# ICP Questionnaire – ICP 3 Information Exchange and Confidentiality Requirements

This ICP questionnaire is based on ICP 3 version 2011.

## Introduction

For each question, choose the response that most closely corresponds to the situation in YOUR JURISDICTION and YOUR AUTHORITY. Some questions ask about the actual experience in YOUR JURISDICTION during the last three years. Please respond based on your best estimate of what the actual experience has been.

In this survey (as in the ICPs), the term “legislation” is used to include both primary legislation (which generally requires full legislative consent) and secondary and other forms of legislation, including rules and regulations which have the legal force of law but are usually the responsibility of the supervisor. The term “supervisory guidelines” means documents issued by the supervisor to communicate expectations to the industry, which do not have the legal force of law.

It is recommended that you prepare all answers to this questionnaire in advance and obtain approval in your supervisory authority before entering the results in the ICP Self-Assessment Tool (SAT) via [www.icp-selfassessment.org](http://www.icp-selfassessment.org)

Please note that in contrast to other ICP assessment processes the ICP SAT only takes into account your answers to multiple choice questions without any qualitative review. Therefore the results are only high level and non-binding.

## Questionnaire

**3 The supervisor exchanges information with other relevant supervisors and authorities subject to confidentiality, purpose and use requirements.**

**3.1 The supervisor has the legal authority and power to obtain and exchange supervisory information in respect of legal entities and groups, including the relevant non-regulated entities of such groups.**

1. To what extent does YOUR AUTHORITY have the necessary legal authority and power to **obtain** supervisory information in respect of the following types of entities?

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | 1. Explicitly provided for by legislation | 2. Not explicitly provided for by legislation, but supervisory information can be obtained by exercising other supervisory powers | 3. Not explicitly provided for by legislation, but supervisory information can sometimes be obtained by exercising other supervisory powers or moral suasion | 4. Not explicitly provided for by legislation, and supervisory information cannot be obtained even by exercising other supervisory powers or moral suasion | 5. Not applicable |
| a. Insurance legal entities established within your jurisdiction |  |  |  |  |  |
| b. Insurance legal entities operating within your jurisdiction but established elsewhere |  |  |  |  |  |
| c. Groups of which an insurer is a member |  |  |  |  |  |
| d. Other regulated entities that are members of a group of which an insurer is a member |  |  |  |  |  |
| e. Relevant non-regulated entities that are members of a group of which an insurer is a member |  |  |  |  |  |

1. To what extent does YOUR AUTHORITY have the necessary legal authority and power to **exchange** relevant supervisory information in respect of the following types of entities?

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | 1. Explicitly provided for by legislation | 2. Not explicitly provided for by legislation, but supervisory information can be exchanged by exercising other supervisory powers | 3. Not explicitly provided for by legislation, but supervisory information can be exchanged to a limited extent by exercising other supervisory powers | 4. Not explicitly provided for by legislation, and supervisory information cannot be exchanged even by exercising other supervisory powers | 5. Not applicable |
| a. Insurance legal entities established within your jurisdiction |  |  |  |  |  |
| b. Insurance legal entities operating within your jurisdiction but established elsewhere |  |  |  |  |  |
| c. Groups of which an insurer is a member |  |  |  |  |  |
| d. Other regulated entities that are members of a group of which an insurer is a member |  |  |  |  |  |
| e. Relevant non-regulated entities that are members of a group of which an insurer is a member |  |  |  |  |  |

**3.2 The supervisor has the legal authority and power, at its sole discretion and subject to appropriate safeguards, to exchange information with other relevant supervisors. The existence of an agreement or understanding on information exchange is not a prerequisite for information exchange.**

1. To what extent does YOUR AUTHORITY have the necessary legal authority and power to exchange supervisory information with the following types of authorities?

