

Overview of the IAIS Core Principle on crisis management and supervisory cooperation

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Background

- Guernsey is an offshore domicile near the UK with 24 banks (mostly private) and an insurance sector specializing in captives, catastrophic insurance, kidnap and ransom, ex-pat life insurance and company benefits and local general insurance. The GFSC is a unitary regulator with about 100 staff. It is a host jurisdiction.
- Chair of the Group of International Insurance Centre Supervisors (GIICS)
- Member of the IAIS TFSC
- Referee for the Journal of Operational Risk
- Have also worked for the Bank of England, UK FSA, IMF and Lloyds TSB

Structure

- Section I – Theory and Roll-out
- Section II - Practice and Issues
- Section III - Case Studies Exercise

Section I

- What is ICP 26?
- How does it relate to other ICPs?
- How supervisors are rolling out ICP26?
- What does good look like?

ICP26 Observations

- It's short (3 pages out of 396)
- It's the last ICP by number
- More standards than guidance
- No other relevant papers – e.g. issues/application paper
- Not currently under review
- No IAIG element yet
- No peer review
- Bit of an orphan?

ICP 26 Cross-border Cooperation and Coordination on Crisis Management

The supervisor cooperates and coordinates with other relevant supervisors and authorities such that a cross-border crisis involving a specific insurer can be managed effectively

26.0.1 The main objectives of supervisory crisis management are to protect policyholders and to prevent serious domestic or international financial instability which could have an adverse impact on the real economy. Supervisory actions seek to ensure, as far as possible, that insurers behave prudently; to promote private sector solutions such as portfolio transfers and run-offs and to avoid the need for using public support to protect policyholders and to safeguard financial stability; and to minimise distortions to the efficient operation of the insurance sector as well as across jurisdictions.

Comment

Could these objectives be contradictory?

Insurance resolution still developing (ICP 12)

26.0.2 Effective cross-border crisis management requires international cooperation between supervisors and other relevant authorities (e.g. Ministries of Finance, central banks, other financial sector supervisors, guarantee schemes, policyholder protection schemes) through appropriate mechanisms for information exchange. Furthermore, it ensures that preparations for and management of a cross-border crisis including policy measures, crisis response decisions and matters of external communication are coordinated, timely and consistent.

Comment

Domestic Side

Cross-border side

26.0.3 Supervisors employ existing cross-border frameworks of cooperation (such as supervisory colleges or subgroups of them, bilateral MOUs or the IAIS MMOU) to prepare for and manage a cross-border crisis of a specific insurer. Where such channels do not exist, supervisors set up an appropriate framework for cooperation in line with other ICPs. Supervisors consider the application of this ICP in accordance with the nature, scale and complexity of insurers

Comment

*Supervisory colleges
– ICP 25*

*ICP3 – MOUs (how
important are they?)*

*Not just supervisory
colleges.*

Preparation for a cross-border crisis

26.1 The supervisor meets regularly with other relevant supervisors and authorities to share and evaluate information relating to specific issues (including whether there are systemic implications) in non-crisis periods

Comment

26.1.1 These meetings may be held as part of a supervisory college (refer to ICP 25 Supervisory Cooperation and Coordination) or separately if no supervisory college is held or in place.

ICP 25 Key

26.1.2 Supervisors remain aware of potential contagion channels, conflicts of interest and possible barriers to coordinated action in a crisis situation at specific cross-border insurers (such as legally required transparency rules in case of publicly listed companies or particular legislative requirements across jurisdictions).

How?

26.1.3 The group-wide supervisor of the insurer will facilitate this process with involvement from other relevant supervisors (refer to ICP 25 Supervisory Cooperation and Coordination) and other relevant authorities.

Comment

What is a group-wide supervisor? (ICP 23)

26.2 The supervisor develops and maintains plans and tools for dealing with insurers in crisis and seeks to remove practical barriers to efficient and internationally coordinated resolutions.

26.2.1 These will be designed flexibly in order to be able to adapt them to the specific issues of a cross-border crisis as well as individual insurers.

26.3 The group-wide supervisor coordinates crisis management preparations with involvement from other relevant supervisors and ensures that all supervisors in the relevant jurisdictions (at a minimum those where the insurer is of systemic importance) are kept informed of the crisis management preparations.

Comment

How – are businesses to be re-structured?

Who is in the Magic Circle?

26.4 As far as legal frameworks and confidentiality regimes allow, the supervisor shares with other relevant supervisors, at a minimum, information on the following:

- **group structure (including legal, financial and operational intragroup dependencies),**
- **interlinkages between the insurer and the financial system in each jurisdiction where it operates,**
- **potential impediments to a coordinated solution.**

Comment

Are insurance supervisors always equipped to understand financial system interlinkages?

