

Results of a Survey on Cross-Border Cooperation and Information Exchange Among Financial Sector Agencies, 2004

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Executive Summary

This paper reviews the key findings of a survey on cross-border cooperation and information exchange among financial sector regulators and agencies, conducted between May and December 2004, of 74 banking, insurance, and securities regulators and financial intelligence units from 52 countries.

The results of the survey suggest that cooperation, including information exchange, in the jurisdictions covered is generally adequate at both the national and international levels. Respondents indicated a high degree of satisfaction with the assistance received and provided and with the timeliness of responses to requests for assistance.

Conditions among the different types of agencies are not, however, uniform. These differences may be useful in informing future discussions on cross-border information sharing. For example, the survey identifies securities regulators and financial intelligence units (FIUs) as experiencing the most difficulty in exchanging information, apparently because the information they require is more often enforcement related and may therefore be more difficult to obtain. Supervisors that do not primarily request enforcement-related information cited fewer concerns with information exchange.

¹At the time this chapter was prepared, the authors worked in the Monetary and Financial Systems Department of the IMF. They wish to express their gratitude to the officials of the 74 agencies that generously responded to the survey. They also thank Tanya Smith, Ana Fiorella Carvajal Carvajal, and Richard Pratt for their useful comments and suggestions. The authors, are, however, responsible for any remaining errors.

Other key findings of the survey include the following:

- ✦ Advanced economies place more emphasis on formal arrangements, while emerging markets and developing countries cooperate at a more informal level, possibly reflecting limitations on their capacity to achieve such arrangements.
- ✦ Memoranda of understanding (MoUs) were identified by survey participants as the preferred mechanism for cross-border information exchange. Emerging markets identified ad hoc contacts as the primary mechanism, followed by MoUs.
- ✦ There is a positive correlation between the volume of cross-border information exchange and the level of income and financial activity in the respondent jurisdictions. On average, advanced economies and international and offshore financial centers (IOFCs) exchange several times more information than the emerging/developing economies and the other jurisdictions (nonIOFCs).
- ✦ A major obstacle to information exchange continues to be inadequate gateways through secrecy or other confidentiality requirements, which was the main difficulty cited by requesting organizations. Agencies unable to meet requests primarily identified an inability to collect the information requested.
- ✦ When asked to provide their own descriptions of obstacles, respondents noted difficulties in understanding other jurisdictions' legal and institutional arrangements and, hence, in determining the gateways for cooperation. The lack of formal agreements was identified as an issue for securities regulators and FIUs.
- ✦ Participants indicated that more could be done to improve international cooperation and information exchange. The most predominant mechanism for improving information exchange, identified by approximately half the respondents, was to enter into formal arrangements. This ties in very closely with concerns raised by respondents regarding obstacles resulting from poor comprehension of the gateways for cooperation. Additional suggestions for improving information exchange included improving domestic legislation to remove impediments to information sharing, strengthening internal mechanisms to address requests for information in a more efficient way, and developing informal relationships between supervisors.

List of Abbreviations

AFA	absence of a treaty or a formal arrangement
AHCs	ad hoc contacts
AML/CFT	anti-money laundering/combating the financing of terrorism
C	client of the regulated financial services business
DCT	The offense in question is not an offense in the requested jurisdiction.
EU	European Union
FIUs	financial intelligence units
IMF	International Monetary Fund
IOFCs	international and offshore financial centers
IOSCO	International Organization of Securities Commissions
LBAs	legally binding agreements
LCs	letters of commitment
LPC	Requested agency lacked the powers to collect the information requested.
MoU	memorandum of understanding
NonIOFCs	jurisdictions other than international and offshore financial centers
NonSC	Requesting authority was unable to give the necessary confidentiality undertakings.
ORR	other reasons for refusal
RFB	regulated financial services business
SC	secrecy laws and other confidentiality restrictions
SIM	non-equivalent functions of the providing/requesting agency

I. Introduction

The growing integration of financial markets and the deepening of the international operations of financial firms underscore the critical importance of international cooperation and information exchange among financial sector supervisors and agencies in ensuring effective supervisory oversight and the stability of financial systems.

To inform discussions at the IMF Conference on Cross-Border Cooperation and Information Exchange, a group of 55 jurisdictions was surveyed during May and June of 2004. With the encouragement of conference participants, a further 42 agencies were invited to participate in the survey in August 2004. In addition, during the first round of the survey, the Egmont Secretariat kindly asked its members to complete the survey. As a result of these three mailings, we obtained responses from 74 financial sector and FIU agencies from 52 countries.

The survey aimed at identifying the practices and obstacles to international cooperation and information sharing in the financial sector and how these vary by sector, type of agency, level of income, and financial activity of the responding jurisdictions. The survey posed questions to identify the most important information-exchange mechanisms; determine the types of information exchanged; assess the volume, timeliness, and quality of the assistance received and provided; identify the most important challenges in, and barriers to, exchanging information; and examine views on ways to improve information exchange.²

The chapter is organized as follows. Section II describes the sample of respondents. Section III discusses the mechanisms used for information exchange domestically and internationally. Section IV describes the purpose and volume of information most frequently exchanged. Section V examines the degree of satisfaction with the assistance received or provided by the financial sector agencies. Section VI addresses the challenges and impediments in sharing information, as well as the alternative sources of information used when the requests for assistance were refused. Section VII describes the views of the participants on ways to improve information exchange.

II. The Respondent Sample

From the total of 97 agencies invited to participate in the survey (see Appendix B for the questionnaire), answers were received from 78 agencies (Table 18.1) in 52 countries, with a roughly similar number in each of 4 economic/jurisdiction categories: developing IOFCs (13), other developing

²The preliminary results of the survey were presented at the Conference on Cross-Border Cooperation and Information Exchange, which was hosted by the IMF in Washington on July 7–8, 2004. An update of the survey, with expanded coverage, was presented at the Second Annual IMF Roundtable for Offshore and Onshore Supervisors and Standard Setters, which was held in Basel on November 2, 2004.

Table 18.1. Responses Received, by Type of Supervisor and Jurisdiction (Question 1)

Type of Supervisor	Total	International and Offshore Financial Centers (IOFCs) ¹	Non-International and Offshore Financial Centers (NonIOFCs) ²	Advanced Economies ³	Emerging Markets and Developing Countries ³
Banking	19	6	13	9	10
Securities	12	3	9	6	6
Insurance	11	3	8	9	2
FIUs ⁴	16	6	10	12	4
Unified ⁵	20	13	7	10	10
Total	78	31	47	46	32

¹This group is composed of regulatory authorities from the following international and offshore financial centers: Aruba, The Bahamas, Bahrain, Barbados, Bermuda, the British Virgin Islands, the Cayman Islands, Costa Rica, Cyprus, Dominica, Gibraltar, Guernsey, Hong Kong SAR, Ireland, the Isle of Man, Jersey, Lebanon, Luxembourg, Macao SAR, Mauritius, Monaco, Samoa, Singapore, and Switzerland.

²This group is composed of regulatory authorities from the following jurisdictions: Argentina, Australia, Belgium, Brazil, Canada, Chile, Colombia, Finland, France, Germany, Indonesia, Italy, Malaysia, the Netherlands, New Zealand, Panama, Poland, Portugal, Serbia, the Slovak Republic, Slovenia, South Africa, Spain, Sweden, Taiwan Province of China, Thailand, the United Arab Emirates, and the United States.

³According to IMF's World Economic Outlook classification.

⁴The group includes one AML/CFT regulator.

⁵Three regulatory authorities provided separate answers for the different sectors. Those responses are included under the relevant sectors. The actual number of unified regulators participating in the survey was 23.

Table 18.2. Participating Jurisdictions, by Economic Category (Question 1)

	Total	International and Offshore Financial Centers (IOFCs)	Non-International and Offshore Financial Centers (NonIOFCs)
Emerging markets and developing countries ¹	28	13	15
Advanced economies ¹	24	11	13
Total	52	24	28

¹According to IMF's World Economic Outlook classification.

jurisdictions (15), advanced IOFCs (11), and other advanced jurisdictions (13) (Table 18.2). In terms of a sector-of-agency categorization, 78 responses were received,³ half from banking and unified supervisors (accounting for 19 and 20 responses, respectively), 12 from securities supervisors, 11 from insurance supervisors, and 16 from FIUs (among which one was an AML/CFT supervisor) (see Table 18.1).

³Three unified regulators provided separate answers for the different sectors supervised, and their responses were included under the relevant sectors. Therefore, although the actual number of supervisors and agencies participating in the survey was 74, 78 responses by sector were received.

Caution should be exercised in generalizing the results, given the limited number of responses received per sector (especially for the securities and insurance sectors), as well as the low response rate to some questions. Given the difficulty of compiling statistics from records, many responses may reflect the observations of the supervisors completing the survey, rather than a strict tabulation of agency records. Nevertheless, results are consistent with both our assumptions and other evidence (see Chapter 17 by Pratt and Schiffman in this volume).

Influence of Respondents' Areas of Responsibility

In analyzing the results of the survey, our expectations or assumptions were that cooperation by and among regulatory authorities depends, *inter alia*, on (a) the different roles played by the authorities, reflecting their industries; and (b) the standards set by the competent standard-setting bodies or industry groups (see Pratt and Schiffman, Chapter 17).

