GDV German Insurance Association

REGULATION

Reversing the Trend

Areas of reforms and recommendations for efficient regulation

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Introduction

Regulation sets minimum standards, guarantees fair competition and promotes mutual trust among market participants. At the same time, from the perspective of European businesses, inadequate regulation is one of the biggest long-term obstacles to investment, alongside shortages of skilled labour, energy costs and geopolitical uncertainty.[1] However, public and especially private investments are essential for strengthening European competitiveness and green growth. In his recent report[2] on the future of the Single Market, Enrico Letta highlighted the perspective of companies on unnecessary reporting requirements, as well as slow approval and tax procedures. The need for reform is urgent.

In fact, there is a broad consensus on the need to make regulation more efficient and to reduce unnecessary rules and reporting requirements. The German government has launched a series of relief packages to this end. At the same time, EU Commission President Ursula von der Leyen has set the target of reducing the burden of reporting requirements on companies by 25%.[3] While there has been limited progress at national level, there has been a strong increase in regulation and reporting requirements at EU level in recent years. As a case in point, the German government estimates the compliance costs of the new Corporate Sustainability Reporting Directive (CSRD) for German companies at 1.4 billion EUR per year. [4]

The GDV is strongly in favour of reforms to create more efficient regulation.[5] Instead of fragmented and complex rules, we need consolidation at EU level, particularly regarding reporting requirements. This paper documents the increase in EU regulatory density and describes unintended consequences for companies, consumers, and supervisors. To initiate a trend reversal, the GDV is calling for a moratorium on additional regulatory burdens at European level for at least two years. We also propose a programme for efficient regulation. The programme consists of 5 areas of reform with 18 short and medium-term measures that will noticeably reduce the regulatory burden on insurance companies and takes into account the interests of consumers and supervisory authorities.

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[1] European Investment Bank (2024) – Investmentreport 2023/2024. Link: https://www.eib.org/attachments/lucalli/20230323_economic_investment_report_2023_2024_en.pdf
[2] Enrico Letta (2024) – Much more than a market. Speed, security, solidarity. Link: https://www.consilium.europa.eu/media/ny3j24sm/much-more-than-a-market-report-by-enrico-letta.pdf
[3] European Commission (2023) – Reducing burdens and rationalising reporting requirements. Link: https://commission.europa.eu/system/files/2023-10/Factsheet_CWP_Burdens_10.pdf
[4] German Federal Ministry of Justice (2024) – Referentenentwurf zur Umsetzung der CSRD. Link: https://www.bmj.de/SharedDocs/Downloads/DE/Gesetzgebung/RefE/RefE_CSRD_UmsG.pdf?__blob=publicationFile&v=2
[5] The call for a trend reversal is not new; see Nationaler Normenkontrollrat (2023) – Jahresbericht 2023. Link: https://www.bmj.de/SharedDocs/Publikationen

Increase in EU regulatory density

The number and scope of regulations are indicators of regulatory density and the basis for estimating the costs incurred. As a rule of thumb, increasing regulatory density is associated with rising costs. This is because companies and supervisory authorities must provide the capacity to process new regulations and adapt their internal processes or, if necessary, set up new ones. The Bureaucracy Cost Index (BKI), for example, measures the burden placed on German companies by national reporting requirements. From 2012 to 2023, the index fell by around 4 percentage points. Of this, a decline of 2 percentage points is attributable to the term of office of the current federal government. However, the Bureaucracy Cost Index paints an incomplete picture, as it does not consider the costs for public authorities and citizens. In addition, the index largely excludes European regulation, which is particularly important for insurance companies.

At European level, the density of financial and insurance regulation has increased significantly (see table 1). In the current legislative period (2019 to 2024), the Commission, Parliament and Council have introduced more than 77 legal acts totalling about 10,000 pages. In addition, the European Insurance and Occupational Pensions Authority (EIOPA) published 55 further non-legislative regulations (guidelines, opinions, and supervisory statements) totalling more than 900 pages. EIOPA has also provided 2000 Q&As (Question & Answers) to assist national supervisory authorities and companies in the correct application of regulatory requirements.

