The Institutional Structure of Insurance Regulation and Supervision

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Foreword

Insurance is an essential financial tool that enables better risk management of uncertain financial outcomes. For insurance services and products to provide sufficient financial protection, it is imperative that insurance markets are sound and safe for policyholders, with a robust institutional framework of insurance regulation and supervision. This demands both clarity in the objectives and mandates of the insurance authority and a well-delineated and coordinated division of labour between the relevant insurance authorities.

This report examines the institutional structure of insurance regulation and supervision in 50 OECD and non-OECD countries. It responds to a demand from policy makers for a better understanding of country practices in support of their efforts to ensure more effective and efficient insurance supervision.

This report can help inform both OECD and non-OECD countries about how best to approach the institutional structure of insurance regulation and supervision. It can also help insurance authorities ensure that they have the required legitimacy and credibility when carrying out insurance regulation and supervision.

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Executive summary

This report presents the results of a stocktaking of the institutional structure of insurance regulation and supervision practices in 50 OECD and non-OECD countries.

The differentiation between insurance regulation and insurance supervision is not straight forward. While these terms describe distinct and different functions, confusion arises when attempts are made to describe their fundamental meaning or to understand the structures and division of these functions in a country. The International Association of Insurance Supervisors' (IAIS) Insurance Core Principles (ICPs) intentionally use the term 'supervision' to refer to both supervision and regulation.

The meaning of insurance supervision can be more accessible and understandable as the monitoring of insurance companies' and intermediaries behaviour, including their compliance with insurance rules and regulations as well as taking enforcement actions. An insurance supervisor is the institution(s) that is responsible for monitoring (re)insurer and intermediary behaviour, and implementing insurance rules (including legislation and regulation).

Insurance regulation relates to rule-making in the insurance sector. This includes both legislation and non-legislative regulation to address the objectives of insurance policy and regulation, and involves consultation with the supervisor and other stakeholders. The act of regulation usually includes the process of developing the direction and priorities of the insurance market and the relevant policy and legislation. This also is accompanied by guidelines, memorandums, recommendations etc. which, while these texts are non-binding texts, they set down expectations.

Legislation and policy related to the insurance sector will usually be developed by institution(s), including those of the legislative and the executive branch, which means that legislative independence is not generally sought, and input from other non-executive branch institutions involved will be routinely be sought. On the other hand, non-legislative regulations, as well as non-binding guidelines etc. are often developed by an insurance regulator that is not part of the executive branch, where independence of regulation becoming an important consideration.

The generalisation of insurance regulation and supervision as "insurance regulation", which while used in the context of addressing both could be appropriate, could cause confusion when considering institutional structure and cause a loss of nuance when countries are examining the appropriate features that need to be reflected in their institutional structure. Better defining what insurance regulation and insurance supervision would assist to better understand which institutions are involved and what role they play. The lack of clarity can create uncertainties and disagreement among the stakeholders that are involved.

Establishing an institutional framework that enshrines independence and accountability is critical for an insurance authority to have the necessary mandate and powers, as well as ensuring that its decisions have credibility and legitimacy. Independence and accountability cannot be mutually exclusive, with the way one is structured strongly affecting and determining how the other is. Authority comes with responsibility, and independence and accountability are how these are legitimised, in particular in a democratic context where officials are not elected but deemed to be technocrats.

Independence is viewed differently by insurance authorities in different jurisdictions, with no general consensus on what independence constitutes, as well as which aspect of independence should have priority. In terms of accountability, the best practices of accountability are not identified, with a diversity of approaches being taken by countries. A better understanding of what independence is and which accountability measures to apply, could better enable insurance authorities to reflect on what institutional structure could ensure their efficiency and effectiveness.

In terms of mandate and objectives of insurance authorities, there are a number of common themes, but this could become blurred when, for example, the insurance authority is part of an institution tasked with the regulation/ supervision of wider/other financial sectors. In addition, objectives may not be prioritised, and appear conflicting in some cases. Related to this, the approach to macroprudential supervision and market conduct is diverse and affected by whether the insurance authority is part of a wider financial authority.

1. Introduction

The size and complexity of the insurance market affects the manner in which international standards and recommendations are implemented in each country. Institutional structures are often path dependent, with reliance on existing institutions. Another important aspect is how the level of development of a market is taken into account when implementing standards. Regional integration, such as in the EU, and bilateral/regional trade agreements, also affect the manner in which regulations and supervision are undertaken at the national level and could have an impact on institutional structures.

This report is based on responses to a questionnaire circulated to OECD and non-OECD countries, with co-operation from the IAIS. Responses were received from 28 OECD countries and 22 non-OECD countries.[1] The number and diversity of responses mean that the report examines a wide range of insurance markets in terms of both development and size.

Box 1. OECD's Insurance and Private Pensions Committee and the genesis of this report

The OECD's Insurance and Private Pensions Committee (IPPC), which was established in 1961 as the OECD Insurance Committee, has engaged government officials in discussions of insurance policy and regulation, as well as the development of recommendations and best practices. Its sub-body, the Working Party on Private Pensions (WPPP) was established in 1998, and in acknowledgement of the growing importance of the work of the WPPP, the Committee changed its name to the Insurance and Private Pensions Committee in 2004 at the time of the mandate renewal of the Committee.

Over the years, the Committee has engaged in surveillance activities of the insurance market through the holding of roundtables on various issues, which in some cases has led to the development of specific projects. In this vein, the Committee agreed to hold a roundtable on the institutional structure of insurance regulation and supervision in December 2017 on the occasion of the 100th meeting of the Insurance and Private Pensions Committee.

The Committee and its Working Party of Governmental Experts on Insurance have been engaged in the review of insurance systems for a number of years, primarily through the accession reviews of candidate countries that have applied to join the OECD. The reviews focus on market, regulatory and market access issues, but given the nature of the Committee, many recommendations to countries acceding relate to the institutional structure and arrangements for insurance regulation and supervision. The insights gained through this process have also given rise to more general and broader questions on how countries organise their insurance regulation and supervision. It has provided an opportunity for delegates of the IPPC to reflect upon current international standards and recommendations on this issue, on how countries are arranging their regulatory and supervisory structure and the rationale for different approaches.

Given the comprehensiveness of responses, this report focusses on some of the more salient observations of responses. To support discussion, the report examines conceptual and practical issues beyond the Insurance Core Principles (ICPs) as well as practices in other financial sectors.

An important observation that can be made from responses is that while independence and accountability have a variety of dimensions, they tend to be interpreted one-dimensionally by countries. As a result, implementation of international standards on these aspects is varied and may require further examination to understand how they are being implemented, and understand any best practices.

Another consideration is the role of political engagement in the process of developing and informing insurance regulation. The approach taken by many insurance authorities is to engage through reporting to the legislature or having the official public auditor carry out an audit, which could be administrative/managerial or financial in nature.

There is divergence on the institutional structure employed by insurance regulators and supervisors, which can vary from a single/unified authority to an insurance-specific authority. How responsibility of regulation and supervision is shared also varies. Generally, prudential supervision and market conduct are being identified as necessary areas of regulation and supervision, but it is not clear whether these functions are being separated within an institution or not.

Objectives influence how insurance regulators and supervisors carry out their duties, and in the absence of clear prioritisation of objectives, potential conflicts of interest could be realised, resulting in sub-optimal outcomes. A better understanding of how objectives are prioritised and how potential conflicts are dealt with could better inform how insurance authorities will act in certain circumstances.

2. Insurance regulation and supervision

Broadly defined, regulation is an imposition of rules by government, be it the legislative or executive branch, backed by the use of penalties that are intended specifically to modify the economic behaviour of individuals and firms in the private sector (OECD, 1993). Generally, rationales for economic regulation have been to curb potential market power and increase efficiency, or avoid duplication of facilities in cases of natural monopoly. Another objective has commonly been to protect consumers and maintain quality and other standards, including ethical standards, in the case of professional services provided by doctors, lawyers, etc.

For the (wider) financial sector, the main rationales for financial regulation are to (i) avoid the danger of monopolistic exploitation; (ii) promote systemic and financial stability; and (iii) provide protection for smaller, less informed clients (Goodhart ed., 1998).[2] Financial stability is considered a public good and the basis for why financial regulation is usually more burdensome than other regulated sectors (Crockett, 1997). Also, since the financial crises in 2007, the Financial Stability Board (FSB) has recommended a number of regulatory reforms, which has led to more regulations being introduced, including in the insurance market[3].

To consider this in the context of the insurance sector, the rationale for insurance regulation is, generally speaking, to ensure that the interests of policyholders is protected, the stability and robustness of the insurance market are promoted, and inappropriate behaviour by (re)insurers and affiliated service providers is avoided.

An insurance regulator is any authority that initiates and develops legislation and/or non-legislative regulation (*i.e.* rule making) to address these rationales in the insurance sector context, in consultation with the supervisor and other stakeholders. This may also include identifying the direction and priorities of the insurance sector. While legislation must be formally adopted by the legislative or executive branch of government, an insurance regulator(s) would usually be closely involved in the development of the policy and legislation most probably be drafting the bill or proposal. These could be identified as the policy-oriented insurance regulator.

An insurance regulator will also have powers to issue non-legislative regulation that supports legislation as well as non-binding texts such as guidelines, memorandums, recommendations etc., issued by the regulator with enforceability not usually required, but expected in the insurance market. This insurance regulator is most often distinct from the policy-oriented insurance regulator, and could be identified as the descriptive insurance regulator.

The policy oriented and descriptive insurance regulators are not necessarily mutually exclusive, and the descriptive regulator would usually be involved in the work of the policy-oriented regulator.

Supervision in the financial sector aims to ensure: (i) the stability of the financial system; (ii) the efficient functioning of financial markets; and (iii) that consumers are protected against bankruptcies or unacceptable conduct on the part of financial institutions (Government of Netherlands, n.d.). To achieve this, financial supervision is carried out by monitoring the behaviour of financial institutions, including compliance with rules and regulations (MAS, 2015).

In the insurance sector, the insurance supervision is carried out through on-site and off-site supervision of (re)insurers that operate in its market to verify compliance with the requirements for engaging in financial activities and by issuing administrative measures and enforcement actions based on relevant legislation and non-legislative regulation.[4]

In practice, however, the dividing lines between descriptive regulatory and supervisory functions are not always clear, with some authorities involved in both types of activity.

Some forms of regulation are not mandated or imposed by government, as some professions or industry groups adopt self-regulation, *i.e.*, develop and self-enforce rules commonly arrived at for the mutual benefit of members. Self-regulation may be adopted in order to maintain professional reputation, education and ethical standards. They may also act as a vehicle to set prices, restrict entry and ban certain practices (e.g., bans on advertising in order to restrict competition). While self-regulation is used in some financial sectors, in particular the securities market, there has been some caution against its use given that it may be too much of a light-touch for regulatory purposes.[5]

Along this vein, insurance regulation is primarily carried out to protect policyholders/consumers, ensure the solvency/stability of insurers and the insurance sector, and avoid excessive competition (Webb et al, 2002). However, while these are the primary objectives of insurance regulation and supervision, a number of countries have developed additional objectives depending on the needs of their insurance market and national economy. While the overriding purpose of insurance regulation is clearly to serve a wider public interest and ensure that insurance operations are carried out on a sound basis, there is possible tension between the different objectives of insurance regulation such as between policyholder protection and development of the insurance market.

In addition, licensing/authorisations, sanctions, and management of problematic situations are also part of supervision (Bank of Italy, n.d.).

While the role of a supervisor is important, how a supervisor and the accompanying system is governed/designed is as important for a stable and effective financial system and this is evident in the international standards of insurance and banking which emphasise governance matters in the principles.[6]

On the other hand, the International Organization of Securities Commission (IOSCO) has a strong focus on regulation (IOSCO, 2017), and in the private pensions realm, the Committee's Working Party on Private Pension is the international leader in private pensions regulation and the International Organisation of Pension Supervisors is the international supervisory standard-setter.

As mentioned above, differentiating the use of regulation and supervision is not always done consciously or clearly, and are often used interchangeably in discussions of financial sectors, simplifying the differences between the two. Nevertheless, countries do differentiate and have structures that separate the functions of the two, especially countries which require the separation of powers in government.

There are two additional structural divergences that some countries are applying. First is the distinction between prudential supervision and market conduct regulation and supervision, which has led to implementation of the twin peak model in some jurisdictions.

Second, a number of countries have established an integrated supervisor by merging the supervision of all financial sectors, including insurance, banking and securities sectors, in one entity.

One of the main developments of insurance authorities in terms of regulation in recent years has been the adoption of risk-based supervision and then the transition towards risk-based or economic value capital. Both of these developments require regulator/supervisor to review regulation and processes taken, and build the capacity of both regulatory and supervisory staff.

To be an effective and efficient insurance regulator and supervisor the most important implicit requirement is to have legitimacy and credibility, which leads to confidence in the activities and decisions that they make. Such legitimacy and credibility would promote confidence in the financial system and institutions. This is why establishing a structure that enables the objectives and functions to be clear and appropriately delivered, and can take action when necessary, in proportion to the weakness of the insurer/system, is critical. The insurance regulation and supervisor having integrity and transparency in their actions is a prerequisite for this.

3. Independence and accountability

There are a variety of questions which arise in relation to the independence and accountability of insurance regulators and supervisors. The need for independence and accountability are clear from the ICPs, but the level of implementation of the various criteria of independence is not. There is wide variation as to which aspect of independence is most important, as is the understanding of regulators/supervisors as to what they view as being independence.

There could be merit in taking a closer look at how each component of independence is being carried out or even one of the aspects of independence besides budgetary independence, which is covered in this section, and institutional independence, which is covered in the next section.

Accountability appears to be a better developed area with most countries having key components being incorporated into their processes. The key issue may be whether political considerations need to be taken into account as well. Parliamentary engagement is an effective way to carry this out, and many report to doing so. However, there is a question of whether prevention of political interference in terms of independence is an absolute compromise, or whether for insurance regulation and supervision there are different considerations relative to central bank independence, for example. The sharing of experience on this aspect of accountability by independent regulators and supervisors could support better understanding on how independent insurance regulators and supervisors could better address political interaction.

The discussion of the independence and accountability of financial regulators and supervisors developed from discussions on whether a central bank performs price stability better if independent from government intervention both legally (statutory) as well as operationally in the 1980s.[7] This was then extended to the role of bank supervision in the central bank (Goodhart & Schoenmaker, 1995), which then led to the discussion of whether banking regulation and supervision ought to be independent from the government and industry as well (Quintyn & Taylor, 2002).

Such discussions led the Basel Committee of Banking Supervision to incorporate the notion of independence of bank supervisors in its Principle 2.[8] The Basel Committee's Core Principles for Banking Supervision, which was first issued in 1997, includes the need for independence and adequate resources in its 1997 version as a precondition for effective banking supervision, which is then expanded as a full Principle 1 in its 2006 version.

The IAIS' Insurance Core Principles (ICPs), which were also first issued in 1997, did not include principles or guidance on independence and accountability until 2003 when the ICPs were expanded. ICPs 1 to 3 were included in the 2011 update to the ICPs which was a result of a comprehensive revision of the ICPs, and taking into account lessons learned from the global financial crisis.

Given that there is very limited literature on independence in the insurance sector, discussion has often drawn from that in the banking sector.

The discussion on the independence of central banks has focussed on how central banks should ensure that they are accountable for their actions given that they are not led by an elected official, and central banks should better explain the basis of monetary policy decisions. This is also the way in which central banks, or any public institution for that matter, can defend their decisions, especially when dealing with economically powerful entities.

While the condition in which policy is carried out differs between central banks and financial regulation, there are a number of commonalities which have led to independence and accountability becoming part of the ICPs.

Revised ICPs were released in November 2017 for information, which include ICPs 1-3, although they will only be adopted in 2019 with implementation not being expected until then.