For example, a large part of the traditional work of banking supervisors is to verify the financial condition of institutions in an attempt to secure the funds borrowed from the public through deposits. In addition, banks' systemic importance has given them the longest and most developed supervisory guidance; relatively strong networks for information exchange; and greater exposure to the need for, and understanding of, information sharing between home and host supervisors. The Bank of Credit and Commerce International (BCCI) failure of the 1990s confirmed and underlined the importance of cross-border consolidated supervision in international cooperation. The international standards for banking supervision emphasize the need to practice global consolidated supervision over internationally active banking organizations, as well as providing for a clear delimitation of attributes between home and host country supervisors.

Similarly, insurance supervisors are concerned with monitoring insurance companies' solvency so that insurers can meet insureds' claims. Cross-border cooperation has been less of an issue in insurance because the business, apart from reinsurance, has tended to be nationally focused (Joint Forum, 2001). Insurance companies are increasingly growing outside domestic borders, however, which enhances the need for home and host supervisor exchange of information. The standards for insurance supervision require that internationally active insurance companies are subject to effective supervision and that efficient and timely exchange of information is taking place among supervisory bodies, both within the insurance sector and across the financial services sector.

The securities regulators have a much broader role in cooperation and information exchange than do either the banking or insurance supervisors, reflecting both the differences in their general roles and the wider range of the bodies they regulate.⁴ Securities regulators have traditionally been focused on ensuring that firms make correct disclosures to customers and markets. They also set rules for a range of entities and purposes—organized markets and settlement systems, business conduct of intermediaries, structure and sale of collective investment schemes, and issuers’ disclosure. Since nonregulated entities can violate these rules and perpetrate fraud in security markets, many securities supervisors have enforcement powers, which allow them to initiate legal proceedings against regulated and nonregulated persons (Joint Forum, 2001). Hence, securities regulators would exchange information for enforcement reasons to a greater extent than do banking and insurance supervisors. In addition, the most significant securities markets are international, so cross-border information exchange is more widely needed and used. The specific standards demand a clear separation between when and how regulators should share public and nonpublic information with their foreign counterparts.

Financial intelligence units are central, national agencies “responsible for receiving, (and, as permitted, requesting), analysing and disseminating to the competent authorities, disclosures of financial information: (i) concerning suspected proceeds of crime and potential financing of terrorism, or (ii) required by national legislation or regulation, in order to counter money laundering and terrorism financing” (Egmont Group, 2004). FIUs therefore have information generation and exchange at the very center of their mandate and, in keeping with their criminal prevention and detection roles, are expected to be more concerned with enforcement and actions resulting from enforcement than prudential agencies. In this case, the standards require extensive cooperation powers, including the capacity of competent authorities to conduct inquiries on behalf of foreign counterparts, or the authorization of law-enforcement agencies to conduct investigations on behalf of foreign counterparts (where permitted by domestic law).

We therefore expect securities regulators and FIUs to have more exacting and sensitive demands for information, in that these may need to be legally defensible; more information on customers is likely to be sought; and, in the latter case, such requests often relate to suspicions of a criminal offense, requiring

⁴As the IOSCO Objectives and Principles for Securities Regulation indicate, securities regulators oversee self-regulatory organizations, issuers, collective investment schemes, broker dealers and investment advisors (market intermediaries), and secondary-market arrangements themselves—exchanges and trading systems.

more careful handling. There were extensive discussions at the conference, however, on the converging cooperation requirements for sectoral supervisors.

In addition to these sectoral viewpoints, the spread of universal banks and the growing degree of conglomeration of financial firms (De Nicoló and others, 2004) also mean that there is an increased need for cooperation and information between the different types of agencies. There are now several integrated or unified regulatory bodies, combining in a single agency regulation and supervision of all three sectors (banking, insurance, and securities), although the degree of integration differs across jurisdictions (de Luna Martinez and Rose, 2003). Although some bodies have begun to apply a uniform approach to regulation and supervision of the three sectors, other countries continue to maintain sector-specific practices. The differences in integration and approach suggest that their information-sharing needs or practices may not be uniform, or even closely correlated with the different sectors they supervise, and we therefore can make few assumptions.

III. Mechanisms Used for Information Exchange

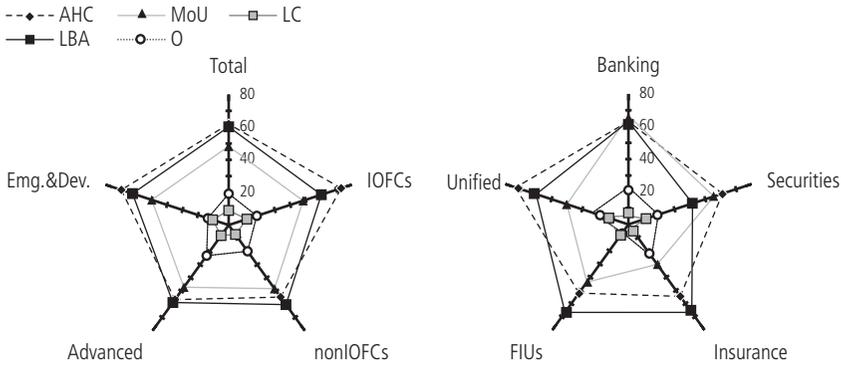
The questionnaire distinguished four specific mechanisms for information exchange: legally binding agreements/arrangements (LBAs), MoUs, letters of commitment (LCs), and ad hoc contacts (AHCs); there was also an “other” category, ranging from the most legally powerful to the least. In “other,” respondents were allowed to supply their own mechanisms. The mechanisms cited were limited to legislative provisions (included with LBAs in the subsequent discussion) and meetings of regional or international groups such as the EU, standard setters, regional supervisory groupings, and informal/personal contact. These respondent-provided mechanisms and discussions during the conference (discussed previously) indicated that MoUs and AHCs are often initiated or facilitated through contacts at such meetings and, together with the results discussed later on, this suggests that participation in peer organizations may well be key to much information exchange, since it helps participants to establish national contacts and to understand key gateways.

Mechanisms Used for Information Exchange Domestically (Question 2)

Domestically, information exchange is taking place mostly in an informal manner (ad hoc contacts) or by virtue of legally binding arrangements, including legal and statutory provisions (Figure 18.1 and Appendix A, Table A.18.1). The respondents attach an almost equal degree of usefulness to AHCs and LBAs, each of which ranks at around 60 out of 100—the maximum value of

Figure 18.1. Domestic Mechanisms for Information Exchange, Ranked by Usefulness (Question 2)

(Mechanisms rated from 0 = not important to 100 = most important)



Notes: LBA denotes legally binding arrangements (including legal and statutory provisions); MoU denotes memoranda of understanding; LC denotes letters of commitment; AHC denotes ad hoc contacts; O denotes other; and Emg. & Dev. denotes emerging market and developing countries.

the usefulness index constructed for quantifying the answers to Questions 2 and 3 (see note to Appendix A, Table A.18.1 for the index methodology). MoUs are considered less important (usefulness index of 48), and LCs have only marginal importance (usefulness index of 9). Other mechanisms, of which the most frequently mentioned were interagency committees and working groups, are important to some extent (usefulness index of 19).

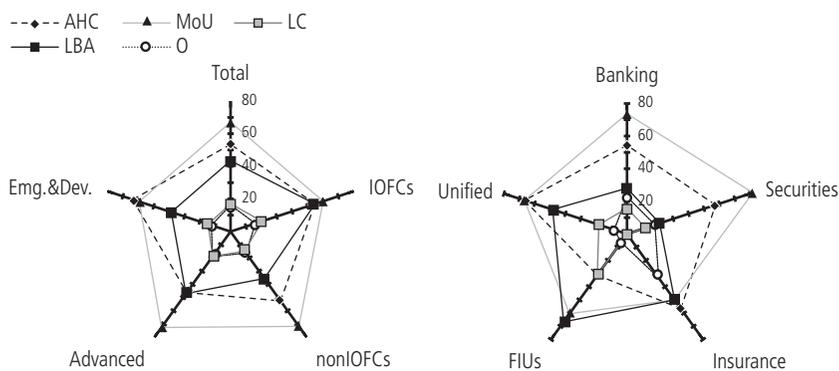
AHCs are the most important mechanisms for information exchange used domestically by IOFCs, emerging and developing countries, and securities and unified regulators (Figure 18.1). LBAs are the most important mechanisms for information exchange for nonIOFCs, advanced economies, and insurance supervisors, as well as for FIUs (Figure 18.1). For banking supervisors, the most useful mechanisms for information exchange are MoUs, closely followed by AHCs and LBAs (Figure 18.1).

Mechanisms Used for Information Exchange Internationally (Question 3)

Internationally, the most useful mechanisms were found to be MoUs, with a usefulness index number of 67 (Figure 18.2 and Appendix A, Table A.18.1). MoUs rank first in both IOFCs and nonIOFCs (with usefulness index numbers of 60 and 72, respectively), as well as in advanced economies (with a usefulness index number of 73). MoUs are also the most important mechanisms used by banking and securities authorities (with usefulness index numbers of

Figure 18.2. International Mechanisms for Information Exchange, Ranked by Usefulness (Question 3)

(Mechanisms rated from 0 = not important to 100 = most important)



Notes: LBA denotes legally binding arrangements (including legal and statutory provisions); MoU denotes memoranda of understanding; LC denotes letters of commitment; AHC denotes ad hoc contacts; O denotes other; and Emg. & Dev. denotes emerging market and developing countries.

74 and 82, respectively). Together with AHCs, they are also the most important for unified regulators.

