Insurance Europe response to the Call for Evidence on a Communication on Better Regulation

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Insurance Europe response to the Call for Evidence on a Communication on Better Regulation

The insurance sector supports efforts to strengthen the EU's Better Regulation (BR) framework. As a horizontal sector, insurance is particularly exposed to cumulative regulatory burdens, making effective BR essential to ensure EU objectives are delivered efficiently. Further background evidence is set out in the annex.

1. How could EC better reconcile the need for evidence-based policies and urgent action?

BR tools should be applied consistently and with sufficient rigour throughout the policy process, focusing on the most material impacts while remaining compatible with timely action where urgency is justified. Impact assessments should therefore apply across the full legislative process, including to substantive changes introduced during negotiations and to measures developed over long implementation phases.

This is particularly important for delegated and implementing acts, which may introduce significant operational and compliance costs without quantified cost assessments. Where such assessments are lacking, the relevant measure should not be adopted, in order to preserve proportionality and legal certainty. The EC could support this through early, independent scrutiny of competitiveness and business impacts, for example drawing on external expertise. Quantitative analysis is also essential to understand cumulative impacts before obligations are finalised.

Recent experience with the IRRD illustrates these challenges. The development of 19 parallel L2 measures and guidelines, likely to be adopted without quantified cost assessments, will create significant operational complexity with limited added policyholder or financial stability benefit, underscoring the need for stronger impact discipline.

Efficiency can further be improved by prioritising the use of data already available under EU legislation and by avoiding duplication between EU-level and national reporting. Data available through ESAP should be fully leveraged before introducing new reporting obligations. Guidance or technical outputs developed by EU bodies, including the ESAs, such as Q&As, opinions or guidance, should remain consistent with the legal framework and be subject to appropriate impact discipline, to avoid the creation of de facto obligations without proper assessment or legal basis.

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2. How could EC ensure a holistic approach to stakeholder consultations?

Consultations should be better coordinated across policy fields and Commission services to reflect the increasingly cross-cutting nature of EU regulation. For sectors such as insurance, parallel consultations on interconnected initiatives hinder the assessment of cumulative impacts and reduce the quality and comparability of input.

Consultation instruments should be proportionate, rely on clear and neutral questionnaires, and allow for open-ended input. Better coordination of consultation timelines, including sufficient response periods, would improve the quality and usability of evidence collected. Consultations should also assess cumulative and interaction effects between existing and proposed legislation, rather than evaluating initiatives in isolation.

3. What practical steps could be undertaken to make EU laws simpler and easier to implement?

Simplicity by design should apply from the earliest stages of policy development. Key policy choices should be decided at Level 1, with delegated and implementing acts limited to clearly defined technical matters. Over-reliance on secondary legislation risks undermining legal certainty, predictability and timely implementation.

Better coordination between horizontal and sector-specific frameworks is essential. Where sectoral rules pursue the same objectives and provide equivalent protections, this should be taken into account to avoid duplication. Implementation timelines should be realistic and hence linked to the official publication of final technical specifications. Digital-by-default approaches and automation can further reduce administrative burdens and improve efficiency.

Annex (background evidence and examples)

Insurance Europe's simplification deliverable

Purpose and scope

Background evidence supporting the main response to the call for evidence can be drawn from Insurance Europe's publication *"Simplification for a more competitive insurance sector"*. The publication identifies sources of unnecessary regulatory complexity and operational burden affecting the insurance sector and highlights cross-cutting Better Regulation challenges that arise across different EU policy areas and stages of the regulatory process. It does not question underlying policy objectives, but focuses on how regulatory design, implementation and supervision can be improved to ensure proportionality and effectiveness in practice.

Horizontal nature of the insurance sector

As a sector operating across prudential regulation, sustainability, digitalisation, consumer protection, data, reporting, and other fields, insurance is particularly exposed to **the cumulative impact of EU legislation**. Regulatory initiatives affecting insurers are often developed under different legal bases, by different Commission services and supervisory authorities, and on different timelines. The publication therefore takes a horizontal approach, identifying issues that cut across individual legislative files rather than focusing on single measures in isolation.