Table 1. Number and Scope of EU legislative and non-legislative Regulation from 2019-2024[6]

EU legislative and non-legislative regulation	Number of documents	Number of pages
Directives and Regulations	15	1235
Delegated Acts and Implementing Regulations	52	8571
Publications of EIOPA: Guidelines, Opinions, and Supervisory Statements	53	912
	∑ 120	**∑ 10718**

[6] The table includes documents that fulfil the following three criteria:

- Publication or agreement in trilogue in the current European legislative period 2019-2024
- Located in the area of competence of the Directorate-General for Financial Stability, Financial Services and Capital Markets Union (FISMA) of the EU Commission or the European Insurance and Occupational Pensions Authority (EIOPA)
- Regulations affect insurance companies

In the context of the Green Deal, the European co-legislators and the EU Commission have significantly expanded reporting requirements. For example, the Corporate Sustainability Reporting Directive (CSRD) requires companies to report between 190 and 823 data points annually. The Taxonomy Regulation, the Sustainable Finance Disclosure Regulation (SFDR) and changes to tax law also define new reporting requirements. These new requirements are in addition to the extensive Solvency II reporting requirements (since 2016).

Although the European co-legislators and the EU Commission are always pursuing important objectives (protection of policyholders, financial stability, climate protection, etc.), excessive reporting requirements have unintended negative effects. These include, among others:

1. New companies face higher barriers to enter the market. Less competition creates fewer incentives for innovation. In the end, consumers can choose between fewer providers and products.
2. Companies pass on part of the regulatory burden to consumers. Products become more expensive.
3. Companies must report or publish the same or similar information several times (double reporting). In addition, despite extensive standard reporting, companies must respond to special requests from supervisory authorities.
4. The information about companies or products is too extensive and creates information overload for consumers.
5. The control and monitoring of new reporting requirements can overburden the capacities of public administrations and supervisory authorities. Other important functions of public authorities can be impaired.
6. Dealing with excessive reporting requirements can overburden companies and delay or even hamper work on the intended objectives, e.g. in the area of sustainability.

A structured approach for efficient regulation

Insurance markets are strongly regulated to protect policyholders and ensure financial stability - and that is a good thing. However, when it comes to regulation, it is not only effectiveness (achieving objectives) but also efficiency (achieving objectives while minimising the use of resources) that is crucial. Efficient regulation not only saves costs and effort for companies and consumers, but also further promotes the political legitimacy of the EU and its Member States. The following seven principles[7] provide guidance when working towards efficient regulation: necessity, transparency, effectiveness, consistency, proportionality, risk-orientation and principle-orientation.[8]

The GDV recommends a moratorium on additional regulatory burdens at EU level for at least two years to halt the trend of increasing regulatory density. Changes to regulation should remain possible and are even necessary. However, no additional reporting requirements should be created in the ongoing European legislative processes. If new burdens do arise, they should be compensated for by equivalent reductions elsewhere.

The GDV proposes a structured approach (table 2) to create more efficient regulation. Six immediate measures and 12 medium-term measures are distributed across the following five areas of reform:

A. Sustainability regulation
B. Small and medium-sized enterprises
C. Supervisory law
D. Tax law
E. Distribution law

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[7] The Principles proportionality, risk-orientation and principle-orientation are anchored in Solvency II framework.
[8] Based on the final report of the Mandelkern Group on better regulation (2001). Link: https://www.smartreg.pe/reportes/Mandelkern%20Report%20on%20Better%20Regulation%202001.pdf;
see also EU Commission (2023) - „Better regulation toolbox - July 2023 Edition“ Link: https://commission.europa.eu/document/download/9c8d2189-8abd-4f29-84e9-abc843cc68e0_en?filename=BR%20toolbox%20-%20Jul%202023%20-%20FINAL.pdf

Table 2. Areas of reforms and measures for efficient regulation

Areas of reforms	Immediate measures	Mid-term measures
A. Sustainability regulation (CSRD, SFDR, Taxonomy Regulation)	A1. Examine the need for sector-specific standards for CSRD reporting and clarify interpretation	A2. Delete company-related data from the PAI statement (SFDR) A3. Simplify information requirements for products advertised as sustainable A4. Limit reporting of the Taxonomy Regulation to important key figures
B. Small and medium-sized enterprises (SMEs)	B1. Enable proportional simplifications for more SME insurers in Solvency II	B2. Define size categories for financial entities in the Accounting Directive B3. Remove SMEs and group subsidiaries from the definition of public interest entities B4. Streamline the approaches for SME simplifications in other Directives
C. Supervisory law	C1. No new mandatory plans on sustainability risks	C2. Abolish the Solvency and Financial Condition Report (SFCR), retain QRT reporting C3. Halve the Solvency II standard formula, delete immaterial risk modules C4. Abolish regular EIOPA stress tests
D. Tax law		D1. Reduce reporting requirements, in particular double reporting D2. Better weigh up the costs and benefits of new tax laws
E. Distribution law	E1. Do not extend reporting for supervisory authorities any further or limit it to public information E2. No obligation to store marketing materials E3. Limit the obligation to provide product information to issuers of financial products	E4. Recognition of educational training for IDD and MiFID II