AHCs are the most important mechanisms to emerging market regulatory authorities (with a usefulness index of 64), and to insurance supervisors (with a usefulness index number of 57), and the second most important mechanism to nonIOFCs, as well as to banking supervisors and securities regulators. The advanced economy regulatory authorities attach virtually the same degree of importance to LBAs⁵ as to AHCs, a pattern similar to that of IOFC regulators. These associations between wealth/economic category of jurisdiction and preferred mechanism suggest that more complex or extensive financial activities (the factor we assume that IOFCs and advanced economies have in common) require more formal mechanisms of cooperation.

LBAs (including legal and statutory provisions) are judged the most important information exchange mechanism by FIUs (with a usefulness index number of 67) and rank second for insurance supervisors (Figure 18.2). LCs are used to a greater extent internationally than domestically and are distinctly more important for FIUs (with a usefulness index number of 31) than for other agencies.

⁵Note also that MoUs are legally binding in some countries.

IV. Purpose and Volume of Information Most Frequently Exchanged

Types of Requests for Assistance Made and Received (Questions 4 and 11)

The survey provided respondents with a choice of four purposes for which information is exchanged—licensing, ongoing supervision, enforcement, and action from enforcement. Respondents were also asked to indicate the subject of the request—either regulated financial business (RFB) or a client of the institution (C). A discussion of these purposes is provided in Appendix A of Pratt and Schiffman (Chapter 17 in this volume) but are briefly explained here as follows:

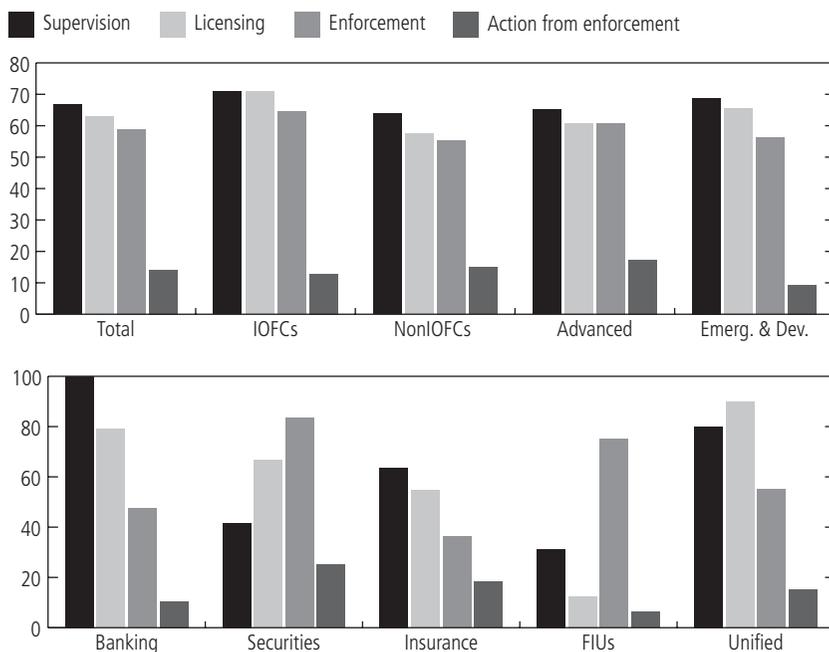
- ✦ Licensing information is required when a regulatory authority is faced with an application from a regulated financial business and wishes to learn, inter alia, about the regulatory track record of the applicant, its financial status, the owners, and controllers of the applicant.
- ✦ Ongoing supervision information relates to the conduct of business by the RFB in the home or host jurisdiction, the extent to which the home or host regulations are being observed in the respective jurisdictions, on-site inspections, factors that might pose risks, regulatory developments in jurisdictions, and clientele in different jurisdictions.
- ✦ Enforcement information covers matters such as solvency or capital, records to assist in an investigation, information on customers, and documents to assist in investigations.
- ✦ Action from enforcement would relate to the freezing of assets, assistance with referrals to prosecutors, and the use of sanction powers such as a windup.

Requests Made for Assistance (Question 4)

Overall, the requests for assistance made to foreign agencies are predominantly for supervision, licensing, and enforcement purposes (67, 63, and 59 percent, respectively, of all respondents; see Figure 18.3), while only a limited number of requests target information on action resulting from enforcement cases (14 percent of respondents). Domestically, there is an almost equal distribution of requests for information on supervision, licensing, and enforcement (about 55 percent of respondents for each purpose), with more requests for information on action resulting from enforcement (21 percent of respondents, see Appendix A, Table A.18.3a).

Figure 18.3. Information Requested from Foreign Regulatory Authorities, by Purpose (Question 4)

(Percent of responses in each category)



Notes: See footnotes in Appendix A, Table A.18.2a.

At the sectoral level, most requests from banking and insurance supervisors and unified regulators to foreign counterparts were made for supervisory or licensing purposes (Figure 18.3),⁶ although securities regulators' and the FIUs' most numerous requests are for enforcement purposes (Figure 18.3).⁷ Of all agency types, securities regulators ask most frequently for information on

⁶Although the proportions shown for insurance supervisors are lower, 3 of the 11 supervisors in the insurance group did not respond to this question.

⁷An unusual result should be mentioned. Two (four) FIUs indicated that they seek information internationally (domestically) for licensing purposes (see Appendix A, Tables A.18.2a and A.18.3a). In one of the two cases of international exchange, the respondent is the specialized AML/CFT regulator classified with FIUs. One FIU among the four is known to be responsible for AML/CFT supervision generally, including the issuance of licenses for some entities. The other two cases may reflect both such activity and the involvement of FIUs in investigations where an entity is required to have a license and/or loses a license as a result of criminal activity.

action resulting from enforcement cases (25 percent of securities regulators) (Figure 18.3). Domestically, banking supervisors and FIUs are far more likely to request information for action from enforcement than they do at the international level (Appendix A, Tables A.18.2a and A.18.3a).

Most requests concern regulated financial services businesses rather than clients (Appendix A, Table A.18.2a). As one would expect, however, in cases where information is requested for enforcement purposes and action from enforcement, a higher proportion of requests concern the client of the regulated financial businesses (Appendix A, Table A.18.2a). The same patterns are observed at the domestic level (Appendix A, Table A.18.3a).

There were some differences among regulatory authorities by type of market (IOFC and nonIOFC) and income (advanced and emerging market countries). For example, agencies in IOFCs were more likely to request information for licensing and supervision purposes than were those in nonIOFCs.

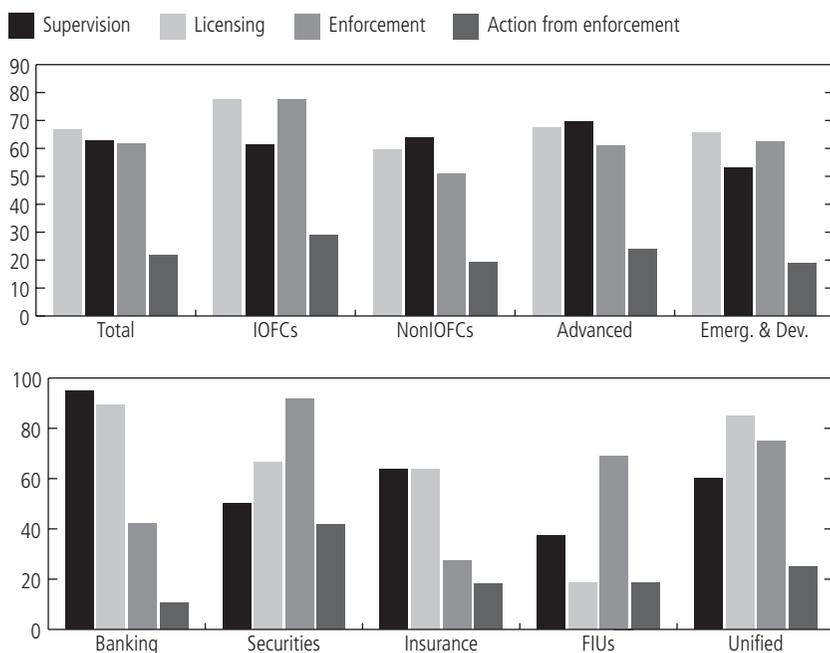
Requests Received for Assistance (Question 11)

Overall, the foreign requests for assistance received by respondents are mainly for licensing, supervision, and enforcement purposes (67, 63, and 62 percent, respectively, of all respondents) (Figure 18.4). This distribution by purpose is very similar to that for requests made. However, the respondents receive more requests than they make concerning action resulting from enforcement cases (22 percent as compared with 14 percent). Domestically, the most important purpose for which information is requested is enforcement, regardless of the location of the regulatory authority—whether in IOFCs, nonIOFCs, or in advanced and emerging market and developing economies (Appendix A, Table A.18.3b).

The purpose of information requested from respondents varies significantly by sector. Thus, although banking supervisors are mainly requested to provide information on supervision (95 percent of banking supervisors' responses) and licensing (89 percent), which is not unlike the experience of insurance supervisors, securities regulators provide information mainly on enforcement (92 percent) and licensing (67 percent).⁸ FIUs' assistance is offered for enforcement (69 percent) and supervision purposes (38 percent), and the unified regulators primarily offer information on licensing (85 percent) and enforcement (75 percent). At the domestic level, there is a much greater emphasis placed on enforcement and action from enforcement for banking supervisors than there is at the international level (Appendix A, Tables A.18.3a and A.18.3b).

