

Insurance regulators' response to COVID-19

Learnings on efficacy

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About Cenfri

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FSD Africa is a non-profit company that aims to increase prosperity, create jobs and reduce poverty by bringing about a transformation in financial markets in sub-Saharan Africa (SSA) and in the economies they serve. It provides know-how and capital to champions of change whose ideas, influence and actions will make finance more useful to African businesses and households. It is funded by the UK aid from the UK Government. FSD Africa also provides technical and operational support to a family of 10 financial market development agencies or "FSDs" across SSA called the FSD Network.

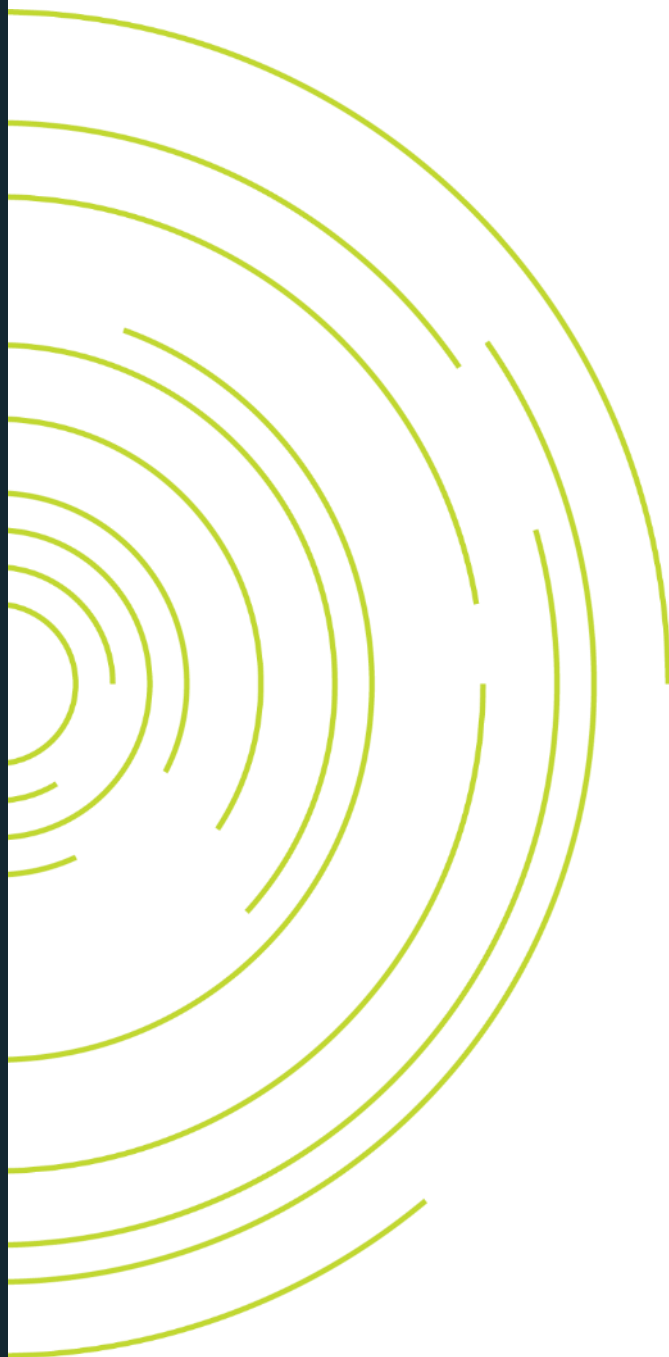


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Acronym list

BCPs	Business continuity plans
BNR	National Bank of Rwanda
CIMA	Conférence Interafricaine des Marchés d'Assurances
COVID-19	coronavirus disease
FSA	Financial Services Authority [Seychelles]
FSC	Financial Services Commission [Mauritius]
FSCA	Financial Sector Conduct Authority [South Africa]
FSD Uganda	Financial Sector Deepening Uganda
FSRA	Financial Services Regulatory Authority [Eswatini]
IAIS	International Association of Insurance Supervisors
IPEC	Insurance and Pensions Commission [Zimbabwe]
IRA	Insurance Regulatory Authority [Kenya and Uganda]
NAICOM	National Insurance Commission [Nigeria]
NAMFISA	Namibia Financial Institutions Supervisory Authority
NIC	National Insurance Commission [Ghana]
PA	Prudential Authority [South Africa]
PIA	Pensions and Insurance Authority [Zambia]
RBM	Reserve Bank of Malawi
RBS	Risk-based supervision
RBC	Risk-based capital
SSA	sub-Saharan Africa
Suptech	Supervisory technology

1. Introduction

COVID-19 has had a substantial impact on economies and insurance industries across sub-Saharan Africa (SSA). The COVID-19 pandemic has disrupted economies around the world and constitutes one of the largest shocks to the African continent in recent times. As of February 2022, over 240,000 African lives had been claimed and over 11 million cases had been recorded with only 12.33% of the continent being fully vaccinated (Worldometer, 2022; AU, 2022). The damage of COVID-19 to the African economy is projected to have a long-lasting impact. Despite projected GDP growth across Africa of 3.3% in 2021 (after contracting by 2.1% the year before), the GDP growth rate remains lower than that of other developed and developing regions (Zeufack, et al., 2021). Countries are still grappling with the ongoing impact and the unpredictable nature of COVID-19, as new variants reignite government measures to curb the spread of the virus.

Insurance regulators have the mandate to respond to this macro risk event. Insurance regulators across SSA have core mandates to ensure market stability, consumer protection and (in some cases) insurance market development. These mandates become heightened during times of market stress and uncertainty as regulators have the duty to provide clarity and guidance to their industries regarding regulatory expectations and the best courses of action to mitigate the impact of the systemic risk event.

Our previous research focused on the short-term impact of COVID-19. Cenfri, in collaboration with FSD Africa, conducted [research in 2020](#) on the short-term impact of COVID-19 on insurance industries across SSA. Our research found that regulators faced the challenge of monitoring vulnerabilities in the market closely while also providing regulated entities with regulatory relief. Throughout SSA, regulators differed in how they chose to prioritise the different sides of this trade-off. Our research also revealed the negative impact on insurers' operations, balance sheets and the insurance product cycle as a whole. Despite the severe negative impact on the insurance industry that resulted from COVID-19 and measures to curb its spread – highlighting and exacerbating existing weaknesses – the pandemic also created scope for improvements, such as more efficient reporting and supervisory processes as well as further digitalisation across the industry.

But COVID-19 is just one example of a macro risk that threatens to destabilise the insurance sector. COVID-19 has disrupted economies and sectors across the world. While truly global systemic risks are rare, severe, large-scale systemic risks happen far more frequently within individual markets. For example, within the scope of this study, we identified at least three SSA insurance regulators who have faced another systemic risk in the last two years, namely South Africa, Mauritius and Zimbabwe. Unlike most other systemic risks, COVID-19 has affected every country in the world, with regulators responding differently in each jurisdiction, and, as such, it presents a unique learning opportunity to assess the effectiveness of regulatory

responses across jurisdictions. This in turn, enables regulators to learn from the pandemic and become better prepared to respond to the next systemic risk.