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | 1. Explicitly provided for by legislation | 2. Not explicitly provided for by legislation, but supervisory information can be exchanged by exercising other supervisory powers | 3. Not explicitly provided for by legislation, but supervisory information can be exchanged to a limited extent by exercising other supervisory powers | 4 Not explicitly provided for by legislation, and supervisory information cannot be exchanged even by exercising other supervisory powers | 5. Not applicable |
| a. Other insurance supervisors within YOUR JURISDICTION |  |  |  |  |  |
| b. Supervisors responsible for banks and other credit institutions within YOUR JURISDICTION |  |  |  |  |  |
| c. Supervisors responsible for investments, securities, financial markets and other sectors within YOUR JURISDICTION |  |  |  |  |  |
| d. Relevant authorities for anti-money laundering or combating the financing of terrorism (AML/CFT matters within YOUR JURISDICTION |  |  |  |  |  |
| e. Law enforcement agencies within YOUR JURISDICTION |  |  |  |  |  |
| f. Other insurance supervisors in other jurisdictions |  |  |  |  |  |
| g. Supervisors responsible for banks and other credit institutions in other jurisdictions |  |  |  |  |  |
| h. Supervisors responsible for investments, securities, financial markets and other sectors in other jurisdictions |  |  |  |  |  |
| i. Relevant authorities for anti-money laundering or combating the financing of terrorism (AML/CFT matters in other jurisdictions |  |  |  |  |  |
| j. Law enforcement agencies in other jurisdictions |  |  |  |  |  |

1. To what extent is YOUR AUTHORITY constrained in exchanging information with other relevant supervisors[[1]](#footnote-1)?
	1. YOUR AUTHORITY has sole discretion to exchange information with other relevant supervisors.
	2. YOUR AUTHORITY can exchange information with other relevant supervisors, but only with the consent of another party (for example, a Minister or a court). Consent is required only for the initial exchange of information with a particular authority and can be obtained without significant delay.
	3. YOUR AUTHORITY can exchange information with other relevant supervisors, but only with the consent of another party (for example, a Minister or a court). Consent is required only for the initial exchange of information with a particular authority, but can be subject to significant delay.
	4. YOUR AUTHORITY can exchange information with other relevant supervisors, but only with the consent of another party (for example, a Minister or a court). Consent is required for each exchange of information and can be obtained without significant delay.
	5. YOUR AUTHORITY can exchange information with other relevant supervisors, but only with the consent of another party (for example, a Minister or a court). Consent is required for each exchange of information, but can be subject to significant delay.
	6. YOUR AUTHORITY cannot exchange information with other relevant supervisors.
2. To what extent does YOUR AUTHORITY have in place appropriate safeguards for the exchange of information?
	1. YOUR AUTHORITY has explicit and appropriate safeguards for the exchange of information with other relevant supervisors. The safeguards are sufficient to protect the information exchanged without limiting the exchange of information.
	2. YOUR AUTHORITY has safeguards for the exchange of information with other relevant supervisors. The safeguards are sufficient to protect the information exchanged, but can in some circumstances limit the exchange of information.
	3. YOUR AUTHORITY has safeguards for the exchange of information with other relevant supervisors. The safeguards are sufficient to protect the information exchanged, but often limit the exchange of information.
	4. YOUR AUTHORITY has some safeguards for the exchange of information with other relevant supervisors. The safeguards can in some circumstances be insufficient to protect the information exchanged.
	5. YOUR AUTHORITY has no safeguards for the exchange of information with other relevant supervisors.
	6. YOUR AUTHORITY cannot exchange information with other relevant supervisors.
3. To what extent is the existence of an agreement or understanding on information exchange a prerequisite for information exchange between YOUR AUTHORITY and another relevant supervisors?
	1. YOUR AUTHORITY does not require the existence of an agreement or understanding on information exchange as a prerequisite for information exchange.
	2. YOUR AUTHORITY generally does not require the existence of an agreement or understanding on information exchange as a prerequisite for information exchange, but it has imposed such a requirement in at least one case.
	3. YOUR AUTHORITY generally requires the existence of an agreement or understanding on information exchange as a prerequisite for information exchange, but it has made an exception in at least one case.
	4. YOUR AUTHORITY requires the existence of an agreement or understanding on information exchange as a prerequisite for information exchange, and it is not willing to consider making an exception.
	5. Legislation requires the existence of an agreement or understanding on information exchange as a prerequisite for information exchange.