Key Better Regulation challenges identified

The publication highlights a number of recurring Better Regulation issues that contribute materially to operational and compliance burden:

- **Insufficient assessment of cumulative impacts**: impact assessments typically consider individual initiatives in isolation, while the combined effect of multiple legislative and supervisory measures is rarely assessed.
- **Increasing reliance on Level 2 and Level 3 measures**: delegated acts, implementing acts, technical standards, guidelines and supervisory expectations frequently introduce detailed requirements with significant operational implications, often without quantified cost assessments.
- **Blurring of boundaries between regulatory levels**: guidance, Q&As and supervisory practices can create de facto obligations beyond Level 1 legislation, reducing legal certainty and predictability.
- **Duplication of requirements and limited data reuse**: similar information is requested under different frameworks despite already being available to supervisors, leading to avoidable reporting burdens.
- **Challenging sequencing and implementation timelines**: late finalisation of technical specifications and overlapping application dates limit firms' ability to implement requirements in a proportionate and orderly manner.
- **Fragmented and overlapping consultations**: parallel consultations across policy areas and authorities make it difficult for stakeholders to assess interactions and provide comprehensive, evidence-based feedback.

Implications for regulatory design and implementation

Based on these observations, the publication underlines that simplification requires more than targeted amendments to individual files. In particular, it points to the need for:

- stronger **impact discipline throughout the regulatory lifecycle**, including for Level 2 and Level 3 measures;
- clearer **prioritisation and sequencing** of regulatory initiatives and technical standards;
- improved **coordination across policy areas and authorities**, especially where similar objectives or data requirements apply;
- greater reliance on **existing data and digital solutions** to avoid duplication; and
- a more consistent and predictable **application of proportionality** in practice.

Insurance Europe, *Simplification for a more competitive insurance sector* (link)

Early-stage scrutiny and consultation coordination

Insurance Europe's main response to the call for evidence highlights Better Regulation challenges arising at the early stages of EU rulemaking and during stakeholder consultations. To complement the horizontal analysis set out above, this section focuses on how early scrutiny and consultation design can be improved to better assess cumulative impacts, enhance the quality of evidence gathered and support proportionate and effective regulation in practice.

Early-stage scrutiny of regulatory initiatives

Experience across policy areas shows that regulatory initiatives are often developed at speed, with limited structured scrutiny at the earliest stages of policy development. Once legal drafting has progressed, opportunities to reassess necessity, scope or proportionality become more limited.

Stronger early-stage scrutiny could help ensure that:

- the underlying policy problem is clearly defined;
- existing legislation or non-legislative tools are fully considered before new obligations are introduced;
- potential operational and compliance impacts are identified before regulatory choices are locked in; and
- cumulative effects across policy areas are taken into account from the outset.

Such scrutiny need not imply new institutional structures, but could build on more systematic use of economic analysis, business-reality testing and targeted expert input at an early stage of the policy process.

Consultation coordination and cumulative burden

Stakeholder consultations are a core element of the Better Regulation framework. However, for cross-

cutting sectors such as insurance, consultations are frequently conducted in parallel across multiple policy areas, legal instruments and authorities. This fragmentation makes it difficult to assess interactions between initiatives and to provide coherent, evidence-based feedback.

Key challenges identified include:

- overlapping consultation timelines across interconnected initiatives;
- repeated requests for similar information under different frameworks;
- limited visibility on how individual consultations relate to the broader regulatory landscape; and
- insufficient focus on cumulative and interaction effects.

as clearer prioritisation and sequencing, would enhance both the quality and usability of stakeholder input.

Improving the effectiveness of stakeholder input

Consultation design also plays a role in ensuring that stakeholder input is meaningful and proportionate.

In particular:

- consultation instruments should be tailored to the nature and materiality of the initiative;
- questionnaires should remain clear, neutral and focused on the most relevant issues;
- sufficient response periods should be provided, especially where initiatives are complex or interconnected; and
- qualitative input should be valued alongside quantitative data, particularly where cumulative effects are concerned.

Together, these elements can help ensure that consultations support better regulatory outcomes, rather than becoming an administrative exercise.

Link to Better Regulation objectives

Strengthening early-stage scrutiny and improving consultation coordination would contribute to a Better Regulation framework that better captures cumulative impacts, improves proportionality in practice and supports timely and effective implementation. These process improvements are particularly relevant for horizontal sectors exposed to multiple, interacting regulatory initiatives.