Project objective. As part of this research project, we spoke to or surveyed 15 insurance regulators¹ across 31 countries² (see Annexure A for more details on methodology). Our research unpacks how insurance regulators in SSA responded to COVID-19 and how effective the different responses were in mitigating the impact of the crisis on their markets. It aims to understand what insurance regulators have learned from the last two years that can inform how they can effectively respond to the next risk on the horizon. Ultimately, thus, the objective of this note is to inform and enable insurance supervisors to learn from this crisis and prepare for the next one, thus fulfilling their obligations to industry and to consumers. We condense these learnings into a four-phase response framework (discussed in Section 2) that insurance regulators can implement when faced with a systemic risk.

1 BNR, CIMA, FSA, FSC, FSCA, FSRA, IPEC, IRA Kenya, IRA Uganda, NAICOM, NAMFISA, NIC, PA, PIA and the RBM.

2 Angola, Eritrea, Eswatini, Ethiopia, Ghana, Kenya, Mauritius, Malawi, Mozambique, Namibia, Nigeria, Rwanda, Seychelles, South Africa, Uganda, Zambia, Zimbabwe and the member states of CIMA (Benin, Burkina Faso, Cameroon, Central African Republic, Congo, Cote d'Ivoire, Gabon, Guinea Bissau, Equatorial Guinea, Mali, Niger, Senegal, Chad and Togo).

2. The regulatory response framework

Learnings from the COVID-19 pandemic can help regulators respond more effectively to the next systemic risk. COVID-19 offers a unique opportunity to learn – from the experience across various countries – which regulatory responses have been most effective in responding to a systemic risk. As mentioned above, this section captures the learnings from research conducted across 31 countries to propose a response plan and tangible guide for insurance regulators faced with a systemic risk that has the potential to affect the industry they supervise considerably.

Framework components. Stakeholder interviews reveal that it is important for regulators to have a plan to follow when a systemic risk occurs in order to ensure proactive engagement, appropriate responses and continuous monitoring of the measures that have been put in place. Figure 1 illustrates the regulatory decision framework, which constitutes this plan and tangible guide. It is based on the key themes emerging from our discussions with insurance regulators and industry members and can be applied to any systemic risk. The starting point for using this framework is the four continuous considerations shown on the left-hand side of the diagram (and explained below). Each of the four phases in the framework have distinct steps and considerations which are discussed in the sub-sections that follow. Phases 1 to 3 can be evaluated for their efficacy, with Phase 4 representing the point at which the regulator explicitly takes the learnings from the first three phases into consideration.

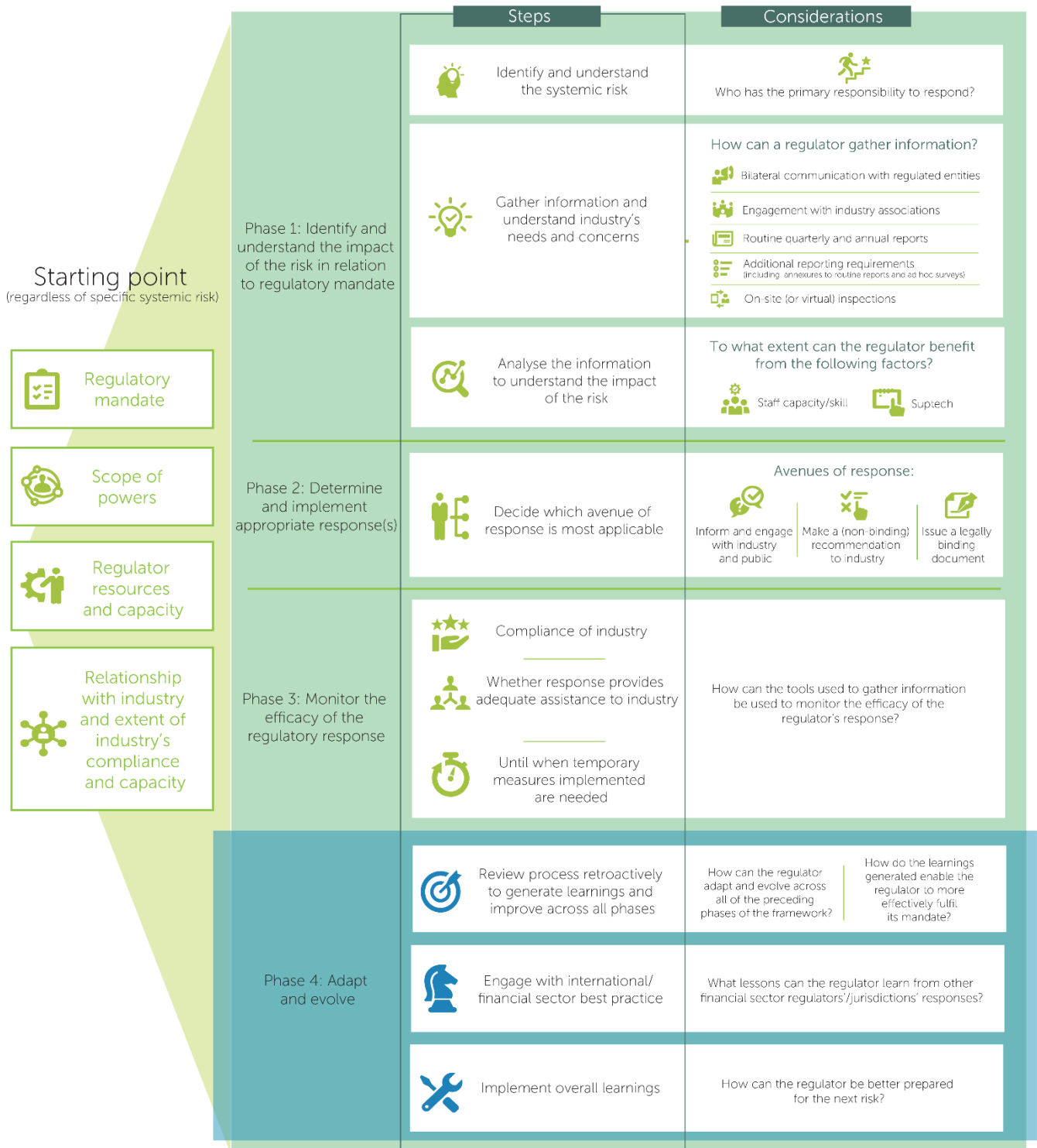


Figure 1: The regulatory response framework

Continuous considerations. Insurance regulators do not operate in a vacuum and the efficacy of any course of action taken to mitigate the impact of a major risk event will ultimately depend on more than just the regulator's chosen response itself. Regulators face considerations that remain relevant irrespective of or beyond the particular risk confronting their jurisdiction and that inform the regulator's best course

of action across every phase of the framework below. Before deciding how to respond, regulators should take stock of the following factors:

Regulatory mandate. Regulatory mandate frames what the regulator must do (its role; key responsibilities and objectives – irrespective of whether a systemic risk has occurred) and thus informs and is relevant to every phase of the regulatory response framework (see Box 1 for more information on the key mandates of insurance regulators across SSA). A regulator’s mandate also plays an important role in determining what needs to be measured, monitored and prioritised – in other words, what constitutes a risk to which the regulator must respond. Stakeholder interviews with regulators highlighted that, during times of crisis, different facets of their mandate are heightened. Box 2 provides examples of the trade-offs faced by regulators where the different facets of their mandate are concerned.