26.5 The supervisory regime requires that insurers be capable of supplying, in a timely fashion, the information required to manage a financial crisis.

Comment

What is relevant and what is timely?

26.6 The supervisory regime requires insurers to maintain contingency plans and procedures based on their specific risk for use in a going- and- gone concern situation.

Note distinction between going and gone concern- especially relevant for resolution

Managing a cross border crisis

26.7 The supervisor informs the group-wide supervisor as soon as it becomes aware of an evolving crisis. The group-wide supervisor coordinates such that this information and any other relevant information that it has become aware of on its own is shared among other relevant supervisors and other relevant authorities promptly.

26.8 Subject to legislative requirements and confidentiality regimes, the supervisor shares information with relevant supervisors and authorities and in a way that does not compromise the prospects of a successful resolution. The supervisor shares information with other relevant authorities or networks as well, whenever necessary, and subject to the same legislative and confidentiality requirements.

Comment

What is a crisis?

What does ‘promptly’ mean?

Might there be a conflict of interest between supervisors?

What does this mean in practice?

Comment

26.9 The group-wide supervisor analyses and assesses the crisis situation and its implications as soon as practicable and supervisors try to reach a common understanding of the situation.

26.9.1 This includes the identification of possible sources of systemic risk and jurisdictional assessment of such implications.

26.9.2 The group-wide supervisor is responsible for coordinating the gathering and the analysis of information as well as for coordinating supervisory activities.

What about hosts?

Comment

26.10 The supervisor cooperates to find internationally coordinated, timely and effective solutions.

26.10.1 Such cooperation takes account of the impact of the crisis on policyholders, financial systems and real economies of all relevant jurisdictions, drawing on information, arrangements and crisis management plans developed beforehand.

So?

Comment

26.11 If a fully coordinated supervisory solution is not possible, the supervisor discusses jurisdictional measures with other relevant supervisors as soon as possible.

26.11.1 The supervisor takes into account that other authorities (e.g. Ministries of Finance) may take part in and be responsible for crisis management, especially if the crisis is of a very severe nature and may require the use of public funds.

*Resolution – ICP 12
little coverage by IAIS
so far*

26.12 In a crisis situation, the group-wide supervisor coordinates public communication at each stage of the crisis.

26.12.1 The supervisor, where practicable, shares its plan for public communication with other relevant supervisors from other affected jurisdictions to ensure that communication is handled in a coordinated and timely way.

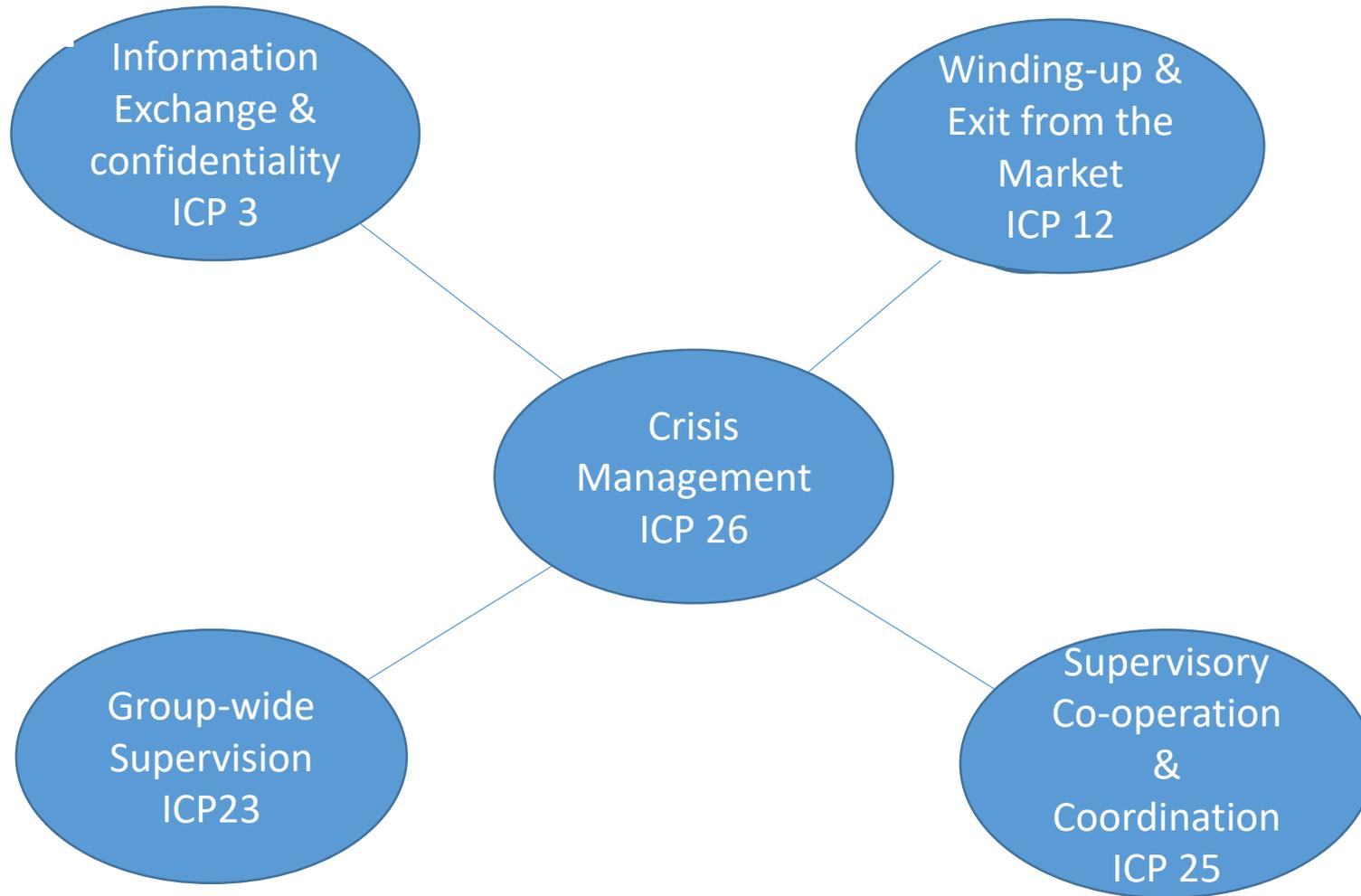
26.12.2 Where appropriate, the supervisor considers when and to what extent to communicate with the insurers.