A. Sustainability regulation

A1. Examine the need for sector-specific standards for CSRD reporting and clarify interpretation

Twelve cross-sector European sustainability reporting standards (ESRS) currently specify the content of CSRD reports. The first CSRD reports for the 2024 financial year (publication in 2025) will be very extensive. Companies will have to report between 190 and 823 data points and present many aspects qualitatively. Excessive reporting requirements increase the risk that companies perceive sustainability as a mere box-ticking exercise. The materiality assessment is a good principle-orientated tool for separating relevant from non-relevant content. However, some standards allow for different interpretations, which limits comparability. Clarifications should be made here, also with the aim to establish a manageable level of reporting for preparers and users. It should also be evaluated whether additional sector-specific standards are necessary. Overlapping requirements resulting from sector-agnostic and sector-specific standards should be avoided. In addition, full consistency with the ISSB standards should be ensured to reduce complexity to an acceptable degree compared to the international level.

A2. Delete company-related data from the PAI statement (SFDR)

Under the Sustainable Finance Disclosure Regulation (SFDR), financial market participants have been obliged since 2023 to publish a statement on significant adverse sustainability impacts (Principal Adverse Impact, PAI) at company level on their website. This PAI statement must be updated annually. However, it attracts little interest from (retail) investors. In addition, the PAI indicators must also be published in the CSRD report. This double reporting and the risk of information overload for investors should be reduced. To this end, the PAI statement with the company-related information should be separated from the SFDR. The PAI statement should be part of the CSRD report and reduced to the most important indicators. This would eliminate the need for disclosures under Art. 3, 4, 5 of the SFDR and reduce the burden on financial market participants. The product-related information in the SFDR should also become more consumer-friendly. That can be achieved with a clear focus on a small number of important indicators.

A3. Simplify information requirements for products advertised as sustainable

The standardised product information sheets specified in the SFDR should be simplified and replaced by user-friendly ESG information that only contains absolute core statements for consumers. For further information, it should be possible to refer to the corresponding product information description on the product issuer's website.

A4. Limit reporting of the Taxonomy Regulation to important key figures

According to Article 8 of the Taxonomy Regulation, companies must indicate the extent to which their activities are taxonomy-aligned. Insurers must collect a large number of key figures for their investments and present them at portfolio level. This involves collecting a lot of information with little relevance for investors, customers, or other stakeholders. The focus should be placed on key indicators that offer added value for managing the transformation. For example, the key indicator 'taxonomy-aligned capital expenditure (CapEx)' is useful as it provides information on the sustainable orientation of a company. As part of a broad stakeholder dialogue, the key indicators that offer significant added value to the various interest groups should be identified. The aim should be to significantly reduce the number of key figures to be reported. The specifications for these key indicators should be unambiguous, understandable and appropriate. In addition, the key indicators should also be comparable to add value for a broad set of stakeholders.

B. Small and medium-sized enterprises (SMEs)

B1. Enable proportional simplifications for more SME insurers in Solvency II

The review of the Solvency II Directive provides for a package of automatic proportionality measures for so-called small and non-complex undertakings (SNCUs). In addition, companies that do not fulfil the criteria as SNCUs will be able to apply individually to the supervisory authority for certain proportionality measures. The changes are a step in the right direction. However, only a few German SME insurers will qualify as SNCUs, as the relevant criteria are too restrictive for the German market. Insurers should therefore be allowed to apply to the supervisory authority to be treated as SNCUs, even if they do not fulfil all the SNCU criteria. This proposal alleviates the burden on insurers and supervisory authorities alike, as the authorisation of individual measures is bundled.