⁸Since each regulatory authority or agency type received requests for more than one purpose, the percentages provided for each purpose do not sum to 100.

Figure 18.4. Information Provided to Foreign Regulatory Authorities, by Purpose (Question 11)
(Percent of responses in each category)



As concerns subject, the respondents provide information to foreign regulatory authorities and agencies most frequently on regulated financial businesses (Appendix A, Table A.18.2b). By and large, clients of the regulated financial businesses are more frequently the subject of the assistance provided when the purpose of information is enforcement or action resulting from enforcement cases (Appendix A, Table A.18.2b). When providing information for these two purposes, the IOFCs' agencies provide more information on clients than do the other jurisdictions (Appendix A, Table A.18.2b). More information on clients is also provided by securities regulators, unified regulators, and FIUs (Appendix A, Table A.18.2b). Only the banking supervisors provide more information on clients domestically than internationally (Appendix A, Tables A.18.2b and A.18.3b).

The relatively high exchange of information for enforcement purposes by securities regulators and FIUs will be considered again in Section V, which discusses agency satisfaction with assistance.

Importance of Diagonal Requests (Questions 4 and 11)

The survey was not designed to capture cooperation relationships cross sectorally, but did capture diagonal requests between FIUs and prosecuting agencies, on the one hand, and financial regulatory authorities, on the other hand.

Although our key interest remains the cross-border exchange of information, we begin here by considering domestic information exchange, given the important domestic role of FIUs in the investigation and prosecution of money laundering. Of all prudential agencies, banking supervisors are the most likely to exchange information domestically with FIUs (47 percent and 53 percent, respectively, of banking supervisors request information from, and are requested to provide information by, FIUs), suggesting that the banking sector continues to generate the greatest volume of suspicious transactions reports. Consistent with this, a high proportion of unified regulators make requests to (30 percent), and receive requests from (35 percent), FIUs. In our sample, less than 20 percent (securities) and 10 percent (insurance) of the other authorities exchange information with FIUs. Surprisingly, the responses suggest that banking supervisors have almost as much information exchange contact with domestic prosecuting agencies as do securities regulators, while, as expected, FIUs have the most such contacts (Appendix A, Table A.18.4).

Internationally, the picture changes in the expected directions—cross-border contacts between the prudential supervisors (banking, insurance, and securities) and FIUs are very low or nonexistent, with the information exchange being made FIU to FIU (since most systems are organized to accomplish it in this way) and 19 percent of FIUs exchange information with cross-border prosecuting agencies. Between 10 and 16 percent of banking and unified supervisors exchange information directly with FIUs. A relatively higher proportion of unified supervisors receive requests from (25 percent), and make requests to (20 percent), prosecuting agencies.

Volume of Requests for Assistance Made and Received (Questions 5 and 12)

The volume of requests for assistance made or received seems to be correlated with the level of the financial activity in the respondent jurisdictions and with their trade in financial services. Thus, on average, IOFCs request and provide more assistance than nonIOFCs—503 versus 238 made and 331 versus 200 received. Tellingly, the volume in advanced IOFCs is between 4 and 13 times

Table 18.3. Volume of Requests for Assistance Made or Received, by Type of Jurisdiction or Agency*(Average of last two years)*

	Made (Q5)	Received (Q12)
IOFCs	503	331
Advanced ¹	701	441
Developing ¹	52	97
Non IOFCs	238	200
Advanced ¹	387	279
Emerging and developing ¹	64	92
Advanced¹	575	375
Emerging and developing¹	57	92
Sectoral breakdown		
Banking supervisors	112	144
Securities regulators	180	120
Insurance supervisors	109	142
FIUs, AML/CFT supervisors	585	381
Unified regulators	539	356

¹According to IMF's World Economic Outlook classification.

bigger than in developing IOFCs, many of which actually have low levels of activity. Similarly, advanced jurisdictions make and receive 10 and 4 times, respectively, the amount of information requests that emerging market and developing economies do (Table 18.3).

When volume of requests is considered in terms of agency type, function, and scope of supervision appear to be the factors determining volume. Consistent with their statutory role as producers and disseminators of information, FIUs make and receive, on average, the most requests for assistance (585 and 381, respectively) among the agencies considered. The FIUs are closely followed by unified regulators, who also need to exchange information intensively owing to their expanded supervisory responsibilities, with 539 requests for assistance made and 356 requests for assistance received on average (Table 18.3).

A notable observation about these data is the excess of requests made over requests received. This appears to be explained by two factors that would tend to reduce the number of received requests reported. First, large jurisdictions often do not maintain a tally of the requests received, given their large volume, and thus were not able to go back and count them. Second, and more speculatively, our sample does not contain several of the larger home supervisors, which would tend to receive more requests than the average number of requests reported here.

“Freely” Provided Information⁹ (Question 16)

Survey results suggested that there are virtually no restrictions on the types of information that can be shared domestically, and few on the types of supervisory information that can be shared cross-border. These findings conform to assumptions about information exchange, although the low number of relevant responses (see footnote 9) limits their applicability.

Extensive information can be shared at the domestic level. A large proportion of the respondents indicated that all information requested, both public and nonpublic, by domestic authorities can be provided, including information on individuals and clients of the regulated financial businesses. The domestic regulatory authorities have unrestricted access to each other’s information and, in some cases, participants specified that professional secrecy cannot be invoked among domestic regulatory agencies. Notably, a large number of the FIUs specified that they can share information only for AML/CFT investigation, detection, or prosecution. Also, in several cases, the FIUs need to conclude MoUs with domestic supervisors in order to be able to share intelligence information.

At the international level, respondents indicated that there are no restrictions in providing public information (for example, industry statistics—aggregate financial and prudential ratios as well as developments in national legislation and supervisory standards). Also, a large majority of the respondents can “freely” share information for supervisory purposes, such as information on directors, officers, operations of a licensee, and prudential and financial ratios of financial institutions, as well as information on beneficial owners and enforcement actions. Further, if requested for supervisory purposes, information on clients of the regulated financial businesses can be provided.

Only a limited number of respondents specifically indicated that the information they can share for supervisory purposes does not depend on the requesting authority, and these respondents had no common characteristics (three were IOFCs). Two regulatory authorities specified that they could not pass on information to overseas regulatory authorities¹⁰ and one that it could not share

⁹That is, information that can be provided—without a court order, subpoena, or other referral—to either domestic or international authorities. Although the question had a high response rate (75 of the 78 responses), respondents gave widely varying responses, with some repeating earlier answers on impediments to information exchange. In consequence, the findings described reflect only the comments of the limited number of respondents who actually described the types of information that can be “freely” shared.

¹⁰These statements seemed inconsistent with other responses, so we reexamined the original submissions. In one case, the supervisor in question was in a small, shallow securities market and

information with foreign FIUs. Two securities supervisors from advanced countries indicated that they could provide investigatory assistance on behalf of foreign regulators, and one small FIU specified that evidential information could be provided only by the appropriate legal authorities.

Two regulatory authorities stated that they could not provide information on individual financial institutions or their clients. Other restrictions mentioned by respondents included providing information subject to legal professional privilege, information that deals with industrial or commercial secrets, or information that concerns a fiscal offense.

Regional cooperation agreements (such as the one in place in the EU) seem to help financial regulatory authorities to share information more freely. Likewise, beyond the legal and institutional capacity to share information, a cooperative stance and habits can make important contributions to improving the information exchange. For example, several respondents indicated that they voluntarily and regularly provide inspection reports on foreign banks to the banks' home supervisors.

V. Satisfaction with Assistance Received or Provided

Quality of Responses to Requests for Assistance Made and Received (Questions 6 and 13)

Agencies were asked to indicate the approximate percentage of the requests for information or assistance they had made (in Question 6) or received (in Question 13) in the last two years that had not been responded to, had been inadequately answered, or had been satisfactorily answered. The percentages were averaged for each category of agency.

Overall, and in each category, the regulatory authorities and FIUs judged the quality of the responses they supplied to be greater than the quality of the responses they received, with the exception of agencies in IOFCs, who indicated that the quality of both types of responses was similar. Taking account of a probable degree of excess satisfaction with their own responses, the responses we received suggest that securities regulators and FIUs have had the least success in obtaining satisfactory assistance.

explained that major reform of their legislation was required. The second submission was quite incomplete and related to an even less developed securities market. Neither of these jurisdictions were IOFCs.

Table 18.4. Quality of Responses to Requests for Assistance Made and Received (Questions 6 and 13)*(Average percentage of total requests made or received for each category)*

Requests for Assistance	Unanswered	Inadequately Answered	Satisfactorily Answered	Total
Requests made by respondent				
Total countries	5	11	84	100
Total IOFCs	3	7	90	100
Total nonIOFCs	6	14	81	100
Advanced ¹	3	12	85	100
Emerging market and developing ¹	6	10	84	100
Sectoral breakdown				
Banking supervisors	3	6	91	100
Securities regulators	8	16	77	100
Insurance supervisors	3	16	82	100
FIUs, AML/CFT supervisors	7	16	77	100
Unified regulators	3	7	90	100
Requests received				
Total countries	3	5	92	100
Total IOFCs	4	7	89	100
Total nonIOFCs	3	4	93	100
Advanced ¹	5	6	89	100
Emerging market and developing ¹	1	5	95	100
Sectoral breakdown				
Banking supervisors	1	4	95	100
Securities regulators	9	2	89	100
Insurance supervisors	0	3	97	100
FIUs	5	9	85	100
Unified regulators	1	7	92	100

Notes: Each entry averages the "satisfaction" percentages given by supervisors in each group. Figures are rounded and, hence, may not add up to the total.

