

## Costs of Compliance for the Financial Sectors – Counterfactual Sectors – 10/12/18 – Workshop

### Summary

#### Background

CF and CEPS are currently on behalf of DG FISMA carrying out a study on the costs of compliance for the financial sector. The objective of the study is to obtain a high-level overview of the costs of compliance attributed to regulatory obligations and supervisory reporting in particular. The study will assess the scale and nature of incremental costs of complying with financial legislation that has been introduced or significantly amended since 2008, as well as the main drivers of these costs.

In the context of this study, a workshop with industry associations was organised to validate the counterfactuals, which are essential to provide a deeper understanding of the net impact of the regulatory interventions. The workshop will develop and test the regulatory counterfactual (compliance costs due to interventions that Member States would have taken if the EU would not have intervened) and business-as-usual counterfactual (compliance costs due to measures that the financial services providers would have taken if the EU would not have intervened).

#### Participants

At this workshop attended representatives of different sectors, such as **Bartosz Dworak**, DG Fisma, European Commission, **Joe Sunderland**, Consulting Director, ICF, **Vincent Ingham**, Director – Regulatory policy, European Fund and Asset Management Association, **Olav Jones** and **William Vidonja**, from Insurance Europe; **Anna Kulik**, Secretary General, European Central Securities Depositories Association; **Pekka Eskola**, Senior Economic Adviser, Pensions Europe, **Marco Mancino**, Deputy head Banking regulation, European Association of Co-operative Banks, **Francisco Saravia**, Policy Adviser – Banking Supervision, European Banking Federation, **Florence Bindelle**, Secretary General, EuropeanIssuers and moderated by **Willem Pieter de Groen**, Research Fellow & Head of Unit, CEPS.

#### Main elements

In its opening remarks, **Bartosz Dworak**, **DG Fisma**, European Commission, reminded that the survey takes part on the broader framework of the fitness check on supervising reporting requirements. This fitness check is a horizontal assessment. The idea is to make sure that the requirements in the EU financial sector legislation are effective, efficient, fit for purpose. The longer objective is to look at streamlining and simplifying these supervising reporting requirements in order to make them “future-ready” and “IT-ready”. As part of the fitness check, the Commission has taken a certain number of parallel workstreams, a public consultation followed by a high level conference in June, and workshops.

The Commission has also set up a stakeholders’ roundtable composed by EU-level supervisors and regulators, to provide practical experience about the data that has been reported.

Regarding the survey, it is very important for the Commission to have more clarity on the costs of supervising reporting, because estimating these costs is not an easy task, and it requires close

interaction with the different associations (present there). The conclusions of the Commission will also be based on the results of this survey, so this is quite important to them. Legislate better is the aim.

**Joe Sunderland**, Consulting Director, ICF, clarified the purpose of this survey. The survey has two main objectives:

- get the minimum information on total cost of compliance, the portion of those costs which is related to supervisory reporting requirements, how those costs are split between one-off costs and on-going costs.
- a more detailed part that provides information on regulation depending on how people have answered to the first part of the survey. This part is optional.

In addition to the online survey, ICF is conducting interviews to understand about what the drivers of those costs are. This is not just gathering numbers, there is also a more quality approach. They are also trying to figure out the differences between Member States, if they implemented some requirements in a way that might be contributing to the cost, and see if there is any way to reduce burdens.

The survey must be done by **mid-January 2019**.

The discussion focused on direct **compliance costs**, particularly substantive compliance costs, administrative burdens and supervisory reporting costs. To clarify, there are two kinds of costs: **one-off costs** (costs to adjust and adapt to the changed legal, only once) and **ongoing costs** (costs that are sustained on a regular basis as a result of the existence of a legal rule that imposes specific periodic behaviours). The total compliance costs is divided in two parts : the incremental costs and the counterfactual costs.

The staff recruitment costs, which was at first sight considered as a one-off cost, is more likely to be an ongoing costs, said Marco Mancino from the European Association of Co-operative Banks. The legislative framework requires permanent adaptation, thus new staff members.

The second part of the discussion was about counterfactuals: what would have happened if the EU would not have legislated. There are two counterfactuals that were analysed: **Regulatory counterfactual** which is basically costs that businesses would have incurred due to legislation that Member States would have introduced in absence of key EU legislation (e.g. own initiative or based on international agreements), and **Business-as-usual counterfactual** which are the costs that the businesses would incur also in the absence of the key EU legislation.