3.1. What is independence of insurance regulation and supervision[9]

The case for the independence of financial regulation and supervision was more systematically brought together in Quintyn and Taylor (2002) which proposed a governance framework consisting of four elements (independence, accountability, transparency and integrity). The East Asian crisis of 1997-1998 demonstrated that strong political interference in the regulatory and supervisory process postponed recognition of the severity of the crisis, delayed action and deepened the crisis (Lindgren et al, 1999).[10] It should be noted that regulation and supervision are mostly used interchangeably in literature discussing independence.

However, if regulation includes not only non-legislative regulation, but also legislation, the concept of independence cannot apply in the same manner to regulation as it does to supervision, as legislations cannot be independent from the *res publica* which would be the outcome of political discourse.

The discussion on independence of regulation and supervision has two dimensions: independence from political interference and freedom from regulatory capture. Regulatory capture occurs when industry interests are identified as public interest, as bureaucracies tend to respond to the wishes of the best organised interest groups rather than to political directives or public interest (Stigler, 1971). Regulatory capture can be a concern for independent agencies which are not politically controlled, and are therefore subject to the risk of being captured by other groups. Being protected against both political interference and regulatory capture is essential for non-legislative regulation, although both could affect financial stability.

Independent insurance supervisors can have powers, such as the possibility of revoking a license, that could be more powerful than that of an independent central bank. Thus, independence of an insurance supervisor and a regulator, where applicable, should be accompanied by full accountability arrangements to prevent the abuse of power, and the need for highly qualified and well-paid supervisors.

There are said to be four pillars of regulatory and supervisory independence: (i) regulatory independence where there is a high degree of autonomy in setting prudential regulations; (ii) supervisory independence which is legal protection of supervisors when executing their job and rules-based system of sanctions and interventions etc.; (iii) institutional independence where the status of the agency is separate from the executive and legislative branches of the government; and (iv) budgetary independence where the size of the budget and its use can be decided by the agency (Quintyn & Taylor, 2002). Regulatory and supervisory independence are considered to be core for independence, while institutional and budgetary independence underpin and support the core independence. Institutional independence is discussed in section *4.1 Institutions responsible for insurance regulation and supervision*. Regulatory independence is discussed in section *4.2 Legislative initiative and non-legislative instruments*.

It is worthwhile to reflect on the IAIS' ICP which deals with independence and accountability. *ICP 2 Supervisor* requires that the "supervisor is operationally independent, accountable and transparent…has adequate resources to discharge its responsibilities." ICP 2 provides guidance on supervisory independence (standard 2.1 and 2.2), institutional independence (standard 2.1), and budgetary independence (standard 2.1 and 2.10). Supervisory independence is also covered in *ICP 1 Objectives, Powers and Responsibilities of the Supervisor*. Standard 1.2 requires that "Primary legislation clearly defines the objectives of insurance supervision […] and gives the supervisor adequate powers to conduct insurance supervision".

One of the issues arising from using regulation and supervision interchangeably in the financial sector is that regulation and supervision is not necessarily carried out by the same institution, and further, insurance regulation is not limited to non-legislative regulation, as discussed above. Thus, different considerations may be necessary when considering the independence of insurance regulation and supervision.

This issue is clearer in terms of regulation, where legislation, which is a significant part of the regulatory framework, is decided by elected officials. Further, while not being beholden to politics, in a democratic system, interaction between the legislature and the autonomous institutions is required.

Accountability will fulfil the need to clarify the background and rationale of actions and decisions of insurance regulators and supervisors. But this would more likely be in an *ex post* manner, and not *ex ante.*

Some countries address this by having insurance regulator/supervisor report to parliament or participate in hearings. Others impose some oversight of the independent regulator/supervisor by a government agency, which is by default led by an elected or appointed official.

3.2. What is accountability of insurance regulation and supervision

Accountability is the flip side of independence. Concerns for independence arise when there is a delegation of power without an elected official responsible for their activities and decisions, the independent authority may take decisions and place priorities that are advantageous for its institution and not the wider public utility. While an independent agency can impose self-censorship by being informed of political intentions and wishes, this would be an informal arrangement, and formal accountability is considered more optimal to ensure institutional responsibility for its actions and decisions.

While accountability can be buttressed by the courts having a role in reviewing rule-making of the agency, this is not considered sufficient to address political accountability. Accountability is considered to fulfil four functions: provide public oversight, maintain and enhance legitimacy, enhance integrity of public sector governance, and improve agency performance (Quintyn, 2008).

Accountability can be enhanced by transparency where the agency's objectives, frameworks, decisions and their rationale, data and other information are provided to stakeholders in a comprehensive, accessible and timely manner (IMF, 2000).

Integrity refers to the set of mechanisms that ensure that staff of agencies can pursue institutional goals without compromising them due to their own behaviour or self-interest. This involves procedures for appointment of heads, their terms of office and criteria for removal. In addition, the integrity of the agency's day-to-day operation is safeguarded by internal audit arrangements and standards for conduct of personal affairs of officials and staff to prevent conflicts of interest.

With this in mind, the practical elements of accountability can be classified into nine areas (Quintyn & Taylor, 2002):

- clear legal basis of its powers and functions, preferably set out in statute;
- clear objectives that describe its basic purposes;
- the relationship of the agency with the executive branch is clearly defined;
- officials of the agency must have security of tenure and laws that stipulate who can appoint and dismiss senior official and under what conditions;
- while rules-based procedures are preferable to discretionary ones, there should be scope for the independence of the agency to be overridden (e.g., in a crisis situation) but triggers need to be defined;
- the procedures by which the agency can be held accountable to the parliament from which it has been delegated authority needs to be defined;
- the agency should be subject to judicial review with respect to the manner in which it exercises its power and an appeal mechanism that is clearly specified and defined would assist this process;
- an open decision-making procedure for transparency purpose; and
- the agency should be held accountable for the way it manages its finances.

IAIS' ICP 2 deals with independence and accountability. There are standards on effective internal governance structures (ICP 2.4), publication of information by the supervisor (ICP 2.8 and 2.9) and appeals process against supervisory decisions (ICP 2.6).

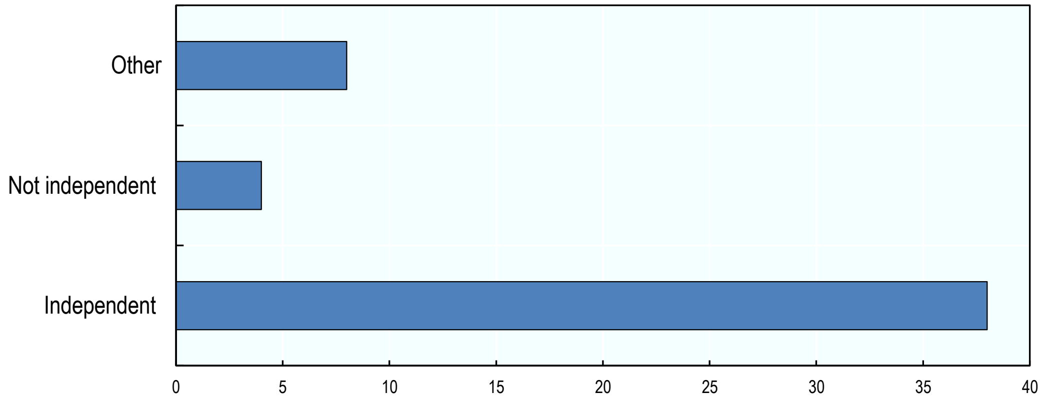
It is unclear whether the extent of accountability described here is sufficient to ensure that non-legislative insurance regulation and supervision meet the standards of a democratic political system. Financial sector regulation and supervision can be an essentially technical process, but it does deal with financial institutions which have the financial and political clout which could influence decisions. In this respect, financial regulators/supervisors would benefit from being able to make decisions without being unnecessarily exposed to the political process. The legislative process that establishes the framework and laws that dictate the functioning of insurance regulation and supervision could be sufficient, but a deeper dive into the outcome of regulation and supervision could be necessary.

3.3. Independence of insurance regulation and supervision

The outcome of responses to questions related to independence elicited interesting and insightful comments. Most respondents (38 of 50) indicated insurance regulation and supervision to be independent, while four responded (Brazil, Mexico, Spain, Uruguay) not to be independent.

Six responded as "Other", indicating its institutional structure to be under a ministry (Argentina, Belize, Bolivia, Poland, Sri Lanka), or its budget being determined by the government or other entities (Chile, Costa Rica, Panama).

Figure 3.1. Independence of insurance regulation and supervision



When examining the components of independence, a more nuanced approach to independence emerges. These generally reflect the four pillars of independence as described in section *3.1 What is independence of insurance regulation and supervision*. Institutional independence is discussed in section *4.1 Institutions responsible for insurance regulation and supervision*. Regulatory independence is discussed in section *4.2 Legislative initiative and non-legislative instruments*.

3.3.1. Which independence

When the institution carrying out insurance regulation and supervision is separated from the government and executive branch, and is operationally independent, respondents tend to consider insurance regulation and supervision as independent. Most respondents tend to not consider the plethora of independence, but focus on either the budgetary or institutional since even when they express some limitations to their independence, they have identified themselves to be independent.

For example, in Germany, while BaFin is operationally independent, the German constitution requires that the decisions by the executive branch must not be taken by bodies outside of parliamentary control. Thus, the control of BaFin is guaranteed via the legal and supervisory control of the Ministry of Finance which is in turn controlled by the German parliament.

Mexico's last FSAP assessed that greater autonomy of the Insurance and Surety National Commission (CNSF) for political, budgetary and operational autonomy was deemed necessary to achieve consistency with the requirements of the relevant ICPs.

Spain's Directorate General for Insurance and Pension Funds (DGSFP) is part of the Ministry of Economy, Industry and Competitiveness (MEC). There has been discussion on enhancing operational independence by establishing an authority for insurance and pension fund supervision, and a different authority to protect savers, investors and users of financial services including insurance.

3.3.2. Funding of insurance regulation and supervision

Budgetary independence, where the size of the budget and its use can be decided by the agency, is an important component of independence, and one that is well recognised by insurance regulators and supervisors as indicated in their responses.

Many countries collect fees from supervised insurance entities to fund insurance regulation and supervision, although this is more pronounced for insurance supervision. 27 of 50 collect fees from supervised entities to fund insurance supervision, whereas insurance regulation is funded by the insurance sector for 19. Many of the insurance regulators that are funded by the industry can be attributed to the regulator and supervisor being the same institution (Argentina, Belgium, Canada, Egypt, Hong Kong China, Israel, Italy, Latvia, Luxembourg, Nicaragua, Panama, Peru, the Philippines, Portugal, Romania, South Africa, Sri Lanka, Tunisia, United Kingdom). This precludes respondents that have multiple institutions involved in insurance regulation.

In some countries, the fees collected are not limited to the insurance sector but can encompass other financial sectors, including pensions and securities (Albania). There are also situations in which apart from the fees collected, the financial regulator/supervisor or central bank provides funding (regulation and supervision for Nicaragua, supervision for Korea and regulation and supervision for Suriname).

Even when non-legislative insurance regulation and supervision is carried out by the same institution, there could be variations in the source of financing. For example, while Bolivia collects fees from the industry, it also gets a budget allocation for insurance regulation and supervision. Japan's Financial Services Agency is responsible for both insurance regulation and supervision but is funded through a budget allocation for both. Hong Kong China received a grant of HK$450 million for establishing the Insurance Authority this year, although its running costs going forward will be sourced from fees collected.

In France, the regulatory function is performed by the Ministry of the Economy and Finance and the supervisory function performed by the Prudential Supervisory and Resolution Authority (Autorité de contrôle prudentiel et de resolution, ACPR), which is an independent authority. The budget of ACPR is financed by the general State budget through a tax on supervised insurance and banking companies, to cover the expenses of their supervision. .

Table 3.1. Funding of insurance regulation and supervision

	Fees from the insurance sector	Fees from the insurance sector and budget allocation from the general budget	Budget allocation from the general fiscal budget	Another financial authority	Insurance sector and another financial authority	Insurance sector and other sectors
REGULATION	Argentina, Hungary, Philippines, Belgium, Italy, Portugal, Canada, Latvia, Romania, Egypt, Luxembourg, South Africa, Greece, Montenegro, Sri Lanka, Hong Kong China, Peru, United Kingdom	Bolivia, Sweden, Brazil, Tunisia, Finland, United States, Iceland, Uruguay, Panama, Vanuatu, Poland	Austria, Estonia, Mexico, Belize, France, Russia, Chile, Germany, Spain, Colombia, Israel, Switzerland, Czech Republic, Japan, Denmark, Korea	Costa Rica, Suriname	Nicaragua	Albania
SUPERVISION	Argentina, France, Latvia, Romania, Belgium, Germany, Lithuania, South Africa, Canada, Greece, Luxembourg, Sri Lanka, Colombia, Hong Kong China, Montenegro, Switzerland, Denmark, Hungary, Peru, United Kingdom, Egypt, Iceland, Philippines, Estonia, Italy, Portugal	Austria, Sweden, Bolivia, Tunisia, Brazil, United States, Mexico, Uruguay, Panama, Vanuatu, Poland	Belize, Chile, Israel, Japan, Spain	Costa Rica, Czech Republic, Suriname	Korea, Nicaragua	Albania, Finland

A number of respondents that collect fees from the insurance sector, also have a budget allocation from the general budget. Ten have contributions from the industry and budget allocation for both insurance regulation and supervision (Bolivia, Brazil, Hong Kong China (although this will be a one off allocation), Panama, Poland, Sweden, Tunisia, US, Uruguay, Vanuatu), while Austria and Mexico have contributions from both for insurance supervision, while Iceland has contribution from both for insurance regulation.

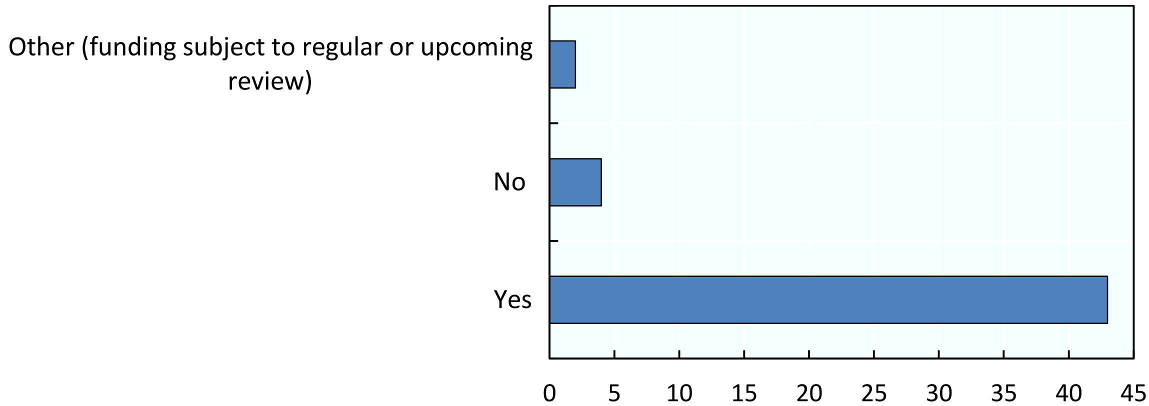
In Costa Rica, both insurance regulation and supervision is financed by the central bank, while Czech Republic finances insurance regulation through another financial authority.

On the one hand, 18 finance insurance regulation through a budget allocation from the general fiscal budget (Austria, Belize, Chile, Colombia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Israel, Japan, Korea, Mexico, Panama, Russia, Spain, Switzerland). On the other hand, five use a budget allocation to finance insurance supervision (Belize, Chile, Israel, Japan, Spain).

As indicated in the FSAP Handbook (IMF, 2005), the lack of independence from the ministry of finance is an issue that mars countries, and in particular developing countries, although this is not necessarily reflected in the responses to this questionnaire.