Box 1: Key mandates of insurance regulators

Across all jurisdictions, the insurance regulator has a prudential mandate to maintain financial stability in its industry. At the onset of COVID-19 and as a result of the disruptions caused, this mandate was heightened, as regulators needed to prioritise the financial soundness of regulated entities as well as the business continuity of its industry.

Across SSA, many insurance regulators also have a mandate to supervise the conduct of the insurance market and protect consumers. On the one hand, while the Reserve Bank of Malawi (RBM) has a market conduct mandate, for example, there are separate departments to monitor the insurance industry and market conduct, respectively, which increased the need for internal coordination during COVID-19. On the other hand, some jurisdictions have a dedicated market conduct regulator. The Twin Peaks regulatory model in South Africa means that the prudential and market conduct mandates are held by two different regulators, namely the Prudential Authority (PA) and the Financial Sector Conduct Authority (FSCA), respectively.

Regulators can also have an explicit or implicit mandate to develop their markets – an objective which has become increasingly prominent in recent years. The Insurance Regulatory Authority (IRA) in Kenya has an explicitly defined market development mandate which is included in the stipulations of its objectives. Market development is also a key focus area for the PA in South Africa, but it is an implicit mandate that the regulator understands is part of its duties.

Box 2: Examples of regulatory mandate trade-offs

In deciding whether or not to require insurers to cover COVID-19 claims, regulators need to weigh up financial soundness (prudential considerations) against consumer protection (market conduct considerations), informed by the regulator's primary duty and the trade-offs that the prioritisation entails. For example, even though health insurance policies generally do not include pandemics in Uganda, the IRA wanted to prioritise protecting policyholders and so required insurers to cover COVID-19 health claims in a legally-binding guidance note. The regulator also urged life insurers to exercise flexibility and to consider claims related to COVID-19 on a case-by-case basis in a 2020 circular³. The Conférence Interafricaine des Marchés d'Assurances (CIMA) region constitutes another example of this trade-off, where, as a result of insurers in Cameroon approaching the regulator to ask that they be allowed to cover business interruption claims, CIMA issued a circular (via email) stating that what is stipulated in policies should be honoured. However, in instances where policies were unclear on whether COVID-19 should be covered or not, CIMA could not force insurers to pay out these claims, instead encouraging them to consider supporting policyholders without jeopardising their financial position.

Activities explicitly aimed at achieving the regulator's market development objective (such as regulatory sandboxes) may also be deprioritised during times of crisis. At the beginning of the pandemic in South Africa, the PA prioritised insurers' balance sheets instead of introducing new regulatory instruments and focussing on FinTech (as they had planned to do before the onset of the pandemic). However, as the impact of the pandemic declined in severity and the regulator understood the impact more clearly, the regulator was able to continue with its scheduled activities for 2020 and 2021. The IRA in Uganda continued to emphasise market development throughout the pandemic. The regulator hosted an Innovation Workshop, in collaboration with FSD Uganda and The Innovation Village, in November 2020 and also introduced the Innovation Awards of 2020 and of 2021, which recognises the most innovative players in the Ugandan insurance market (Okitela, 2022; Cenfri, 2021).

Scope of powers. Regulators are constrained in what they can and cannot do by the laws that govern their jurisdiction. For example, until the introduction of the [Financial Institutions and Markets Act](#) (No. 2 of 2021) and the [Namibia Financial Institutions Supervisory Authority Act](#) (No. 3 of 2021) in October 2021, Namibia Financial Institutions Supervisory Authority (NAMFISA) had a limited mandate which restricted the extent to which it could respond to COVID-19 (including engaging with consumers). Subsequent to these laws coming into force, NAMFISA can, for example, issue directives and engage with consumers proactively and not only when complaints have been submitted to the regulator. These laws also delineate how responsibilities are divided among different regulators in the financial sector and beyond. In Nigeria and Ghana, NAICOM and the National Insurance Commission (NIC) have jurisdiction over all lines of insurance apart from health insurance, which is, instead, regulated by the National Health Insurance Scheme (as an agency of the Federal Ministry of Health) in Nigeria and the National Health Insurance Authority in Ghana.

3 [IRA/CIR/04/20/575 Insurance Industry Guidelines on the Conduct of Business during the Corona Virus Disease \(COVID-19\) Global Pandemic](#)

Own resources and capacity. The resources and capacity of the regulator (for example, number of staff, level of skills and access to and adoption of technology) further determine what the regulator can and cannot do and play a role in how effective any of its activities across the phases of the framework are. For example, in Malawi, instead of having an independent insurance industry regulator, the RBM oversees multiple financial industries and has a dedicated insurance department. One of the benefits of having a regulator that oversees multiple financial sectors is the potential for increased engagement and sharing of cross-cutting learnings that are relevant across different financial services providers. A potential drawback, however, is that one industry could be prioritised to the detriment of another during a crisis. However, the capacity of the regulator itself can change during a major risk event; during COVID-19, working from home and the introduction of containment measures reduced regulators' capacity and ability to maintain their operations.

Relationship with industry and extent of industry's compliance and capacity. Whether or not industry will, and can, act in accordance with the regulator's instructions and/or recommendations is also determined by the strength of the regulator's relationship with industry members as well as by industry members' soundness and resources preceding the occurrence of the systemic risk. For example, in Kenya, the IRA indicated that it did not need to make use of legally-binding instruments to compel industry to comply with its COVID-19-related guidance, as the industry it supervises "does not like to go against the regulator"⁴. In Zimbabwe, the number of errors and the time it took industry to submit their regulatory returns was reduced by the adoption of an online submission platform by Insurance and Pensions Commission (IPEC) before COVID-19.

2.1. Phase 1: Identify and understand the impact of the risk in relation to regulatory mandate

Phase 1 enables the regulator to make an informed decision about how to respond to the systemic risk. If a regulator is to respond in a proportionate, appropriate and effective manner, it is imperative that the regulator has an accurate understanding of the risk to which it is responding. This is not to say that the regulator must hold off on taking any action until it has perfect information; rather, that proactively gathering data (from various sources, see below) on an ongoing basis enables the regulator to understand the impact of a risk on its industry and thus to prioritise, based on the continuous considerations discussed above, those aspects to which it should respond and how.