Comment

Do supervisors have the skills for this?

An odd ending?

ICP 26 – Other key ICPs



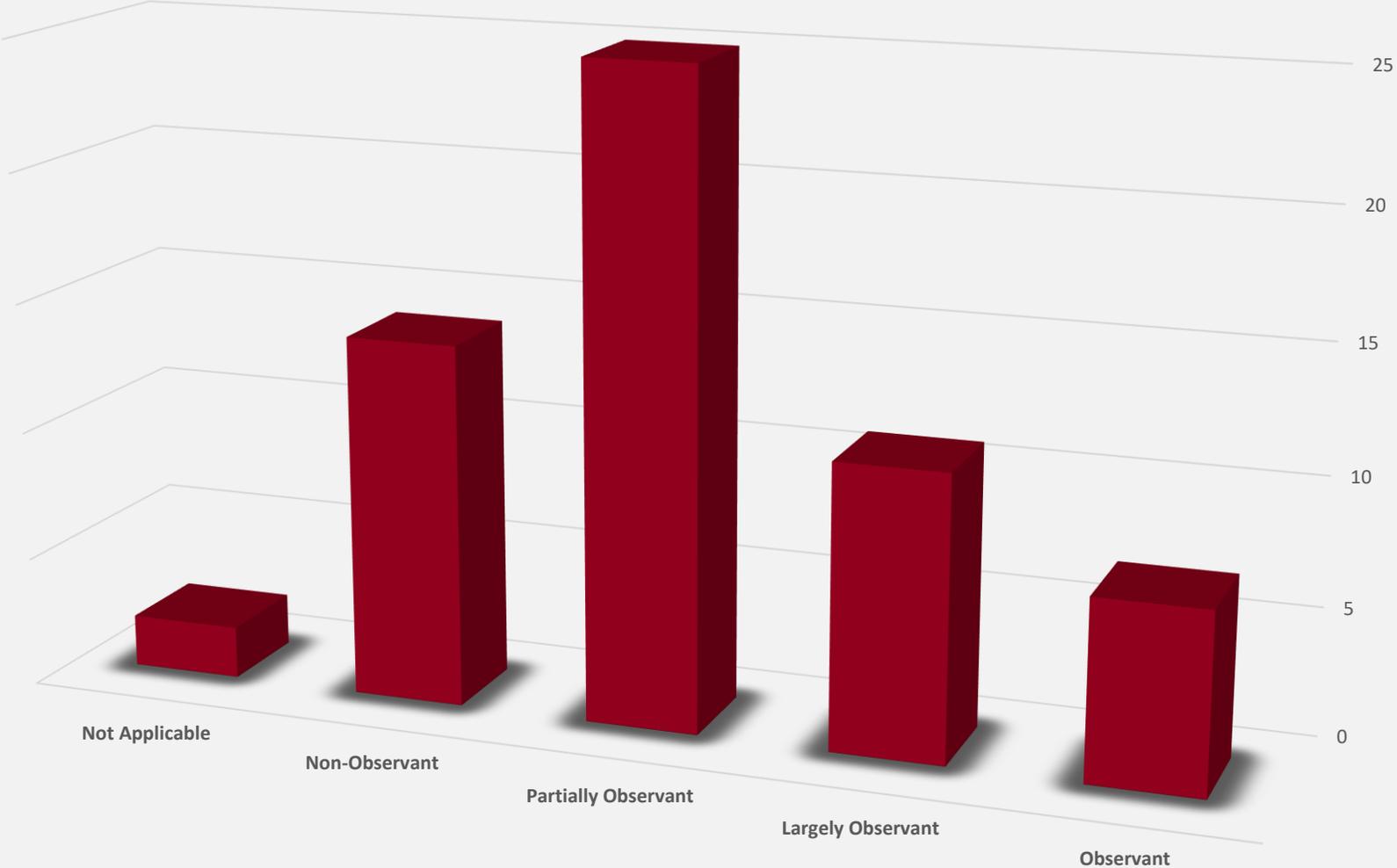
IAIS Initiatives

- ICP 3 - CP issued March 2017; re-written but without Comframe
- ICP 12 - Being re-written to include resolution but without Comframe
- ICP 23 - No change
- ICP 25 - CP issued March 2017; re-written with Comframe
- ICP 26 - No change

IAIS Thematic Self Assessments

- ICP 3 - On-going - not yet published
- ICP 12 - Not yet begun
- ICP 23 - See pie chart (next slide)
- ICP 25 - On-going – not yet published
- ICP 26 - Not yet begun

ICP 23 (group supervision) 2013 – THEMATIC SCORES



ICP 25 – Key Characteristics of a Supervisory College

- Probably the most relevant ICP to ICP 26
- Resource intensive so a risk-based approach required?
- Requires a group supervisor
- Periodic (annual?) meeting; can be a once a year event
- Lift-off process can be slow
- Getting to know people (but they may move on?)
- The more you put in, the more you get out (e.g. group inter-connections)

Supervisory Forum: Observations On Supervisory Colleges (with reference to a crisis), IAIS 2014

Colleges are useful for crises as:

- They act as a co-ordination mechanism in a crisis
- They should contain specific emergency plans
- Collegiate confidentiality agreement ‘should’ facilitate information exchange

