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# COMMISSION STAFF WORKING DOCUMENT

# IMPACT ASSESSMENT REPORT

*Accompanying the document*

**Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on THE 28TH REGIME CORPORATE LEGAL FRAMEWORK - 'EU INC'**

{COM(2026) 321 final} - {SEC(2026) 321 final} - {SWD(2026) 322 final}

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Glossary

| Term or acronym | Meaning or definition |
|---|---|
| AG | Aktiengesellschaft (German Public Limited Liability Company) |
| AML | Anti Money Laundering |
| API | Application programming interface |
| BORIS | EU Beneficial Ownership Registers Interconnection System |
| BRIS | Business Registers Interconnection System |
| B.V. | Besloten Vennootschap (Private Limited Liability Company) |
| DAC | Directive on Administrative Cooperation 2011/16/EU |
| eIDAS | Electronic Identification and Trust Services (Regulation (EU) 910/2014) |
| EEA | European Economic Area |
| ESOP | Employee Stock Ownership Plan |
| EUID | European unique identifier |
| GmbH | Gesellschaft mit beschränkter Haftung (German Private Limited Liability Company) |
| HLF | High Level Forum on Justice for Growth |
| IMF | International Monetary Fund |
| IPO | Initial public offering |
| IRI | EU insolvency registers interconnection |
| KYC | Know Your Client/Customer |
| N.V. | Naamloze vennootschap |
| OECD | Organisation for Economic Co-operation and |

| | Development |
|---|---|
| OOTS | Once-Only Technical System |
| PO | Policy Option |
| QES | Qualified electronic signatures |
| S.A. | Sociedad Anónima (Spain)/ Société Anonyme (France) |
| SAFE | Simple Agreements for Future Equity |
| SDG | Single Digital Gateway |
| SE | Societas Europea |
| SME | small and medium-sized enterprise |
| S.L. | Sociedad Limitada (Spanish Limited Liability Company) |
| TIN | Tax identification number |
| VAT | Value Added Tax |
| VC | Venture capital |

## 1. INTRODUCTION: POLITICAL AND LEGAL CONTEXT

### Political context

In the current political and economic circumstances, the EU needs to focus on regaining competitiveness, closing the innovation gap with other major economies and increasing productivity to drive its economic growth, as strongly called for by the Draghi Report on competitiveness[1] and stressed by the Competitiveness Compass[2].

Startups and scaleups play an increasingly important role in terms of economic growth and competitiveness in today's economy. They are known for their agility, risk-taking nature and focus on scalability. They continue to shape the business landscape and play a vital role in driving innovation and economic progress. Startups and scaleups increase competition and are a major source of job creation. New startups aged 5-years old or younger have been estimated to account for around 20% of employment and create almost half of new jobs in Organisation for Economic Co-operation and Development (OECD) countries. Meanwhile, scaleups typically contribute as much as half of all new jobs created by small and medium-sized enterprises (SMEs)[3]. While the European Union is regarded as one of the most attractive regions for these businesses due to its access to a single market of over 450 million people, robust infrastructure and government support for innovation, the EU is lagging behind its major competitors.

The Letta report on the future of the Single Market highlighted the urgent need to remove the structural barriers preventing startups and scaleups from expanding across borders and called for a 'Simplified European Company'[4]. Similarly, the Draghi Report underlined the differences in laws and regulations across Member States which limit companies' ability to seamlessly operate across EU Member States and called for the adoption of a new EU-wide legal statute for innovative startups ('Innovative European Company') [5].