**3.3 The supervisor proactively exchanges material and relevant information with other supervisors. The supervisor informs any other supervisor in its jurisdiction and the supervisors of insurance group entities in other jurisdictions or sectors in advance of taking any action that might reasonably be considered to affect those group entities. Where prior notification is not possible, the supervisor informs other relevant supervisors as soon as possible after taking action.**

1. During the last three years, to what extent has YOUR AUTHORITY proactively exchanged the following types of information with other supervisors, where such information was considered by YOUR AUTHORITY likely to be material and relevant to them?

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1. In all cases the information was provided proactively | 2. In most cases the information was provided, generally proactively | 3. In some cases the information was provided, sometimes proactively | 4. In some cases the information was provided, but not proactively | 5. Never, because YOUR AUTHORITY does not exchange this type of information | 6. Never, because there were no cases of material relevant information of this type during the last three years |
| a. Information that would facilitate effective supervision of a group or an entity within a group |  |  |  |  |  |  |
| b. Information about any event or series of events that might affect the operations of a group entity operating in the jurisdiction of another supervisor |  |  |  |  |  |  |
| c. Information that might affect the financial condition or other interests of customers of a group entity operating in the jurisdiction of another supervisor |  |  |  |  |  |  |
| d. Information that might affect the financial system of another jurisdiction |  |  |  |  |  |  |
| e. Changes in the supervisory approach of YOUR AUTHORITY |  |  |  |  |  |  |

1. During the last three years, when did YOUR AUTHORITY inform other supervisors in YOUR JURISDICTION and supervisors of group entities in other jurisdictions or sectors of any supervisory action that might reasonably be considered to affect the entities they supervise?
	1. In all such cases, YOUR AUTHORITY informed the other relevant supervisors in advance of taking action.
	2. In all such cases, except where prior notification was not possible, YOUR AUTHORITY informed the other relevant supervisors in advance of taking action. Where prior notification was not possible, YOUR AUTHORITY informed the other relevant supervisors as soon as possible after taking action.
	3. In most such cases, YOUR AUTHORITY informed the other relevant supervisors either in advance of taking action or as soon as possible after taking action. In the remaining cases, notification was slightly delayed.
	4. In some such cases, YOUR AUTHORITY informed the other relevant supervisors either in advance of taking action or as soon as possible after taking action. In the remaining cases, notification was delayed.
	5. In many such cases, YOUR AUTHORITY informed the other relevant supervisors after taking action.
	6. In some such cases, YOUR AUTHORITY did not inform the other relevant supervisors either before or after taking action.
	7. Although there was at least one such case of supervisory action during the last three years, YOUR AUTHORITY does not exchange this type of information with other supervisors.
	8. This question is not applicable, because there have been no such cases during the last three years.

**3.4 The supervisor has a legitimate interest and a valid purpose related to the fulfilment of supervisory functions in seeking information from another supervisor.**

1. What mechanisms are in place to ensure that YOUR AUTHORITY has a legitimate interest and a valid purpose related to the fulfilment of supervisory functions in seeking information from another supervisor? (More than one response may be entered, where applicable.)
	1. Legislation prescribes the purposes for which information may be sought.
	2. Information is obtained in accordance with memoranda of understanding, which describe the purposes for which information may be sought.
	3. YOUR AUTHORITY has internal policies, which describe the purposes for which information may be sought.
	4. YOUR AUTHORITY has internal procedures, which require that potential requests for information be approved by senior management or the legal department.
	5. YOUR AUTHORITY carries out internal audits, or is subject to external audits, the scope of which includes review of requests for information.
	6. YOUR AUTHORITY relies on its staff to determine the purposes for which information should be sought from another supervisor.
	7. YOUR AUTHORITY does not seek information from other supervisors.