¹According to IMF's World Economic Outlook classification.

Among the jurisdictions, a significantly higher degree of satisfaction with the answers received is noticed among IOFCs, where, on average, 90 percent of the answers received were regarded as satisfactory, compared with 81 percent recorded in the nonIOFCs (Table 18.4).¹¹ However, a higher proportion of requests to IOFCs (11 percent) than to nonIOFCs (7 percent) was left unanswered or inadequately answered. Advanced countries also provided less satisfactory answers. Details of the results also suggest that small, poor jurisdictions neither receive nor provide very satisfactory responses.

¹¹Twenty of the 31 supervisors from IOFCs considered 90 percent or more of their requests to have been satisfactorily answered; three found 80–90 percent of responses satisfactory; for four agencies, 60–70 percent of responses were satisfactory; and four of the agencies did not respond to this question. Conversely, only one supervisor found that as much as 20 percent of their requests were unanswered.

Sectorally, an average of more than 90 percent of the responses made and received by banking supervisors and unified regulators surveyed are judged satisfactory. In contrast, securities regulators and FIUs are not only least likely to receive satisfactory assistance (they consider 77 percent of the answers they receive satisfactory, as compared with 82, 90, and 91 percent among insurance, unified, and banking authorities, respectively) but also less satisfied with their own answers. Only an average of 89 percent and 85 percent, respectively, of the answers they themselves provided were considered satisfactory by securities regulators and FIUs. Furthermore, they were the most likely to be unable to answer. Averages of 8 percent of requests made, and of 9 percent of requests received, went unanswered among securities regulators; similar averages were found for FIUs (7 percent and 5 percent, respectively).

These results are consistent with those on the purpose of information exchange. As discussions during the conference made clear, enforcement-related information is more difficult to exchange. Not only is its subject matter likely to be more sensitive, to refer more frequently to individuals than institutions, but it also needs to be of higher quality to better support the case being made. Their larger role in such exchange therefore helps explain the result that about one-quarter of securities regulators' and FIUs' requests are inadequately addressed.

Timeliness of Assistance Received or Provided (Questions 7 and 14)

Timeframe for Receiving Assistance (Question 7)

The timeframe for receiving information solicited is usually less than a month (68 percent of all agencies) with some variations between IOFCs (where only 59 percent of the jurisdictions indicated that they receive information in less than a month) and the agencies in nonIOFC jurisdictions (where 74 percent of the jurisdictions indicated that they most frequently received the information within a month). Considered by sector, the majority of financial regulatory authorities and agencies most frequently receive the information requested within a month, with the exception of securities regulators, most of whom indicated that they most frequently received the information solicited between one and three months afterward (Appendix A, Table A.18.5).

Timeframe for Providing Assistance (Question 14)

The timeframe for providing information solicited is usually less than a month. (Eighty-six percent of the jurisdictions indicated that they most frequently provided the information requested in less than a month.) Considered by sector, the survey results indicate that between 100 percent (banking) and 67 percent

(securities) of the financial supervisors and agencies most frequently provided the information requested within a month (Appendix A, Table A.18.5).

VI. Challenges and Obstacles in Sharing Information

Only 60 percent of participants in the survey provided answers to Questions 8 and 11, which asked for reasons given for not providing cross-border information to/by respondents if the information requested was not supplied (see notes to Tables A.18.6a and A.18.6b in Appendix A). These results should therefore be interpreted cautiously even for the sample. They are consistent, however, with the responses to Questions 6 and 13, which indicated a low proportion of nonresponse to information requests. Indeed, some nonrespondents indicated that the questions did not apply, since information requests were usually met. Less than 20 percent of agencies answered the question for domestic exchange.

The questions provided eight (including “other”) options among which respondents could choose as reasons for not providing information (see Appendix B for the questionnaire). The most frequently selected included “secrecy laws or other confidentiality restrictions” (SC), lack of powers in the requested agency to collect the information (LPC), the requesting agency’s inability to give necessary confidentiality undertakings (nonSC), providing/requesting agency’s lack of similar or equivalent functions (SIM), and absence of formal arrangements (AFA).

Requesting Information (Question 8)

Challenges and Obstacles in Requesting Information Internationally (Question 8)

Considering responses by category of jurisdiction first, almost half of the respondents to Question 8 (44 percent) indicated that the main impediments to receiving the information requested were secrecy laws or other confidentiality restrictions. The proportion of those confronted with secrecy or other confidentiality restrictions was higher in IOFCs (53 percent of the respondent IOFCs) than in other jurisdictions (40 percent of the respondent nonIOFCs). SC is also a reason given to many financial supervisors and agencies from advanced economies (indicated by 58 percent of the respondents from advanced economies) when they do not receive requested information.

Since the international standards include a requirement that supervisors ensure an adequate degree of protection for the confidentiality of the infor-

mation exchanged (see Box 18.1), the importance of SC seems to indicate an absence of adequate gateway provisions. Responses to Question 10, which complements Question 8, show that in obtaining the information sought, financial regulatory authorities and agencies are often obstructed by either poorly understood or insufficient gateways for sharing information.

For the financial regulatory authorities from emerging and developing economies, the main impediment to obtaining the information solicited is represented by “other” reasons for refusal (given by 42 percent of the respondent emerging and developing economies). In most cases, respondents indicated “other” when they had not been given a reason by the nonresponsive agency to which the request was addressed.

“Other” reasons for refusal are also the second most frequently specified impediment to obtaining the information requested by both the IOFCs and the nonIOFCs, as well as by the advanced economies (Figure 18.5). Other important reasons for not obtaining the information requested are the limited powers of the requested agency to collect the information requested, followed distantly by AFAs (Figure 18.5).

The reasons for refusal given to financial regulatory authorities and agencies vary considerably by type of agency (Figure 18.5) and seem to be related to the roles they play and their specific needs for cooperation. Thus, banking supervisors and unified regulators are refused because of secrecy laws or other confidentiality restrictions. Securities regulators and FIUs are confronted with the limited powers of the requested agency; and, finally, insurance supervisors are primarily refused owing to “other” reasons and inability to guarantee that the confidentiality of the information will be maintained (Figure 18.5). Notably, for securities regulators, the “other” reasons for refusal and the limited powers of the requested agency were as important as the secrecy or other confidentiality barriers (Figure 18.5).

Challenges and Obstacles in Requesting Information Domestically (Question 8)

In general, information requested from domestic authorities was obtained, since only about 20 percent of the participants indicated that their requests had not been satisfied domestically (note to Tables A.18.7a and A.18.7b in Appendix A). More than half of respondents to Question 8 were refused owing to SC, which was the main impediment for nonIOFCs; both advanced and developing countries; banking, securities, and unified regulatory authorities; and FIUs. The IOFCs’ requests were refused domestically mainly because of the limited power or in-house capacity of their domestic counterparts (Appendix A, Table A.18.7a).

Box 18.1. Protecting Confidentiality: International Standards

Basel Core Principles (September 1997)

Principle 1(6): *“Arrangements for sharing information between supervisors and protecting the confidentiality of such information should be in place.”*

Core Principles Methodology (October 1999)

Essential criteria to Principle 1(6):

“3. The supervisor:

- may provide confidential information to another financial sector supervisor;
- is required to take reasonable steps to ensure that any confidential information released to another supervisor will be treated as confidential by the receiving party;
- is required to take reasonable steps to ensure that any confidential information released to another supervisor will be used only for supervisory purposes.

4. The supervisor is able to deny any demand (other than a court order or mandate from a legislative body) for confidential information in its possession.”

Insurance Core Principles and Methodology (October 2003)

ICP 3 Supervisory authority

“The supervisory authority: (. . .)

- *treats confidential information appropriately.”*

Essential criteria:

“t. (. . .) Other than when required by law, or when requested by another supervisor who has a legitimate supervisory interest and the ability to uphold the confidentiality of the requested information, the supervisory authority denies requests for confidential information in its possession.”

ICP 5 Supervisory cooperation and information sharing

“The supervisory authority cooperates and shares information with other relevant supervisors subject to confidentiality requirements.”

Essential criteria:

“f. The supervisory authority is required to take reasonable steps to ensure that any information released to another supervisor will be treated as con-

fidential by the receiving supervisor and will be used only for supervisory purposes.”

Objectives and Principles of Securities Regulation (May 2003)

11. *“The regulator should have authority to share both public and non-public information with domestic and foreign counterparts.”*

13. *“The regulatory system should allow for assistance to be provided to foreign regulators who need to make inquiries in the discharge of their functions and exercise of their powers.”*

“(. . .) It is important that assistance can be provided not only for use in investigations but also for other types of inquiry, as part of a compliance program for the purpose of preventing illicit activities. There may also be a need to exchange general information about matters of regulatory concern, including financial and other supervisory information, technical expertise, surveillance and enforcement techniques, and investor education. (. . .)

Where assistance to another authority is provided through the provision of confidential information gathered by the regulator in the exercise of its functions and powers, particular care must be taken to ensure that the information is provided subject to conditions which, to the extent consistent with the purpose of the release, preserve the confidentiality of that information.”