B2. Define size categories for financial entities in the Accounting Directive

Horizontal EU regulations, such as the CSRD, often use the size categories of the Accounting Directive to determine the scope. Companies no longer count as SMEs but as large companies if they exceed two of the following three criteria: Turnover > EUR 50 million; balance sheet total > EUR 25 million; employees > 250. The criteria are only suitable for SME insurers to a limited extent, as they have a higher balance sheet and turnover scaling in relation to the number of employees than companies in the real economy. As a result, insurance companies can be classified as 'large companies' even though some of them have fewer than 50 employees. These companies should not have to fulfil the same requirements as international groups in the real economy. Financial companies should therefore have to fulfil all three characteristics to be classified in the relevant size classes under the Accounting Directive. Insurers with fewer than 250 employees would then no longer be categorised as large companies, but as SMEs. This would exempt many SME

insurers, for example, from the CSRD.

B3. Remove SMEs and group subsidiaries from the definition of public interest entities

The Public Interest Entities (PIE) category was introduced in 2013 in response to the 2008/2009 banking crisis. Regardless of their size, market relevance and capital market orientation, all insurers that fall under Solvency II are categorised as PIEs. In the GDV's view, many SME insurers are not of public interest due to their activity, size or low market share and should therefore be excluded from the PIE categorisation. Furthermore, it should be reviewed to what extent non-capital market-oriented companies can also be exempted from being categorised as PIEs. The Solvency II supervisory framework includes SMEs and non-capital-market-oriented companies and is more than sufficient. In addition, Member States would still have the option of specifically categorising certain companies as PIEs. With the abolition of the blanket PIE classification for SMEs, stricter requirements for external auditor rotation or the documentation-intensive differentiation from non-audit services by the auditor would no longer apply. In addition, in capital market-oriented insurance groups, only the group parent company should be classified as a PIE in order to prevent multiple regulation at different group levels.

B4. Streamline the approaches for SME simplifications in other Directives

There are different approaches in European Directives as to how proportional simplifications are made possible for SMEs. As a result, it is sometimes difficult for companies to understand what simplifications exist for them. Furthermore, there are regulations that allow no or only few proportional simplifications for SMEs. We therefore propose evaluating the approaches for SME simplifications in horizontal regulations. The next step should be to streamline the approaches as far as possible. As a starting point, we recommend a suitable definition of size classes that differentiates between companies from the real and financial economy (see measure A3). Bundles of automatic simplifications should be put together for these size categories.

C. Supervisory law

C1. No new mandatory plans on sustainability risks

Insurance companies are obliged under Solvency II to conduct comprehensive risk management that already includes ESG risks. As part of the Own Risk and Solvency Assessment (ORSA), for example, the analysis of long-term climate change scenarios is mandatory. The added value of an additional obligation to draw up prudential plans for dealing with sustainability risks is not clear.

C2. Abolish the Solvency and Financial Condition Report (SFCR), retain QRT reporting

Insurers must inform the public about their solvency and financial position annually in a comprehensive Solvency and Financial Condition Report (SFCR). The report is unsuitable for consumers due to its length and depth of detail (information overload). One indicator of the low added value of the SFCR is the very low number of downloads, with an average of nine downloads per month. Professional users access almost exclusively the publicly available quantitative data in the so-called Quantitative Reporting Templates (QRTs). The SFCR should therefore be completely removed. An obligation to provide information on the solvency ratio on the company website is adequate. The obligation to publish the QRTs for professional users should be maintained.

C3. Halve the Solvency II standard formula, delete immaterial risk modules

The standard formula for calculating the Solvency Capital Requirement (SCR) is divided into the so-called risk modules. However, many individual risk modules have a minimal impact on the SCR. Examples of non-material modules include concentration risk and non-life lapse risk. Overall, the number of risk modules in the standard formula should be reduced by 50%.

C4. Abolish regular EIOPA stress tests

The EIOPA stress tests (since 2011) have become obsolete with the introduction of Solvency II (since 2016). The calculation of the solvency capital requirement is already based on the analysis of numerous individual stress scenarios. Insurers report these results in their extensive regular annual and quarterly reporting. Hence, supervisory authorities already have access to comprehensive company data. The EIOPA stress tests therefore do not create any additional knowledge. Furthermore, supervisory authorities have the option of carrying out special queries if additional data is required. Thus, the massive effort required to carry out the additional calculations is not proportionate. The EIOPA stress tests should therefore be abolished.