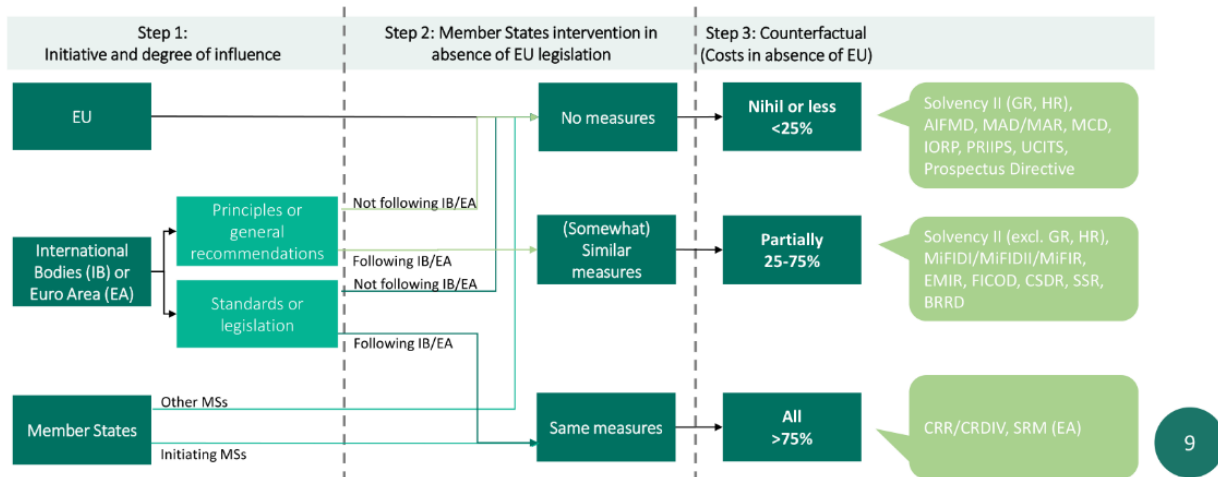
## Regulatory counterfactual



# Regulatory counterfactual



- Would Member States have introduced similar obligations, either through own initiative or based on international agreements? How would that affect the compliance costs?



The discussion was followed by an exchange of views over the way European legislation is applied to different fields. **Olav Jones** mentioned that it comes out that European legislation sometimes goes too far for the needs of a sector. Certain things can be done perfectly a local level, and sometimes more European harmonisation is needed. Find the balance on how to get involved and how deeply to get involved is the key challenge. Harmonisation is not just taking the most successful practices of many countries and think the supervisors will agree with these standards. This is what happened to reporting. In order to get everyone happy they ended adding up what everyone was asking for everywhere in Europe. That ended up inefficient.

**Florence Bindelle of EuropeanIssuers** stated that there is a strong need for a wholistic evaluation of the cumulative impact of financial and other legislation impacting non-financial companies as users of financial markets. She also reported about EMIR, saying that there is an unclear definition of indication and analysis for systemic risk monitoring, and that there is a lack of relevance to report intra-group transactions. She also mentioned that the double-sided reporting is not efficient or effective. Regarding MAR, it has significantly increased bureaucracy for listed companies. Main burdens relate to disclosure of inside information, drawing and updating lists of persons closely associated with PDMRs and of insider lists, and managers' transactions' notifications.

The **insurance** sector had already a disclosure format. It can be argued that PRIIPS had a more harmonised approach and that it facilitates cross-border businesses but it was designed in a non-efficient way as national authorities kept their national disclosure formats on top of the PRIIPS'. The PRIIPS became a net cost added to the national one. In this example the European legislation does not replace national legislation, but come on top of it.

As for the **banking sector**, institutions need to adapt to the EU's regulation framework that is changing all the time. This makes European banks less profitable than American ones.

## **Business-as-usual counterfactual**

The main question was: what share of regulatory costs would businesses bear even in the absence of legislation ?

Participants agree that most of the compliance costs are necessary but could have been done more efficiently regarding the results for which they were incurred. One-off costs could have been at lower costs, as well as ongoing costs process.

The banking sector stated that they have internal models which are not authorised by supervisor having to adapt to the supervisor requirements. Banks have invested a lot in their internal supervisory models and these work well. However, current supervisory requirements requested by authorities have a high cost of compliance for the banks.

On the insurance side, the PRIIPS regulation did not change that much : national models are still used, and PRIIPS comes on top of it.

The participants concluded that many Member States have legislation in place that is cost-effective and fit for purpose. Additional EU action is not needed and indeed could be detrimental to European competitiveness. If you had EU regulation, aiming that everyone would have the same, it adds a huge cost. National regulation is already working for many countries.

### **Steps ahead**

The results will be published in a staff working document which will be published during the second quarter of 2019.