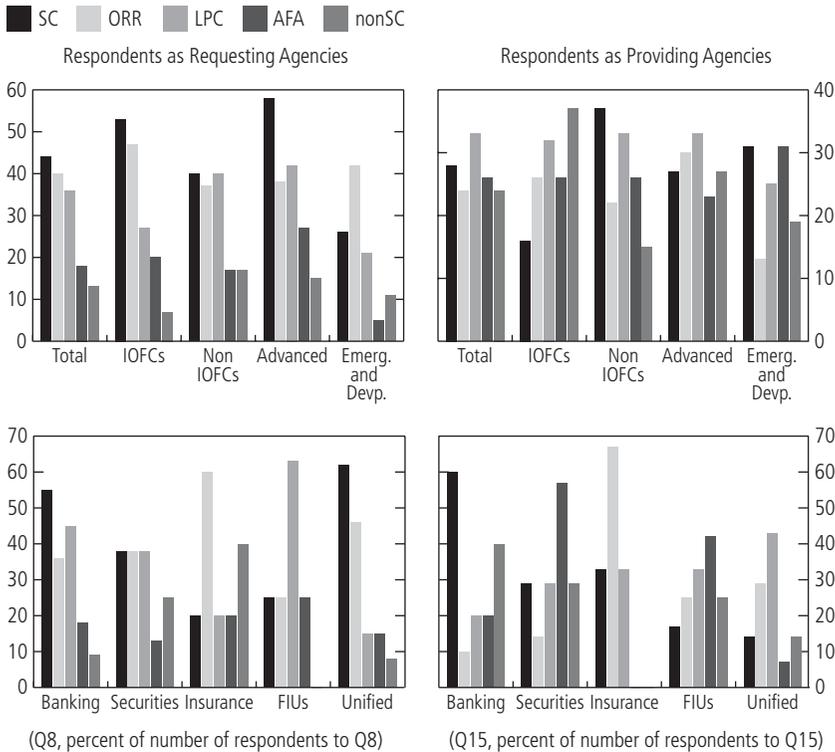
FATF Standards and Methodology for Assessing Compliance (February 2004)

Recommendation 40: “Countries should ensure that their competent authorities provide the widest possible range of international cooperation to their foreign counterparts. (. . .) Exchanges should be permitted without unduly restrictive conditions. In particular: (. . .)

- + b) Countries should not invoke laws that require financial institutions to maintain secrecy or confidentiality as a ground for refusing to provide cooperation.

(. . .) Countries should establish controls and safeguards to ensure that information exchanged by competent authorities is used only in an authorized manner, consistent with their obligations concerning privacy and data protection.”

Figure 18.5. Main Reasons for Refusal When Information Requested Was Not Provided (Questions 8 and 15)
(Percent of responses in each category)



Notes: Bars refer to the percentage of respondents in each category giving the cited reason. SC denotes secrecy laws or other confidentiality restrictions; SIM denotes non-equivalent (nonsimilar) functions of providing/requesting authority; LPC denotes that requested authority does not have the powers to collect the information requested; AFA denotes the absence of a treaty or a formal arrangement; nonSC denotes that the requesting authority is unable to give necessary confidentiality undertakings; Emerg. & Devp. denotes emerging market and developing countries; and ORR denotes other reasons for refusal.

Providing Information (Question 15)

Challenges and Obstacles in Providing Information Internationally (Question 15)

The main obstacle to providing the information requested cited by the participants in the survey was their limited power to collect the information solicited

(30 percent of the respondents).¹² Again, considering information exchange by category of jurisdiction, this reason for refusal is claimed, in almost equal proportion, by the IOFCs and nonIOFCs (Figure 18.5). Surprisingly, a larger proportion of agencies from advanced economies cite lack of powers than do agencies from emerging and developing economies (Figure 18.5 and Table A.18.6b, Appendix A). Similarly, about one-third of agencies from IOFCs (who represent almost half of the agencies from advanced economies) gave this reason.

The second major impediment to providing information was SCs, accounting for 28 percent of the responses. SC is the main reason invoked by financial regulatory authorities and agencies from nonIOFCs and from emerging and developing economies (Figure 18.5). For the financial supervisors and agencies from emerging and developing economies, SC and AFA are the main reasons for inability to assist requesting agencies (Figure 18.5).

Only 16 percent of the respondent IOFCs mentioned SCs as the main reason for inability to provide requested information. This could reflect, in part, the efforts undertaken by numerous IOFCs to improve their legal and institutional frameworks in an attempt to remove the widespread perception that they conceal secretive financial operations of a possibly less-than-lawful nature. More interestingly, the respondent IOFCs indicated that the main reason for refusal was the inability of the requesting agency to provide the necessary confidentiality undertakings (cited by 37 percent of the respondent IOFCs).

At the sectoral level, the reasons for refusal varied considerably by type of agency. Banking supervisors were mainly concerned with secrecy and confidentiality requirements (60 percent of banking supervisor respondents), demanding at the same time that adequate confidentiality provisions be observed by their counterparts (40 percent).

For securities regulators and FIUs, the main reason given when the information requested is not provided is AFAs (by 57 percent and 42 percent, respectively, of these agencies). This AFA reason is not consistent with standard setters' usual advice that an MoU or other formal arrangement not be a prerequisite to information exchange. It may be, however, that, as often discussed, a formal arrangement provides the supervisor with an element of comfort in

¹²This result may be misleading, since it also appears to capture cases where the requested agencies were asked to provide information on institutions outside of their mandates or where the information was judged too expensive to collect. In some cases, the respondents indicated that the questions received were redirected to the appropriate agencies.

sharing information, or its negotiation provides valuable information about the reliability of their foreign counterparts. Furthermore, as highlighted in the discussion of our expectations about agencies, the securities regulators and the FIUs need to obtain sensitive information (i.e., on clients and preponderantly for enforcement purposes, as was discussed in Section III). In these cases, it would seem important that adequate mechanisms, including adequate disclosure capacity by both parties, be in place for facilitating and securing the exchange of information. A multitude of reasons for refusal rank second for securities: LPC, SCs, nonSC, and SIM (each accounting for 29 percent of the respondent securities regulators). For FIUs, the second most important reason for refusal is LPC (33 percent of respondent FIUs).

Two of the three insurance supervisors responding to this question gave “other” reasons and one gave LPC and SC as the main rationales for not providing the information requested. One supervisor (a nonIOFC) specified that the “other reasons” referred to unavailability of the information requested.

Finally, the main reasons given by the unified regulators for not providing information included LPC (43 percent of respondents), followed by “other” reasons for refusal (29 percent of respondents), and SCs and nonSC (each cited by 14 percent of respondents). This result may be consistent with the findings of the World Bank’s recent “International Survey of Integrated Financial Sector Supervision,”¹³ which found that some unified regulatory authorities have relatively limited regulatory and supervisory powers.

Challenges and Obstacles in Providing Information Domestically (Question 15)

Only a limited number of participants (about 16 percent) indicated that they did not meet requests for information from domestic agencies (see notes to Tables A.18.7a and A.18.7b, Appendix A). In those cases, the most frequently invoked reason was SCs (indicated by 77 percent of the respondents to Question 15). Only two respondents indicated other grounds, such as LPC or “other reasons” for refusal (Table A.18.7b, Appendix A), for inability to provide domestic assistance.

Reasons for Refusal, by Purpose of Information (Questions 8 and 15)

The questions on reasons for not obtaining/providing requested information also asked that the corresponding purpose of information be indicated, distinguishing the four purposes discussed earlier: licensing, supervision,

¹³See de Luna Martinez and Rose (2003).

enforcement, and action from enforcement. In the case of licensing, the replies received from cross-border agencies by respondents indicated a lack of power on the part of the foreign requested agencies to collect the information (27 percent of total respondents requesting information for licensing purposes) or secrecy laws or other confidentiality restrictions (23 percent). Since most supervisors are able to collect information for licensing purposes, this may indicate an inability to collect information on behalf of a foreign supervisor—perhaps because there is no domestic need for the information.

When the information was requested for supervision, enforcement, and action resulting from enforcement purposes, SCs (accounting for about 25 percent in each case) were the major impediment. As could be anticipated, in action resulting from enforcement cases, the requested agencies also refused to pass on the information because of the inability of the requesting agencies to provide the necessary confidentiality undertakings or the lack of formal arrangements to share the information (Figure 18.6 and Appendix A, Table A.18.8a).

Respondents providing purpose-specific reasons for their own inability to provide information indicated that, in the instances of requests for licensing, supervision, or action resulting from enforcement information, the main reasons for refusal were SCs, LPC, SIM, and nonSC (see Figure 18.4). In enforcement cases, the main reason was nonSC (Figure 18.6 and Appendix A, Table A.18.8b).