Phase 1 steps and considerations. The first phase starts by identifying and understanding the nature of the risk event itself. For some regulators, this process begins with the regulator becoming aware of the risk and the risk formally entering the regulator's agenda or list of priorities. Internal processes will determine who within the regulatory structure responds and what is needed to respond; determining these aspects constitute an important (if not codified) precursor to the other phases in the framework. Following an initial rapid, preliminary assessment of the nature of

4 At the start of the pandemic, the IRA in Kenya issued a [guidance note to industry](#) on the payment of COVID-19 claims, the extension of grace periods for life insurance and not updating policy wording without prior approval. These preliminary measures were aimed bolstering market conduct and protecting consumers.

the risk, the regulator must consider how responsibilities are assigned and who has primary responsibility for understanding and responding to the risk – for example, a specific department, a specially-created task team, working group or cross-cutting body involving collaboration with other regulators. For example, at the onset of COVID-19, the RBM created three separate lists of measures required for an effective response to the impact of COVID-19: one for industry, one for central government and one for the RBM itself to action. In contrast, the Financial Services Commission (FSC) in Mauritius already had a joint coordination committee with the Central Bank which created the foundation for increased engagements between the two authorities in response to COVID-19. The first step of Phase 1 ensures that the systemic risk receives sufficient attention and resources from the regulator and constitutes the foundational step to be evaluated for efficacy during Phase 4.

The next step within Phase 1 is for the regulator to gather information on the impact of the risk on the insurance industry (and beyond), a process which includes building an understanding of what the needs of key stakeholders are. By using a combination of the tools described below, the regulator can build a holistic understanding of the different ways in which the risk is playing out in its jurisdiction and ensure that it is able to balance the needs of different stakeholders, in accordance with or fulfilment of its mandate. The regulator can gather information from industry and consumers, respectively, in the following ways:

Bilateral communication with regulated entities. Regulators engage directly with regulated entities through its normal supervisory activities. During a time of crisis, however, increased bilateral communication enables a regulator to assess what the impact has been on specific regulated entities as well as to understand what regulated entities required from the regulator. For example, NAMFISA found that COVID-19 created significant uncertainty, which led its industry to raise questions and issues with the regulator. Due to the social distancing requirements, however, many regulators had to suspend in-person meetings, forcing them to embrace virtual channels, instead.

Engagement with industry associations. Industry associations are representative bodies of various segments of an insurance industry and, as a result, are an important source of information for regulators. During COVID-19, many regulators therefore increased their engagements with industry associations, including insurance and brokers' associations, to gain a more holistic understanding of the impact on the industry as well as what responses industry needed from the regulator. For example, in response to the start of the pandemic, the FSCA and the PA in South Africa had joint weekly calls with the various industry associations (the frequency of which was later decreased to monthly as the regulators' understanding of the impact increased and the severity declined). Before the onset of the pandemic, the FSC had previously met with its industry representatives on a quarterly basis and increased the frequency of these meetings during the pandemic in order to have closer contact with its industry in a more informal environment.

Routine quarterly and annual reports. Regulatory returns form the foundation of a regulator's understanding of the state of its industry, both in terms of individual regulated entities as well as the market as a whole. The information routinely collected by regulators is also tracked over time to identify industry norms and

developments. For example, the IRA in Kenya used its quarterly reports to assess the extent to which insurers were able to comply with new risk-based capital (RBC) thresholds as the country moved towards fully implementing risk-based supervision (RBS). Most regulators relied on regulatory returns to assess the impact of COVID-19 (given that it allows regulators to create a comparison with regulated entities' performance prior to the pandemic). However, for certain regulators, like the Pensions and Insurance Authority (PIA) in Zambia, routine quarterly and annual reports remained the main source of information.

Additional reporting requirements. Regulators can also expand their reporting requirements to collect additional information. Regulators can apply these additional requirements to the industry as a whole or to specific regulated entities only, depending on the nature of the risk and what the regulator wants to measure. In order to understand the impact of COVID-19, some regulators used additional mechanisms, such as targeted annexures to routine reports (as was done by NAMFISA in Namibia), additional reporting templates (which was used by the IRA in Kenya) or solvency stress tests⁵ (the PIA requested stress tests from its industry, but the tests used were not risk sensitive). The process of adding to or amending regulatory returns differs among jurisdictions and may require considerable time and effort to do. Ad hoc surveys may be faster to create and implement, given that regulators may not face such onerous regulatory or legislative hurdles to do so. Surveys can also easily be targeted at certain segments of industry. At the onset of COVID-19 in their jurisdiction, the PIA disseminated a survey to understand the impact on their market as a whole while the FSCA and the PA utilised a number of surveys to collect additional information on specific risks.

Onsite inspections. The social distancing requirements in response to COVID-19, also meant that regulators had to suspend in-person onsite inspections. As a result, some regulators conducted inspections virtually, such as the FSC in Mauritius and the IRA in Kenya (which developed a manual for virtual onsite inspections), by requiring that regulated entities share relevant documents with the regulator.

The final step within Phase 1 is for the regulator to analyse the data gathered (using a combination of the tools described above). It is in the regulator's interest to synthesise the information gathered from various sources into a coherent (if temporary and iterative) assessment of the impact of a risk. Data must be analysed within a reasonable time frame if the regulator is to make decisions timeously.

The parameters of the analysis process are influenced by the availability of resources or staff capacity and skills, as well as by the extent of adoption of Suptech by the regulator. Some regulators have small teams dedicated to analysing data submitted by industry, which makes the process lengthier. CIMA regulates more than 200 insurance providers who submit their regulatory returns via email. These returns must then be collated manually by a statistician and analysed by about 16 controllers. As a result, it takes almost a year and a half to put together and identify current trends, after which annual reports are prepared. Within the FSC in Mauritius, the statistics department is responsible for compiling and analysing industry's regulatory returns, while the insurance department monitors the results. This division of responsibilities

5 The IAIS defines stress-testing as "a method of assessment that measures the financial impact of stressing one or more factors which could severely affect the insurer" (IAIS, n.d.).

means that most of the FSC's analytical skills is housed within the statistics department and not the insurance department. The IRA in Uganda not only has a supervision department of around 15 staff members but it also has a research department consisting of about seven staff members who focus on monitoring market development⁶.

Suptech can facilitate the collection and analysis process (see Box 3 for more information on Suptech). Stakeholder interviews indicate that the majority of insurance supervisors already had online data submission platforms (such as Vizor⁷) in place before the pandemic and that some of these systems allow supervisors to do an automated basic analysis of the data. In some jurisdictions, the onset of the pandemic resulted in enhanced efficiencies where reporting is concerned, for example, the FSC in Mauritius is streamlining various platforms into the FSC One Platform⁸. In others, the pandemic disrupted the implementation of crucial infrastructure (for example, CIMA and the PIA were receiving assistance from foreign agencies to launch their online reporting platforms before COVID-19, but the process could not be concluded as a result of the onset of the pandemic).