Example I: Insurance Recovery and Resolution Directive

The below overview concerns the first package of EIOPA consultations on Level 2 and 3 measures related to the IRRD. The draft instruments frequently create inconsistencies and overlaps with other frameworks, go far beyond what is necessary to implement the rules agreed by the co-legislators, and impose significant additional burdens and costs on EU (re)insurers without delivering tangible consumer protection benefits. Moreover, the impact assessments for most draft standards consulted on so far lack quantitative cost assessments.

While EIOPA may address certain detailed concerns in response to stakeholder feedback when finalising the draft instruments, a completely different approach would have been needed to enable a lean and cost-effective implementation of the IRRD.

ITS on procedures and a minimum set of standard forms and templates

In our view, the consultation's proposal of new reporting for the Insurance Recovery and Resolution Directive (IRRD) is far too extensive and burdensome regarding the number of templates and the information requested, including very detailed information about liabilities. All information provided in QRTs, Regular Supervisory Report (RSR), Solvency and Financial Condition Report (SFCR), Own Risk and Solvency Assessment (ORSA) and Recovery Plans is already available to supervisory authorities and so should not be re-requested. Please see comments on single templates in the following table:

Template code	**Template title**	**Assessment**
IR.01.01	Content of submission	No comments.
IR.01.02	Basis information	The distinction between information provided for an individual undertaking and for insurance group is not clear. Also, the distinction from IR.02.01 for individual undertakings is not clear.
IR.02.01	Legal entities	Should largely be available from NSA (QRT S.32.01). Only necessary information not available from NSA should be requested.
IR.02.02	Ownership structure	Should largely be available from NSA: Since the threshold for shareholders is very low (more than 2% of share capital) and no threshold is defined for the shareholdings held by the undertaking, completing the template is only possible with considerable effort. It should be examined whether information at this level of granularity is actually necessary for resolution planning. In particular, if some resolution tools are not relevant for an undertaking, the corresponding information might not be necessary. If this is the case, it would be reasonable to apply a 10% threshold, in accordance with Article 13 (21) of the Solvency II Directive (2009/138/EC), which defines the qualifying holding. Given the limited impact and low risk, the industry therefore recommends increasing the threshold to at least 10%, in line with the Solvency II Directive
IR.03.01	Liability structure – Non-insurance	General Comments are missing. Therefore, it is difficult to provide an assessment for this template. Information on liabilities with a maturity of less than 7 days is not relevant for insurers and not necessary for resolution planning. It should therefore be deleted from the template.

		The assessment regarding the write-down and conversion tool should only be necessary when the tool is actually to be used.
IR.03.02	Liability structure – Insurance	The assessment regarding the write-down and conversion tool should only be necessary when the tool is actually to be used.
IR.04.01	Intragroup financial interconnections	Should largely be available from NSA (QRT S.36.xx). Only necessary information not available from NSA should be requested.
IR.05.01	Major liability counterparties	For the purpose of this template, only counterparties that are not included in the consolidated financial statements shall be reported. But it is not clear, which counterparties should be specified. It should be clarified that only the 10 major counterparties are to be included in the template. It remains unclear what is meant by insolvency ranking in C0100. Such a rating is not available in some MS.
IR.05.02	Major off-balance sheet counterparties	For the purpose of this template, only counterparties that are not included in the consolidated financial statements shall be reported. But it is not clear, which counterparties should be specified. It should be clarified that only the 10 major counterparties are to be included in the template. It remains unclear what is meant by insolvency ranking in C0100. Such a rating is not available in some MS.
IR.06.01	Insurance guarantee schemes - per line of business	Should largely be available from NSA.
IR.07.01	Critical functions - Insurance (Life and Non-life)	Should be deleted. The added value of a self-assessment of impact on the financial system, on the real economy and of substitutability is questionable. Such an assessment can only reasonably be conducted at the industry level by the Resolution authority and requires the availability of all relevant industry data. Therefore, if the Resolution authority requires this information, it should be derived from information held by the NCA, without requesting additional information from undertakings.
IR.07.02	Critical functions - Non-Insurance functions	Should be deleted. The added value of a self-assessment of impact on the financial system, on the real economy and of substitutability is questionable. Such an assessment can only reasonably be conducted at the industry level by the Resolution authority and requires the availability of all relevant industry data. If included, further guidance is needed. The distinction between economic functions and critical functions remains unclear.
IR.07.03	Critical functions –Insurance or reinsurance related functions	Should be deleted. The added value of a self-assessment of impact on the financial system, on the real economy and of substitutability is questionable. Such an assessment can only reasonably be conducted at the industry level by the Resolution authority and requires the availability