D. Tax law

D1. Reduce reporting requirements, in particular double reporting

In recent years, there has been a massive expansion of reporting requirements in the area of tax law. Their fulfilment now accounts for a large part of the work associated with taxes in insurance companies. For example, companies must report cross-border tax arrangements (although these are perfectly legal and generally known) and report annually in detail on their tax situation in the individual countries. With the so-called country-by-country reporting, this obligation exists not only vis-à-vis the tax authorities (internal country-by-country reporting), but also publicly (public country-by-country reporting), although most of the information is already

available in the annual reports. In addition, there are various reporting requirements in relation to insurers' customers, such as the reporting of financial accounts based on the Common Reporting Standard. Existing defensive measures and reporting requirements can also be significantly reduced, especially for companies that are subject to the new global minimum tax regulations, as redundancies often arise (for example regarding the Anti-Tax Avoidance Directive (ATAD)). In addition, the intended introduction of a uniform corporate tax law in the European Union (BEFIT Directive) should align both the scope of application and the tax base with the Minimum Taxation Directive as far as possible in order to avoid double reporting.

D2. Better weigh up the costs and benefits of new tax laws

One of the hallmarks of good legislation is that the benefits of the law outweigh the costs of implementation and compliance. The cost-benefit ratio is no longer balanced, particularly in the area of allegedly combating abuse in tax law. In our view, the hoped-for additional tax revenue and information gains from new reporting and abuse regulations are regularly overestimated and at the same time, the implementation and compliance costs for taxpayers and the tax authorities are underestimated. A good example of this is the reporting requirements for cross-border tax arrangements (DAC 6). The additional information gained for the tax authorities and the tax legislator through the reports received is very low, whereas the implementation costs on both sides were and are considerable. With the global minimum taxation, an entirely new and extremely complex tax regime was even introduced, from which, however, only minor additional tax revenues are to be expected. What all these measures also have in common is that they place a particular burden on those taxpayers who fully comply with their tax declaration and payment obligations anyway, whereas the very few dishonest taxpayers are not deterred by ever more reporting and abuse measures, but only by increased criminal tax prosecutions.

New laws should therefore take compliance costs into account to a greater extent than in the past and should also be regularly evaluated in terms of costs and benefits. It would be an important step here to adopt EU measures (Directives, Regulations, etc.) with a sunset clause or comparable mechanisms in future so that they are not de facto largely set in stone due to the unanimity principle that applies in tax law. The global minimum taxation in particular offers considerable potential for simplification and reducing bureaucracy, which should be consistently exploited in future revisions of the Directive.

E. Distribution law

E1. Do not extend reporting for supervisory authorities any further or limit it to public information

The reporting by insurers to supervisory authorities provided for in the EU Retail Investment Strategy (RIS) should be limited to the data that is already provided or

publicly available (e.g. via the product manufacturers' website) or that will be transmitted by the product issuers to the European Single Access Point (ESAP).

E2. No obligation to store marketing materials

The obligation to store all marketing communications for a minimum of five (and a maximum of seven) years, as provided by RIS should not be introduced. The European Parliament aims to extend the storage obligation to the term of the contracts. In the case of pension insurance policies with long contract terms, storage obligations would apply for 50 or even 60 years.

E3. Limit the obligation to provide product information to issuers of financial products

Only the issuer of financial products and not the distributor should be obliged to provide the product information sheet as part of the Retail Investment Strategy. Intermediaries can direct their clients to the product issuer’s website for more detailed information.

E4. Recognition of educational training for IDD and MiFID II

Educational trainings that are eligible for the Insurance Distribution Directive (IDD) or the Markets in Financial Instruments Directive (MiFID II) overlap significantly in terms of content. Consequently, they should also be eligible for the respective other regime. This would mean that the mandatory educational training for financial intermediaries who offer investment products - including insurance-based products - would cover the mandatory scope of 15 hours per year without accumulating to 30 hours.

Conclusion

Our call for a shift towards efficient regulation supports the goal of a strong, competitive European Union. With this in mind, we welcome the current EU Commission's goal of reducing the burden of reporting requirements on companies by 25%. With this programme, we are making specific proposals as to where reporting requirements can be reduced.

Regulation is not only made in Brussels alone, but also in Paris, Warsaw, and Berlin. However, isolated national initiatives rarely achieve the desired results. For efficient and consistent regulation, European and national initiatives need to be well coordinated. In addition, Member States can maintain a sense of proportion in the national implementation of European Directives and reduce national regulations that may have become obsolete. We do not see the European Union as a problem, but as part of the solution for efficient regulation and beneficial economic conditions.