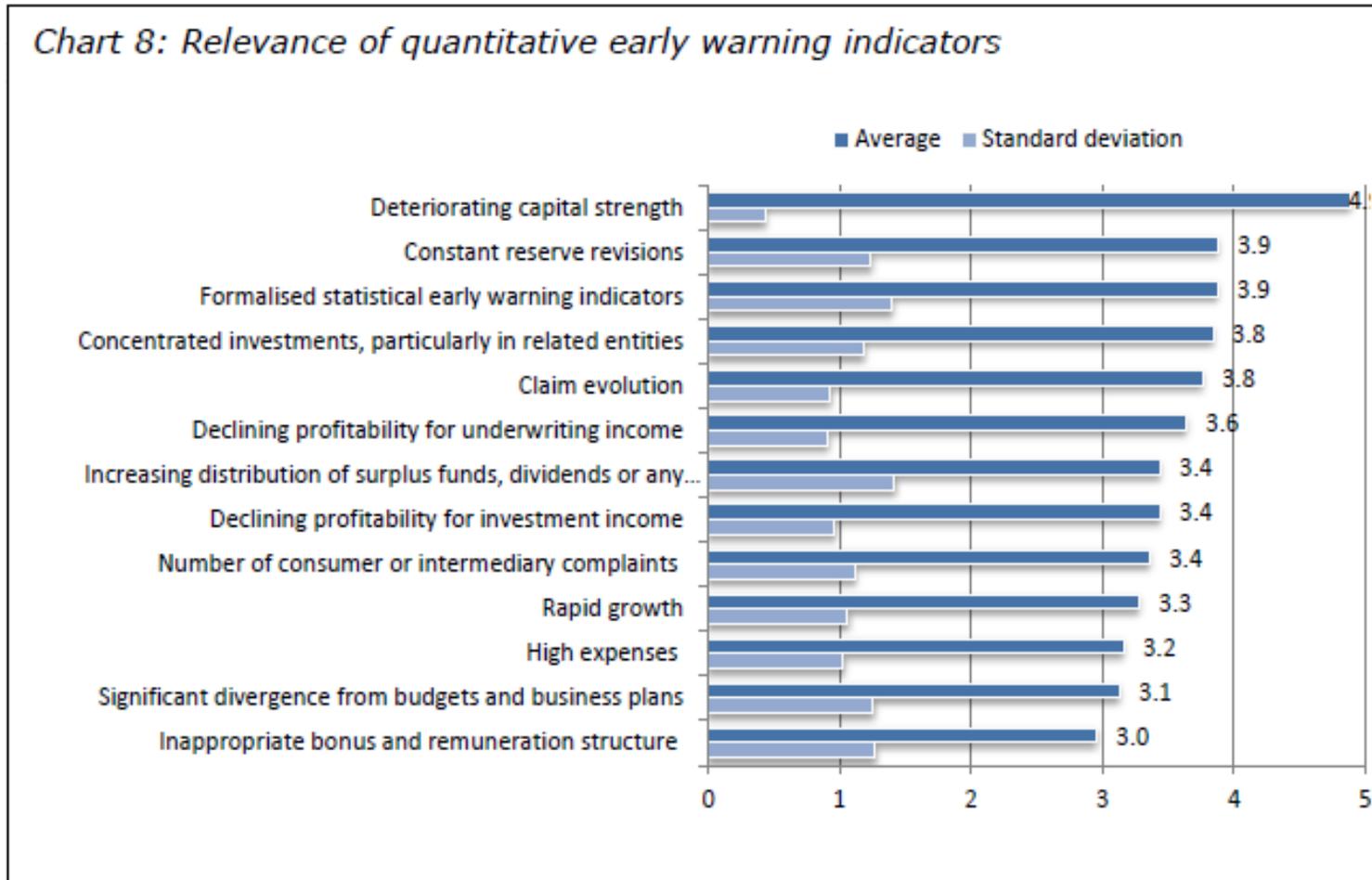
Future work

- Test communication lines within colleges for a crisis