		of all relevant industry data. Therefore, if the Resolution authority requires this information, it should be derived from information of the NCA, without requesting additional information from the undertakings. If included, further guidance is needed. The distinction between economic functions, critical functions and LoBs remains unclear. ITS should not refer to Guidelines addressed to the resolution authorities (C0020).
IR.07.04	Critical functions - Mapping to legal entities	Should be deleted. The added value of a self-assessment of impact on the financial system, on the real economy and of substitutability is questionable. Such an assessment can only reasonably be conducted at the industry level by the Resolution authority and requires the availability of all relevant industry data. Therefore, if the Resolution authority requires this information, it should be derived from information of the NCA, without requesting additional information from the undertakings.
IR.07.05	Core business lines - Mapping to legal entities	No comments.
IR.07.06	Critical functions - Mapping to core business lines	The template assumes that every critical function can be assigned to a core business line.
IR.08.01	Relevant services	Information about reinsurance should be derived from existing S-II reporting.
IR.08.02	Relevant services - Mapping to critical functions	No comments.
IR.08.03	Relevant services - Mapping to core business lines	No comments.
IR.09.01	FMI - Providers and users	General comments are missing. Definition of FMI is missing. If included, further guidance is needed.
IR.09.02	FMI - Mapping to critical functions and core business lines	General comments are missing. If included, further guidance is needed.

Industry recommends that EIOPA revises the ITS to consider the two distinct information pathways under Article 12 IRRD: firstly, EIOPA being required to "develop draft implementing technical standards to specify procedures and a minimum set of standard forms and templates for the provision of information", and secondly requiring that supervisory authorities provide some of this information.

Overall, given that most resolution authorities are at the earliest stages of their work and the information truly required remains unclear, we suggest that very little data should initially be required via mandatory templates, with a plan to review and add to these as work progresses.

RTS on the content of pre-emptive recovery plans

The Level 1 text of the IRRD does not require the inclusion of critical functions in the pre-emptive recovery plan. Industry therefore sees no justification for their inclusion in the draft RTS or in the pre-emptive recovery plan, particularly as this information is already provided to supervisory authorities by the

resolution authority, which is responsible for the identification of critical functions, through the resolution plan under Art. 9.7 IRRD. The references to critical functions should be deleted in the RTS.

Art. 3.1.c: Information on intra-group transactions and inter-connectedness is already captured in detail in Solvency II reporting templates, 36.01 (IGT Equity-type transactions, debt and asset transfer), 36.02 (derivatives), 36.03 (off balance sheet and contingent liabilities), 36.04 (IGT insurance and reinsurance), 36.05 (P&L, including intra-group outsourcing or cost sharing) and should not be duplicated.

Art. 5.6 of IRRD requests only the description of a range of remedial actions. The descriptions of the credibility, impact on solvency, liquidity, capital composition and operations, outcome of the assessment of feasibility and effectiveness of the remedial actions are not foreseen in the Directive. The assessment of whether remedial actions are credible/feasible/effective needs to be proportionate considering the information available in the pre-recovery situation. While the industry fully supports the need for a high-level assessment of credibility, feasibility, and effectiveness—consistent with sound risk management—the industry considers that the level of detail required in Art. 6.3.c and 6.3.d is too extensive. Against this background, the industry proposes deleting the sub-items under these paragraphs.

RTS on the content of resolution plans

Art. 9 (6) (l) IRRD only requires a "plan for communicating with the media and the public". In the draft RTS, this plan is merely a sub-item of "a communication strategy with critical stakeholder groups" in Art. 2 (1) (f) (ii). The IRRD does not require such a communication strategy - specifically for "critical stakeholder groups" - so that this point is an extension.