In response to these reports and in line with President von der Leyen's Political Guidelines[6] and the mission letter to Commissioner McGrath[7], the Competitiveness Compass announced a 28th regime as part of a comprehensive set of actions to enhance the competitiveness of the European economy. More specifically, the Savings and Investments Union Communication, the Single Market Strategy and the EU Startup and Scaleup Strategy, respectively, set out a list of measures related to mobilising private investment, accessing finance, making the Single Market a reality and boosting the prospects of startups and scaleups in the EU, and underlined the important role that a 28th regime can play in those contexts[8]. In particular, the Single Market Strategy further specified that the 28th regime would provide a single, optional set of rules for companies operating across the EU, developed in a progressive and modular manner. It would establish a corporate legal framework based on digital-by-default principles, and would help companies overcome barriers in setting up, scaling up and operating across the Single Market. The 28th regime would simplify applicable rules and reduce the cost of failure by addressing specific

[1] The Draghi report on EU competitiveness, September 2024.
[2] Competitive Compass, January 2025.
[3] OECD, Unleashing SME Potential to Scale Up: Helping SMEs Scale Up, November 2025, p. 10.
[4] Letta, Much more than a Market, April 2024, p. 108.
[5] The Draghi report on EU competitiveness, part A, p. 33.
[6] Von der Leyen, Europe's Choice: Political Guidelines for the Next European Commission 2024-2029, 2024.
[7] Von der Leyen, Mission Letter Michael McGrath, September 2024.
[8] COM(2025) 124 final, COM(2025) 500 final and COM(2025) 270 final.

aspects in relevant areas of law, including insolvency, labour and tax[9]. The 28th regime proposal was also announced in the 2026 Commission Work Programme[10].

The European Council called on the Commission "in line with the respective competences under the Treaties" to propose without delay "an optional 28th company law regime allowing innovative companies to scale up" in March and October 2025[11]. In parallel, the draft European Parliament own-initiative legislative report "On the 28th regime: a new legal framework for innovative companies"[12], scheduled for plenary adoption in January 2026, calls for a 28th regime that should mainly concern company law rules and introduce a new corporate form into national laws, with simplified company formation and registration. It also stresses the need for measures to facilitate employee stock ownership, mechanisms to ensure more efficient dispute resolution and strong safeguards to protect employee participation rights.

The initiative subject to this impact assessment directly responds to these calls by setting out a corporate legal framework for 28th regime companies, referred to as 'EU Inc.' companies in the legislative proposal. It draws on the existing EU company law and insolvency acquis and introduces a new legal form with related rules and procedures aimed to respond to the needs of startups and scaleups in the EU while being legally open to all founders and companies.

The initiative subject to this impact assessment provides one of the first deliverables under the 28th regime and will be complemented by initiatives in other areas, including employment, tax and innovation, following the modular and progressive approach referred to in the Single Market Strategy, as explained in the chapeau Communication accompanying this initiative. This Communication also refers to other related initiatives announced in the Competitiveness Compass, namely the European Business Wallets, for which the Commission presented a proposal on 19 November 2025[13].

**Legal context**

***EU company law acquis***

The codified Directive (EU) 2017/1132[14], provides a rulebook covering 16 million private and public limited liability companies and 2 million partnerships in the EU, regardless of their size or sector of activity, of which around 98–99% are SMEs. In recent years, the EU company law acquis has been significantly updated, in particular regarding digital tools and procedures. Some of these changes have been recently transposed, while others are still to be transposed. EU company law also sets out rules for single-member companies in Directive 2009/102/EC**.**

The Company Law Digitalisation Directive (EU) 2019/1151 made it possible to set up new companies, register new branches and file mandatory information and documents with business registers fully online (without physical presence), both in domestic and cross-border situations. It also requires that company information be stored by business registers in a machine-readable and

[9] Single Market Strategy, p. 7.
[10] 2026 Commission Work Programme, Annex I.
[11] European Council conclusions on competitiveness, European defence and security and migration, 20 March 2025; European Council meeting - Conclusions, 23 October 2025, EUCO 18/25.
[12] 2025/2079(INL).
[13] COM(2025) 838 final.
[14] Directive (EU) 2017/1132 codified 6 Directives and was amended by Directive (EU) 2019/1151 on the use of digital tools and processes in company law (Company Law Digitalisation Directive), Directive (EU) 2019/2121 on cross-border conversions, mergers and divisions (Mobility Directive) and by Directive (EU) 2025/25 on further expanding and upgrading the use of digital tools and processes in company law (UDCL).

searchable format or as structured data, which facilitates the use and sharing of this information. These rules were recently transposed by Member States (August 2023).