- Define ‘what is a crisis?’

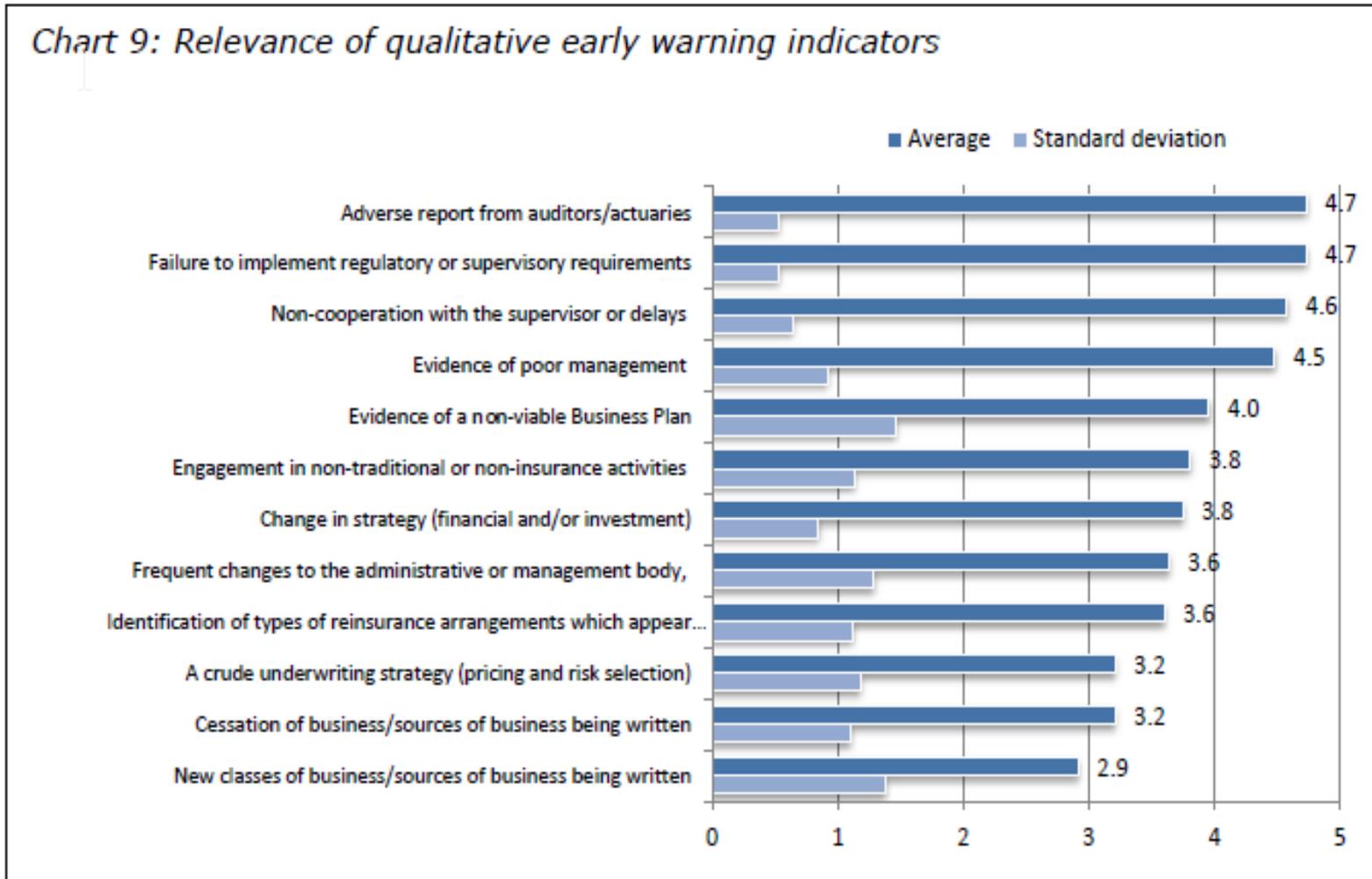
EIOPA Crisis Management Survey (2013)

