

Nordic insurers call for enhanced involvement in EIOPA's regulatory work

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 overlap, 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; this trend will most likely continue during the next 5-year Commission term.

The EU's "Lamfalussy" process for creating financial services regulation was adopted to make the regulatory process quicker and more effective. Responsibility has in many cases been transferred to the European supervisory authorities for crucial technical elements at levels 2 or 3. At the same time, the lack of political agreement in the Council and the European Parliament with regard to basic acts (level 1) and the desire to ensure momentum in the decision-making process has resulted in many important political decisions (strategic decisions or policy choices) being "pushed down" in the system.

This has led to the European Insurance and Occupational Pensions Authority (EIOPA) becoming quasi-legislator, and the role of the co-legislators in the adoption of level 2 measures lowered to either fully rejecting or accepting the text proposed by EIOPA and the Commission. As to level 3 measures EIOPA keeps developing new supervisory tools: 'supervisory statements', 'call for action' and 'supervisory expectations', all allowing for ongoing interpretation of legislative requirements. In addition, there are examples where EIOPA has drafted levels 2 and 3 measures that are not in full compliance with level 1 or go beyond the level 1 mandate and/or of a political rather than a technical nature.

All in all, EIOPA and thus the national supervisory authorities play a crucial role in preparing and deciding financial services regulation. This has proven problematic, mainly for two reasons:

- decisions are not subject to a political decision-making process and
- there is little transparency as to the preparatory measures at working level of EIOPA, i.e. the work performed by the national supervisory authorities' specialists in the working groups under the ESAs (around 200). Once the drafts for new regulations, guidelines etc. have been approved by the Board of Supervisors (BoS) experience has shown that it is very difficult to change the proposed measures.

As the national supervisory authorities have a decisive influence on financial services regulation at all levels, it is key for the insurance and pensions industry that national supervisors are transparent regarding their work in EIOPA. The Nordic insurance federations are generally in close dialogue with their respective national supervisor. However, there is room for improvement when it comes to transparency and involvement of stakeholders at an early stage in the decision-making process to facilitate the way to effective and predictable regulation. This is especially true when it comes to

sharing information about the work undertaken by the numerous EIOPA working groups, the supervisors' prioritization of the groups, and the positions of the supervisors in the discussions in the working group and in the BoS.

Proposals for the Nordic supervisors

The Nordic insurance and pensions industry proposes a handful of initiatives to be taken by the Nordic supervisors with regard to EIOPA's regulatory work in order to ensure high quality regulation that is fit-for-purpose and provides durable solutions for consumers, insurers and society as a whole.

- The Nordic supervisors are encouraged to **inform** stakeholders of all EIOPA's planned initiatives etc. for new regulation/measures as well as to provide information on whether they participate in the preparatory work.
- The national supervisors should to the greatest extent possible **involve** the insurance federations and other relevant stakeholders on an ongoing basis in connection with its participation in EIOPA's legislative work, including in various working groups. In line with the Nordic tradition, there should in this context be adequate transparency ¹.
- The national supervisors should continuously assess whether EIOPA in its regulatory work respects the **distinction between regulation with a political content and regulation with a technical content**; only the latter is a task for EIOPA.
- EIOPA, like the Commission, should comply with the principles set out in the Commission's "**Better Regulation**" agenda (impact assessments, one in, one out policy etc.). In this context the Nordic supervisors should instigate that President von der Leyen's initiative on simplifying and reducing by 25% the reporting requirements is embedded in EIOPA's regulatory work.
- Given the diversity of consumers across EU, local regulators may often be better placed to develop rules that effectively meet their needs and demands, i.e. EIOPA should have a stronger focus on **subsidiarity and proportionality**.

The Nordic insurance federations are looking forward to contributing in a constructive and flexible way to the legislative work and are happy to elaborate on our proposals.

¹ Please also refer to: [Decision on the European Banking Authority's refusal to grant public access to the votes and debates of its Board of Supervisors on an alleged breach of EU law by national supervisory authorities \(case 615/2021/TE\)](#) | Decision | European Ombudsman (europa.eu)