**3.5 The supervisor assesses each request for information from another supervisor on a case by case basis.**

1. During the last three years, to what extent has YOUR AUTHORITY considered the following factors in deciding whether and to what extent to fulfill a request for information from another supervisor?

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | 1. Always  | 2. Usually | 3. Sometimes | 4. Seldom if ever |
| a. Whether the requesting supervisor would be able to maintain the confidentiality of information provided |  |  |  |  |
| b. Relevant legislation, for example, regarding data protection and procedural fairness, in the jurisdiction of the requesting supervisor |  |  |  |  |
| c. The nature of the information requested |  |  |  |  |
| d. The use to which the information will be put |  |  |  |  |
| e. The form of the request, for example, whether it is in writing |  |  |  |  |
| f. The situation, for example, whether the information requested is needed to deal with an emergency |  |  |  |  |
| g. Whether there is an existing cooperation agreement/MOU in place with the authority concerned |  |  |  |  |

**3.6 The supervisor responds in a timely and comprehensive manner when exchanging relevant information and in responding to requests from supervisors seeking information.**

1. What mechanisms are in place to ensure that YOUR AUTHORITY responds in a timely and comprehensive manner when exchanging relevant information and in responding to requests from other supervisors seeking information? (More than one response may be entered, where applicable.)
	1. Information is exchanged in accordance with memoranda of understanding, which describe the level, format and detailed characteristics of information exchanged.
	2. Information is exchanged in accordance with memoranda of understanding, which specify service standards for the timeliness of information exchange.
	3. YOUR AUTHORITY has designated an individual or department to act as its main contact point for the exchange of information.
	4. YOUR AUTHORITY has internal policies, which specify service standards for the timeliness of responding to requests and exchanging information.
	5. YOUR AUTHORITY has internal procedures and systems, which enable requests and exchanges of information to be handled in a timely and comprehensive manner.
	6. Although YOUR AUTHORITY does not have any formal policies or procedures, management has expressed a commitment to responding to requests and exchanging information in a timely and comprehensive manner.
	7. YOUR AUTHORITY does not have any formal policies or procedures, nor has management has expressed a commitment to responding to requests and exchanging information in a timely and comprehensive manner.
	8. YOUR AUTHORITY does not exchange information with other supervisors.
2. During the last three years, when exchanging relevant information and responding to requests from supervisors seeking information, generally how much time did it take in the following situations?

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1. Two weeks or less | 2. One month or less, but more than two weeks | 3. Three months or less, but more than one month | 4. More than three months | 5. YOUR AUTHORITY does not exchange information in such situations | 6. Not applicable, because no such situations occurred in the last three years |
| a. Responding to requests from supervisors seeking information, where no memorandum of understanding was in place (from the date of the request) |  |  |  |  |  |  |
| b. Responding to specific requests from supervisors seeking information in accordance with a memorandum of understanding (from the date of the request) |  |  |  |  |  |  |
| c. Exchanging relevant information, on a regular basis, in accordance with a memorandum of understanding (from the date the information was available to YOUR AUTHORITY) |  |  |  |  |  |  |

**3.7 Strict reciprocity in terms of the level, format and detailed characteristics of information exchanged is not required by the supervisor.**

1. To what extent does YOUR AUTHORITY require reciprocity regarding the information to be exchanged as a condition for exchanging supervisory information with another authority?

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | 1. YOUR AUTHORITY does not require reciprocity as a condition for information exchange | 2. YOUR AUTHORITY generally does not require reciprocity as a condition for information exchange, but it has imposed such a requirement in at least one case | 3. YOUR AUTHORITY generally requires reciprocity as a condition for information exchange, but it has made an exception in at least one case | 4. YOUR AUTHORITY requires reciprocity as a condition for information exchange, and it is not willing to consider making an exception | 5. Legislation requires reciprocity as a condition for information exchange |
| a. Reciprocity in terms of the level of information exchanged |  |  |  |  |  |
| b. Reciprocity in terms of the format of information exchanged |  |  |  |  |  |
| c. Reciprocity in terms of the detailed characteristics of information exchanged |  |  |  |  |  |