- Focus in this survey is domestic rather than cross-border
- Supervisory crisis management plans are generally in place but differ widely
- Fewer than 50% of supervisors have formal emergency plans
- Just over 50% of supervisors have communication security
- Simulation exercises are rare
- Recovery and resolution plans generally not in place
- Early warning indicators help (see tables)
- Information templates for use in a crisis are rare
- Few supervisors have a communication strategy with the public

EIOPA Early Warning signals



EIOPA Early Warning signals



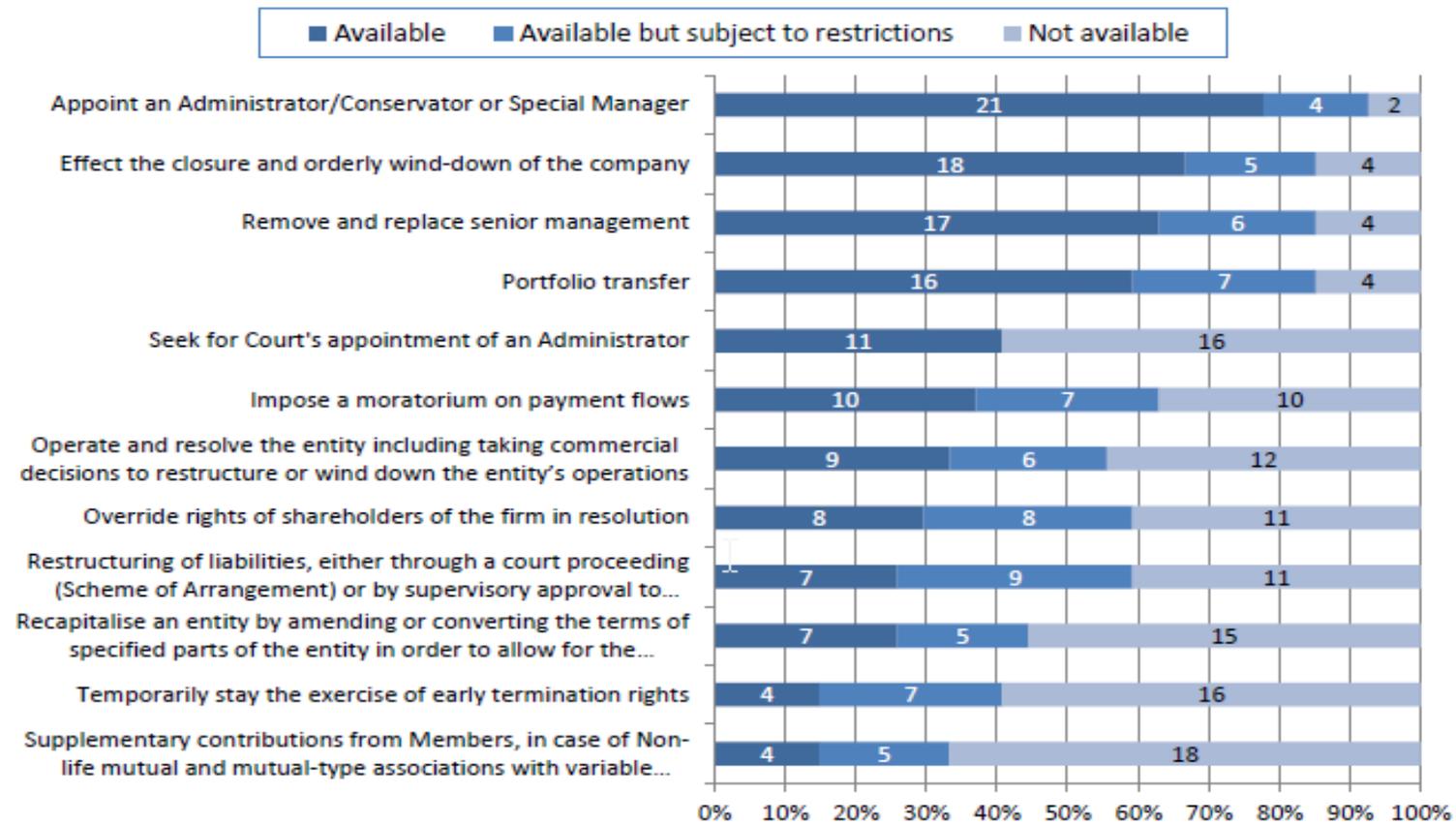
IAIS

Issues paper on cross-border resolution 2011

- Looked at 6 major jurisdictions and who has power to resolve insurance failing
- Most had extensive powers
- However in one or more cases jurisdictions didn't have the following key powers for example:
 - Force a merger with a non-insurer
 - Restructure liabilities
 - Sell assets
 - Terminate contracts
 - Force subsidiarization
 - Require insurance groups to have contingency plans
 - Instigate specific arrangements with foreign authorities

EIOPA resolution powers

Chart 15: Resolution powers



FSAPs 2015 - 17

	<u>CP 26</u>	<u>CP 25</u>
US	LO	LO
HK	LO	O
Denmark	LO	O
Canada	O	O
South Africa	LO	O
Ireland	LO	O
New Zealand	PO	LO
Turkey	PO	LO
Singapore	LO	O
Switzerland	O	O
Italy	LO	O
Belgium	LO	O

O = Observant
LO = Largely Observant
PO = Partially Observant

Principle

A jurisdiction cannot score more highly on CP 26 than CP 25. In other words crisis management depends on an effective supervisory college being in place for cross-border insurance groups.

ICP 26 – FSAP Feedback

General Characteristics

- Several supervisors have contact lists (and some have tested them)
- Some supervisors require larger cross-border insurers to have contingency plans in place
- Some supervisors have considered cross-border crisis in colleges, but not necessarily in operational terms (e.g. one concentrated on capital fungibility in the group)
- Several supervisors (and firms) view cross-border crisis management as part of routine business continuity planning
- Very few supervisors have direct experience either through actual crisis or testing
- Different protection schemes complicate cross-border resolution

Common Recommendations

- Supervisors should have internal procedures to deal with local and cross-border crises
- All insurers (especially large cross-border groups) should have internal procedures dealing with going-and-gone concern crises.
- There should be more testing of these plans, to specifically include foreign supervisors
