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LESS REGULATION, BETTER SUPERVISION

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Ladies and gentlemen

Thank you for inviting me here to today’s conference to talk about regulation.

Regulation is vital to keep our financial system stable.

Regulation helps to make sure that companies carry out their business to a high standard.

And regulation means that we can protect consumers and policy holders.

But still today, despite all the regulation that we have in place, we continue to see consumers losing out because the regulations that are in place to protect them are not standing up to the task.

Does this mean that we need more regulation? I don’t think so.

In fact, I would say that instead of more regulation, we need more soft regulatory tools and better supervision to check how regulation is applied in practice and we need to learn lessons on how to maintain the regulatory framework. And, we need to give more space to so-called ‘soft regulation’.

So, I think we need more supervision! And I’m not just saying this because I’m a supervisor.

Regulation and supervision: Two sides of the same coin

I say this because I firmly believe that regulation is more effective when it is accompanied by more agile regulatory tools and proper supervision.

Of course, there are certain characteristics of good regulation.

It must meet a specific need and be evidence-based, built on a wide consultation of stakeholder views.

It must be proportionate to the risk it is designed to address and its implementation should not be too great a burden for smaller enterprises.

And it should be clear to all why the regulation is in place.

Above all, regulation must be relevant. Because if a regulation no longer reflects the broader operating environment – and by that I mean not only economic conditions, but also the overall business landscape – then it risks losing its credibility.

Take Solvency II.

The implementation of Solvency II has been a step change in how insurers approach their relationship to risk. Since its implementation more than four years ago, the insurance industry has better aligned capital to risk and insurers have also significantly strengthened their governance models and their risk management capacity.

But Solvency II was created in very different market conditions, which have in the meantime change a lot.

And, to take account of the market developments, we made changes to the regime in 2018. We did so by revisiting Level 2 measures, and now we are working on more fundamental Level 1 changes. And, in the meantime, we have issued a series of guidelines to national authorities to ensure a convergent approach to the framework.

The Insurance Distribution Directive is another – slightly different – example. Designed to regulate how insurance products are designed and distributed in the EU, its goal is to improve consumer protection standards.

But products are evolving and distribution channels are changing all the time. Where once we would buy from a single insurance agent, now we might visit a comparison website and then make a purchase online without ever talking to a person. And this is even truer today, as we embrace digital technology as a normal way to browse and buy.

To take account of the changing way products are sold, we issued guidelines for sales of insurance-based products sold by telephone or online to minimise the risk of consumer detriment from the mis-selling of such products. But we will have to wait for the next revision of the directive to adapt the approach to pre-contractual information (which is, by default, paper-based), because this condidtion is defined at Level 1.

And how do we know when we need to step in?

Through our supervisory experience.

Because it is through supervision that we can monitor how a regulation is implemented – how it works in practice – and if its application is consistent across all supervised insurance companies.

And just as we have with regulation, we also have characteristics for high-quality and effective supervision.

We believe that supervision, like regulation should be risk-based and proportionate.

It should be forward-looking, proactive and preventive. After all, it is better to prevent than repair.

We believe that supervisors themselves should be professional, have a sense of duty and public interest, and should prioritise dialogue with insurers for a better understanding of business models, strategies and underlying risks.

In fostering a common approach to supervision across Europe, we are above all aiming for strong but fair and consistent supervision.

EIOPA’s supervisory toolkit

Good supervision also requires effective supervisory tools.

European supervisory authorities for example have a wide-ranging toolkit.

At the highest level, we are empowered to draft regulatory and implementing technical standards which ultimately become binding in European Union law. We develop these based on an explicit mandate in legislation, rather than at our own discretion.

We have more discretion when it comes to other, less binding, instruments.

We issue guidelines and recommendations where we want to make sure that there is a uniform application of European Union law and/or common regulatory or supervisory practices, such as insurance distribution as I mentioned before.

These can be addressed to national authorities or insurance companies.

What makes these tools so powerful – even they are not legally binding – is that they are subject to comply or explain mechanism. National authorities are required to make every effort to comply with the guideline or recommendation and if they cannot, they must provide a reason.

To ensure a common approach to supervision across Europe, where we find significant inconsistencies, we can issue an opinion to supervisors.

We have issued opinions on Brexit, for example recently, to outline the measures that supervisors and businesses had to take to ensure continuity of service for policyholders.

For matters that most affect supervisory actions, we can also issue supervisory statements, always addressed to national authorities, such as our statement on the impact of the ultra-low/negative interest rate environment.

‘How’ is as important as ‘what’

It’s important to mention how we go about using these tools.

They are often the result of a trend that we become aware of through our regular market monitoring activities, or they could be the result of one of our peer reviews.

What I am getting at is that we uncover issues related to the implementation of regulation through our supervisory activities. And again, through supervision – or rather these specific supervisory tools – we can take action to improve implementation. To go back to my original point, supervision can make regulation more effective.

This approach – identifying an issue, followed by a more thorough investigation, always involving national authorities, and engaging with stakeholders – also underscores the importance of effective supervision. It allows us to get to the root of a problem and understand what is not working and why.

And through this approach, we can identify the best means to address the problem. And the answer will not always be regulation.

In conclusion

In conclusion: regulation is undoubtedly essential for a strong and stable financial sector.

The more principle-based it is at primary level, with measures and operational details at Levels 2 and 3, the easier and faster it will be to update, so that it remains relevant and ready to face the risks that the evolutionary context poses to the regulator.

That's part of the story. The other, fundamental, is supervision.

As I said before, I am a supervisor so you will not be surprised if I repeat: high-quality supervision helps to best answer the question of 'how to regulate?' It allows us to have immediate awareness of problems, it fosters reflections on how to maintain the regulatory framework, and helps determine when and whether to intervene.

Thank you very much.