to the participants, who were required to make themselves available for a full day, since the information that would normally have been spread over several days during a real crisis was released in just one day. The exercise was organised in a decentralised setting in the three institutions, which had to liaise together as they would do in a real crisis.

The following conclusions could be drawn:

- The importance for each participating authority of having a comprehensive and well-structured crisis management framework in place.
- The composition of the crisis team has to be sufficiently diversified to represent the different areas that have a role to play, but the team must not be too large in order to guarantee a smooth decision-making process.
- Testing the cooperation and information sharing agreements is a good way to illustrate how they would work in practice and how they could be efficiently activated for the benefit of all authorities involved.
- The exercise helped determine for each authority what information is needed and at what stage. Furthermore, the exercise also afforded a better view of the respective role of each authority in a crisis context.
- The exercise made it possible to assess the quality of the information already available within each authority (crisis file, statistical information, position in the payment and settlement systems), and to specify the type of information that must be rapidly available in a crisis. Authorities must avoid issuing conflicting messages to the public, and co-ordination must therefore take place at each stage of a developing crisis
- The importance to develop a common approach in terms of the external communication strategy in the event of a financial crisis.
- The relevance of international cooperation. The existing national frameworks are complemented by equivalent frameworks developed at international level.

Further to the exercise and to the lessons drawn from it, practical recommendations to strengthen the Belgian financial crisis management framework have been approved by the FSC and addressed to each participating institution. Each authority has been asked to implement these recommendations internally.

Source: NBB (2008): *Financial Stability Review - 2008*, pp. 111-116.

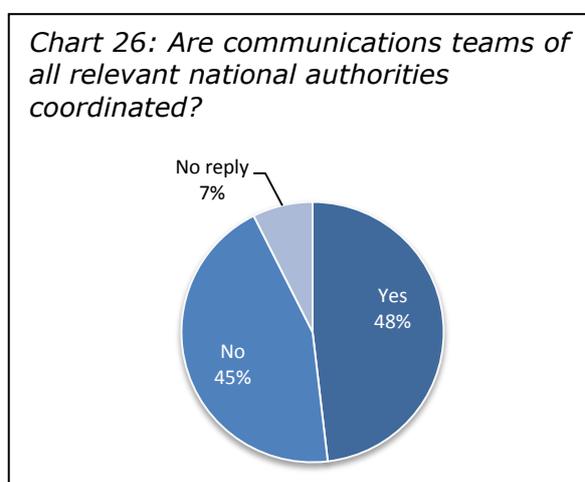
- 7.5.3 In terms of future exercises, only 6 NSAs are planning to carry out cross-sectorial exercises. One NSA informed that it will be a scenario based on projections and detailed analysis. Another authority will carry out a common assessment of risks and projected profits on a stress situation of insurance undertakings that belong to a banking group. Lastly, another NSA explained that there are several exercises planned for globally systemic important banks within crisis management groups. In case the banking group includes insurers, these are involved in the recovery and resolution plan.
- 7.5.4 Overall it can be concluded that so far, NSAs have not been involved in cross-sectorial simulation exercises to test the decision-making processes. Furthermore, the situation seems not to change in the near future.

7.6 Coordination of communication teams

7.6.1 The communication teams of all relevant parties that may need to liaise in a crisis situation should ideally be coordinated also in normal times. This coordination should avoid that, in a real crisis, communication to the public results in an increased uncertainty because of –for example– contradicting messages that may undermine the market confidence.

7.6.2 There are different ways in which this coordination can take place, e.g. holding regular meetings or preparing joint statement templates. NSAs were asked to report whether the communication teams of all relevant national authorities are coordinated and, if yes, how they are coordinated.

7.6.3 Only 13 out of the 27 NSAs informed that the communication teams of relevant authorities are coordinated. With a few exceptions, not much information was provided on the second questions, i.e. how this coordination takes place.³³ It seems that it occurs via regular meetings of the communication teams, joint statements and coordinated actions. In some countries, the communication takes place in the context of the national standing group that exist for financial stability purposes.