GL on criteria to identify critical functions

GL 1: The proposed scope of potential critical functions is too broad. Especially the functions listed in (b) and (c), like investments and pooling of risks are not activities or services provided for a third party, or a transaction carried out for a third party. Investments serve to generate the financial resources required to fulfil the contractual obligations in the long term. There is no subjective element of (also) acting in the interests of the counterparty.

GL on assessment of resolvability

Para 1.20: While Insurance Europe notes that the items suggested are optional for resolution authorities to consider, these are potentially very onerous and could pass a significant part of the assessment of resolvability to undertakings. This contradicts recitals of the IRRD (e.g. Recital 17), where it is explicitly stated that unnecessary administrative burdens and costs on undertakings and authorities are to be avoided. Self-assessments and playbooks can be burdensome to create and maintain, and multi-annual test programs may place considerable workloads to undertakings. As such self-assessments, multi-annual test programs and playbooks are not required by the Directive we urgently recommend deleting.

GL on measures to remove impediments to resolvability

GL 8: Some parts duplicate or overlook existing Solvency II requirements. For example, Guideline 8 asks the resolution authority to consider the circumstances that could require a (re)insurer to change its reinsurance strategy. However, the elements listed here are also covered by Solvency II e.g. the strength of the reinsurer, the wording of the reinsurance agreement, and the nature of business reinsured. Therefore a (re)insurer which is compliant with Solvency II should also satisfy the guidance here. Where EIOPA considers that existing solvency requirements may not be sufficient, it would be helpful for the guidance to clearly indicate where it intends to go beyond the existing Solvency II and provide the rationale for doing so.

Any alternative measures, as listed in Art. 15 (5) IRRD, taken by resolution authorities should only be implemented in exceptional circumstances with strong justification and as ultima ratio. Insurance Europe

suggests that this is captured in a separate Guideline to emphasise the importance of the point. The below wording is suggested:

"It is essential to apply the alternative measures in a proportionate manner and as ultima ratio, trying to minimize, limiting, to the maximum extent possible, the interference with the insurance or reinsurance undertaking's or group's legal structure and financial or operational strategy. Any such measures require detailed impact assessments clearly demonstrating how the expected benefits to resolvability outweigh any negative impacts, on ongoing operations, policyholder protection, financial stability, or the undertaking's broader economic role. Notwithstanding the right to appeal referred to in Art. 15(7) of the IRRD, such assessments should be shared with the undertaking or group to provide an opportunity for appropriate engagement before measures are finalised."

Example II - Digital Operational Resilience Act

The Digital Operational Resilience Act (DORA) introduced a comprehensive new regulatory framework relating to operational resilience for the financial sector applying to 20 different types of financial entities, including insurance and reinsurance undertakings, IORPs and insurance and reinsurance intermediaries. It entered into force on 16 January 2023 and has been applied since 17 January 2025. DORA mandated the Commission as well as the Joint Committee of the European Supervisory Authorities to supplement the framework with various Level 2 and 3 measures, which contain crucial specifications required for the application of the new rules.

However, the time needed by the ESAs to develop these technical instruments, for the Commission to adopt and for the co-legislators to scrutinize them (in the case of Delegated Acts) meant that **certain Level 2 measures were only officially published in the Official Journal as late as July 2025** (RTS on subcontracting) – for a framework that was to be applied from January 2025. Many other instruments were also published after the formal application date (RTS on harmonisation of oversight conditions, RTS on ICT incidents reporting process, ITS on ICT incidents reporting, RTS on Joint Examination Team, and RTS on Threat Led Penetration Testing).

These delays resulted in enormous challenges in terms of compliance with the new framework. Similar situations must be avoided in the future by setting application dates for new rules in relation to the official publication of final specifications at Level 2 and 3. This is legally feasible and was previously implemented in Article 74 of Regulation (EU) 2019/1238.

Beyond the implementation timeline, the DORA framework also creates significant duplications, lacks proportionality, and imposes excessive burdens – in contradiction to established Better Regulation principles.

To mitigate these persistent issues, we recommend the following steps:

- Harmonise outsourcing rules under Solvency II and third-party risk management under DORA.
- Exempt DORA-regulated financial entities from the Cyber Resilience Act.
- Reducing bureaucracy and enhancing proportionality in DORA.
- Allow use of recognised certifications and audit results of critical ICT service providers.
- Reduce duplication within corporate groups.