



Nordic Insurance joint messages on Better Regulation

Insurers and occupational pensions providers need clear and predictable business conditions. A prerequisite for that is high-quality EU insurance regulation that balances the common objectives of:

- Efficient consumer protection
- Financial stability
- Strong competition

However, besides an ever growing and more complex legislative agenda the industry is confronted with a decrease in the quality of regulation where overlaps, inconsistencies and unproportionate measures are further complicating implementation and increasing compliance costs – sometimes at the expense of Member States' well-functioning solutions and national needs. In this context, it is noteworthy that the current European Commission mandate has seen an increase in EU legislative level 1 texts which are relevant for insurers from 21 acts in 2019 to 63 acts in 2023, and an even higher increase in the related level 2 and 3 measures.

To respond to this and in order to create legislation that achieves its objectives while being targeted, effective, easy to comply with and with the least burden possible, the incoming European Commission and European Parliament should reinforce their focus on the “Better Regulation” agenda. In this respect the following shortcomings need to be addressed:

- The **One in One out-principle** should be kept in mind when drafting new proposals.
- The incoming EU Commission should **prioritize the initiative on reducing reporting requirements by 25 pct.**, launched by President von der Leyen in March 2023. We find it important to focus on the extensive task on streamlining and simplifying the different reporting requirements that the European companies are met with. ¹This should include assessing reporting requirements stemming from level 2 regulation and ensure that companies are not required double reporting or unnecessary overlap in different reports.

¹ Insurance Europe letter on the industry positions: <https://insuranceeurope.eu/publications/3024/upcoming-ec-initiative-on-simplifying-and-reducing-reporting-requirements/>

- There is a need for high quality **Impact Assessments** (IA) and they should be performed on all EC initiatives². Also, the European Parliament and the Council should document the effect of their amendments in terms of anticipated impacts. It should be carefully assessed whether it would be possible to draft an updated Impact assessment when significant amendments are made to EC proposals in the course of **negotiations** in the Parliament or between the co-legislators³.
- A “**Competitiveness Check**” should be fully implemented to ensure the impact assessments integrate all expected impacts of each proposal on cost and price competitiveness, international competitiveness and the capacity to innovate. This should be complemented by assessments of the cumulative effects of different policy measures as well as applying the promised approach of offsetting burdens in the same areas as others are applied so that the combined level of burdens does not rise unnecessarily.
- Good policy preparation is built on openness and participation. **Stakeholder consultations** are an essential element of policy preparation. All relevant stakeholders should have sufficient time to respond to public EC consultations to make informed and effective contributions. The four to twelve week period, regarding consultations on EU legislation and implementation acts should be extended⁴.
- To improve the regulatory processes, **negotiations should not be rushed**, and in-depth analysis should be undertaken to ensure that any new legislation is fit for purpose from the start and is in coherence with already existing definitions or concepts across EU legislation. The regulatory framework should be kept as stable as possible, avoiding “quick fixes” and interim solutions.
- To **ensure coherence and consistency and avoid overlaps and duplication across EU legislation**, the cumulative impact on businesses of proposed and existing rules should be assessed — with thorough consumer testing, where relevant — and legislation should not be developed in silos. The burden to properly interpret and apply the different pieces of legislation is passed on to businesses and is detrimental to their

² Examples: The IA that accompanied the EC’s proposal on the Solvency II review needed further clarity on how the proposal would impact each national market. 2) Regarding the EC’s proposal establishing a framework for the recovery and resolution of insurance and reinsurance undertakings (IRR), the accompanying IA was basically based on data from before the Solvency II regulation entered into force in 2016.

³ Examples: 1) The compromise text regarding the EC’s proposal on the Artificial Intelligence Act included insurance in the high-risk list without any prior IA. 2) The Council’s general approach on IRRD included an amendment on the financing of certain elements of the proposal which had not been subject to a prior IA. 3) Regulation on Deforestation: the EC proposal did not include financial services in the scope of the proposal. The parliament accepted amendments which resulted in including financial services in the scope of the regulation. This was a significant change and would potentially have presented major requirements for financial services firms. No Impact assessment was made on this significant change of the scope. The conclusion of the negotiations was to introduce a review clause which requires the Commission to study at a later stage whether financial services will be included in the scope.

⁴ Example of a too short consultation time frame: In May 2022, the EC launched a call for evidence on the Retail Investment strategy (RIS) with only 4 weeks to provide stakeholder feedback.

competitiveness – and in the end to consumers⁵. We do not need more but simpler and easy to understand consumer information.

- Priority should be given to reaching high-quality and technically sound legislation with no legal uncertainty. To this end, co-legislators need to fully play their role of brokering the political compromise. Hence, the basic legislative acts should **limit the number of delegations for level 2 (delegated/ implementing acts/RTS/ITS) and level 3 measures** (guidelines etc.) to what is technically necessary. Level 2 measures shall be limited to technical solutions and never replace decisions that should be made at the political level in the basic act. The same goes for level 3 measures.
- National supervisory authorities play a crucial role in preparing and deciding financial services regulation. This has proven problematic, mainly because **not all decisions are subject to a political decision-making process** and the preparatory measures at working level of EIOPA do not include a satisfactory level of transparency. We ask for more transparency in the drafting process and for more dialogue with the national supervisors in the early phases of drafting level 2 and level 3 regulation. EIOPA should, when taking part in the legislative process, like the Commission comply with the principles of the Better Regulation agenda.
- **Short implementation timelines** should be avoided. It is crucial that businesses be provided with enough time to implement new legislation. There need to be separate consequent timelines for developing level 2 and 3 measures and for the industry implementation. The industry needs at least 12 months from the publication in the Official Journal of the EU of all the measures at Level 1 and 2 to be able to implement any required changes. As they are instrumental to proper implementation, any Level 3 measures also need to be available a year before the framework implementation deadline. This would ensure the financial industry is able to conduct the implementation in a coherent and well planned way which benefits robust and clear administrative processes.
- The deadline for conducting **regulatory reviews** is often too short. The review should be presented only after the effects of the regulation in force have been thoroughly analyzed. Also, extensive technical and consumer testing in all countries and an adequate timeline for stakeholder consultation should be prerequisites set in the

⁵ Examples: 1) The Commission proposal on RIS is not aligned with the general aims of the Capital markets Union project. The proposal on RIS introduces several amendments which would not promote the interests of retail investors and would not encourage them to invest more in the European capital markets. There are currently 339 different pieces of information at the precontractual stage for the sale of an Insurance Based Investment Products (IBIPs), as a result of multiple applicable EU legislative acts, e.g., PRIIPs, IDD, Solvency II, GDPR, DMD, ecommerce, SFDR. 2) The comprehensive requirements in the numerous, new pieces of legislation on sustainability (e.g., the Corporate Sustainability Reporting Directive, the Taxonomy Regulation and the Disclosure Regulation) that have been adopted in recent years are also examples of lack of consistency and potential overlaps also in regard to other sector specific regulation.

legislative texts of any review. In our view, this would require a review clause of at least 5 years after the full implementation in all Member States.

- We call for enhancing the application of **proportionality** in all insurance regulation. EU measures must be suitable and necessary to achieve the desired end and they must not impose a burden on any individual entity that is excessive in relation to the sought objective. This will support a diversified and efficient insurance market with insurance undertakings of different sizes and different legal forms.
- Member States should actively safeguard that the EU acts only if and in so far as the objectives of the proposed action cannot be sufficiently achieved at national level.