7.6.4 One country that answered negatively to the question is of the view that no need for such a full coordination has emerged yet and informed about a common webpage shared with the financial markets' authority, which is fully operational for communication with the public. As explained by this NSA, although so far the website has mostly been used for (non-crisis) information, it could also be used in the event of an insurance crisis.

³³ Some of the NSAs that responded affirmatively are integrated supervisors.

7.7 The impact of the financial crisis on NSAs cooperation with other national authorities

- 7.7.1 One of the lessons learned from the recent financial crisis is the need to enhance cooperation and information sharing with other relevant parties both in normal times and in crisis situations.
- 7.7.2 As such, it is not a surprise that a majority of NSAs (two thirds of the respondents) consider that the financial crisis has indeed had an impact on their approach towards cooperation and information sharing. Table 5 shows the nature of the impact, as reported by NSAs. Although increased cooperation and information sharing was explicitly highlighted 11 times, it is implicitly in all NSAs that responded affirmatively to this question.³⁴

Table 5: The impact of the financial crisis on NSAs cooperation with other national authorities

	Times reported
Increased cooperation and information sharing	11
Institutional changes	11
New procedures or revision of the existing ones	4
Regulatory changes	2
Increased awareness	1

- 7.7.3 In similar terms, only two NSAs explicitly mentioned changes in the regulation as a consequence of the financial crisis. Nevertheless, all institutional changes reported have probably been implemented by means of a change in the regulation, because many of them are certainly deep changes that affect the institutional architecture of the countries and/or lead to a set-up of new institutions.
- 7.7.4 The institutional changes reported under this section go along the following lines:
- Creation of a Financial Stability Board or Committee as an inter-agency cooperation and coordination mechanism – 6 NSAs.
 - Moving towards an integrated supervisory model that enables cross-sectorial supervision, including interactions between different financial sectors – 2 NSAs.
 - Implementation of the twin peaks model, whereby both the insurance and the banking supervision fall under the responsibility of the central bank, and the market supervision, code of conduct and consumer protection falls under another authority – 1 NSA.
 - Creation of a Systemic Risk Council with a cross-sectorial composition. Its purpose is the prevention and reduction of systemic financial risk with the aim of avoiding any negative impact on the financial system and the real economy – 1 NSA.
- 7.7.5 It has to be stressed, however, that the institutional changes reported above are only examples explicitly mentioned in this section. As shown

³⁴ Three NSAs mentioned an increase in cooperation through the Colleges of Supervisors.

throughout the whole report, the implementation of institutional changes that directly or indirectly seek to enhance cooperation and information sharing between authorities or to define new roles and responsibilities has been one of the main impacts of the financial crisis in many countries.

Annex 1: NSAs comments and remarks on resolution powers

A1.1. When asked about resolution powers, some NSAs provided additional information and made important remarks that show that there may be substantial differences across countries in terms of the extent to which powers are available, the way in which they are used and the role played by NSAs. The information below only provides examples of such differences.

A1.2. In addition to these country differences, it is also important to highlight that powers may also be available in different points in time of the crisis management flow. Sometimes they may be considered as early intervention powers (i.e. in a preventive way), while in other occasions they may be available only in resolution.

- *Appointment of an administrator/conservator or special manager*

One NSA clarified that many of the powers available can only be used through the appointed administrator. The situation is probably different in other jurisdictions, where powers may be generally exercised by the NSAs. Other relevant differences may exist in issues such as the precise mandate of the administrators, their powers and the way they are appointed.

- *Effect the closure and orderly wind-down of the company*

In one jurisdiction, the NSA is able to cancel the authorisation of an insurer to write new business - effectively putting it into run-off, but only a Court can liquidate the firm. In similar terms, another NSA mentioned that it can request a Court to open a closure and wind-down process, but the decision is taken by the Court and not by the NSA. The described situations could probably be extended to a number of other countries that reported to have this power available (or available but subject to restrictions), although the institutional structure required may differ to some extent.

- *Removal and replacement of senior management*

An authority mentioned that it has the power to remove the authorisation of individuals in 'approved persons' positions. However, it does not have the power to direct the appointment of senior managers to regulated firms, which seems to be the case in other countries.