Company Law Directive (EU) 2025/25 on upgrading digital company law removed formalities (e.g., apostille) and simplified cross-border procedures through, for example, introduction of a multilingual EU Company Certificate (i.e., a "corporate passport" with essential company information) which other Member State authorities need to recognise and a multilingual EU Power of Attorney that companies can use to authorise a person to represent the company in cross-border company law procedures. These rules need to be transposed by July 2027.

EU company law rules require that, throughout their life cycle, limited liability companies file (submit) mandatory information, including changes, to the business registers under regulated deadlines. Similarly, business registers are obliged to make such information publicly available under specific deadlines. Following the Upgrading digital company law directive, the setting up of companies and filing are subject to mandatory preventive control, carried out by administrative or judicial authorities, notaries, or a combination thereof.

Business register information about companies is publicly available at EU level through the Business Registers Interconnection System (BRIS), which ensures inter-operability between national business registers (including EEA countries) since 2017. BRIS retrieves company information directly from Member States' business registers and makes it available, with multilingual labels and free of charge, through a single access point at the European e-Justice Portal.

BRIS also provides a secure means for a "once-only" exchange of information between business registers, whereby companies do not need to submit the information separately to business registers in different Member States. BRIS will be linked with the EU Beneficial Ownership Registers Interconnection System (BORIS) and the EU insolvency registers interconnection (IRI) system to further facilitate access to company information and reduce burdens. To identify companies at EU level, BRIS uses the European unique identifier (EUID), which is automatically, free of charge attributed by business registers to companies when they are registered. 16 million limited liability companies and 4 million branches of EU companies in other Member States already have EUIDs, and commercial partnerships will have it soon[15]. The BORIS system also uses EUID to identify companies.

The Mobility Directive (EU) 2019/2121 introduced harmonised rules and procedures - with digitalised steps - for cross-border conversions and divisions of limited liability companies and amended the existing procedure for cross-border mergers. It includes rules on the negotiation of employee participation in company boards and anti-abuse provisions and facilitates the cross-border mobility for companies while providing effective safeguards for employees, minority shareholders and creditors.

EU rules also set out specific provisions for the capital maintenance for public limited liability companies, including a minimum capital requirement of EUR 25 000, rules on capital formation, distributions to shareholders, capital increases and decreases as well as rules for cases of acquisition of own shares by the company.

Finally, the acquis includes an EU legal form for public limited liability companies, Societas Europea (SE), through Regulation (EC) 2157/2001, which exists in parallel to national rules and

[15] Following transposition of Directive 2025/25.

is optional for companies to use. It is accompanied by Directive 2001/86/EC setting out rules on involvement of employees in SEs.

***EU insolvency law acquis***

The EU Insolvency law *acquis* covers the targeted harmonisation of certain procedural steps. The Restructuring and Insolvency Directive 2019/1023/EU introduced minimum standards for preventive restructuring procedures and for debt discharge rules for failed entrepreneurs. The latter element provides for guarantees in relation to a second chance for entrepreneurs which is of particular importance for startup and scaleups. The Insolvency Directive[16] establishes for the first time EU-wide minimum harmonisation rules on a number of key aspects of insolvency proceedings. The formal adoption is expected in Q1 of 2026. Although the Commission proposal suggested detailed rules for a simplified insolvency procedure specifically for micro-enterprises, the final text of the proposal only contains a general clause according to which Member States may adopt or maintain in their national laws simplified insolvency regimes for microenterprises. Finally, the Directive obliges Member States to ensure effective access to debt discharge by entrepreneurs even in cases where the opening of insolvency proceedings is refused due to the lack of assets, thus ensuring a second chance for entrepreneurs even in such cases.