There are additional items which contribute to the funding of insurance regulation and supervision, including penalties and levies (for regulation: Colombia and United States, for supervision: Colombia, Peru and US), fees from securities issuance (for regulation: US, for supervision: Korea, US), and own revenues (US, for supervision: Russia, US).

Figure 3.2. Sufficiency of funding for insurance regulation and supervision



Most have found their funding to be adequate, which reflects the level of discussion that takes place to ascertain the necessary budget for regulation and supervision, whether this is by a budget allocation or through a supervisory fees.

However, some have indicated that the budget for insurance regulation and supervision could be subjected to budget cuts of the government (Brazil, Mexico). There is also the issue of when fees are being collected from the industry, if the market is small, there is limit as to how much fees can be realistically collected (Vanuatu). Panama indicated that funding could be more effective if it comes directly to the supervisor.

In Hong Kong China's case, the fee that the insurance regulator/supervisor collects from the industry is determined by the legislature.

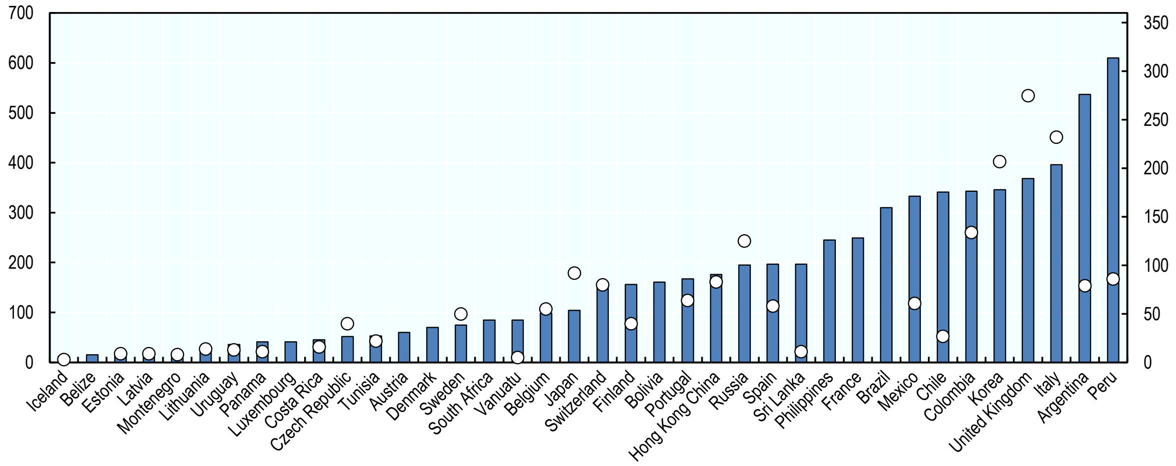
The variation in funding could be due to the variation in the size of the insurance market in some markets, which may make collecting fees more difficult or be compromised as a result of having too few insurers in the market.

3.3.3. Staffing levels for insurance supervision and regulation

Supervisory independence exists when supervisors are legally protected when executing their job and there is a rules-based system of sanctions and interventions, as well as having appropriate salary levels for supervisors and having clear career streams (Quintyn & Taylor, 2002).

The staffing level is relevant to ensure that the regulation and supervision has sufficient resources to undertake the work that they are mandated to carry out. The level of staffing will also be affected by whether the regulator/supervisor also carries out responsibilities for other financial sectors. Countries which have insurance regulator/supervisors with multiple sectors tend to have higher staffing levels (e.g., Canada, Peru, UK, Korea, Chile).

Figure 3.3. Staffing level for insurance supervision (white dot and right hand scale) and insurance regulation and supervision (left hand scale)(2016)



Note: Allocation of support service staff (IT, legal, etc), that may be shared with other supervisors or with the central bank, to supervision or to the insurance authority, is not consistent by all participating countries. Hungary and US are not included, given the high level of staffing.

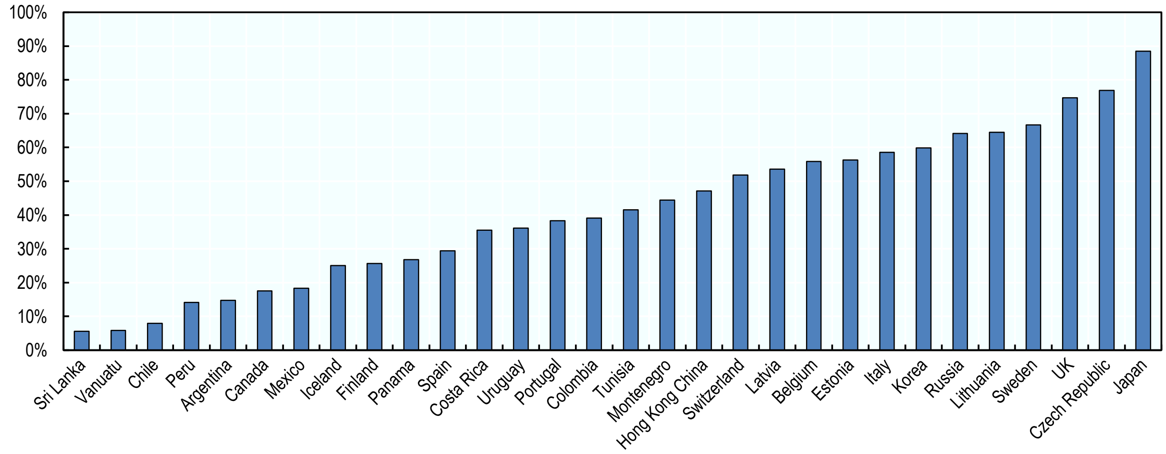
The United States, given its federal structure, has 11 314 officials involved in insurance regulation and supervision.

It should be noted that there is some inconsistency in data, as support and administrative services such as IT, legal, accounting may be shared with other financial sectors or not reported. Also, the size and number of insurance entities in the insurance market will affect the number of staff needed.

Insurance supervision, with its on-site and off-site monitoring, can be resource heavy in some countries, although there is a wide variation between countries in how much resources are allocated to supervision.

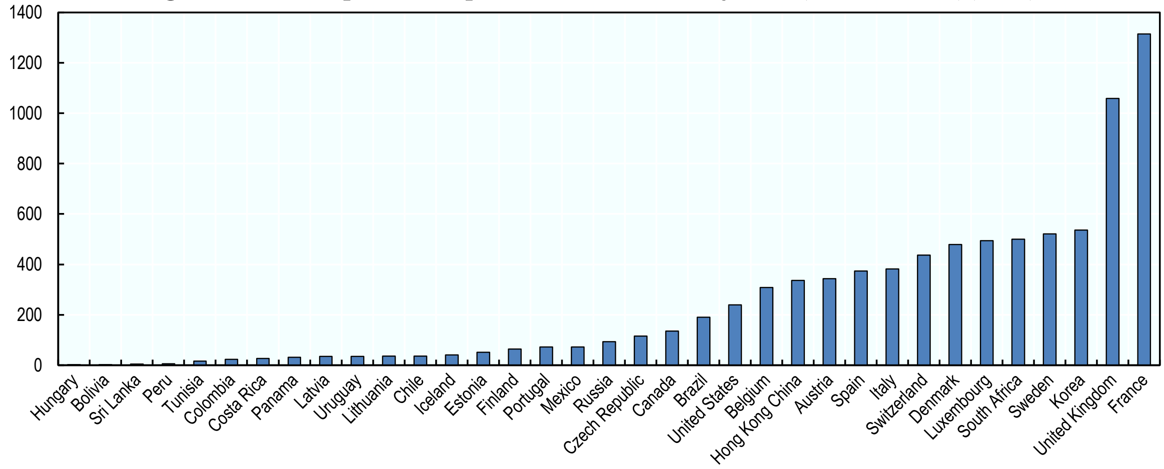
To try and get a better idea of the level of staff, this was compared to gross premiums as the denominator so to see the level of gross premiums per insurance authority staff (see Figure 3.5. Gross premiums per insurance authority staff (USD millions)(2016)). Japan was the outlier at USD3,917 million gross premiums per insurance authority staff, far higher than the next entry of France, which had USD1,315 million gross premiums per staff, and the United Kingdom at USD1,058 million gross premiums per staff. EU countries may benefit from EIOPA developing guidelines and regulation as the basis for a large portion of insurance regulation and supervision being implemented.

Figure 3.4. Staff involved in insurance supervision relative to total insurance authority (%)(2016)



Note: Allocation of support service staff (IT, legal, accounting etc.), that may be shared with other supervisors or with the central bank, to supervision or to the insurance authority, is not consistent by all participating countries which is not taken into account for insurance supervision, while included in total insurance authority. This breakdown is only made for countries that have identified supervisory staffing levels in their response.

Figure 3.5. Gross premiums per insurance authority staff (USD millions)(2016)



Note: Allocation of support service staff (IT, legal, accounting etc.), that may be shared with other supervisors or with the central bank, to supervision or to the insurance authority, is not consistent by all participating countries.

Only where the country takes part in the OECD Global Insurance Statistics exercise and gross premium data was available was the country included in this diagram. Canada, Sri Lanka and Uruguay based on gross premium data as of 2015, Panama based on gross premium data as of 2013.

While noting that the staffing level may be biased by support staff and staff that are also involved in activities of other financial sectors, many countries have staffing levels around USD500 million to USD200 million gross premiums per staff.

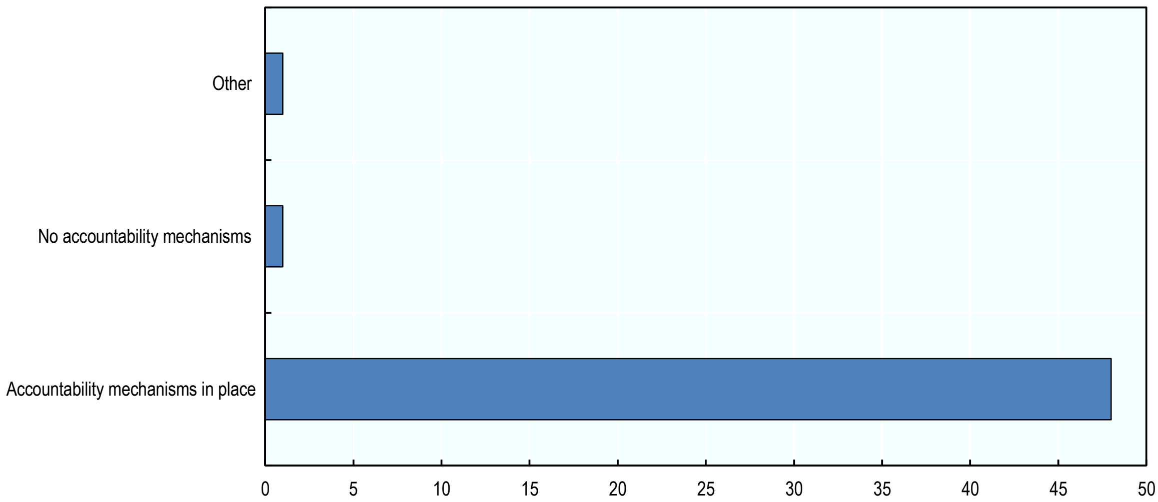
Determining whether the number of staff indicate any correlation to adequate salary levels may be difficult, and the level of scrutiny required towards larger and complex institutions may need to be carefully weighed with the staffing levels.

One of the limitations that come from a financial regulator/supervisor being part of a ministry or being a government agency is that salary levels have to adhere to the general civil servant scale. This may not enable insurance regulators to attract those with the appropriate skills and knowledge necessary to regulate and supervise the insurance market sufficiently.

3.4. Accountability of insurance regulation and supervision

Most countries have accountability mechanisms in place (48 of 50), although Argentina does not. As a public authority, the expectation that the insurance regulator and supervisor explain its actions is clear and reflected in the high level of authorities that are required to account for their actions. Denmark responded as "Other", as the financial authority is overseen by the national audit office.

Figure 3.6. Applicability of accountability measures for insurance regulation and supervision



Many authorities are required to report to Parliament as part of their delegated authority (Albania, Belgium, Bolivia, Colombia Ministry of Finance and Public Credit, Costa Rica, Czech Republic, Estonia Ministry of Finance, Finland, German Ministry of Finance, Greece, Hong Kong China, Hungary, Israel, Italy, Korea, Lithuania, Luxembourg, Montenegro, Nicaragua, Panama, Romania, Central Bank of Russia, Sri Lanka, Swiss FINMA) which usually entails the submission and publication of an annual report of its activities, its financial position, regulations and decisions made, and international cooperation. Some submit to both the Parliament and the Ministry in charge (Austria, Latvia, Portugal, Russia, UK Prudential Regulation Authority, Uruguay). The South Africa Registrar of Insurance is accountable to the Minister of Finance. In Sweden, an annual report is made to the government. The Reserve Bank of Vanuatu reports to the Minister of Finance annually.

The President of the Belgian FSMA is part of an annual hearing in the Belgian Parliament. The Italian IVASS president and board members make speeches and participate in hearings to describe the objectives and needs of IVASS. The Korean FSS/FSC is subject to an oversight hearing by the National Assembly, as is the Central Bank of Russia to a State Duma hearing. In the United Kingdom, insurance regulators/supervisors are (i) required to make appearances before relevant Parliamentary Select Committees; (ii) subject to internal evaluations through the Independent Evaluation Office; (iii) accountable to and /overseen by the Bank of England 'Court'; (iv) accountable through the judiciary by the High Court of England and Wales; and (v) accountable to Her Majesty's Treasury.

A number of countries have responded on the auditing of insurance regulators and supervisors as part of the accountability mechanism. If the audit is carried out by the national agency, auditing may either be financial in nature or examine the administration and management of the authority, although the responses did not always differentiate between these.

In Canada, the OSFI is subject to the oversight of the Auditor General of Canada. In Costa Rica, the supervisor annually reports to the General Comptroller’s Office. In Denmark, the Danish FSA reports to the National Audit Office. The Japanese FSA is subject to audits by the government Board of Audit of Japan, as well as being subject to information disclosure requests. The Korean FSC/FSS is subject to audit by the government Board of Audit and Inspection. In Luxembourg, the annual accounts require approval by the government. In Mexico, CNSF and the SHCP are subject to external audits performed by Congress through the Auditoría Superior de la Federación (the Federal Auditor). The Russian Audit Chamber of the Russian Federation audits the Central Bank. The Insurance Board of Sri Lanka is audited by the Department of Government Audit as an external auditor, and the Internal Audit Department, Ministry of Finance & Mass Media as an internal auditor. The National Audit Office carries out an audit of the Swedish Finansinspektionen.

The Latvian Financial and Capital Markets Commission must submit full accounts audited by a sworn auditor.

Besides reporting to parliament on an annual basis, insurance authorities often publish their annual report and related update publicly as well (Austria, National Bank of Belgium, Belize, Bolivia, Brazil, Chile, Colombian Financial Superintendent, Egypt, Finland, France, Germany, Hong Kong China, Israel, Italy, Japan, Mexico, Peru, Poland, Portugal, Russia Ministry of Finance, Spain, Sweden, Tunisia, Uruguay, Vanuatu). The Latvian FCMC, Romanian Financial Supervisory Authority and Reserve Bank of Vanuatu must report their accounts in the official journal annually.

Financial regulation in Switzerland by the Federal Council (the head of the executive branch) needs a legal basis and is directly accountable to elected officials.

A number of Latin American countries have designated their insurance regulator/supervisor to be accountable to citizens as well (Bolivia, Colombia). Italy’s IVASS are also accountable to citizens. However, how this accountability is achieved requires clarification.