Another NSA mentioned that the removal and replacement of senior management can be activated under certain specific circumstances and if the authority has issued a recommendation (aimed at enabling the insurer to keep fulfilling its obligations) that were not followed. If this is the case, authority has different options.

- *Portfolio transfer*

One NSA clarified that the transfer of a portfolio is only possible through a Court proceeding, in which the NSAs' views would form part. The right to initiate a portfolio transfer, the legal mechanism and the way in which stakeholder interest are addressed, however, may be elements that vary across jurisdictions.

- *Impose a moratorium on payment flows*

One NSA mentioned that this power is actually subject to normal restrictions on the exercise of supervisory powers such as proportionality. The precise way in which this power is exercised and the type of payments that may be affected probably differ across those countries that have this tool at their disposal.

- *Operate and resolve the entity, including taking commercial decisions to restructure or wind down the entity's operations*

As explained by one NSA, it can take certain measures (limiting/prohibiting certain activities, partial cancellation of a license) that can be considered as commercial decisions or as the winding down of the firm's operations. However, the regulation does not grant to this authority a general power to directly take over the management of an insurer and to entirely "operate" it. The exact control that the NSA can exercise and the way it is granted this power (e.g. the legal act needed) may vary from one country to another.

- *Override rights of shareholders of the firm in resolution*

One NSA explained it could, for instance, impose the strengthening of the company's share capital to shareholders, but also the reduction of the share capital and the disposal of major holdings by some of the shareholders if needed. Another NSA considers that this power has to be understood in the context of the general powers that the resolution authority has in all different matters in a resolution. It is clear that in resolution, authorities may have to deal with a trade-off consisting of shareholders right vs. policyholders' right. When the resolution authority takes control of a firm, shareholder rights may be overridden, especially when action is taken very early. This is the cost of being able to take action in the broader public interest to resolve a firm. Several legal questions may arise in this process.

- *Recapitalise an entity by amending or converting the terms of specified parts of the entity in order to allow for the continuity of essential functions*

One country pointed out that its national law foresees the power to impose the strengthening of the company's share capital to shareholders with waiver of legal requirements regarding representation (of shareholders) and majorities. As can be seen in chart 15, the adjustment of insurance liabilities is a tool that can be used in some countries in different ways, but the majority of NSAs lack it. This tool raises important questions in terms of how to balance policyholder interests (they may be affected in different ways) and when can this measure be taken (e.g. does it require insolvency or can it be used in a more pre-emptive manner?).

- *Restructuring of liabilities, either through a court proceeding (Scheme of Arrangement) or by supervisory approval to ensure that losses are fairly distributed among policyholders/creditors*

It was clarified by one NSA that its views form part of a Court proceeding to restructure liabilities but that this NSA does not have the power itself to activate this power. This is probably the situation in many other

jurisdictions, but substantial differences in its implementation cannot be ruled out.

Another NSA, which clarifies that it actually does not have a resolution framework in place but instead some reorganisation and liquidation functions, provided some information on how this power works in the country. It pointed out that the power to present (not to impose) a reduction in policyholders/creditors is foreseen in the process of liquidation (not reorganization) of life insurance companies. The idea is to facilitate the liquidation via a transfer of portfolio to a sound insurer. This NSA mentioned that such process has not been applied in the last decades and, therefore, the question on whether such power may admit the imposition of the reduction may be considered as an open question, subject to interpretation.

- *Temporarily stay the exercise of early termination rights*

One particular country mentioned that this power is available in life insurance only. As can be seen in chart 15, this power is not available to many NSAs. The specific features of contracts entered into by insurers and the way they are terminated in the event of a resolution raises several questions.

- *Supplementary contributions from Members, in case of Non-life mutual and mutual-type associations with variable contributions*

One NSA pointed out that it cannot directly ask for supplementary contributions from members, but can require that a mutual insurer submits a recovery plan and, in this context, the mutual insurer itself may ask for supplementary contributions from the members. Another authority explained that this power is sometimes available, depending on the insurer's legal form. All these aspects may lead to different models across jurisdiction with regard to the extent and the way in which this power can be exercised.