Box 3: Potential of Suptech to collect and analyse information

Suptech (supervisory technology) is “the use of innovative technology by supervisory agencies to support supervision” (Broeders & Prenio, 2018). Regulators are increasingly collecting more information from regulated entities and Suptech will enable regulators to collect this data in real-time at the discretion of the regulator. Regulators can also analyse this collected data more rapidly and more thoroughly, increasing the efficiency of regulator's processes. Suptech enhances the effectiveness of regulators' monitoring capabilities by assisting regulators to keep up with the rate of regulated entities' adopting digitalisation. Currently, regulators monitor in a “backward-looking” manner, as industry reports to the regulator what it has done during the previous period. Certain Suptech solutions will allow regulators to shift over to a more predictive and proactive monitoring process. Suptech automates certain activities of regulators, reducing the cost of these activities as well as freeing up the regulators' time to focus on other priority areas. Beyond the benefits that Suptech present to regulators, regulated entities also benefit when their regulators adopt Suptech, as it can reduce the cost of compliance (depending on the type of solution that is adopted), as well as help improve regulated entities' risk management capabilities (Broeders & Prenio, 2018).

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- 6 The IRA's research department analyses regulatory returns from a market development perspective and also includes relevant publications (published by institutions such as development organisations) in its analysis. The information collected from these publications is then used to inform future strategies.
 - 7 Vizor is a platform that provides financial regulators and central banks with data collection solutions (Suptech) for their entire range of supervisory activities, including the collection and analysis of returns as well as on-site inspections (Sangit, n.d.; Central Banking, 2021).
 - 8 The FSC One Platform currently operates as an online licence authorisation portal with further capabilities to be added in future.

2.1.1. Phase 1 learnings on efficacy

The following key learnings emerge from an analysis of regulators' implementation of Phase 1:

The need for timely data must be balanced with industry's need to not be overburdened with requests for information. On the one hand, in times of crisis, industry members prioritise allocating their resources to coping with the impact of the risk on their operations (and thus deprioritise fulfilling routine requests for information). Indeed, of industry respondents, 79%⁹ indicated that their regulator had extended its reporting requirements and that doing so assisted their business. On the other hand, however, regulators emphasised that they need as-close-to real-time information to facilitate their decision-making processes. Balancing these conflicting needs requires that the supervisor identify the most pertinent aspects to monitor. NAMFISA in Namibia had initially extended its reporting requirements but decided to extend the submission deadline for annual returns on a case-by-case basis only, so as not to delay the collection of data from its entire industry.

Relying purely on routine quarterly and annual reports limits the speed and scope of information collection. As mentioned above, many supervisors indicated that they still relied considerably on routine quarterly and annual reports to collect information but that this tool, in isolation, is insufficient to fully understand and assess the impact of a systemic risk such as COVID-19. For example, the Financial Services Regulatory Authority (FSRA) in Eswatini incorporated other information collection tools because it has learned that there is "some information you cannot pick up from quarterly returns". Moreover, at the time of writing, supervisors for whom this was the only source of information were unable to pronounce, with certainty, what the mid-term impact of the pandemic was on their market (given that they were still waiting for the audited annual reports for the 2021 financial year¹⁰). In the industry survey, 25%¹¹ of respondents said that their regulator required additional or increased reporting and that this supported the respondents' business, while 25% said they would have liked their regulators to have implemented this tool. One insurance provider interviewed further stated that it would have wanted to report additional information to its regulator so that the regulator would have been able to respond more effectively to the impact of COVID-19 on industry, as analysing and publishing information from annual returns takes the regulator too long.

Proactive, flexible engagement to gather targeted information (especially using virtual channels) can create certainty, foster strong relationships and increase compliance to the regulator's chosen response. Proactive bilateral communication with regulated entities (especially those facing difficulties), targeted engagement with insurance associations and COVID-19 specific reporting requirements or templates were mentioned by more than one regulator as being extremely effective in enabling the regulator to understand the impact of COVID-19 on their market. This, in turn, proved to be effective in ensuring that the regulator's chosen response resonated with industry and thus, had the desired mitigating effect (the following sub-section unpacks different regulatory responses in more detail). The FSCA and the PA in

9 N=18

10 Examples include the PIA, CIMA and NAMFISA.

11 N=19

South Africa found it effective to create surveys probing the impact of specific aspects (such as business interruption claims), which were sent only to the relevant industry players so as to minimise survey fatigue. The FSCA and the PA in South Africa, as well as the IRA in Kenya, also found that their engagements with industry associations were easier, faster and more productive because they met through virtual platforms – thus freeing up capacity.

2.2. Phase 2: Determine and implement appropriate response(s)

Phase 2 entails deciding upon the most appropriate response or course of action. While Phase 1 focuses on building an understanding of the impact of the risk, during Phase 2, the regulator decides which avenue of response is most applicable and implements this (set of) response(s) based on the understanding developed in the first phase. The regulator's decision is shaped by the continuous considerations discussed at the start of Section 2, namely the regulator's mandate, the scope of its powers and its relationship with industry, as well as industry's compliance and capacity. The regulator's findings from Phase 1 constitute the next important factor in determining the most effective potential regulatory response(s).

Avenues of response. During the course of our research, we identified three key mutually-supportive clusters of responses. These clusters differ in the extent to which they are directive and subject to penalties if not adhered to. The categories or avenue of responses identified are:

Inform and engage with industry (members) and the general public. Regulators disseminate communications to industry and the public when it needs to clarify its position on an issue or test its expectations for industry (that it is planning to codify via either of the other two avenues detailed below). For example, in deciding which measures to put in place (via the other two avenues of response) the RBM engaged with industry to create the lists of actions required to respond to the pandemic. The FSRA in Eswatini also stated that, except for one circular issued, it had provided all of its guidance to industry via engagement instead of by publishing documentation. Before issuing recommendations or requirements to industry, numerous regulators also first discussed the proposed measures with industry associations. This was the case for the IRA in Kenya and IPEC in Zimbabwe, the latter of which, instead of meeting with the different associations separately, set up meetings that included representatives from all of the relevant associations. IPEC in Zimbabwe also increased training to industry and beyond during the pandemic – including via the journalist mentorship programme, which provides journalists with more information on insurance and how it works.

Make a (non-binding) recommendation to industry. Regulated entities can decide whether or not to heed non-binding recommendations on the basis of their needs and the impact on their business. As such, regulators choose this avenue of response when it is not strictly required (in keeping with its objectives and mandate) that all industry members adhere to the stipulations. Non-binding recommendations are also appropriate when the regulator is referring to matters that are not addressed in regulation (and thus do not require legally-binding documents to amend or update)

and when the regulator wants to provide clarity on existing requirements. The FSCA and the PA in South Africa, for example, decided to provide insurers with non-binding recommendations on matters such as suspending the payment of dividends to shareholders, as doing so meant that no regulation needed to be amended and that each regulated entity could decide whether or not they needed to heed this relief measure. Certain regulators (like NAMFISA before the change in legislation in 2021), do not have the regulatory power to issue legally-binding documents and so rely on making recommendations to guide and direct industry instead. The process of issuing legally-binding documents, such as making changes in legislation, can also be an onerous and time-consuming process, in contrast with sending out recommendations, which can be done much faster.