Table 3.2. Examples of reports/information prepared annually for accountability of insurance regulation and supervision

	Report of its activities	Fiscal and/or financial statement	Budget plan for next year	Strategic direction for next year	Regulations / decisions taken	Inspection and outlook	Public information notice/international cooperation	Staffing	Report to Parliament	Report/oversight to/by ministry	Hearing held	Audit by government auditor
Albania	X	X	X		X	X	X	X				
Austria	X								X	X		
Belgium	X					X			X		X	
Belize	X	X	X									X
Bolivia	X	X									X	X
Brazil	X		X	X			X					
Canada	X			X								X
Chile	X	X	X	X		X		X				
Colombia	X	X		X	X			X	X			
Costa Rica	X								X			X
Czech Rep.	X					X			X			
Denmark	X											X
Egypt	X					X						
Estonia	X			X						X		
Finland	X	X	X	X	X	X	X	X	X			
France	X											
Germany	X	X	X					X		X		X
Greece	X					X			X			
HK China	X	X	X	X	X	X	X	X	X	X		X
Hungary									X			
Israel	X									X		
Italy	X	X							X	X		X (external auditor)
Japan	X			X								X
Korea	X								X		X	X
Latvia		X							X	X		X (sworn auditor)
Lithuania	X								X	X	X	X

	Report of its activities	Fiscal and/or financial statement	Budget plan for next year	Strategic direction for next year	Regulations / decisions taken	Inspection and outlook	Public information notice/international cooperation	Staffing	Report to Parliament	Report/oversight to/by ministry	Hearing held	Audit by government auditor
Mexico	X	X	X									X
Montenegro									X			
Nicaragua									x			
Panama	X	X	X	X			X	X	XX	X		X
Peru	X	X		X	X	X		X				
Philippines												X
Poland	X								X			X
Portugal	X	X	X					X	X	X	X	
Romania	X	X							X			
Russia	X			X					X	X	X	X
S. Africa	X								X	X		
Spain	X				X	X	X					
Sri Lanka	X								X	X		X
Suriname	X	X		X		X						
Sweden	X	X								X		X
Switzerland	X	X	X	X	X		X	X	X	X	X	X (Financial)
Tunisia	X			X								X
UK	X								X	X	X	
US	X			X					X (FRB)			X (FRB)
Uruguay	X								X (RBV)	X (RBV)		
Vanuatu	X	X								X		

Note: Given that countries were not asked to respond to specific items for accountability, this table is not comprehensive as it is based on input provided in responses, which was likely not exhaustive.

4. Institutional structure of insurance regulation and supervision

Beyond many countries having a single supervisor, there is not a clear pattern that emerges in terms of which financial sector(s) is placed in the same institution with the insurance supervisor.

While the functionality of prudential regulation and conduct regulation are more often than not carried out in one regulation, there is an increasing trend to examine whether a separate institution is necessary for prudential regulation and market conduct. The United Kingdom established the Prudential Regulation Authority and Financial Conduct Authority in 2013, and South Africa has passed legislation in August 2017 to establish the Prudential Authority within the South African Reserve Bank and a new conduct authority, the Financial Sector Conduct Authority which will be formed from the existing Financial Services Board.

Even when a specialised financial supervisor exists, this institution could be structured as a governmental agency, such as in Mexico or Japan. This is further discussed in section 3. Independence and accountability.

Countries that have a federal structure tend to have insurance regulation and supervision carried out at the federal level (Argentina, Austria, Belgium, Brazil, Russia, Switzerland). In Canada, while oversight of banks and federally incorporated insurers is carried out at the federal level, market conduct is the purview of provincial insurance regulators as well as provincially incorporated insurers. Germany divides insurance supervision between the federal government and federal states. The federal government is responsible for private insurers operating in Germany which are of material economic and financial significance and public insurers openly competing and operating across international borders. Federal states are responsible for public insurers whose activities are restricted to that particular federal state and private insurers with less economic and financial significance.

In the United States, each state, district and territory has an executive branch department or division dedicated to insurance regulation. The legislature of each jurisdiction enacts laws that define the role of the regulator and supervisor. The Federal Reserve is responsible for the supervision of consolidated financial firms that are also supervised functionally by the states. The Federal Insurance Office (FIO) of the Treasury monitors all aspects of the insurance sector, and has authority over financial stability and supports the Financial Stability Oversight Council of the Treasury with the director of FIO a voting member of the Council.

In terms of the legislative/non-legislative instruments and enforcement action, most regulators appear to have the portfolio of instruments, although it is not clear from responses whether the process of developing non-legislative instruments are done in an autonomous manner, to achieve regulatory independence. Also, there could be scope to better define the difference of authority between the different non-legislative instruments.

On one hand, most institutions appear to have operational independence, whether the various aspects of independence are achieved or not. This is an important achievement which ensures there is recognition that insurance regulators and supervisors should have a level of independence to enable them to function effectively in the insurance market. Without greater information on the level of autonomy and the authority of non-legislative instruments, and the procedure for enforcement actions, a more nuanced picture cannot be drawn on the effectiveness of an insurance regulator and supervisor.

On the other hand, some have stated the clear role of politics in the development of regulation (Denmark, Switzerland), at least where legislation is concerned. So there is a question of what level of political intervention is appropriate for what type of insurance regulation and supervision, and would the approach be any different as compared to banking and securities regulation and supervision.

The institutional structure of insurance regulation and supervision is important because of the impact it has on the efficiency and effectiveness of regulation, directly and indirectly affecting the cost and success of regulation in meeting its statutory objectives. Their structure also affects how the authorities are perceived, which could impact their reputation and credibility.

While supervisory governance has been the subject of extensive discussion, in particular for banking supervision, the institutional structure of insurance regulation and supervision, while a key concern for insurance regulators and supervisors, has not been a topic often discussed beyond sharing recent experiences. The same structure may not be suitable for all countries, but comparing the pros and cons of existing institutional arrangements can provide useful guidance for policymakers who are considering future reforms. For example, the United Kingdom established the then unified Financial Services Authority in 1997, following criticism that the Bank of England had failed to adequately supervise the financial system so would merge the many regulators in the financial system (Dapira et al, 2012). Australia was one of the first countries to adopt the "twin peaks" model in 1997 (Taylor, 1995),[11] which a number of countries have applied either in institutional structure of internal organisation of the regulator.

Then there are countries, particularly those with a small financial market, where a central bank is responsible for financial regulation and supervision, including insurance regulation and supervision. There remains debate on the appropriateness of such an arrangement, as monetary and prudential policy can have conflicting objectives, with some evidence on the effect of expansionary monetary policy on banks (Goodhart & Schoenmaker, 1995). However, in markets with limited resources and experts, the central bank tends to provide expertise and support to the wider financial system.

The more important consideration may be what institutional structure enables regulators and supervisors to effectively achieve their objectives and mandates in a manner that maintains their reputation and credibility with, as well as confidence from the insurance market. Failures of or scandals involving financial institutions, whether banks or insurance companies, are often occasions, directly or indirectly, prompting discussion on institutional structures. For example, the Japanese Financial Supervisory Agency, the predecessor of the current Financial Services Agency, was established in 1998 to separate banking and securities supervision from the Ministry of Finance following a decline in the ministry's reputation as a supervisor in the late 1990s (Quintyn & Taylor, 2002). In the United Kingdom, the Prudential Regulation Authority and the Financial Conduct Authority were established in 2013 following the financial crisis, and in particular the failure of Northern Rock, returning prudential regulation under the auspices of the Bank of England (HM Treasury, 2011).

In the United States, the Federal Insurance Office was established in the Treasury in 2013 following the Dodd-Frank Wall Street Reform and Consumer Protection Act.

4.1. Institutions responsible for insurance regulation and supervision

According to the Financial Sector Assessment Program (FSAP) Handbook, the legal and institutional framework for financial supervision should cover (a) the identity of the supervisor (central bank or separate agency), terms of reference, powers, and authority of the supervisory agency; (b) the authority and processes for the issuance of regulations and guidance; (c) the authority and tools to monitor and verify compliance with the regulations and principles of safe and sound operations; (d) the authority and actions to remedy, enforce, take control, and restructure; and (e) the procedures to delicense and liquidate problem institutions that cannot be restructured (Chapter 5 of IMF, 2005). Items (a), (c) and (e) are relevant for both the insurance regulation and supervisor, while (b) relates to regulation and (d) relates to supervision. This section will cover primarily item (a) of this list.

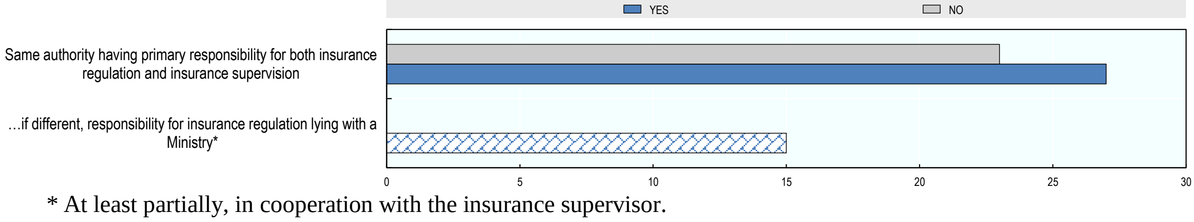
There are two approaches to establishing institutions to carry out financial regulation and supervision: delegation of authority to a government agency, a specific minister, local authority or other official body; or delegating regulatory (and/or supervisory) powers to independent agencies, which are not government agencies. The second type is, by structure, shielded from political interference, and by improving the transparency and expertise of the agency, although there are fears that this would create a situation of an agency being outside of political control and not be political accountable. This is relevant for institutional independence, whereas an independent agency would fulfil this criterion. Having a delegation of authority is not considered to be institutionally independent, although operational independence could be present for such an institution.

The lack of independence from the Ministry of Finance has been a major issue—mainly in developing countries, where more than half of the sample countries exhibit poor implementation of independence by having the ministries of finances carry out insurance regulation and supervision (IMF, 2005). This indicates that, in terms of FSAPs, the expectation is to have an independent agency, that are not delegated authorities.

There is an increasing emphasis by authorities to establish structures that ensure supervision is as effective and efficient as possible, although some state that the quality of regulation and supervision is the most important (Masciadaro et al, 2011). One of the ways in which effectiveness and efficiency is being addressed is through risk-based supervision, which requires supervisors to assess system and individual firm risk and to respond with the supervisor's own process and interventions in line with the assessment. This allows supervisors to allocate resources to insurers with the greatest risk and/or risk areas with individual insurers that are of high risk (Randle, 2009).

While the majority of countries have the same authority responsible for both insurance regulation and supervision (27 of 50), there are 23 countries which have a different authority in charge. There is thus an equally diverse approach to whether regulation and supervision is carried out by same or different organisations. In six countries (Belgium, Lithuania, Suriname, United Kingdom (Prudential Regulation Authority is part of the Bank of England), Uruguay and Vanuatu), the central bank is responsible for both regulation and supervision, while four countries have the central bank responsible for insurance supervision (Czech Republic, Greece, Hungary, Russia).

Figure 4.1. Whether the same or different authority is responsible for insurance regulation and supervision



* At least partially, in cooperation with the insurance supervisor.

Table 4.1. Authorities involved in insurance legislation, regulation and supervision

	Legislative initiative	Regulatory authority	Supervisory authority
Albania	Albanian Financial Supervisory Authority and Ministry of Finance	Albanian Financial Supervisory Authority	Albanian Financial Supervisory Authority
Argentina	Legislative and executive branch and Superintendencia de Seguros de la Naciòn (SSN)	Superintendencia de Seguros de la Naciòn (SSN)	Superintendencia de Seguros de la Naciòn (SSN)
Austria	Federal Ministry of Finance	Federal Ministry of Finance and Financial Market Authority	Financial Market Authority
Belgium	National Bank of Belgium (NBB) and Financial Services and Markets Authority (FSMA)	National Bank of Belgium (NBB) and Financial Services and Markets Authority (FSMA)	National Bank of Belgium (NBB) and Financial Services and Markets Authority (FSMA)
Belize	Office of the Supervisor of Insurance and Private Pensions (OSIPP)	Office of the Supervisor of Insurance and Private Pensions (OSIPP)	Office of the Supervisor of Insurance and Private Pensions (OSIPP)
Bolivia	Ministry of Economy and Public Finance	Control Authority Supervision Insurance and Pensions	Control Authority Supervision Insurance and Pensions
Brazil	Congress and President (on initiative of Ministry of Finance)	CNSP (National Council of Private Insurance)	SUSEP (Superintendency of Private Insurance)
Canada	Department of Finance	Office of the Superintendent of Financial Institutions (OSFI)	Office of the Superintendent of Financial Institutions (OSFI)
Chile	Ministerio de Hacienda	Superintendencia de Valores y Seguros (SVS)	Superintendencia de Valores y Seguros (SVS)
Colombia	Ministry of Finance and Public Credit (Ministerio de Hacienda y Crédito Público MHCP).	Ministry of Finance and Public Credit (Ministerio de Hacienda y Crédito Público MHCP).	Financial Superintendency of Colombia (Superintendencia Financiera de Colombia SFC)
Costa Rica	National Council for the Supervision of the Financial System (CONASSIF)	National Council for the Supervision of the Financial System (CONASSIF)	General Superintendence of Insurance (SUGESE)
Czech Republic	Ministry of Finance	Ministry of Finance	Czech National Bank
Denmark	Ministry of Finance and Business and Financial Affairs	Ministry of Finance and Business and Financial Affairs	Danish FSA.
Egypt	Egyptian Financial Supervisory Authority (EFSA)	Egyptian Financial Supervisory Authority (EFSA)	Egyptian Financial Supervisory Authority (EFSA)
Estonia	Ministry of Finance of Estonia	Ministry of Finance of Estonia	Financial Supervision Authority
Finland	Members of the Parliament (acts), Government (acts and decrees), Ministry of Social Affairs and Health (decrees)	Parliament (acts), Government and Ministry of Social Affairs and Health (decrees), Finnish FSA (regulations and guidelines)	Finnish FSA
France	French government and Parliament	Government (Ministère de l'économie et des finances)	Autorité de contrôle prudentiel et de résolution (ACPR)
Germany	Federal Ministry of Finance (MoF)	Federal Ministry of Finance (MoF)	Federal Financial Supervisory Authority (BaFin)
Greece	Ministry of Finance	Minister of Finance	Bank of Greece
Hong Kong China	Insurance Authority ("IA")	Insurance Authority ("IA")	Insurance Authority ("IA")
Hungary	Nemzetgazdasági Minisztérium (NGM, Central bank) and Ministry for National Economy	Nemzetgazdasági Minisztérium (NGM, Central bank) and Ministry for National Economy	Magyar Nemzeti Bank (MNB, Central Bank of Hungary)