***Other related EU acquis/proposals[17]***

Regulation (EU) No 910/2014[18] related to a framework for electronic identification and trust services in the internal market (eIDAS Regulation) provides an interoperable system for digital identification of natural persons. The fully on-line procedures under the EU company law, which require electronic identification of a natural person (founder, shareholder, director), rely on the eIDAS Regulation. Similarly, Directive (EU) 2025/25 provides that the digital EU Company Certificate and the digital EU Power of Attorney will be compatible with the European Digital Identity Wallet, as provided for in Regulation (EU) 2024/1183[19].

The recent Commission proposal for a Regulation on the European Business Wallets[20] aims to provide a harmonised digital framework for economic operators (companies, self-employed) and public sector bodies to securely identify, authenticate and exchange data across borders. The European Business Wallets uses the EUID under EU company law as a unique identifier for companies, allowing to link the Wallets with the official company information in the business register. Economic operators can purchase a Business Wallet for a fee.

Regulation (EU) 2018/1724 establishing a single digital gateway (SDG) facilitates online access to information, administrative procedures and assistance services across the EU; it is *lex generalis* and covers general principles and a range of administrative procedures. There is a clear distinction between the scope of the SDG and EU company law and insolvency law, which are *lex specialis*. The SDG Regulation explicitly excludes insolvency or liquidation procedures and other corporate law procedures from its scope (such as registration, formation of a company, filing by companies or firms within the meaning of Article 54 of the Treaty on the Functioning of the European Union (TFEU); these are also therefore excluded from its once-only technical system (OOTS).

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[16] COM(2022) 702 final.
[17] See also Annex 10.
[18] Amended by Regulation (EU) 2024/1183 on establishing the European Digital Identity Framework.
[19] Regulation (EU) 2024/1183 of the European Parliament and of the Council of 11 April 2024 amending Regulation (EU) No 910/2014 as regards establishing the European Digital Identity Framework
[20] COM(2025) 838 final.

As regards interoperability, the Upgrading digital company law Directive (EU) 2025/25 contains a review clause whereby the Commission should assess the potential for cross-sector interoperability between BRIS and other systems providing mechanisms for cooperation between competent authorities, such as in the areas of taxation or social security or SDG and OOTS by July 2032, with the aim of creating more connected public administrations on a cross-border basis in the internal market. This is in line with the ongoing work to strengthen cross-border interoperability and cooperation in the public sector across the EU, including through Regulation (EU) 2024/903 (Interoperable Europe Act).

## 2. PROBLEM DEFINITION

### 2.1. WHAT ARE THE PROBLEMS?

The modern concept of startups refers back to companies in the technology sector in the US in the 20th century. Today, the term "startup" is widely used and normally refers to a company in its early stages of operation. Startups are grounded in innovation, often focusing on a single product or service, and require substantial capital to overcome high initial costs and limited early revenue. They typically require several years to make a profit and thus significant, high-risk investment are typically needed to get a startup off the ground. The transition to the scaling-up phase is characterised by a more structured management, market expansion and high capital needs to fuel rapid market capture.

The success of startups and scaleups depends on multiple factors, many of them inherent in their nature such as fierce competition, limited resources, and the need for continuous innovation to stay ahead. One of the most important conditions for startups to grow is access to capital and many startups have difficulty securing the funding they need at different stages of their development (e.g. from business and angel investors, venture and growth capital funds or regulated markets). Another important factor is startups needing to attract and retain top talent but often lacking the cash resources to offer competitive salaries. In addition, a business-friendly and digital regulatory environment plays overall an important role by proving the horizontal framework for startups and scaleups. However, startups operating in or expanding in the single market often face challenges due to the multi-jurisdictional and thus, burdensome, fragmented and complex rules, which result in obstacles and administrative burdens.