- All supervisors (including those marked ‘Observant’) should do more work on ICP 26
- EU supervisors need to think beyond the EU where necessary

What Good looks like (EIOPA opinion 2014)

1. The supervisor needs a group of executives focused specifically on crisis preparation and management (Full time/part time?)
2. The supervisor needs an emergency plan covering the legal side, organisational structure, processes and procedures, roles, contact lists and MOUs
3. Communication should be secure
4. There should be regular testing
5. Key insurers should have recovery and resolution plans agreed with the supervisor.
6. Early warning systems should be in place.

What Good looks like (EIOPA opinion 2014) Cont'd

7. A risk-based supervisory approach helps for resource allocation
8. There should be triggers for intervention
9. There should be triggers for informing the colleges of supervisors for cross-border groups
10. Resolution powers need to be in place
11. There should be sources for resolution funding
12. A Communication strategy should be in place
13. Cooperation and information sharing with other national authorities is required

End of Section I

You should by now:

- Have a good understanding of ICP 26
- Appreciate how ICP 26 links to other ICPs
- How ICP 26 is being implemented
- What good looks like

Section II

- Lessons learnt from Con Fed
- Lessons learnt for the banking crises
- Some thoughts on past experience
- Key elements of a Crisis Management Plan

IAIS issues paper on Cross-border resolution 2011

Case study of Con Fed (involved US, UK, Bermuda and Cuba)

[refers to 1994 and largely involves liquidators rather than supervisors.
Nevertheless lessons learned are relevant]

Lessons Learnt

- Authority to restructure policies is helpful
- Cross-border crises can often involve multiple domestic authorities. ‘Issues within a country can be as intractable as those between them’
- Consumer protection organisations need to be involved

IAIS issues paper on Cross-border resolution 2011 Cont'd

- Looking at the group solvency position is one thing, but each entity and jurisdiction will need to be considered on its own, even if there is the potential for some jurisdictions to accept a universalist approach
- The UNCITRAL cross-border guide on insolvency (2009) is worth studying
- If there are allegations of fraud, all participants have a tendency to go into a shell to protect themselves and their position.
- Do not disrupt business structures such that value is destroyed in the winding-up.