Iceland	Ministry of Finance and European Commission/EIOPA, Financial Supervisory Authority	Ministry of Finance and Financial Supervisory Authority	Financial Supervisory Authority
Israel		CMISA	CMISA
Italy	IVASS	IVASS	IVASS
Japan	Financial Services Agency	Financial Services Agency	Financial Services Agency
Korea	Financial Services Commission (FSC)	Financial Services Commission (FSC)	Financial Supervisory Service (FSS)
Latvia	Ministry of Finance	Financial and Capital Market Commission (FCMC)	Financial and Capital Market Commission (FCMC)
Lithuania	Ministry of Finance	Ministry of Finance and Bank of Lithuania	Bank of Lithuania
Luxembourg	Commissariat aux Assurances (CAA)	Commissariat aux Assurances (CAA)	Commissariat aux Assurances (CAA)
Mexico	SHCP (Secretaría de Hacienda y Crédito Público (Ministry of Finance)) and CNSF (Comisión Nacional de Seguros y Fianzas (Insurance and Surety National Commission))	CNSF (Comisión Nacional de Seguros y Fianzas (Insurance and Surety National Commission)) and SHCP (Secretaría de Hacienda y Crédito Público (Ministry of Finance))	CNSF (Comisión Nacional de Seguros y Fianzas (Insurance and Surety National Commission))
Montenegro	Ministry of Finance	Ministry of Finance and Insurance Supervision Agency	Insurance Supervision Agency
Nicaragua	Superintendency of Banks and Other Financial Institutions	Superintendency of Banks and Other Financial Institutions	Superintendency of Banks and Other Financial Institutions
Panama	Superintendencia de Seguros y Reaseguros de Panamá (SSRP), Ministry of Economy and Finances, Legislative Assembly	Superintendencia de Seguros y Reaseguros de Panamá (SSRP)	Superintendencia de Seguros y Reaseguros de Panamá (SSRP)
Peru	Superintendencia de Banca, Seguros y Administradoras Privadas de Fondos de Pensiones (SBS), Ministry of Economy and Finance and National Superintendence of Health	Superintendencia de Banca, Seguros y Administradoras Privadas de Fondos de Pensiones (SBS)	Superintendencia de Banca, Seguros y Administradoras Privadas de Fondos de Pensiones (SBS)
Philippines	Insurance Commission and Department of Finance	Insurance Commission	Insurance Commission
Poland	Ministry of Finance	Ministry of Finance	Polish Financial Supervision (KNF)
Portugal	Autoridade de Supervisão de Seguros e Fundos de Pensões (ASF)	Autoridade de Supervisão de Seguros e Fundos de Pensões (ASF)	Autoridade de Supervisão de Seguros e Fundos de Pensões (ASF)
Romania	Ministry of Public Finance	Financial Supervisory Authority	Financial Supervisory Authority
Russia	Ministry of Finance	The Ministry of Finance (Minfin) and the Central Bank of the Russian Federation (Bank of Russia)	Bank of Russia
South Africa	Ministry of Finance	The Financial Services Board	The Financial Services Board
Spain	Ministry of Economy, Industry and Competitiveness (MEC) and the Directorate General for Insurance and Pension Funds (DGSFP)	Ministry of Economy, Industry and Competitiveness (MEC) and the Directorate General for Insurance and Pension Funds (DGSFP)	DGSFP
Sri Lanka	Insurance Board of Sri Lanka	Insurance Board of Sri Lanka	Insurance Board of Sri Lanka
Suriname	Central Bank of Suriname	Central Bank of Suriname	Central Bank of SurinameMinistry of Trade , Industry and Tourism
Sweden	Ministry of Finance	Ministry of Finance and Finansinspektionen	Finansinspektionen
Switzerland	Federal Council	Federal Department of Finance (FDF)	Swiss Financial Market Supervisory Authority (FINMA)

Tunisia	General insurance committee	General insurance committee	General insurance committee
United Kingdom	The Prudential Regulation Authority (PRA) (part of the Bank of England) and Financial Conduct Authority (FCA)	The Prudential Regulation Authority (PRA) (part of the Bank of England) and Financial Conduct Authority (FCA)	The Prudential Regulation Authority (PRA) (part of the Bank of England) and FCA
United States	State departments of insurance and Federal Reserve (for financial holding companies)	State departments of insurance and Federal Reserve (for financial holding companies)	State departments of insurance and Federal Reserve (for financial holding companies)
Uruguay	--	Central Bank of Uruguay and Superintendence of Financial Services (SSF)	Central Bank of Uruguay and Superintendence of Financial Services (SSF)
Vanuatu	Reserve Bank of Vanuatu	Reserve Bank of Vanuatu	Reserve Bank of Vanuatu

4.1.1. Institutions responsible for insurance regulation

Authorities responsible for regulation are largely specialist integrated financial supervisor (21 of 50), otherwise the specialist financial supervisor develops regulation with a responsible ministry, primarily the ministry of finance (6 of 50)(Belize, Iceland, Mexico, Montenegro, Panama, Suriname, Sweden). In Hungary, Lithuania and Russia, regulation is developed jointly by a ministry and the central bank.

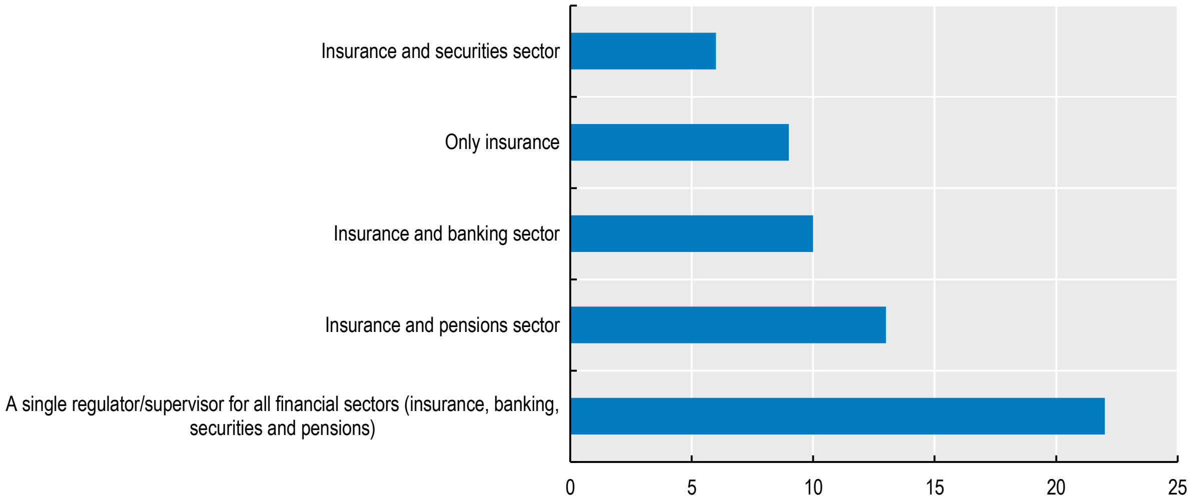
In Belgium, regulation is developed by the central bank and the financial supervisor. In twelve countries, regulation is developed by a ministry, primarily the ministry of finance (12 of 50). Even when the ministry is responsible for regulation, consultation with the supervisor is a regular part of this process. Brazil and Costa Rica have a national council that develops regulation. In the United States, regulation is developed at the state level,[12] unless concerning bank holding groups with insurance activities, which is developed by the Federal Reserve.

4.1.2. Institutions responsible for insurance supervision

In terms of the organisation responsible for supervision, supervision is often carried out by a dedicated financial supervisor, with 40 countries having a financial supervisor, including state-level supervisors in the United States. In eight of the countries, the central bank was responsible for financial supervision of the insurance sector (Czech Republic, Greece, Hungary, Lithuania, Russia, Suriname, Uruguay and Vanuatu). Two countries have supervisory functions within the Ministry of Economy, Industry and Competitiveness (Spain) and Ministry of Finance (Israel). Licensing is carried out jointly with the central bank and the Ministry of Trade, Industry and Tourism in Suriname.

Looking at specific supervisory structures, the single supervisor for insurance, banking, securities and pension is the most widespread with 22 of 50 having this structure (including central banks). There are nine supervisors which only oversee the insurance sector and ten which oversee both the insurance and banking sectors. Supervisors with responsibility of insurance and pensions sectors are 13. Six have responsibility for the insurance and securities sectors.

Figure 4.2. Institutions responsible for insurance supervision



However, it should be noted that there is some double counting in *Figure 4.2. Institutions responsible for insurance supervision* due to some institutions having responsibilities that do not make them into a single supervisor, but cover more than two financial sectors (e.g., Albania (insurance, banking and securities), Canada (insurance, banking and pensions), Egypt (insurance, securities and pensions), France (insurance, banking and pensions), Peru (insurance, banking and private pensions) and Switzerland (insurance, banking and securities). It should be noted that in the United States, the Federal Reserve has authority over insurance activities of bank holding companies.

In Brazil and Peru, apart from the general insurance supervisor, health insurance is supervised by another entity (although in Peru, prudential regulation of health insurance is carried out by the financial supervisor/regulator, SBS). In Germany, the Federal Insurance Office regulates statutory health insurance funds.

4.1.3. Prudential supervision and market conduct

Some countries have adopted a twin peak model[13], separating institutions for prudential supervision, and market conduct and consumer protection regulation.

However, before discussing country specific experience, it would be useful to examine what prudential supervision and market conduct are. Prudential supervision is the oversight of individual supervised entities' observance of capital and technical provisions to ensure their financial safety and soundness, thus being primarily a supervisory activity. However, as listed below, some financial authorities use the term "prudential regulation" while their key focus is supervisory oversight, given their role in regulation too. On the other hand, market conduct is more focussed on regulation although likely accompanied by a supervisory role.

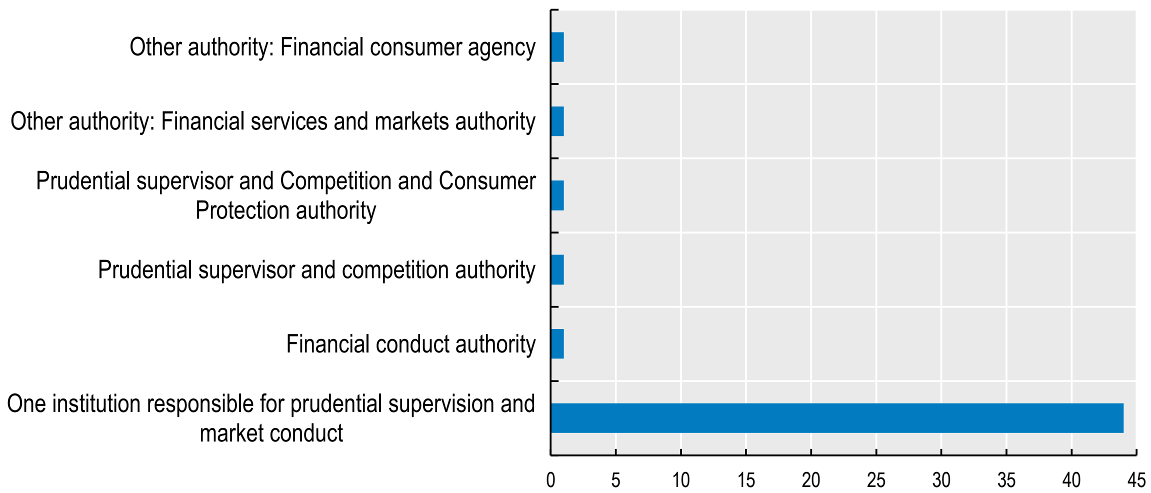
In the United Kingdom, the Prudential Regulation Authority (PRA)(which is part of the Bank of England) is responsible for the prudential oversight for both regulation and supervision, while the Financial Conduct Authority (FCA) is responsible for market conduct and consumer protection and covering both regulation and supervision of those areas.

In August 2017, South Africa enacted the Financial Sector Regulation Act (FSR Act) which, amongst other things, establishes two regulators/authorities, namely the Prudential Authority (PA) within the South African Reserve Bank (SARB) and a new conduct authority, the Financial Sector Conduct Authority (FSCA) (the former Financial Services Board). The PA will supervise the safety and financial soundness of banks, insurance companies and other financial institutions while the FSCA will supervise how financial services firms conduct their business and treat customers.

As discussed above, Australia was one of the first countries to adopt a twin peak model establishing the Australian Prudential Regulation Authority (APRA), being the responsible for the prudential supervision of banking, insurers and superannuation funds, and the Australian Securities and Investments Commission (ASIC) being responsible for promoting market integrity and consumer protection across the financial services and payment systems.

Otherwise, when examining which institutions are responsible for prudential supervision and market conduct, 44 countries respond that these functions are carried out in the same institution. So it is clear that while the existence of sections addressing both prudential supervision and market conduct are generally accepted and executed, it not clear whether this is executed in separate sections.

Figure 4.3. Is market conduct being carried out by the prudential supervisor or is another institution responsible?



Having said that, a number of countries effectively have a twin peak approach, with separate institutions carrying out the prudential supervision and market conduct regulation. In Belgium, the National Bank of Belgium is responsible for prudential supervision, while the Financial Services and Markets Authority is responsible for market conduct. In Canada, Office of Superintendent of Financial Institutions (OSFI) is responsible for prudential supervision pertaining to federally incorporated/registered insurers, while the Financial Consumer Agency of Canada and provincial insurance regulators are responsible for market conduct.

In Iceland and Poland, while the financial supervisors, Financial Supervisory Authority (FME) and Financial Supervision Authority (KNF) are respectively responsible for both prudential supervision and market conduct, they share market conduct responsibility with the Competition Authority, as it pertains to federal institutions, and the Office of Competition and Consumer Protection respectively.

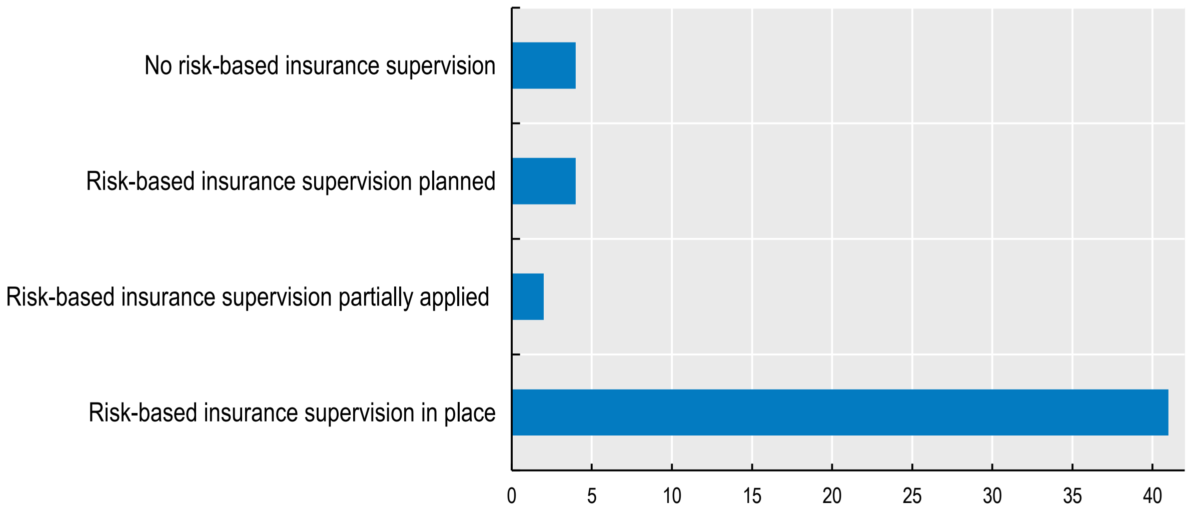
On the other hand, a number of countries have responsibilities for both prudential supervision and market conduct in the same institution (Austria, Brazil, Czech Republic, Denmark, Estonia, Finland, France, Germany, Panama, the Philippines, Portugal, Romania and Switzerland).

4.1.4. Risk-based supervision

Risk-based supervision is increasingly becoming a generally accepted approach for insurance supervision with most countries already applying it (41 of 50), with two already partially applying, four planning its application and only three not applying it yet.

Those which partially apply risk-based supervision (Montenegro and Sri Lanka) differ in the degree to which it is being applied. In Montenegro, off-site monitoring is performed on a risk-based on an annual basis. In Sri Lanka, risk-based supervision is applied to some extent.

Figure 4.4. Implementation of risk-based supervision



Those which are planning risk-based supervision (Brazil, Panama, Russia) are currently working on a plan for implementation. SUSEP in Brazil is developing implementation plans for risk-based supervision. Russia is developing a risk-based supervisory regime within the framework of Solvency II implementation.

How countries assess risks of the insurance sector and insurers would be the basis in which they determine the priorities for insurance supervision in a risk-based supervisory regime. Most countries have an annual assessment either based on regulatory reporting or monitoring results. While it appears that there is consensus that the size, profile and riskiness of insurers is the basis for determining priorities for risk-based supervision, a number of other considerations are made, as well as taking into account domestic priorities and issues.