**3.8 Before exchanging confidential information, the supervisor ensures that the party receiving the information is bound by confidentiality requirements.**

1. Before exchanging confidential information, what steps does YOUR AUTHORITY take to ensure that the party receiving the information is bound by confidentiality requirements? (More than one response may be entered, where applicable.)
	1. YOUR AUTHORITY reviews the legislation of the jurisdiction of the party receiving the information.
	2. YOUR AUTHORITY requires the party receiving the information to provide an independent legal opinion regarding its ability to maintain the confidentiality of the information.
	3. YOUR AUTHORITY requires the party receiving the information to provide a written commitment to maintain the confidentiality of the information.
	4. Information is provided in accordance with memoranda of understanding, such as the IAIS MMoU, which require the parties to commit to maintaining the confidentiality of information and assess their ability to do so as a prerequisite for becoming a signatory.
	5. YOUR AUTHORITY requires the party receiving the information to provide an oral commitment to maintain the confidentiality of the information.
	6. YOUR AUTHORITY does not take any specific steps to ensure that the party receiving the information is bound by confidentiality requirements.

**3.9 The supervisor generally permits the information it exchanged with another supervisor to be passed on to other relevant supervisors or other bodies in that jurisdiction, provided that the necessary confidentiality requirements are in place.**

1. To what extent does YOUR AUTHORITY permit the information it exchanged with another supervisor (“receiving supervisor”) to be passed on to other relevant supervisors or other bodies in that jurisdiction?
	1. YOUR AUTHORITY generally permits such information to be passed on, provided that the receiving supervisor commits to passing it on only to others that can maintain its confidentiality.
	2. YOUR AUTHORITY permits such information to be passed on for specified purposes, provided that the receiving supervisor commits to passing it on only to others that can maintain its confidentiality.
	3. YOUR AUTHORITY permits such information to be passed on to specified supervisors or other bodies for specified purposes, provided that the receiving supervisor commits to passing it on only to others that can maintain its confidentiality.
	4. YOUR AUTHORITY permits such information to be passed on to specified supervisors or other bodies for specified purposes, provided that the receiving supervisor commits to passing it on only to others that can maintain its confidentiality and obtains the approval of YOUR AUTHORITY before doing so.
	5. YOUR AUTHORITY generally does not permit such information to be passed on, but it has made an exception in at least one case.
	6. YOUR AUTHORITY does not permit such information to be passed on, and it is not willing to consider making an exception.
	7. Legislation in YOUR JURISDICTION does not allow another party to pass on the information provided by YOUR AUTHORITY.

**3.10 The supervisor receiving confidential information from another supervisor uses it only for the purposes specified when the information was requested. Before using the information for another purpose, including exchanging it with other parties, the supervisor obtains agreement of the originating supervisor.**

1. What steps does YOUR AUTHORITY take to ensure that confidential information from another supervisor is used only for the purposes specified when the information was requested? (More than one response may be entered, where applicable.)
	1. Legislation prescribes the purposes for which information may be used.
	2. Information is obtained in accordance with memoranda of understanding, which describe the purposes for which information may be used.
	3. YOUR AUTHORITY has internal policies, which describe the purposes for which information may be used.
	4. YOUR AUTHORITY has internal procedures, which require that uses of information for purposes other than those specified when it was requested be approved by senior management or the legal department.
	5. YOUR AUTHORITY carries out internal audits or is subject to external audits, the scope of which includes review of the uses of information obtained from other supervisors.
	6. YOUR AUTHORITY relies on its staff to ensure that information is used only for the purposes specified when it was requested.
	7. YOUR AUTHORITY does not take any specific steps to ensure that confidential information from another supervisor is used only for the purposes specified when the information was requested.
2. During the last three years, before using confidential information from another supervisor for a purpose other than the purposes specified when the information was requested, including exchanging it with other parties, to what extent did YOUR AUTHORITY obtain the agreement of the originating supervisor?
	1. In all such cases, YOUR AUTHORITY obtained the agreement of the originating supervisor before using information for another purpose.
	2. In most such cases, YOUR AUTHORITY obtained the agreement of the originating supervisor either before using information for another purpose or as soon as possible after doing so. In the remaining cases, agreement was slightly delayed.
	3. In some such cases, YOUR AUTHORITY obtained the agreement of the originating supervisor either before using information for another purpose or as soon as possible after doing so. In the remaining cases, agreement was delayed.
	4. In many such cases, YOUR AUTHORITY delayed in obtaining the agreement of the originating supervisor until after information was used for another purpose.
	5. In some such cases, YOUR AUTHORITY did not obtain the agreement of the originating supervisor either before or after information was used for another purpose.
	6. In no such case did YOUR AUTHORITY obtain the agreement of the originating supervisor either before or after information was used for another purpose.
	7. This question is not applicable, because there have been no such cases during the last three years.

