

Insurance Europe comments on the EC EU Inc proposal

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Introduction

Insurance Europe welcomes the European Commission (EC)'s recent proposal for a regulation on the 28th regime corporate legal framework – EU Inc - as an important step towards simplifying and accelerating the process of starting a business in the European Union. By providing a more harmonised and digitalised corporate framework, the initiative has the potential to reduce administrative burdens, facilitate cross-border activity and strengthen the attractiveness and competitiveness of the EU as a place to innovate, invest and grow. As long-term institutional investors and providers of risk protection, insurers support measures that contribute to a deeper and more integrated Single Market, while ensuring legal certainty, appropriate safeguards and a level playing field.

Insurers strongly support the initiative to implement a fully digital registration process within 48 hours via a central portal, as well as the elimination of existing registration formalities, which impose additional burdens through multiple applications and notification forms submitted to potentially different offices and authorities, especially regarding cross-border activities. In this respect, Insurance Europe considers it essential that all information is processed via the dedicated central portal.

In addition to company registration, all other registrations and notifications required to commence the company's operations, such as the assignment of a tax identification number, an employer number for social security purposes and business registration, should be automatically processed digitally without any additional application or registration steps.

Secondly, we underline the importance of maintaining legal clarity to build trust and reinforce market confidence, particularly with respect to liability and cross-border operations while noting that creditor protection and predictable insolvency treatment are important considerations for the insurance sector.

While the proposed EU Inc. framework contains several promising elements that could support European competitiveness and facilitate cross-border entrepreneurship, certain aspects of the insolvency regime risk undermining investor confidence. In particular, the absence of minimum capital requirements for EU Inc., combined with simplifications to insolvency proceedings, designed to make the company more attractive to founders, are planned at the expense of creditors' rights. To establish the EU Inc. as a successful business structure in Europe, the legal framework should take into account not only the benefits for founders but also the requirements of investors and the conditions necessary for broad-based financing of start-ups and innovative companies.

To avoid unintended adverse effects resulting from one-sided insolvency rules, the EU Inc. legal framework

should therefore initially include only the positive harmonised provisions of company law. The harmonisation of insolvency rules requires intensive evaluation and preparatory work and should not be the subject of the EU Inc. Regulation. The proposed provisions will lead to fragmentation of insolvency law, legal uncertainty and risks of abuse at the expense of creditors.

- The scope of the insolvency law provisions is limited to innovative start-ups, which raises issues regarding both the distinction between different types of companies and their equal treatment. These specific, one-sided insolvency rules lead to fragmentation rather than standardization, and thus to even greater complexity.
- The rudimentary insolvency provisions in the Regulation on an EU Inc. give rise to legal uncertainties. This legal uncertainty relates to the scope of the Regulation and its relationship with national insolvency rules.
- There is a risk of abuse at the expense of creditors. Among other things, the appointment of an insolvency administrator, which is now envisaged as the norm, can easily be circumvented, as this requirement may be waived upon the debtor's application under minimal conditions. Start-up companies are generally unsuitable for self-administered liquidation due to a lack of experience.
- The European Commission is once again proposing a framework for the electronic auction of any assets belonging to the debtor. The introduction of such a system is complex and the process is unlikely to be managed professionally by the debtor without an insolvency administrator.

Overall, the proposed simplified insolvency rules for innovative start-ups are regarded as unsuitable, open to abuse and a deterrent to investment.

Given that, during the now-concluded EU legislative process on the partial harmonisation of insolvency law, Member States clearly rejected the proposed introduction of simplified procedures for the liquidation of micro-enterprises for justified reasons, such a procedure should not be introduced through the new EU Inc Corporate Legal Framework.

Finally, Insurance Europe is of the view that consideration should be given to minimum requirements for share capital and corporate governance, to facilitate the financing of the EU Inc. on capital markets.

Ultimately, we consider that the EU Inc. is an important step to reduce fragmentation and strengthen Europe's competitiveness, supporting cross-border investment and innovation in line with the EU Single Market, Savings and Investments Union and broader simplification objectives. To fully realise these benefits, the initiative should be complemented by harmonised tax base rules. Such tax base should be optional, truly harmonised, i.e. without derogation rights for Member States, and should cover not only corporate taxes but also any additional taxes charged on the company's profits.

Insurance Europe is the European insurance and reinsurance federation. Through its 39 member bodies — the national insurance associations — it represents insurance and reinsurance undertakings active in Europe and advocates for policies and conditions that support the sector in delivering value to individuals, businesses, and the broader economy.