In the EU, many countries consider the implementation of Solvency II and its components as a priority. Thus, for Belgium, Estonia, Finland, Germany, Iceland, Latvia, Luxembourg, Poland, Spain, and the United Kingdom, priorities for risk-based supervision are centred on the implementation and analyses of Solvency II rules, including reporting, the impact of long-term guarantee measures, national stress tests, follow up of recovery plans imposed on certain insurers or internal plans, the adequacy of premium levels, application of the prudent person principle and governance, and investments.

In Brazil, where signs of concern are identified, enhanced monitoring is conducted through more regular reporting or on-site inspections which would be outside of the normal inspection cycle. In Bolivia, risk-based supervision prioritises detection of laundering of illicit proceeds, money laundering and financing of terrorism. Colombia prioritises areas that are subject to new regulation, including asset valuation of reinsurers' obligation to insurers, suitability of intermediaries and information provided to insurance consumers.

Hungary, Italy and Lithuania use supervisory processes to undertake a risk assessment which determines the intensity of supervision of a financial institution, as well as the need for further examination or focus. Mexico also has a risk-based supervisory structure that builds on the three pillars of quantitative, revision and control, and market discipline.

Japan sets its priorities annually, which is then communicated publicly. Current priorities include sustainability of insurers' business model and governance of large insurers. France identifies current priorities as being efficient supervision, financial stability, consumer protection, AML/CFT, fintech, and cyber risk. Portugal identifies its priorities as the system of governance of supervised entities, AML/CFT, claims management (non-life) and the fulfillment of information requirements by insurance intermediaries. Switzerland_targets greater supervisory resources to large insurers and insurance groups. Uruguay also targets its supervision on the biggest insurers, with a focus on corporate governance and risk management.

South Africa has a proposed Solvency Assessment and Management (SAM) supervisory approach, which is forward looking, risk-based and proactive, recognising that the board and management of insurers and groups are primarily responsible for financial soundness and prudent risk management.

Spain is also developing a Risk Assessment Framework which analyses quantitative reporting templates, identifies undertakings which breach any solvency requirement, ranks all undertakings according to their size, and solvency and financial position to assess their supervisory risk. Where indicators are high risk for individual insurers, stress tests are performed.

4.2. Legislative initiative and non-legislative instruments

The ability to develop non-legislative regulation with a high degree of autonomy, both from the government and industry indicates regulatory independence. This is important to ensure that regulation is not developed to serve either the purposes of government/executive branch or the industry (regulatory capture). Thus, the ability of non-legislative regulation to be set with a degree of intent by the insurance regulator is an important hallmark for ensuring the rules are fair and sound for the insurance market.

4.2.1. Authority for legislative initiative

In 28 countries, a ministry has the authority for legislative initiative albeit, in most cases, with input from or draft bills being proposed by the regulator/supervisor (see *Table 4.1. Authorities involved in insurance legislation, regulation and supervision*). In some countries, the legislative arm has a strong role in proposing legislation. If this is not the case, the regulator/supervisor responsible has the legislative initiative.

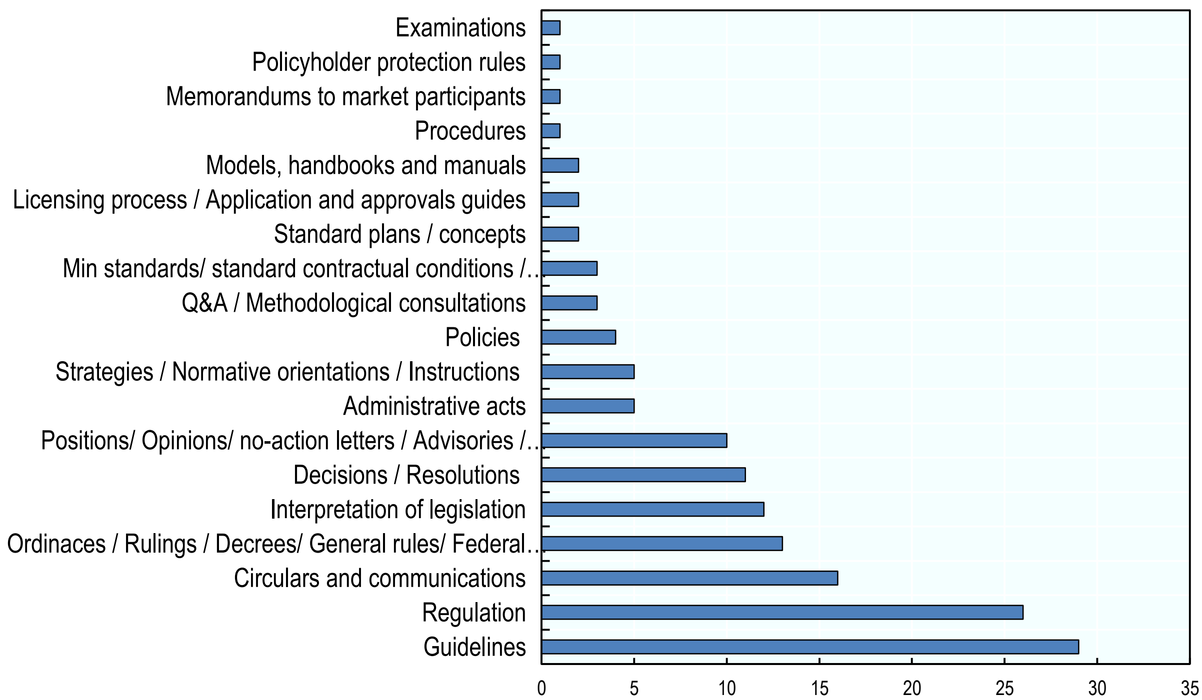
A relevant factor for EU countries is that in many cases, while the actual legislative initiative is made by a domestic institution, the substance of the legislation is a result of the European Commission proposal of a directive or regulation.

4.2.2. Non-legislative regulatory instruments

While Guidelines and Regulation are the primary instruments that are being used (28 and 26 countries respectively of 50), different terminology and/or translation may have resulted in the diversity of instruments other than guidelines and regulation. Generally speaking, non-legislative regulation is developed based on delegated authority from legislation, so elaborating specific articles of legislation. Thus, regulation can imply an obligation to comply with it.

There are instruments which regulated entities would be obliged to comply, while others would be in the nature of guidance, and these are not necessarily mutually exclusive. The names/terms used for instruments do not clarify the difference between instruments clearly, even within the same country and given that some instruments will have a legal nature, each instrument is likely to have a very specific function in each country. Thus, in the absence of more information, speculating on the implications of each instrument is not useful. Instead, the focus will be on particular instruments used in the financial and insurance regulation.

Figure 4.5. Types of non-legislative instruments



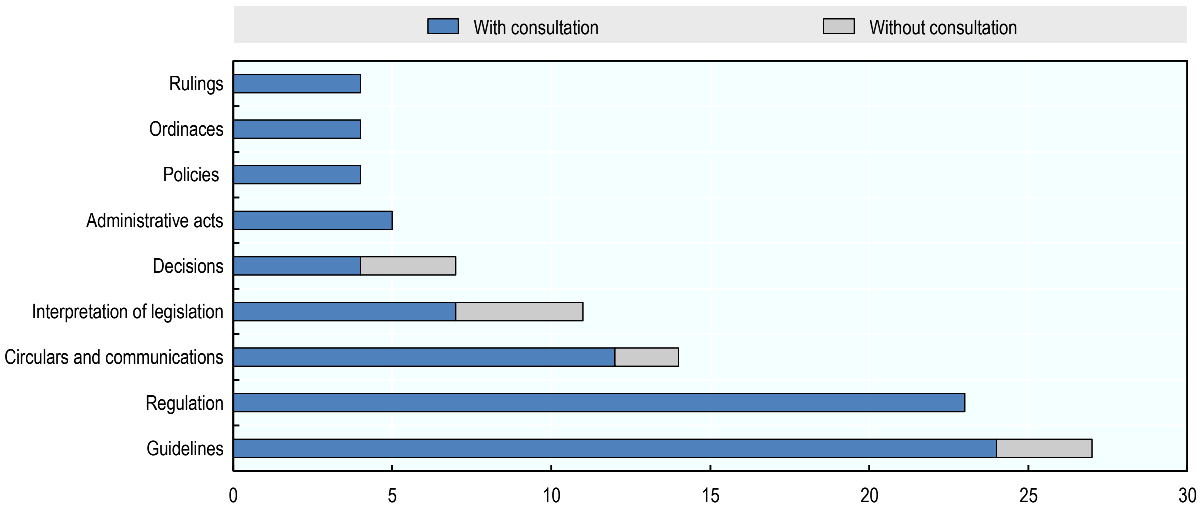
Circulars/communications are used by 16 of 50, and may not necessarily be regulatory in nature. Models, handbooks and manuals are often used to guide financial institutions in their preparation of reporting or compliance with regulation and 15 countries have indicated their use. Their nature is generally more a step-by-step manual, guiding entities to prepare their submission or when certain actions are taken.

A no-action letter, which is a response to financial institution's request on whether a certain product, service or action might constitute a violation of law or regulation, is used by three countries (Israel, Japan, Montenegro). In this respect, interpretation of legislation, which is used by twelve countries (Austria, Czech Republic, Denmark, Germany, Iceland, Israel, Italy, Mexico, Panama, South Africa, Sweden, Vanuatu), would have a similar effect.

For non-legislative instruments, the institution which develops them are mostly the same as those that approve them. Although for broader policies and regulations, approval could be subject to an additional authority's involvement. This could be the Ministry of Finance (Albania, Belize, Iceland, Mexico, the Philippines, Russia, South Africa, Sri Lanka and Vanuatu), the Executive (Belgium, Luxembourg, Tunisia), President of the Republic (Colombia), and specialised regulatory authority (Costa Rica).

The process of adopting a non-legislative instrument mostly involves some form of consultation with stakeholder, specifically the industry (respectively consultation with stakeholders) are 25 and 25 respectively for guidelines and regulations.

Figure 4.6. The involvement of stakeholders in developing non-legislative instruments



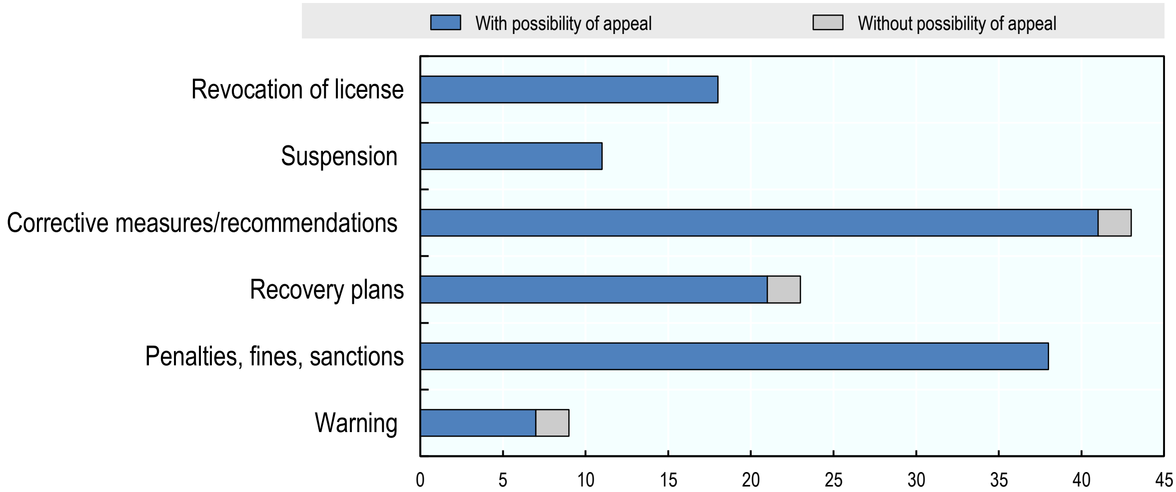
There are a number of processes that do not involve a consultation with stakeholders. For circular and communications, and interpretation of legislation there is generally no consultation, as it demonstrates the understanding of the insurance regulator. This is applicable to decisions of the supervisor too, although some countries have a mechanism for ensuring the appropriateness of interpretations by consulting stakeholders.

Most processes of non-legislative instruments do involve consultation with stakeholders as a general trend, and is particularly so for instruments that have a strong regulatory nature. The stronger the legality and basis for enforcement of the instrument, the more likely the instrument will be subject to consultation with the industry in particular.

4.2.3. Enforcement action and appeals

The ability of a supervisor to take enforcement action when a regulation or rule was not followed, and appropriate level of enforcement action relative to the weakness or infringement of the insurer, is important to ensure that regulated entities can take remedial actions promptly and appropriately.[14] This is a core function of independence, as supervisory independence, which safeguards the integrity of supervisory function. It is also considered to be more difficult to establish and guarantee than other aspects of independence.

Figure 4.7. Types of enforcement actions and possibility to appeal them



The most common action is corrective measures or instructions/recommendations which are used by 43 of 50, of which two do not have the possibility of appealing the decision (Korea, Romania). The next most relevant action is penalties, fines and sanctions, which would likely all involve monetary payment by the regulated entity if the action is taken, with 38 of 50 using this procedure. All jurisdictions permit these actions to be appealed. The request to the insurer to submit a recovery plan is also widely used by 23 of 50, of which two do not have an appeals process (Belize, Romania).

Suspension of license is when the permission of a regulated entity to enter into new insurance contracts is suspended for a certain period of time, while the revocation of a license takes place when the license is cancelled and the regulated entity is not permitted to operate any longer. Typically, an insurance authority can revoke a licence only when the insurer has settled all obligations with all clients, since the run-off of existing insurance business requires an insurance license in most countries. Suspension is used by twelve, while revocation of license is used by 19. In addition, the other used action is a warning.

Usually, supervisors use a list of progressive actions to address the weaknesses or wrong doing. In this respect, while this is likely a result of amalgamating the various actions, France, Hungary, Lithuania and Switzerland have indicated only one action for enforcement.

The most common list of actions is remedial/corrective action, suspension of license, revocation of license, and fines/penalties. Many countries also include warning and administrative takeover of insurer.

Some of the more unique actions include inhibition of property (Argentina), settlement (Iceland), fine on institutional officer (Israel) and order for public announcement or disclosure notice for wrongdoing (Korea).

5. Objectives and mandates of insurance regulation and supervision

Having clear objectives give insurance regulators and supervisors a clear directive to work with, and make decisions based on them. Most respondents do have objectives to guide their work, but issues could arise when there are multiple objectives which could cause tension among them. The objective of developing of the insurance market is one of the most common objectives, which may also cause tension with safeguarding the interests of the insured and beneficiaries. When a supervisor has an interest in increasing insurance penetration, and consequently the growth of supervised entities, this can cause conflicting priorities with policyholder protection. This could also be the case when greater competition in the insurance market is an objective alongside policyholder protection.

It could be that by prioritising objectives could enable a supervisor to prioritise actions relevant to policyholder protection. Given the experience of some countries with how narrower objectives could better guide the actions and decisions of an insurance regulator/supervisor, a more detailed analysis of how objectives are guiding actions could provide greater guidance to insurance regulators and supervisors that may potentially have conflicting objectives.

Coordination with other financial regulators is carried out by either being a single regulator/supervisor, or by having a joint body that coordinates actions. Given the prominence of banking groups, as opposed to insurance groups, the issue is of greater importance for countries which have large insurance groups and insurers.

For an insurance regulator and supervisor to be able to operate effectively and then be accountable to its actions, having clear mandates and objectives in the statutes establishing the institution is critical. Having clear objectives also contributes to an institution being able to achieve integrity in its day-to-day operations.

