

IRSG

INSURANCE AND REINSURANCE STAKEHOLDER GROUP

IRSG views on practical ways to ensure a more stable, predictable, and competitive framework by rebalancing / recalibrating regulation and supervision without undermining the existing level of consumer protection. (*)

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EIOPA is kindly invited to consider the following as a **possible source of inspiration in the framework of its work on “simplification”**:

Improve legal certainty and (thus) consumer trust in insurance, investment and pension products, IBIPs, intermediaries and the market in general, by keeping the regulatory framework as stable as possible for the long term.

There is a need for regulatory stability, for an approach based on practical experience and empirical research, in order to create more trust. Constantly (or often) changing rules undermine legal certainty and thus the trust of consumers and clients (but also of intermediaries and operators) in the market.

Changing rules, even if the intention is “simplification”, may be complex, create costs and legal uncertainty for operators and may be a barrier to competitiveness and innovation. Changing rules may also confuse consumers, if they are not fully based on negative practical experiences. By changing rules, legislators themselves may undermine the credibility of the existing legislative framework. At the same time the credibility of existing legislative framework will be undermined, if it does not clearly address existing consumer detriments (like missing value-for-money issues), which in consequence may make a review of existing regulation necessary.

The IRSG calls upon EIOPA to consider (and or promote) practical ways to ensure a more stable, predictable, and competitive framework by rebalancing/ recalibrating regulation and supervision, with an emphasis on enhancing the supervision.

This could be done on the basis of the following:

- To ensure that new layers of rules are not created outside of the primary legislative process. To that end, the IRSG is wondering to what extent recommendations and guidelines should be limited to instances explicitly mandated by Level 1 legislation. This would help prevent regulatory uncertainty and costs.
- The IRSG is of the opinion that the solution to isolated problems is not to re-regulate the entire system.
- The regulatory architecture should instead be anchored in clear, objectives-oriented principles, which, when combined with effective enforcement, can enhance adaptability and reduce complexity.
- Overly complex (and prescriptive) rules risk fostering a mere "tick-box compliance culture" instead of achieving the intended goals. It risks complicating consumer facing processes, which could ultimately contradict SIU objectives. Other members of the IRSG agree in principle with these assumptions under the conditions that precise examples are given for a possible “over-regulation”. Regulation is always a reaction against consumer detriments identified in the past. In consequence the over-arching guiding principle for a review of regulation should be the assessment if the regulation is suitable enough in

order to prevent for the ongoing or possible consumer detriment. In this respect, reference is made to above made comments in relation to supervision.

- A hybrid, **principles-led approach, when coupled with effective enforcement**, can enhance regulatory effectiveness and adaptability to innovation, and foster greater coherence.

- There is no European “average”. “Crucial problems in some markets for some products and / or product categories” should not be a reason to re-design the entire framework. If and where problems are identified, then the supervisory system should intervene. If the existing system allows for the identification of problems then that means that the system works. So supervisors should (be able to) intervene in these – individual or some situations - in those markets where there are identified problems. (rather than redesigning the entire framework) Where necessary the IRSG is of the opinion that if there are supervisory gaps, the focus should be on providing "targeted (long term or short term) extra powers and means to supervisors. A more stable regulatory framework would potentially also allow a shift from resources within the supervisory entities from the “regulatory” department to the “supervisory” department. Moreover, consumers’ needs are different. That is why it is important to preserve consumers’ choice and take into account national circumstances when designing the rules. Reference is also made to above comments in relation to differences between consumers and enterprises.

- **The role of supervision and "gold-plating"**: Gold-plating should not be a reason to redesign the entire system. Supervisory convergence is a necessity to achieve a single market to the benefit to insured citizens and to EU providers, as clearly emphasized by the Letta and Draghi reports. It should be the responsibility of European and National Supervisory Authorities, not an additional burden on firms and consumers through more rules. The IRSG is wondering if this can, for example, be achieved by empowering EIOPA (or **ESAs**) with effective tools to ensure coordination among NCAs and eliminate step by step national "gold-plating". This approach would simplify the regulatory landscape and enhance legal clarity without imposing extra costs on market parties. This system also allows for flexibility and temporary measures where necessary in individual markets. The IRSG is, wondering if such provision would constitute an excessive interference with the rights of national legislators. The issue whether “gold-plating” shall be made possible or not (or how far it may go), can only be decided at the Level 1 legislative procedure.

Furthermore, IRSG calls upon EIOPA to consider and promote the following also with legislators:

- **Give (much more) time for rules to become reality and trust supervisors to intervene**

The IDD and Solvency II Directive, in combination with a series of horizontal rules which interact with one another, regulate the conduct, processes and obligations of distributors, insurers and intermediaries when in dialogue with their clients.

The rules also give the supervisory authorities the power to intervene where necessary. If there are gaps in the supervisory system, then these should be corrected, not by re-regulating the overall existing rules applicable to market parties.

- **Ensure phased and realistic implementation time**

The market but probably also supervisors and the legal system overall need a **longer-term outlook** on the regulations/ rules legislation. The world is uncertain, but stable regulation and longer-term objectives in combination with “staged” application objectives would help to make it less uncertain for entrepreneurs, consumers, supervisors and regulators.

Phased and realistic implementation time would help to avoid the fact that level II or level III rules become public at a moment too close to the practical application moment. The IRSG would find it useful to study if a five-to-six-year (or longer) outlook would not only result in more proportionality but also in more competitiveness, credibility and better compliance. Less costs, more legal certainty... in the interest of all. One of the issues that could be considered in such a study is whether or not such a system could be lead to consumer detriment. It is recognized that the time-frame for level II and III regulations must be fixed in the level 1 regulation in each case separately.

Wide consultation and “implementation testing” / sand box approach **before the application date** could be built in, in order to allow for all parties to be better prepared before the rules come into force.

Q&A's and less formal opinions published by ESA's should not be underestimated in terms of impact on the market. **IRSG would suggest that draft Q&As are also subject to consultation** before they are published. IRSG recognize that Q&As are a valuable tool for supervisory convergence, but the process should be streamlined to ensure that they are limited to clarifying the application of existing rules. Q&As modifying or reinterpreting existing rules bring uncertainty and unpredictability for market players. Indeed consultations would be a helpful change that would bring more transparency into the process. Q&As should also be communicated in a clear and transparent way.

- **Ensure that all existing rules are adhered to by all market participants (in a staged approach where this brings proportionality)**

Experience based rules can in principle be applied to all players who do the activity on a level playing field basis ... also, to “new” or innovating players.

Proportionality or simplification should not result in excluding certain operators, certain products or certain categories of risks or clients from the scope of a rule but should result in leaving time to market parties in scope to deal with the many sectoral and horizontal rules that are imposed “at the same time” and often in a non-coordinated way, creating legal uncertainty for all parties involved.

A staged approach, (in combination with more realistic implementation and application time as referred to above), could result in proportionality and less costs overall for the economy and the sector (and the consumers). For example, every change in rules requires IT and procedures to be adapted. Instead of having all IT experts (internally or externally) being asked to be at all places at the same time, a staged approach could result in better use of existing resources. The same is true for training resources...

*(*The above text was initially an annex to the **IRSG own initiative paper The application of the Insurance Distribution Directive (IDD) approved and adopted by the IRSG in October 2025. On the occasion of the IRSG meeting of 5 February 2026 it was decided to consider it as a separate own initiative IRSG paper.***

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