Issue a legally binding document (including seeking to change regulation).

For certain responses, regulators must approach the legislature of the country to issue a gazette in order to amend what is set in legislation. Regulators will also use this avenue when they need to make changes to regulation that require that new regulation be issued or when it is pertinent that all regulated entities comply with the measures, as legally binding documents can involve some form of recourse or sanction, such as a fine, if regulated entities do not comply. For example, IPEC in Zimbabwe introduced penalties during the pandemic for regulated entities who do not submit their statutory returns on the regulator's online platform. The IRA in Uganda also issued a legally-binding guideline¹² on the conduct of business during COVID-19 that addressed matters such as covering COVID-19 related claims, the extension of premiums, restricting dividends and bonuses and meeting capital requirements. In Eswatini, the government released a statement stipulating that burials conducted later than three days after the date of death of the deceased will require a permit. In response to this, the FSRA released a circular¹³ requiring funeral claims to be settled 24 hours after all claim documents have been received.

2.2.1. Phase 2 learnings on efficacy

Analysing regulators' implementation of Phase 2 reveals the following key learnings:

Engagement and coordination or collaboration with other relevant authorities is crucial, irrespective of the response(s) chosen. As mentioned at the start of Section 2, insurance regulators do not operate in a vacuum. Preventing unintended consequences from the response(s) chosen – such as that regulatory uncertainty for insurance sector stakeholders increases instead of decreases – requires the insurance regulator to engage proactively and coordinate with other regulators (in the financial sector and beyond), the policymaker and with central government. For example, in South Africa under the Twin Peaks model, the FSCA and the PA are separate regulators overseeing market conduct and prudential soundness, respectively. To effectively ensure regulatory cohesion and clarity for the South African insurance industry, the FSCA and the PA issued joint communications on matters such as business interruption insurance¹⁴, which touch on prudential and

12 [IRA/CIR/04/20/575 Insurance Industry Guidelines on the Conduct of Business during the Corona Virus Disease \(COVID-19\) Global Pandemic](#)

13 [Circular no 1/2021 COVID-19 relief and 24-hour settlement of all funeral and burial claims](#)

14 [Joint Communication 5 of 2020, Covid-19 – Regulatory response: Business Interruption Insurance](#)

market conduct aspects. The FSCA and the PA also met with other governmental authorities on a daily basis and raised any issues identified with the National Council. In Malawi, the RBM's responses to COVID-19 were constrained because it lacked support from central government in implementing those measures that required central government to take action (such as implementing tax relief measures for insurance sector players).

Informing and engaging with industry proactively, especially via digital channels, creates regulatory clarity and guidance and contributes to compliance. Stakeholder interviews reveal that, when systemic risk events occur, it is important that regulators communicate with industry proactively to clarify their initial expectations or proposed requirements before stipulating these expectations, recommendations and requirements in official instruments. The regulator can use a variety of channels to do so, including bilateral communication with industry members, meetings with industry associations, statements published on the regulator's website or even via statements to the press for this purpose. The IRA in Uganda, for example, found that compliance and buy-in from regulated entities increased when the regulators first consulted with industry before issuing legally-binding documents. NAMFISA in Namibia also indicated that, in future, it would need to be more agile in communicating with industry and issuing responses. Providers also highlighted the necessity of communication and direction from their supervisors with one stating that, "supervisors cannot abandon industry; we look to our supervisor for guidance". Of industry respondents to the survey, 42%¹⁵ said that proactive communication from their supervisor assisted with their business.

RBS emerged as most effective guiding a proportionate response. While we identified very few instances of COVID-19-linked changes to industry solvency and capital requirements, some regulators responded with regulatory forbearance when it came to industry members dipping below minimum levels. Nevertheless, across stakeholder interviews, the need for sufficient capitalisation to weather a crisis was highlighted as being crucial (see Box 4 for the current extent of adoption of RBS across jurisdictions). In those jurisdictions where compliance-based requirements are in place, regulators (such as NAMFISA, the PIA in Zambia and IPEC in Zimbabwe) indicated that they were concerned that they were less able to identify entities in distress and, across the board, regulators emphasised that a risk-based approach would have been or is more effective in monitoring weaknesses in their industry.

¹⁵ N=18

Box 4: The adoption of RBS

Regulators like the PA in South Africa who had adopted RBS before the pandemic benefitted from being able to apply a risk-based approach to understanding and responding to COVID-19. By the start of the pandemic, the IRA in Uganda had already shifted towards an RBS approach and as a result, the IRA was able to assess the impact of COVID-19 in terms of the risk-based capital requirements in its quarterly and annual reporting requirements. The IRA then required its regulated entities to create recovery plans to meet these risk-based requirements.

Regulators who were in the process of moving towards RBS when the pandemic started experienced delays due to the impact of COVID-19 and as a result, were delayed in utilising risk-based capital (RBC) to assist their understanding and responses to the pandemic. The IRA in Kenya, for example, had to extend the effective date of implanting new regulations on RBC by six months to give insurers more time to comply with the capital adequacy requirements. After the grace period ended, the IRA still experienced challenges, as some regulated entities remained uncompliant and the regulator has had to take action against these regulated entities. Similarly to the IRA, the FSRA in Eswatini was planning to implement the full set of RBS pillars across its industry in 2021 and was in the process of establishing risk-based capital requirements when COVID-19 hit the country. While the FSRA had to delay its adoption of RBC in light of the pandemic, the regulator did find that COVID-19 supplemented its understanding of risk. IPEC in Zimbabwe, however, was in a unique position as, even though it was still in the process of moving towards RBS, the regulator had been using risk identification for years due to other macro-risks events (such as hyperinflation) that had occurred in the country. IPEC was therefore able to use risk identification in its approach to COVID-19 while still not following RBS.

Making a (non-binding) recommendation to encourage industry to be flexible and support consumers (in accordance with consumer protection mandate) fosters trust. The ‘heightened mandate’ of insurance regulators during a systemic risk requires careful consideration of any potential trade-offs between a regulator’s different objectives. In keeping with their consumer protection objectives, many insurance supervisors encouraged industry members to offer premium holidays¹⁶ to their clients. In the industry survey, 47%¹⁷ of respondents said that it supported their business when their supervisor allowed premium holidays, while 21% said it would have supported their business if premium holidays were allowed. For example, the IRA in Kenya issued a guidance note¹⁸ requiring that insurers provide a grace period of 3 months over-and-above any premium holidays that were already in place. At the start of the pandemic, the PA in South Africa also provided some relief on capital requirements to industry members who were providing their policyholders with premium holidays, instructing industry to adjust their capital formulas to account for these extraordinary measures. Nevertheless, by the time that insurers had to submit their audited results, government measures to curb the spread had been eased (thus making it easier for customers to pay their premiums), which meant that the ultimate, measured impact of premium holidays was marginal. Some regulators also emphasised that industry should find ways to continue informing and educating

16 Premium holidays are “when an insurer allows a client to take a break from paying their premium for a certain period but the client remains covered by their policy” (Schlemmer, et al., 2020).