As discussed in section *4.1.3 Prudential supervision and market conduct*, there is an increasing focus on the functions and the mandate of prudential supervision and market conduct, whether they be housed in a different institution or a different section of the same institution. There has been discussion on how multiple objectives could cause conflicts of objectives, leading to the supervisor having to make discretionary decisions on how to execute objectives, which could lead to sub-optimal outcomes (Wilson, 1989).[15] Regulators and supervisors may perform better in a single-objective institution because chances are smaller that their reputation could be damaged by conflicting actions by other officials (BIS, 2009).[16]

For example, there could be tension between the objective of market development and financial stability (in particular micro) in insurance regulation. Market conduct and prudential supervision can also create difficulties of priority, as was the case in the United Kingdom after the crisis, with the then Financial Services Authority focussing more on conduct of business, at the expense of prudential supervision.[17]

5.1. Objectives and mandates of insurance regulation and supervision

All countries include safeguarding the interests of the insured and beneficiaries as an objective, whether both for regulation and supervision (48 of 50), or just for supervision (2 of 50).

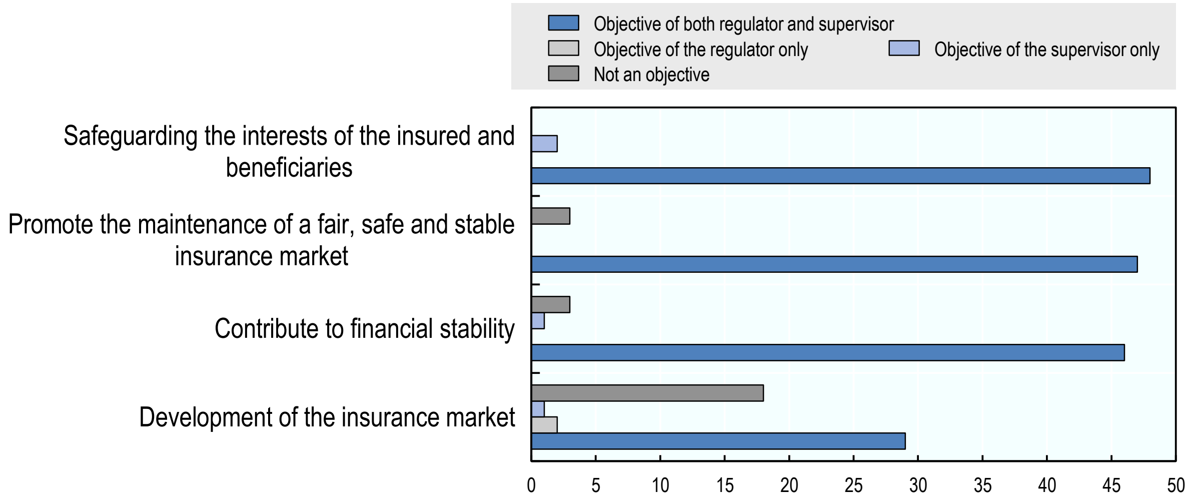
Most have the objective of promoting the maintenance of a fair, safe and stable insurance market as an objective (47 of 50), while a similar number of respondents are mandated to contribute to financial stability (47 of 50). How and which of these objectives is applied may also depend on whether the institution has wider responsibilities for the financial sector, which would lead to the objective being on financial stability rather than that focussed on the insurance market.

So these are the three most common objectives for insurance regulators and supervisors, and are consistent with financial sector priorities.

The fourth most common objective was the development of the insurance market with 29 of 50 having this objective for both regulation and supervision, and in addition having two respondents which have it for regulators only and one for supervision only. Development of the insurance market may seem to be an essentially emerging market objective, but in fact some OECD member countries also have it as an objective (Chile, Colombia, Estonia, France for regulator, Hungary, Israel, Japan, Korea, Latvia, Lithuania, Mexico, Poland for supervisor, UK, US). The context of development may differ between countries, with less developed market wanting to have their base level penetration being raised, while for developed markets this may include development of product, as well as encouraging local insurers to develop their business abroad. In tandem with this, financial inclusion is an objective for regulators in Egypt and South Africa.

Otherwise, there are a number of other objectives of insurance regulation and supervision which reflect the national priorities for the insurance regulator/supervisor. Colombia and Israel have the objective to promote competition of financial markets. In Switzerland, the regulator has the objectives of contributing to the development of the national economy and promoting reputation and professional standards in the insurance industry. Israel has an objective of promoting technology and innovation in the market.

Figure 5.1. Objectives of insurance regulation and supervision



Brazil's insurance regulator and supervisor have an objective for AML/CTF.

In Russia, insurance regulation and supervision promote the increase in private-public partnership in insurance.

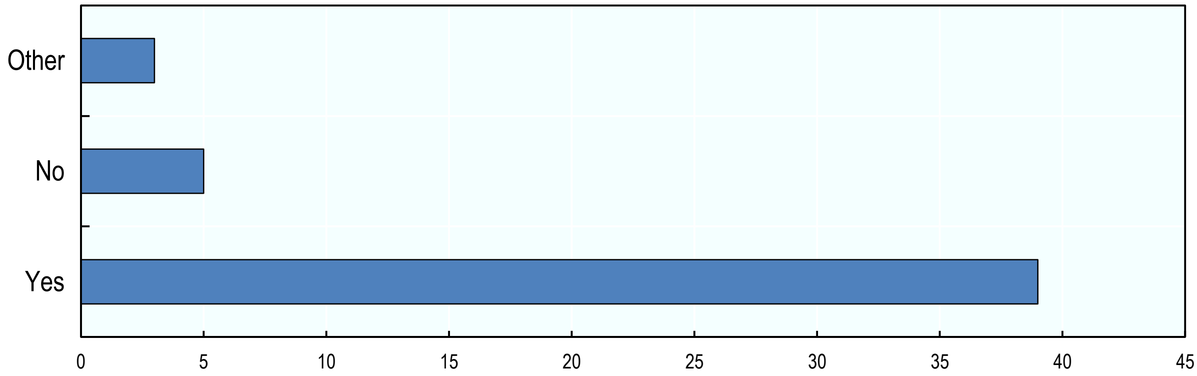
In the United States, there are two additional objectives, which does not include insurance market development, which are ensuring solvency and safety and soundness of insurers (state insurance commissions), as well as coordination and consultation with relevant insurance authorities (US Federal Insurance Office).

Another objective is the maintenance of the arbitration court which Brazil's and Poland's supervisors have.

5.2. Coordination with the wider financial sector

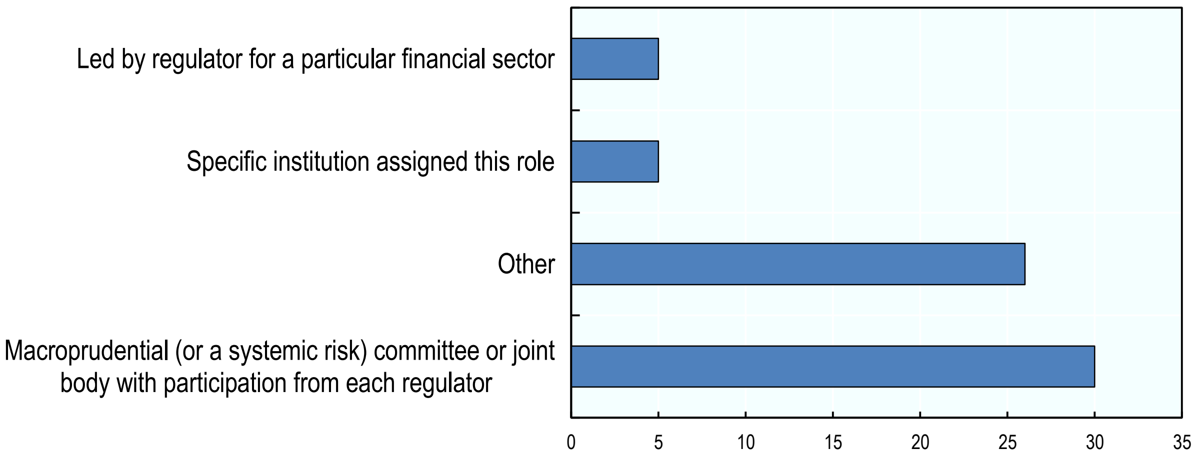
Insurance companies do form insurance groups, but are most often not the central entity of a financial group but an entity of the group. Needless to say, if a single unified regulator/supervisor is responsible for the financial sector, then there is no strong need for having a coordination mechanism and this would be the case for 22 that have responded as having a single regulator. 38 of 50 have responded that they do have an established mechanism for coordination in the financial sector, while five do not, although all five have a single regulator explain the reason for not needing a coordination mechanism. In Panama, there are discussions to establish a single supervisor, for example. The three respondents which responded with "Other" have indicated that a bilateral or multilateral cooperation agreement can be signed (Estonia), there is no special mechanism given that the tasks for each is clear in the legislation (Poland), and a MoU will be exchanged (South Africa, this will happen when a new act is implemented).

Figure 5.2. Coordination mechanism for the financial sector



Most countries have a mechanism to coordinate financial supervision with other financial supervisors. Many countries have a joint body between the various financial regulators, central bank and ministry involved (Austria, Belgium, Bolivia, Brazil, Chile, Colombia, Costa Rica, Finland, Japan, Panama, Romania, Russia, South Africa, Sweden, US), and this joint body may review financial stability too.

Figure 5.3. Coordination method of financial supervision



In the United States, there are two joint bodies, the Federal Financial Institutions Examination Council which is a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the federal examination of financial institutions, and the Financial Stability Oversight Council (FSOC) established by the Dodd-Frank Act of 2010 is comprised of federal financial regulatory agencies and also includes a non-voting member representing state insurance commissioners.

For insurance regulation (or actually, more generally, for financial regulation), some countries have established units that develop all financial regulation (Brazil, Colombia, Costa Rica). This unit generally has participation from the various public authorities at their board level. In France, a joint unit is established between the prudential supervisor and the market conduct supervisor.

Many countries have a cooperation agreement or Memorandum of Understanding (MoU) among the relevant financial authorities which includes the financial regulators, ministry and central bank (Argentina, Brazil, Czech Republic, Estonia, Israel, Italy, Montenegro, Peru, Portugal, South Africa (when the FSR Act is implemented), Spain, Sweden, Switzerland, UK, US).

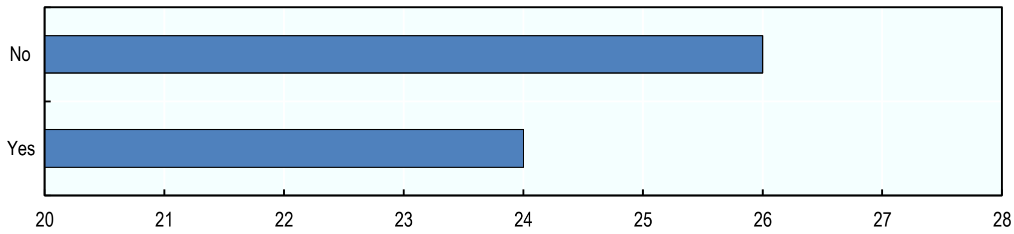
The other method in which coordination is achieved is by having the head of each authority sit on the board of the relevant financial authority. This is the case for Egypt, Korea, Luxembourg, Mexico, Peru and Russia.

Switzerland forms working groups with participation from the relevant financial regulators/supervisors to prepare legislation.

U.S. state insurance regulators routinely coordinate all aspects of regulation through the NAIC and its committees. State insurance laws generally provide for the commissioner to share confidential information with, for example, governmental entities including other state, federal and international regulators and state, federal and international law enforcement authorities.

While it is unlikely that the insurance supervisor will be the lead supervisor, the insurance regulator and supervisor will need to bear in mind the possibility of another financial regulator/supervisor carrying out some supervision on insurers that are part of a financial group. While 24 of 50 would designate a lead supervisor for a group’s supervision, 26 of 50 do not. This could be a result of the lack of financial groups based in the market or having a single regulator.

Figure 5.4. Lead supervisor designated for group supervision including an insurance entity?



Some lead group supervision by a particular regulatory/supervisor, which includes Belize, Hong Kong China, Mexico, Panama and South Africa (when the FSR Act is implemented) and US (FRB).

For insurance-led groups in the EU, Solvency II directive defines which supervisor is responsible as the lead supervisor.

An authority that is the not an insurance dedicated regulator/supervisor may be the lead regulator for insurance groups. This may be the central bank (Belize), or another non-insurance financial authority (Bolivia, Costa Rica).

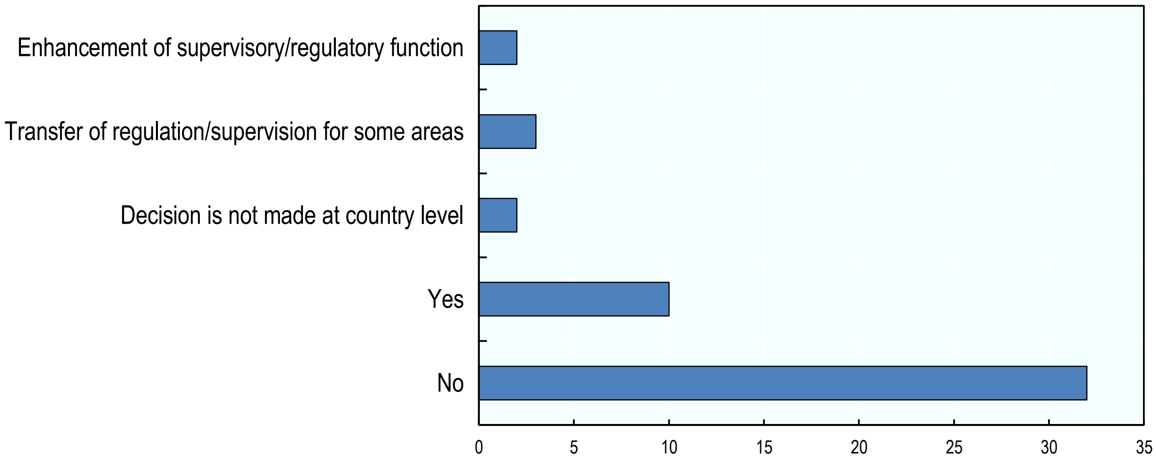
Many use multiple avenues to ensure that coordination takes place for prudential supervision and financial stability.

6. Reforms of institutional structure and how it happens

While most countries have indicated that they do not have any plans for institutional reform of insurance regulation or supervision, eight have indicated that there are plans for reforms (Bolivia, Chile, Costa Rica, Hong Kong China, Japan, Poland, Portugal, South Africa). These changes or reform proposals are described below.

Changes in EU countries may be more heavily influenced by EU legislation and discussion at EIOPA.

Figure 6.1. Are changes for institutional reform being planned and if so what?



6.1. Institutional reform for insurance regulation and supervision

Some of the most significant institutional reforms of insurance regulation and supervision in 2017 and 2018 have been taking place in Hong Kong, China, Spain and South Africa. In Hong Kong, China, the Insurance Authority (IA) took over the statutory functions of the Office of the Commissioner of Insurance in June 2017. The IA is expected to take over the regulatory functions on insurance intermediaries from the three self-regulatory organisations and implement a new statutory regulatory and licensing regime for insurance intermediaries by mid-2019.

Spain has developed a preliminary draft law on the rationalisation and management of supervisory bodies of the markets and for the improvement of its governance. This draft proposes the establishment of an Independent Administrative Authority (AAI)[18] for insurance and pension plans and an AAI for protection of the consumers of financial services (including insurance) and financial investors. Currently, the General Directorate for Insurance and Pension Funds (DGSFP) supervises the insurance sector as an administrative body that depends of the Ministry of Economy, Industry and Competitiveness. The objective of setting up an Independent Administrative Authority for insurance and pension funds is to become aligned with best practices, with governance that would ensure the effectiveness and efficiency of this public body, to guarantee the independence of the new authority for insurance and pension funds, and to adapt this institution with supervision required under the Solvency II regime.