Other Challenges or Impediments to Information Exchange (Questions 10 and 17)

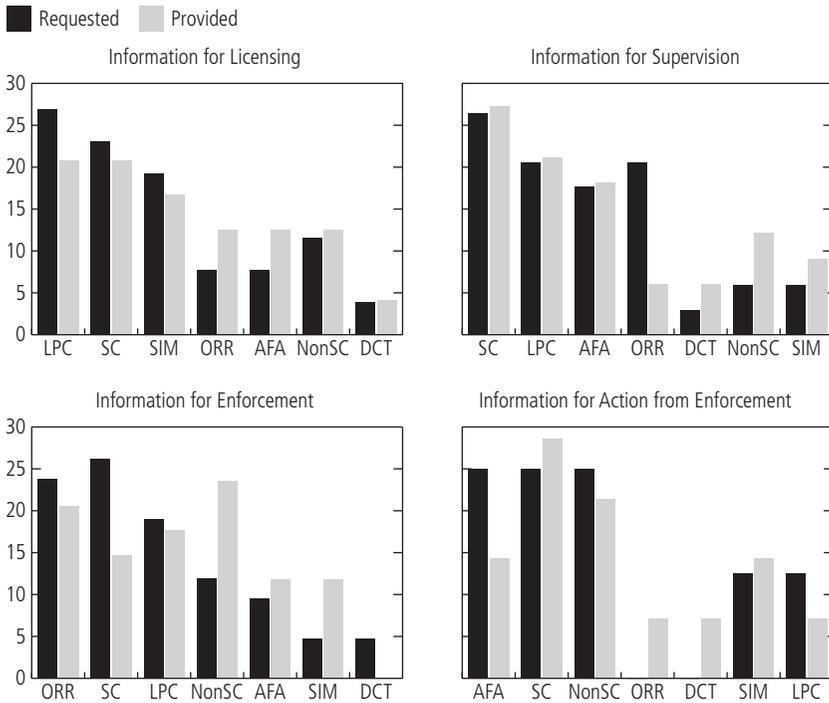
Questions 10 and 17 complemented Questions 8 and 15 by asking respondents to provide their own descriptions of obstacles to obtaining and providing information, respectively. We have aggregated the responses in four (for the responses provided, see Table 18.5) and six (for the responses provided, see Table 18.6) descriptors. The responses suggested practical reasons for the inability to provide international assistance, which are relatively significant since 60 of the 78 agency categories responded to Question 17, and 47 of them to Question 10.

Obtaining Information (Question 10)

Only a very limited number of the respondents to Question 10 referred to challenges or impediments that they had to overcome domestically.¹⁴ The

¹⁴Two of the respondents to Question 10 mentioned challenges or impediments they had to overcome domestically—namely, cases when a criminal investigation/prosecution was in process or when privacy laws prohibited the disclosure of private client information.

Figure 18.6. Main Reasons for Refusal, by Purpose of Information, When Requests Were Denied (Questions 8 and 15)
(Percent of total respondents who exchanged information for specified purposes)



Notes: SC denotes secrecy laws or other confidentiality restrictions; SIM denotes non-equivalent (nonsimilar) functions of providing/requesting authority; LPC denotes that requested authority does not have the powers/in-house capacity to collect the information requested; AFA denotes the absence of a treaty or a formal arrangement; nonSC denotes that the requesting authority is unable to give necessary confidentiality undertakings; DCT denotes that the offense in question is not an offense in the requested jurisdiction; ORR denotes other reasons for refusal.

respondents emphasized that, at this level, the information exchange poses no special problems because of well-established relationships among national agencies and their relatively broad powers to collect the information needed.

At the international level, the main challenge, identified by almost half of the respondents (47 percent), is the poor understanding of the gateways for international cooperation and information exchange. Participants in the survey have difficulties in understanding the differences in the legal and institutional frameworks across jurisdictions that ultimately obstruct the identification of the appropriate sources of information. This included difficulty in identifying the appropriate authorities or persons to whom to address their requests, or in

Table 18.5. Challenges or Impediments in Obtaining Information (Question 10)*(Percent of respondents, by type)*

	Poorly Understood Gateways for Cooperation (<i>jurisdictional differences, lack of knowledge</i> ¹)	Absence of Legal Gateways to Share Information ²	Lack of Procedures/Mechanisms in Exchanging Information ³	Timeliness Problems, Other Practical Impediments ⁴
Total	47	43	13	26
IOFCs	45	35	15	25
NonIOFCs	44	48	11	25
Emerging and developing countries	50	40	10	35
Advanced	44	44	14	18
Sectoral breakdown				
Banking	33	78	22	0
Securities	57	57	0	57
Insurance	57	28	14	0
FIUs	33	22	22	33
Unified	53	33	6	33

Note: Percentages do not total 100 because agencies usually listed more than one factor in their responses.

¹Jurisdictional differences and lack of knowledge of institutional arrangements in other jurisdictions.

²No legal gateway to share information through secrecy or confidentiality barriers; requested agency's lack of legal authority to transmit the information.

³Lack of procedures/mechanisms to exchange information (i.e., formal arrangements—MoUs).

⁴Timeliness problems and other practical issues (information no longer maintained in the records, poor telecommunications technology, etc.).

understanding the regulatory framework of the requested agency and thus the channels for cooperation. This type of problem seems to be equally encountered by IOFCs and nonIOFCs, as well as by both advanced and emerging and developing economies (Table 18.5).

A second major challenge, identified by 43 percent of the respondents, was the lack of legal gateways to share information, particularly those through secrecy or other confidentiality barriers that prohibit the disclosure of specific information or entering into cooperation arrangements, as well as the lack of legal authority of the requested agency to transmit the information. This impediment is most frequently encountered by nonIOFCs (48 percent of respondents) and advanced economies (44 percent of respondents).

Another obstruction in obtaining required information resulted from delays and other practical issues (such as poor telecommunication technology or the fact that the information was no longer maintained in the records), accounting for more than one-quarter of the respondents (26 percent). This is a problem that equally affects IOFCs and nonIOFCs (25 percent of both respondent categories), but is much more frequently encountered by emerging and devel-

Table 18.6. Challenges or Impediments in Providing Information (Question 17)*(Percent of respondents, by type)*

	Considerations for Information Exchange ¹	Reciprocity of Assistance ²	Relevance, Seriousness of Request ³	Mechanisms for Information Exchange Should Be in Place ⁴	Other Authorities' Approval Needed for Disclosure ⁵	Information on Clients Cannot Be Disclosed ⁶
Total	72	18	15	12	8	10
IOFCs	81	22	19	0	7	7
NonIOFCs	63	15	18	21	9	9
Emerging and developing countries	76	8	12	20	8	16
Advanced	68	26	14	6	9	6
Sectoral breakdown						
Banking supervisors	100	0	7	7	0	14
Securities regulators	75	38	0	13	13	13
Insurance supervisors	50	25	0	13	0	13
FIUs	55	18	27	18	18	0
Unified regulators	68	21	21	11	11	11

Note: Percentages do not total 100 because agencies usually listed more than one factor in their responses.

¹Need for similarity in institutional arrangements, secrecy provisions, and certain protection clauses (no disclosure that affects national security, sovereignty, security, or public interest).

²Reciprocity of assistance.

³Reasoning/relevance of information, seriousness of the matter.

⁴Adequate mechanisms for information sharing should be in place (e.g., MoUs).

⁵Other authorities'/bodies' approval needed for disclosure (court order, attorney general's consent, etc.).

⁶No information on clients can be disclosed.

oping economies (35 percent of respondents) than by agencies in advanced economies (18 percent of respondents).

Finally, 13 percent of the respondents identified the lack of procedures or mechanisms in exchanging information (e.g., lack of MoUs). This challenge affects IOFCs and the nonIOFCs similarly (15 and 11 percent, respectively, of respondents), as well as advanced, and emerging and developing economies (14 percent and 10 percent of respondents, respectively).

At the sectoral level, more than two-thirds of the banking supervisors (78 percent) are affected by inadequate information-sharing gateways because of secrecy or other confidentiality rules and the lack of legal authority of the requested agency. The most important impediment encountered by more than half of the securities regulators, insurance supervisors, and unified regulators results from limited understanding of the differences in the legal and institutional frameworks across jurisdictions (Table 18.5). FIUs are affected by both the differences in the legal and institutional frameworks across juris-

dictions, and the lack of timeliness in receiving the information requested (Table 18.5).

Providing Information (Question 17)

Most respondents¹⁵ identified the considerations that they have to take into account in providing solicited information. The most frequently cited considerations included the need to ensure that (1) the requesting agency is bound by adequate professional and/or official secrecy so as to guarantee the confidentiality of the information received (including restrictions on onward disclosure—that is, requiring the prior consent of the providing agency); (2) the information is requested for a proper supervisory purpose or will enable the recipient to carry out its functions; (3) the information requested will not prejudice the sovereignty, security, essential economic interests, public policy, or order in the country of the providing agency.¹⁶ The first two considerations represent typical components of the arrangements for sharing information among financial sector agencies and are clearly stated in the standards relevant to each sector (see Box 18.1). The third type of consideration is also common and appears to be a safeguard for protecting sovereign interests.

The considerations identified can occasionally become impediments to exchanging information if, for example, it is expected that the requesting agency perform exactly the same functions as the providing agency (which clearly inhibits cross-sectoral requests) or it is required that civil, commercial, and sovereign rights apply in a way that ensures that those rights are protected in the same way as in the requested jurisdiction. Other impediments arise when the purpose of information disclosed is constrained to specific supervisory/statutory functions (i.e., to be used only for AML/CFT purposes).

Almost three-quarters of the respondents to Question 17 (72 percent) stated that the requests for assistance have to take into account one, all, or a combination of the considerations stipulated previously for the information to be released. A larger proportion of IOFCs and of the emerging market and developing nations emphasize these considerations more than nonIOFCs and the advanced economies, respectively (Table 18.6).

¹⁵Sixty of the 78 agency categories represented answered this question.

¹⁶Other similar considerations are, for example, ensuring that no criminal proceedings have been undertaken in the providing country on the basis of the same facts or against the same persons, or when those persons have already been condemned by a final judgment on the basis of the same facts, or that disclosure will not endanger the life or safety of any person.