17 N=18

18 [Published 20 April 2020.](#)

consumers given that ‘business as usual’ had been disrupted; the PIA, for example, emphasised consumer protection and found it to be effective to require that industry find other ways of disclosing key fact statements to consumers (because face-to-face interactions had been replaced by digital platforms as a result of the pandemic).

Recommending or requiring industry to create and/or submit business continuity plans (BCPs)¹⁹ and/or stress tests supports Phase 1 and enhances industry’s preparedness for the next systemic risk. By requiring that industry members proactively test and plan to enhance their own responsiveness to a crisis, whether through BCPs or stress tests, the regulator not only gathers more information about the impact of the crisis (thus bolstering Phase 1) but also strengthens industry’s capacity to respond a crisis – whether ongoing or future in nature. In line with this objective, the IRA in Uganda, for example, asked regulated entities to submit their business continuity plans to the regulator to review for adequacy (and many already had BCPs in place). By contrast, numerous regulated entities in CIMA’s jurisdiction did not have BCPs before the pandemic, in response to which the regulator asked these entities to create BCPs. Stakeholder interviews reveals that regulators are interested in further testing BCPs, which can be done by reviewing the plan, conducting a tabletop run-through of various scenarios or even a larger scale simulation of the risk event. Where stress tests are concerned, the PA in South Africa asked insurers who were in distress to submit these, while the PIA in Zambia required its entire industry to conduct and submit stress-tests “on the impact of [the] COVID-19 pandemic on liquidity, capital adequacy, solvency and general financial position (balance sheets) and cash flow” in a legally-binding guidance note²⁰. The RBM in Malawi found that when it asked its industry to submit stress-tests to the regulator, the process of creating these stress-tests helped to influence how industry viewed the pandemic and mitigate its impact.

Phase 3: Monitor the efficacy of the regulatory response

Phase 3 entails tracking the efficacy of the regulatory response. Once a regulator has decided upon and implemented a response, the appropriateness of that response must be measured to enable the regulator to make efficacy-enhancing adjustments in the short term.

Phase 3 repurposes the tools used in Phase 1. The tools at supervisors’ disposal during this phase corresponds to the tools available during Phase 1, but their objective during this phase is different. While Phase 1 focuses on understanding the impact of the risk event itself, Phase 3 aims to: a) understand the extent to which industry is complying with what is required or stipulated in keeping with the regulator’s response; b) monitor whether the response provides adequate assistance to industry and c) determine until when the temporary measures implemented as part of the regulator’s response are needed (where these measures do not already have a

19 A business continuity plan is a living, written document that identifies key areas of the business (including its operations, staff members and equipment) that is needed to ensure business continuity and lays out the steps regulated entities need to take during a disaster event to assess the level of business interruption and what the regulated entity needs to do to restore or maintain business continuity (ARC, 2021; IRMI, 2022).

20 PIA/C15/2020 Guidance Note to the Insurance Industry – COVID 19

built-in expiration date²¹). For example, the FSCA and the PA in South Africa reduced the frequency of their calls with insurance associations from weekly (at the start and height of the pandemic) to monthly and then finally to ‘as needed’ as the impact of COVID-19 eased. NAMFISA constitutes another example – it had extended the submission deadline for the first quarterly reports in 2020, but only considered extensions for subsequent reporting requirements on a case-by-case basis. Instead of providing further relief measures, NAMFISA communicated to its industry that “they had to find a way to cope with the new normal”.

Phase 3 not as deliberately implemented across jurisdictions. It is important to note that this phase is not done consistently across regulators, but the benefits to implementing this phase include that the regulator who monitors is in a better position to change course to avoid inadvertent negative consequences of its responses. While a range of different approaches were applied to understanding the risk and impact initially and a number of responses were chosen across countries, regulators were far less deliberate about evaluating the impact of the responses and interventions and refining them accordingly. This is an area of major development across SSA regulators, based on the experience of COVID-19. The tools may be similar to those used in Phase 1, but the focus is different and those tools often need to be tailored to evaluate the impact of the regulator’s responses.

2.3. Phase 4: Adapt and evolve

Phase 4 entails reviewing the entire process (across all phases) retroactively to generate learnings and improve implementation and efficacy. Stakeholder interviews reveal that the regulator’s responses to previous or other systemic risks informs how it responds to the risk at hand. COVID-19, in turn, constitutes the current risk that can generate learnings and enable regulators to prepare for the next one. Phase 4 can be applied across all three of the preceding phases (unlike Phase 3, which applies specifically to their responses as implemented in Phase 2). Box 5 provides examples of regulators’ experiences with other systemic risks.

21 For example, the RBM specified that premium holidays for customers who requested it would be allowed for six months.

Box 5: Examples of regulators' experiences with other systemic risks

Given the country's history of hyperinflation, IPEC in Zimbabwe had already adapted and evolved its processes to respond to a systemic risk event – placing it in a more favourable position to respond proactively to COVID-19. Mauritius is another example of a country facing a series of systemic risks in quick succession or tandem. In February 2020, Mauritius was put on the Financial Action Task Force's grey list and the European Commission's blacklist for having strategic deficiencies with regards to AML/CTF. With the onset of COVID-19, the FSC thus found it difficult to distinguish between the impact of COVID-19 and the grey- and blacklisting of Mauritius. In response to the latter risk, the government of Mauritius set up a directorate to coordinate between the various authorities to make the relevant changes required to be removed from these lists. The FSC reported that a key learning for the regulator was the importance of having a relevant body assigned to addressing a major risk (Phase 1 and coordination considerations in Phase 2). South Africa constitutes a third example: in July 2021, civil unrest to mass looting and rioting. Utilising the communication channels entrenched during the first eight months of COVID-19, the PA and the FSCA again increased the frequency of their engagements with industry and with other governmental bodies to assess and respond to this new macro-risk.

Coordination channels, working groups, committees and engagement with other guidance such as international and financial sector best practice on other macro-risks constitutes a valuable avenue and resource. Beyond learning from their own experience in responding to a systemic risk, some regulators referred to the experience of other regulators (on the African continent and beyond) as well as international guidance and best practice in responding to COVID-19 and preparing for the next risk²². For example, the PA and FSCA deliberately engaged with the International Association of Insurance Supervisors (IAIS) and took stock of what other regulatory authorities were doing to guide their response. Regulators also highlighted the importance of stress-testing both their own and industry's preparedness for major risks.