**3.11 In the event that the supervisor is legally compelled to disclose confidential information it received from another supervisor, the supervisor promptly notifies the originating supervisor, indicating what information it is compelled to release and the circumstances surrounding the release. Where consent to passing this information on is not given, the supervisor uses all reasonable means to resist the demand and to protect the confidentiality of the information.**

1. During the last three years, in cases where YOUR AUTHORITY was being legally compelled to disclose confidential information it received from another supervisor, to what extent did YOUR AUTHORITY notify the originating supervisor, indicating what information it was being compelled to release and the circumstances surrounding the release, and seek the consent of the originating supervisor to passing this information on?
	1. In all such cases, YOUR AUTHORITY promptly notified the originating supervisor and sought its consent before passing the information on.
	2. In most such cases, YOUR AUTHORITY promptly notified the originating supervisor and sought its consent before passing the information on. In the remaining cases, notification was slightly delayed.
	3. In some such cases, YOUR AUTHORITY promptly notified the originating supervisor and sought its consent before passing the information on. In the remaining cases, notification was delayed.
	4. In many such cases, YOUR AUTHORITY delayed in notifying the originating supervisor until after passing the information on.
	5. In some such cases, YOUR AUTHORITY did not notify the originating supervisor either before or after passing the information on.
	6. In no such case did YOUR AUTHORITY notify the originating supervisor either before or after passing the information on.
	7. This question is not applicable, because there have been no such cases during the last three years.
2. During the last three years, in cases where YOUR AUTHORITY was being legally compelled to disclose confidential information it received from another supervisor and the originating supervisor did not consent to passing the information on, to what extent did YOUR AUTHORITY resist the demand and protect the confidentiality of the information?
	1. In all such cases, YOUR AUTHORITY used all reasonable means to resist the demand and to protect the confidentiality of the information.
	2. In most such cases, YOUR AUTHORITY used all reasonable means to resist the demand and to protect the confidentiality of the information.
	3. In some such cases, YOUR AUTHORITY used all reasonable means to resist the demand and to protect the confidentiality of the information.
	4. In many such cases, YOUR AUTHORITY did not use all reasonable means to resist the demand and to protect the confidentiality of the information.
	5. In no such case did YOUR AUTHORITY use all reasonable means to resist the demand and to protect the confidentiality of the information.
	6. In no such case did YOUR AUTHORITY resist the demand or take steps to protect the confidentiality of the information.
	7. This question is not applicable, because there have been no such cases during the last three years.

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1. Other relevant supervisors may include, but are not limited to, other insurance supervisors within the jurisdiction; insurance supervisors in other jurisdictions; supervisors responsible for banks and other credit institutions both within the jurisdiction and in other jurisdictions; supervisors responsible for investments, securities, financial markets and other sectors both within the jurisdiction and in other jurisdictions; relevant authorities for anti-money laundering or combating the financing of terrorism (AML/CFT matters); and/or law enforcement agencies. [↑](#footnote-ref-1)