Almost one-fifth of the respondents (18 percent) also indicated that an important condition on information provision is whether the requesting agency is capable of offering reciprocal corresponding assistance. This requirement is made by a larger proportion of IOFCs and advanced economies than of nonIOFCs and emerging and developing economies (Table 18.6). The relevance or seriousness of the request was also a consideration for 15 percent of the respondents.

Actual impediments to sharing information with other competent authorities are the absence of mechanisms for information exchange (e.g., MoUs) (indicated by 12 percent of respondents), restrictions on disclosing client information (indicated by 10 percent of respondents), and the need for additional approvals from other authorities for the information to be released (indicated by 8 percent of respondents).

The considerations cited in the preceding can also be examined in terms of the sector of the respondent agency. All banking supervisors take account of such considerations, as do a large proportion of the securities and unified regulators (Table 18.6). Among all financial regulatory authorities and agencies, the securities regulators were the most likely to refer to the need for reciprocity in assistance (38 percent of respondents), while the FIUs attached the most importance to the purpose of information in a restrictive way (limiting the information provided to strictly AML/CFT purposes) (27 percent of respondents). The FIUs also requested most frequently that mechanisms of information exchange be in place (18 percent of respondents) and have most need of other authorities' approval before the information is released (18 percent of respondents). Almost equal shares (about 13 percent each) of banking, securities, insurance, and unified regulatory authorities do not disclose information on clients of regulated financial businesses (Table 18.6).

Alternative Sources of Information (Question 9)

If requested information could not be obtained from the authority to which a request was addressed, one-third of the respondents to Question 9 indicated that they were unable to obtain the information needed from other sources.¹⁷ Among the available alternative sources of information, the most important was assistance from other authorities (31 percent of the respondents), followed by public sources (such as the Internet, media, and public databases—mentioned by 16 percent of respondents) and the cooperation received directly from the persons holding the information (such as the regulated entities and their parent companies—mentioned by 16 percent of respondents).

¹⁷Fifty-five of the 78 agencies responded to Question 9.

Table 18.7. Alternative Sources of Information (Question 9)*(Percent of respondents, by type)*

	Other Authorities' Cooperation	Public Sources ¹	Cooperation of Persons Holding the Information ²	Other Sources	No Other Sources
Total	31	16	16	7	33
IOFCs	43	33	14	14	29
Non IOFCs	24	6	18	3	35
Emerging and developing countries	33	21	4	4	25
Advanced	29	13	26	10	39
Sectoral breakdown					
Banking	33	27	13	0	33
Securities	11	11	33	22	44
Insurance	0	13	25	13	25
FIUs	60	0	0	0	30
Unified	38	23	15	8	31

Note: Percentages do not total 100 because agencies usually listed more than one factor in their responses.

¹Internet, media, public databases, etc.

²Regulated entities, parent companies, financial group holding companies, etc.

Some variations among the alternative sources of information mentioned depend on the type of jurisdiction or supervisor (Table 18.7). A larger proportion of the respondent IOFCs and emerging and developing economies were able to rely on the cooperation of other authorities compared with the respondent nonIOFCs and advanced economies, respectively. Likewise, for banking supervisors and unified regulators, as well as for FIUs, the most important alternative source of information was other authorities' cooperation, while the securities regulators and insurance supervisors benefited primarily from the assistance offered directly by the persons holding the information (Table 18.7). Since the securities regulator is the financial supervision agency with most difficulty in obtaining satisfactory responses to requests for information (see Section V and Table 18.4), these results suggest that this is the category of authority requiring the most improvement in information exchange, since nearly half of the securities regulators surveyed found no other sources for the information sought.

VII. Improving Information Exchange

The final question of the survey, Question 18, sought respondents' views on how their agencies could improve the receipt or provision of information. A large majority recognize that more can be done to improve international cooperation and information exchange by developing gateways to facilitate

interaction with other financial sector agencies, enhancing market transparency and public access to information, or adopting internal measures. Eighty-two percent (64 of 78 agencies) of the sample provided a response to this question. Only 6 percent of the respondents declared that they saw no room for improvement of the existing information-sharing frameworks.

Almost half of the respondents to Question 18 (45 percent) indicated that entering into formal arrangements (mainly MoUs) could boost international cooperation and information exchange. A larger proportion of IOFCs than non-IOFCs appreciated the usefulness of formal arrangements. More than half of the respondents from emerging and developing countries (52 percent) consider that international cooperation and information could be improved through an extensive use of formal arrangements such as the MoUs.

Another important way to facilitate the information exchange, indicated by a fifth of the respondents, was improvement of the domestic financial legislation with a view to removing the legal impediments such as secrecy barriers or limited supervisory powers. Among those who sought improvement in their legislation, more than 60 percent were IOFCs, of which more than half indicated that the needed amendments were under way.

A small number of the respondent financial regulatory authorities and agencies (14 percent) considered that it was important to strengthen informal relationships and to promote an ongoing dialog. The informal cooperation could be achieved through participation or membership in regional/international forums and organizations or via meetings and conferences, training, etc. Other tools considered useful in achieving good information exchange were enhancement of market transparency and public accessibility to information and the development of a compilation of supervisory structures across jurisdictions with relevant contact details (each indicated by 6 percent of the respondents).

Some participants also specified that it would be useful to develop multilateral MoUs,¹⁸ following the model promoted by IOSCO, for banking supervisors or for unified regulators (5 percent of the respondents). IOSCO has assumed the task of screening the signatories to the multilateral MoU,¹⁹ releasing

¹⁸The Basel Committee on Banking Supervision issued a model MoU for bilateral relationships, "Essential Elements of a Statement of Cooperation Between Banking Supervisors," in 2001.

¹⁹In fact, IOSCO announced, at its 2005 Annual Conference, that one of its major priorities is to have every member country become either a signatory of, or committed to sign, the multilateral MoU by January 1, 2010. This represents a major change in stance of this standard setter, given the fact that entering into formal arrangements was not previously regarded as a prerequisite for cooperation.

countries from the burden of conducting their own due-diligence process. The process is burdensome, because it is important that screening be done in a very transparent manner and that there be adequate accountability of the institution performing the screening.

Nonetheless, one-fifth of the respondents recognize that it is also important to improve internal mechanisms through a more efficient allocation of resources (including the appointment of contact persons in charge of maintaining the contacts and processing the requests for assistance received), a better framing of the requests received, superior staff competence, and improvement of the information and data-management systems.

Likewise, a number of participants consider that the information exchange could be improved by an adequate flow of information from home supervisors to host supervisors (5 percent of the respondents, all of which were from emerging and developing countries), including through improved procedures of notification when important events occur.

VIII. Conclusions

This study has described the key findings of the Survey on Cross-Border Cooperation and Information Exchange among Financial Sector Regulators and Agencies, conducted during May–December 2004, of 74 financial sector regulatory authorities and agencies from 52 countries.

The results of the survey suggest that cooperation, including information exchange, in the countries covered is generally adequate at both national and international levels. There is a high degree of satisfaction regarding the assistance received and provided, and the timeliness for solving the requests for assistance is good. Both formal and informal mechanisms are used to facilitate the international and domestic exchange of information.

The survey indicates that advanced economies place more emphasis on formal arrangements, although the cooperation in emerging markets and developing countries is taking place at a more informal level. This may reflect the latter's more limited capacity to develop formal arrangements and, as suggested by the lower volume of information exchanged, their lesser need for investment in formality. Financial regulatory authorities and agencies from the emerging and developing countries believe, however, that entering into formal arrangements could boost international cooperation.

Although the evidence regarding the absence of MoUs is only indicative, the survey suggests that MoUs could make an important contribution to

information exchange. They not only establish a formal mechanism but also enable the signatories to go through a discovery and due-diligence process with each other, which may be especially helpful when they are faced with large volumes of demand for information.

There is a positive correlation between the volume of cross-border information exchange and the level of income and financial activity in the respondent jurisdictions. On average, the advanced economies and the IOFCs exchange more information than the emerging market and developing economies and the other jurisdictions (nonIOFCs), respectively.

In terms of purpose, the flows of information are almost equally shared among supervision, licensing, and enforcement. Most of the information exchanged targets regulated financial businesses, with relatively little information shared on their clients.

As expected from knowledge of their roles and the specific standards, results suggest that among the financial sector agencies, the securities regulators and FIUs, among which enforcement-related cooperation is dominant, experience the most difficulties in exchanging information. Reinforcing this effect is the result that FIUs are among the agencies that exchange the largest volume of information, particularly on clients. Such information requires expanded legal powers of the requested agency to share information and formal arrangements in place.

Taken together, the results suggest that inadequate gateways resulting from confidentiality requirements, or deficient institutional procedures or mechanisms to exchange information explain many of the difficulties in exchanging information. Another major challenge stems from a poor comprehension of the gateways for cooperation as highlighted by the difficulties encountered by participants in understanding other jurisdictions' legal and institutional arrangements.

An interesting result of the survey is that, contrary to some popular beliefs, the IOFCs claim to have few secrecy or confidentiality restrictions in exchanging information. In fact, the financial supervisors and agencies from IOFCs are preoccupied with ensuring that their counterparts meet the essential criteria for the information to be released, including adequate confidentiality undertakings.

Participants in the survey recognized that there is work to be done to improve cross-border information exchange by developing gateways to facilitate cooperation with other supervisory agencies, entering into formal arrangements, strengthening informal relationships, or improving deficient legislation.

Participants also consider that international cooperation could be boosted by enhancing market transparency and public accessibility to information, as well as by adopting internal measures aimed at addressing requests for assistance in a more efficient way.