Looking ahead to future risk events, which may occur sooner than expected. As indicated at the start of this section, supervisors may face the next systemic risk sooner than expected, requiring that they stress-test their own preparedness. In preparation of a third wave, the IRA in Uganda not only instructed industry to update their BCPs also updated its own BCP. The RBM in Malawi also realised that it needed to add non-financial crises risks to its crisis management plan if it is to be sufficiently prepared for the next systemic risk. Stakeholder interviews reveal that regulators are especially concerned about the following future systemic risk events:

Climate risks. The effects of climate change have the potential to expose insurers to heightened risks due to increases in damages and losses from climate-related events, greater liability of policyholders where they are being held accountable for contributing to climate change as well as the impact of economies transitioning to be low-carbon (IAIS, 2021). In response to this heightened risk, certain regulators interviewed have begun to deliberate how climate risk would fit into its regulatory activities. The PA in South Africa recognised that it does not collect any information

22 IAIS (2016) Issues Paper on Cyber Risk to the Insurance Sector, IAIS (2018) Issues Paper on Climate Change Risks to the Insurance Sector

on climate risk and in response at present, but emphasised that it is exploring how to incorporate climate risk into its industry's stress testing. NAMFISA encourages its industry to consider greener investment options.

Cyber-security and data protection. Cybercrime is rapidly rising and poses a risk to insurers both directly (as a potential target of a cyberattack) and indirectly (through its policyholders and investment assets). Cyber-security risks have increased during the pandemic as companies have shifted over to virtual platforms (Microsoft, 2021). For example, one life insurance provider in Namibia faced a cyberattack whereby its data was hacked and held ransom. Increasing digitalisation has also led to greater concerns over the protection of consumer's personal information and the risk of data breaches, leakages or improper storage. Regulators like the PA in South Africa have highlighted that digital migration of the insurance sector and the increased use of insurtech is leading to new emerging risks which regulators must account for. In response to its concerns over these risks, IPEC in Zimbabwe has engaged with international guidelines around cyber-security as well as with local developments in the banking sector and is now considering publishing guidelines around cyber risk frameworks for the insurance sector.

Political unrest and terrorism. Insurance industries continuously face a variety of risks as a result of political unrest and terrorism, including during the COVID-19 pandemic. Moreover, the economic impact of COVID-19 has left many African populations worse off than they were before – increasing their societies' vulnerability to civil or political unrest. In 2020, Malawi's Constitutional Court dismissed the presidential election results and new elections were held. As a result, political appointments at the RBM changed as well and the new government required a regulated entity to submit additional information for a new product it was seeking approval for. Terrorist attacks in Kampala, Uganda, in November 2021 impacted the operations of some insurers and also led to an increase in claims. Looking ahead, IPEC identified that Zimbabwe's presidential election in 2023 could lead to political unrest that poses a risk to the insurance industry.

3. Conclusion

Cross-cutting learnings from COVID-19 pave the way for enhanced future efficacy of regulatory responses. COVID-19 is one of the most salient systemic risks currently facing insurance regulators across the African continent. While it has disrupted the operations of the insurance industry, it has also created opportunities for regulators to learn how best to respond, prioritise and prepare for the next systemic risk. In this section, we discuss the key emerging learnings for regulators to keep in mind as they plan their ongoing and future responses to systemic risks.

Ensure access to quality, real-time information. Regulators need access to information that is accurate and up to date to make effective decisions. Regular meetings with industry facilitate the gathering of such information. Setting up early warning systems and following a proportionate, RBS approach – both of which actions are facilitated by digitalisation – also put regulators in a better position to support their industries through major risk events. In developed countries, some regulators have already moved towards real-time evidence-based supervision²³. Stakeholder interviews indicate that SSA insurance regulators would be interested in (and that some, such as the FSCA and the PA in South Africa and NAMFISA in Namibia, have even started considering) this possibility. Implementing this technology would require the development of an API to extract data directly from FSPs, while ensuring that the data is kept sufficiently secure. As long as the data is stored in a way that enables the supervisor to draw on the information when needed, the technology will enable the regulator to access granular data not only in the event of a large-scale risk, but also as part of its daily activities. This is not to say that the regulator needs to analyse the data in real time throughout the course of its normal operations; instead, resource and capacity considerations would play a role in determining the frequency of extraction and analysis.

Be proactive. Regulators should seek to create and enhance certainty in their markets, especially in the face of a crisis. While the scope and severity of a major risk event may not be immediately understood, regulators can avoid contributing to industry's mounting concerns through proactive engagement with relevant stakeholders to understand stakeholders' concerns and communicate the regulator's position clearly. This proactive engagement can take the form of statements published on the regulator's website or emailed directly to industry, issuing preliminary guidelines or other regulatory documents, meeting with industry associations and engaging with various forms of media, including newspapers and social media. Insurance regulators should also coordinate with other regulatory authorities to further enhance certainty and ensure that regulatory communication conveys a coherent message to the market.

23 The Australian Securities and Investments Commission has a Suptech platform, the Market Analysis and Intelligence system, which “ingests real-time data feeds from all equity and equity derivatives products and transactions” and produces real-time alerts of irregularities (Broeders & Prenio, 2018).

But do not overreact. Despite the need for regulators to be proactive and make statements, it is important that they remain ‘willing to be uncertain’. In other words, regulators should refrain from rapidly making strong, /restrictive and directive statements and, instead, issue softer guidance to avoid stepping in too aggressively²⁴. In instances where the consequences of the risk event have not been fully understood or are still unfolding, regulators are often well advised to take smaller, soft steps to guide industry rather than implementing hard, drastic and excessively directive measures.

Prepare for new risks. Guiding industry towards sustainable long-term development requires that regulators build an understanding of what risks their industry is likely to face in the future. Identifying these risks requires that regulators ‘keep their fingers on the pulse’ on an ongoing basis, for example by engaging with other regulatory bodies (local and international) and with industry. Stakeholder interviews highlight that climate change, natural disasters, political risk and cyber incidents are front of mind. Regulators need to prepare for the occurrence of these risks to the extent that they feasibly can. For example, the RBM in Malawi is planning to update its crisis management plan to include non-financial risk events, while other regulators (such as IPEC in Zimbabwe) are considering creating risk frameworks for projected future major risk events.

24 In March 2020, the IRA in Kenya released a statement requiring its industry to cover COVID-19, regardless of whether policies exclude pandemics. However, by July 2020, the IRA Kenya reversed its decision, allowing insurers to apply specific exclusions, such as not covering the treatment of COVID-19 at private hospitals (Wafula & Oketch, 2020).

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5. Annexure A: Methodology

We applied a variety of research approaches and engaged with insurance regulators across SSA and insurance providers to gain a more holistic understanding of the efficacy of regulators' responses:

- **Desktop research.** Throughout the course of this project, we consulted regulators' websites, published regulatory documents and relevant online news articles.
- **Qualitative interviews.** We conducted two rounds of one-on-one interviews with regulators and insurance providers across SSA. The first round of interviews took place in November 2020 and consisted of meeting with nine regulators²⁵. In the second round of interviews, we met with four regulators and seven insurance providers between January and February 2022.
- **Quantitative survey.** Between December 2021 and January 2022, we designed and rolled out two quantitative surveys. The first survey was targeted at regulators that we were unable to interview and we received two responses. The second survey was targeted at insurance sector stakeholder and we received 24 responses.

25 The PA and the FSCA were interviewed together.