Basel Report of the Cross-Border Risk Resolution Group 2010

The case studies include some relevant lessons (including for ICP 26)

Fortis

- Supervisors have domestic objectives which favour national rather than international solutions
- Rights of shareholders sacrosanct (resolved now for banks but how about insurers?)
- The Dutch and Belgian supervisors ‘assessed the situation differently’

Basel Report of the Cross-Border Risk Resolution Group 2010 – Cont'd

Kaupthing

- The Icelandic supervisor was not up to managing a large cross-border bank.
- Given extensive intra-group claims, there needs to an extensive dialogue a) home to host b) host to home and c) host to host

Lehman

- Persuading businesses to continue to transact with a firm even if an acquirer is in sight is difficult.
- A cross-border resolution plan would (in hindsight) have been useful
- Different insolvency regimes were in play
- Group inter-dependencies need to be more understood by supervisors

Basel Report of the Cross-Border Risk Resolution Group 2010 – Cont’d

- ‘Considering the speed at which a crisis can evolve it can be difficult for all interested authorities to communicate effectively and have access to information and actions taken in other jurisdictions which are relevant for their interests’

And some interesting comments in the paper:

- ‘Given recent experiences there are reasonable concerns that MOUs will not be followed in times of crisis as national authorities are accountable to national governing bodies with respect to how they take local interest into account.’
- ‘Home country authorities may be reluctant to provide complete information that they perceive as negative to host authorities’

Basel Report of the Cross-Border Risk Resolution Group 2010 – Cont’d

- ‘Supervisory colleges are not decision making bodies’
- ‘Some supervisory authorities do not have a clear authority for sharing information directly with a foreign authority other than a supervisor (e.g. a central bank)’
- ‘The complexity of financial group structures has obscured the precise roles and responsibilities of the various home and host supervisors’.

Reflections of a host supervisor

- Some crises can be seen coming (for example Goldman Sachs took action to protect itself against AIG in August 2007 – but AIG did not finally collapse until September 2008)
- Which accountability is upmost for a group supervisor – local or group?
- Market intelligence can be useful if handled with care

Reflections of a host supervisor cont'd

- How important are MOUs?
- Visiting on-site other regulators is useful in assessing that regulator. Visits if possible should include the central bank.
- Branches are more difficult to save than subsidiaries (with a possible proviso for insurance branches?)
- Crisis usually at 3.40pm on a Friday afternoon or 9 am on a Monday morning. Expect to work anti-social hours thereafter.
- Crises are often 'resolved' over week-ends.
- You reap what you sow. Crisis are often based on long-standing supervisory weaknesses somewhat like fault lines in an earthquake (BCCI is a good example).

Reflections of a host supervisor cont'd

- Crisis planning or testing is a good idea. But it never works out like you expect.
- People in the office will generally rally round during a crisis
- Personal contacts are useful up to a point
- Good intra-authority and domestic communication is vital as is good legal advice
- Resolution powers will be welcome when they come
- Encryption has its dangers
- Insurance companies should be easier to sort out than banks (fraud wipes out coverage, protection funds, capital more judgemental and so on). But don't assume this (AIG; Enterprise etc).

Take away points

Generic 5 must include items for your Crisis Management Plan

- May 2016 – Melissa Agnes

1. Activation Guidelines

- What is a crisis, who decides this and what are the criteria

2. Detailed Action Plans

- A checklist of what you need to have considered in the first 24-48 hours including who does what

Take Away Points (cont'd)

3. Pre-approved crisis communication strategy and messaging

- Proactive/Reactive?
- Who speaks for the company?
- First response statements (don't panic, we're sorry?)
- Social media?

4. Thorough contact Risks

- Do you have the contact numbers out of hours: have they been tested?
- Where is it? If on the system, is there a back-up?

5. A detailed resource repository

- A sort of battle box

Conclusion

By now you should

- Be aware of lessons learnt from Con Fed
- Be aware of lessons learnt from the banking crisis
- Be aware of some practical implementation issues
- Have in mind Take Away points