The proposed AAI for protection of the users of financial services (including insurance and pension funds) and financial investors would unify, in one single authority, the protection of consumers of financial services and financial investors, which are currently attributed to the supervisory authorities of banking (BdE), financial markets (CNMV) and insurance (DGSFP). Regulation of insurance and pension funds will remain within the Ministry of Economy, Industry and Competitiveness.

In August 2017, the Financial Sector Regulation Act (FSR Act) was enacted in South Africa. The FSR Act, amongst other things, will establish two regulators/authorities, namely the Prudential Authority (PA) within the South African Reserve Bank (SARB) and a new conduct authority called the Financial Sector Conduct Authority (FSCA) (the former Financial Services Board) reforming financial sector regulation into the twin peaks approach. The PA will supervise the safety and financial soundness of banks, insurance companies and other financial institutions while the FSCA will supervise how financial services firms conduct their business and treat customers. Different sections of the FSR Act will come into effect on different dates to coincide with the establishment of the two authorities which will be established during the course of 2018.

As part of this change, South Africa is planning to put forward the Conduct of Financial Institution (CoFI) Bill, which will form the basis of conduct regulation in the financial sector. The CoFI Bill will repeal and consolidate all existing sectoral laws (which are conduct orientated) into one central act. The CoFI Bill is in the process of being drafted and with the intention of publishing it for public comment before the end of 2017.

In Japan, there have been discussions to reorganise its institutional structure from July 2018. Poland is considering whether to merge the Polish Financial Supervisor (KNF) with the National Bank of Poland, although there is no official decision yet. In Switzerland, there have been some preliminary request to the Federal Council on whether the supervisory role of FINMA and the regulatory role of the Federal Department should be strengthened, although no decision has yet been reached. In Panama, there are ongoing discussions of merging the financial supervisors into a single entity.

6.2. Changes to mandate or objectives

There are a number of countries which are or are in the process of reviewing their mandate or objectives. Some changes will lead to greater refinement of regulator/supervisor mandates, while others will lead to the extension of their powers.

In Belize, sectors that require more supervision or are deemed not properly supervised (e.g., credit inions, money lenders) have been transferred to the Central Bank. The Philippines is carrying out a similar transition, with a bill that would transfer the regulation of separate variable accounts, variable life policies and unit trusts to the securities regulator. Denmarks is discussing whether current regulation and supervision is suitable for life insurance companies and pension funds, which mainly offer unguaranteed pension products. In Suriname, the new Insurance Act will enable the supervisor to take greater action towards issues of comliance.

Costa Rica is proposing legislation that would strengthen the protection of the supervisor against legal actions based on decisions taken in the exercise of its functions, reviewing the financing of regulation and supervision with part of the budget expected to be covered by supervised entities (currently, their budget is covered by the central bank), and increase the powers of the superintendencies to achieve effective supervision of financial groups.

6.3. Coordination mechanisms of the financial sector

Chile passed legislation in February 2017, which establishes the Financial Market Commission. The objective of the Commission is to safeguard the functioning, development and stability of the financial market. The Commission will be composed of five commissioners, with the chair appointed by the President of the Republic and the remaining appointed by the President with the ratification of 4/7 of Senate members. In the first instance, the Commission will supervise and regulate the insurance and securities markets, with a view of including the banking market when the General Banking Law has been amended.

The Portuguese government submitted for public consultation in September 2017 a proposal to reform the current National Council of Financial Supervisors (CNSF), which includes the three financial supervisors - Bank of Portugal, Portuguese Securities Market Commission (CMVM) and Autoridade de Supervisão de Seguros e Fundos de Pensões (ASF). The proposal is to establish the Council of Financial Supervision and Stability (CSEF), which would be designated as the national macroprudential authority and, through an independent department, the national resolution authority. Furthermore, the Higher Council of Financial Policy (CSPF) is being proposed, which would include the Ministry of Finance, the Bank of Portugal and the three financial supervisors.

For market conduct supervision, the Portuguese proposal sets forth two alternatives: the creation of a Market Conduct Supervision Committee within CSEF, aimed at coordinating the market conduct supervision carried out by the three financial supervisors, or the transfer of the supervision of financial products to a new entity replacing CMVM.

6.4. Review of insurance regulation

Many respondents have informed of their intention to carry out a variety of legislative, regulatory and other reviews for the insurance sector. For EU countries and countries that are developing a risk-based capital regime, there are a number of updates and reviews that are being carried out.

Chile has been working to update its solvency regime with a bill in the parliament since September 2011 that would revise the Insurance Law. The bill foresees the implementation of risk-based supervision and risk-based capital. Hong Kong, China and Sri Lanka are in the process of developing a risk-based capital regime.

Peru’s Superintendent of Banking, Insurance and Private Pensions (SBS) is developing a model for risk capital requirements and has recently updated its regulatory mortality tables for Life Annuities for Private Pension System and is working to issue regulations on life insurance technical reserves.

Canada is examining a number of components related to the risk-based capital regime. From January 2018, the Life Insurance Capital Adequacy Test (LICAT) Guideline will replace the Minimum Continuing Capital and Surplus Requirements (MCCSR) Guideline, in place since 1992. OSFI developed the LICAT to better align capital and risk measures with the economic realities of the life insurance business, while taking into account international advancements in the development of solvency frameworks.

In addition to Egypt and Sri Lanka are developing a microinsurance regulatory regime, while Costa Rica, Egypt and Vanuatu are prioritising financial inclusion.

In relation to this, many are working on broader consumer protection and conduct regulation improvements in the insurance market. Hong Kong, China is discussing the establishment of a policyholder protection scheme. Korea is changing its approach to product approval *ex post,* enabling insurers to sell their products prior to the regulatory filing. Sri Lanka is reviewing its complaint handling and dispute resolution procedures, as well as code of conduct of insurance agents. Vanuatu is conducting a public consultation on whether to develop general legislation on consumer protection or dedicated legislation for financial services.

As part of South Africa's overhaul of its regulatory structure, South Africa will be submitting the CoFI bill to revamp its market conduct regime so as to address existing conduct of business risks and abuses. This will entail amendments to the existing Regulations under the Long- and Short-term Insurance Acts as well as the replacement of the existing Policyholder Protection Rules. This will include appropriate minimum requirements for claims management, additional protections for policyholders and insureds identified through supervision (principles to inform premiums and premium reviews, minimum data governance requirements, negative option marketing), proposal for the ombudsman long-term and short-term insurance, and closing the regulatory gaps identified in existing provisions.

Korea and Uruguay are examining ways to better prepare for the implementation of IFRS.

Argentina is implementing its Own Risk Solvency Assessment, planning the elimination of non-registered economic transactions, and corporate governance reforms.

Belgium is currently developing national stress tests and an internal procedure on recovery and resolution for insurers.

In Brazil, there is a bill in Congress that may impose a regulatory impact assessment to regulatory agencies, which would be applicable to financial superintendencies.

Switzerland developed governmental regulation related to financial markets, as the Federal Council decided to involve stakeholders from the financial industry at an earlier stage, *i.e.* well before the formal consultation period.

Russia is in the process of streamlining regulation of compulsory insurance, improving the quality and transparency of insurance services, and tackling insurance fraud. A mechanism for the recovery of insurers and the development of a public-private partnership in the area of natural catastrophe insurance is also being reviewed.

Based on the recommendations of a World Bank technical assistance programme, Tunisia is looking into a variety of reforms to strengthen insurance supervision. This includes increasing the number of staff at the regulator/supervisor and improving the capacity of supervisors, and establishing an early warning framework for insurance.

In the United States, states are in the process of adopting the 2014 amendments to the model holding company act that provides to give explicit authority for insurance regulators to act as a group-wide supervisor or recognise another supervisor in this role. Before the end of 2017, NAIC members will discuss the Insurance Data Security Model Act, which would impose certain risk-focused standards related to cybersecurity and data protection.

7. Conclusion

It is clear from the responses to the questionnaire that efforts have been made to ensure that the institutional structure of insurance regulation and supervision is consistent with international standards in so far as possible. There is, however, variation on how this is being addressed, and the differences provide interesting insights into how countries are addressing the issue.

At the same time, there is still much to be examined in terms of more detailed institutional structural variations; for example, why certain institutional structures have been adopted to address specific concerns, as well as mechanisms to ensure that the structure serves the interest of policyholders, beneficiaries and tax payers and society as a whole as much as possible. There is not sufficient clarity on what is insurance regulation and insurance supervision, as well as who is an insurance regulator and supervisor.

Institutional structures and accompanying objectives and powers are important to ensure that the insurance regulator and supervisor are trusted public bodies, with a high reputation, and credibility. Delivery of insurance regulation and supervision through such mechanisms ensure that the authority has legitimacy to its actions and decisions. This can create a virtuous circle, in which action initiated by an insurance regulator and supervisor is taken seriously with less doubt.

The discussion on independence and accountability underlines a large part of how institutional arrangements of insurance regulation and supervision is approached. It is interesting to note that while independence is a consideration for most insurance regulators and supervisors, it is not often that the full spectrum of independence is taken into account, but certain components of independence. Since the questionnaire also focused on budgetary independence, it could be worthwhile to examine the various components in more detail in the future. In particular, the question on regulatory independence and supervisory independence, the most important pillars of independence, may require a more detailed analysis on what forms these components, and how countries execute them. A clearer definition of legislation, non-legislative regulation or even non-binding regulation, at least for the purpose if assessing institutional structures will be needed.

Accountability is carried out with greater efficiency than independence, in some respects, as perhaps the burden of execution is on the insurance authority. Most appear to have a comprehensive menu of actions to adhere to accountability mechanisms. The interaction with the political side is usually carried out by having a ministry oversee its activities or reporting and hearings with parliament. While the discussion of independence tends to be biased towards how to minimise political interference, having a mechanism that enables interaction while minimising interference could be more optimal in a democratic setting.

In this sense, it is clear that a number of ministries carry out the sole role of insurance regulator/supervisor, as well as providing the budget for insurance regulation and supervision. This is flagged in the FSAP handbook, and while ministries being solely responsible for regulation and supervision is more of an outlier in the insurance sector, there are a number of countries that depend on a budget allocation for their insurance regulation and supervision. The issue of having a budget allocation is due to the limitations it can impose on how the budget is used by the regulator/supervisor. International standards do not clarify whether collection of fees from supervised entities is the ideal manner of funding regulators/supervisors either. ICP 2.4 only requires that funding does not undermine its independence. Thus, an analysis of what constitutes an independent funding could be of benefit as well.

There is a wide range of institutional arrangements that insurance regulators and supervisors have taken, from ministry of finance-based, to single regulator, to the twin peak model. There is a clear trend of moving away non-legislative regulation and supervision from solely being in the ministry, by, for example, sharing the responsibility for regulation. Single regulator/supervisors are most common type of arrangement whether in the central bank or by way of a financial supervisor.

The other development is the ubiquity of having responsibility for prudential supervision and market conduct. While it is clear that these have become core functions of insurance authorities, it is not clear whether these are executed in separate sections of the same institution or in two or more different institutions, to separate the difference in objectives that these two functions have.

Investigating the purpose and functionality of each non-legislative instrument could assist in better understanding what regulatory capacity insurance regulators have. This could be done by providing the expected function of a non-legislative instrument, instead of asking for the type of instrument. The timing and manner of engaging stakeholders could also better inform how non-legislative instruments are developed.

The ability for supervisors to enforce rules is critical to ensure that supervisors can act appropriately in terms of timing and magnitude, but then also be able to take progressive action if the situation is not rectified. Greater detail on what basis action kicks in, as well as what escalates the enforcement action being taken would better inform the level of enforcement action that can be taken.

While the core objectives of policyholders protection and safeguarding the safety of the insurance market are near universal, there are additional objectives which could cause tension with these objectives if prioritisation is not clear. In this respect, how objectives and mandates are prioritised, and mechanisms for when there is a conflict would be an important area to ensure insurance regulators and supervisors can remain effective throughout their work cycle.

Unless the insurance supervisor is part of a single supervisor, most have responded of a mechanism to coordinate actions with other financial supervisors, whether this is through a joint meeting or a lead supervisor. There is some variation in the way that this is approached, which may depend on regional requirements, such as in the EU, or the size of the financial market.

It is encouraging that a number of insurance regulators and supervisors are in the midst or discussing reforms to their institutional structure, and in the direction of international standards. In addition, many have ongoing reforms in terms of their objective and mandate as well, which also appear to be developing in the appropriate direction.

There are a number of areas that would merit discussion in the Roundtable and/or further research and discussion in the future. The OECD's Insurance and Private Pensions Committee will reflect on the discussion that took place during the Roundtable to inform next steps it may wish to take on these, including as part of the IPPC future PWB.

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Notes

[1] OECD countries that contributed to the report are Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Israel, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Mexico, Poland, Portugal, Spain, Sweden, Switzerland, United Kingdom and United States.

Non-OECD countries that contributed to the report are Albania, Argentina, Belize, Bolivia, Brazil, Colombia, Costa Rica, Egypt, Hong Kong China, Montenegro, Nicaragua, Panama, Peru, Philippines, Romania, Russia, South Africa, Sri Lanka, Suriname, Tunisia, Uruguay and Vanuatu.

[2] Generally speaking, regulation involves the establishment of rules or principles and associated mechanisms and systems that (i) seek, through various means of influence, to affect or control the behaviour and actions of entities and individuals, with the overall objectives, and achieving desired outcomes; or (ii) directly specify rights or outcomes for entities and individuals (OECD, 2010).

[3] In 2009, the G20 launched a comprehensive programme of reforms, coordinated through the FSB, to increase the resilience of the global financial system while preserving its open and integrated structure. To review the outcome of these reforms, the FSB reports to G20 Leaders on an annual basis an assessment on the implementation and effects of the agreed financial regulator reforms (FSB, 2017).

[4] While rules and framework for crisis management may be prescribed in some jurisdictions, such situations may require interventions above and beyond the agreed principles.

[5] For example, a speech by Lautenschläger S (2015) Member of the Executive Board of the ECB and Vice-Chair of the Supervisory Board of the Single Supervisory Mechanism.

[6] This is the case for the Insurance Core Principles (ICPs) of the International Association of Insurance Supervisors (IAIS, 2015) and the Basel Committee of Banking Supervision's Core Principles for Effective Banking Supervision of the Basel Committee of Banking Supervision (2012).

[7] One of the first articles to discuss this is Bade & Parkin (1980). It was more fully developed in Cukierman (1992).

[8] It is Principle 2 of the Basel Committee on Banking Supervision's Core Principles for Effective Banking Supervision is on Independence, accountability, resourcing and legal protection for supervisors for the latest 2011 version of the Core Principles.

[9] This section draws heavily from Quintyn & Taylor (2002).

[10] There is also the case of the banking crisis of 1994 in Venezuela which one of the causes was considered to be political interference (De Krivoy, 2000).

[11] The twin peaks model advocates for the establishment of two regulators: one for financial system stability, and another for market conduct and consumer protection.

[12] State-level regulation is supported by the development of model laws by the National Association of Insurance Commissioners.

[13] See section 4.1Institutions responsible for insurance regulation and supervision for the background to the twin peak model.

[14] For this section, responses related to specific remedial actions, such as increase in capital and changes in management, have not been included for the consideration.

[15] Wilson (1989) argues that successful organisations tend to have a clear and singular mandate.

[16] This is the case for central banks as well as described in Chapter of BIS (2009).

[17] Statement by Lord Turner in Chapter 5 of House of Lords Economic Affairs Committee – Second Report on Banking Supervision and Regulation (2009), https://publications.parliament.uk/pa/ld200809/ldselect/ldeconaf/101/10108.htm.

[18] In Spain, AAIs are "entities of public law, connected with the General Administration of the State and with its own legal personality. They have assigned functions of regulation or supervision about economic sectors or activities determined by requiring performance of functional independence or a special autonomy with respect to the General Administration of the State".

www.oecd.org/insurance/

OECD