Startups and scaleups are part of a wider category of SMEs[21]. According to the recent Eurobarometer survey on startups, scaleups and entrepreneurship, 64% of the responding SMEs considered regulatory obstacles or administrative burdens the most important challenge, followed by payment delays (39%), access to finance (27%) and access to skills (19%). The survey also showed that the challenges startups face are similar to those faced by SMEs and that the share of startups experiencing some challenge is higher than for average SMEs in the EU, e.g. for regulatory obstacles or administrative burdens (71% vs 64%), payment delays (46% vs 39%), and access to skills (24% vs 19%). The challenges faced by scaleups, on the other hand, closely resemble those faced by the average EU SMEs.[22]

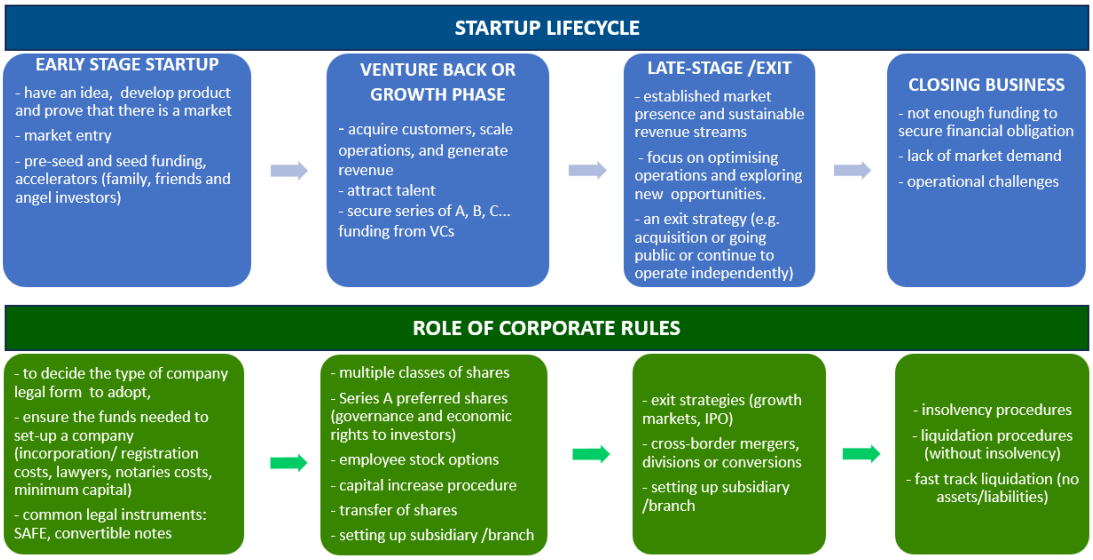
Regulatory obstacles and administrative burdens also lead to high cost for companies, in particular small ones; in 2024, almost 9 out of 10 EU firms employed staff to deal with regulatory compliance, at an average cost of 1.8% of their turnover, which increased to 2.5% for SMEs, showing the impact of regulatory burden on SMEs and startups, using up resources that could

[21] While SMEs also include sole-traders as enterprises, the startups and scaleups in this Impact Assessment refer only to companies with distinct legal personality.
[22] COM, Flash Eurobarometer 559 – startups, scaleups and entrepreneurship, July 2025.

otherwise support growth and innovation. The International Monetary Fund (IMF) estimates that legal fragmentation across Member States creates a non-tariff barrier equivalent to a tariff of about 44% on average for traded goods, keeping the potential of the single market underutilised[23].

In the regulatory context, the corporate rules play an important role as they provide the backbone of the legal framework necessary for an enabling business environment and to attract investment. The chart below shows the role of the main corporate rules throughout the life cycle of a startup from inception to growth, maturity, and, in some cases, exit or closure.

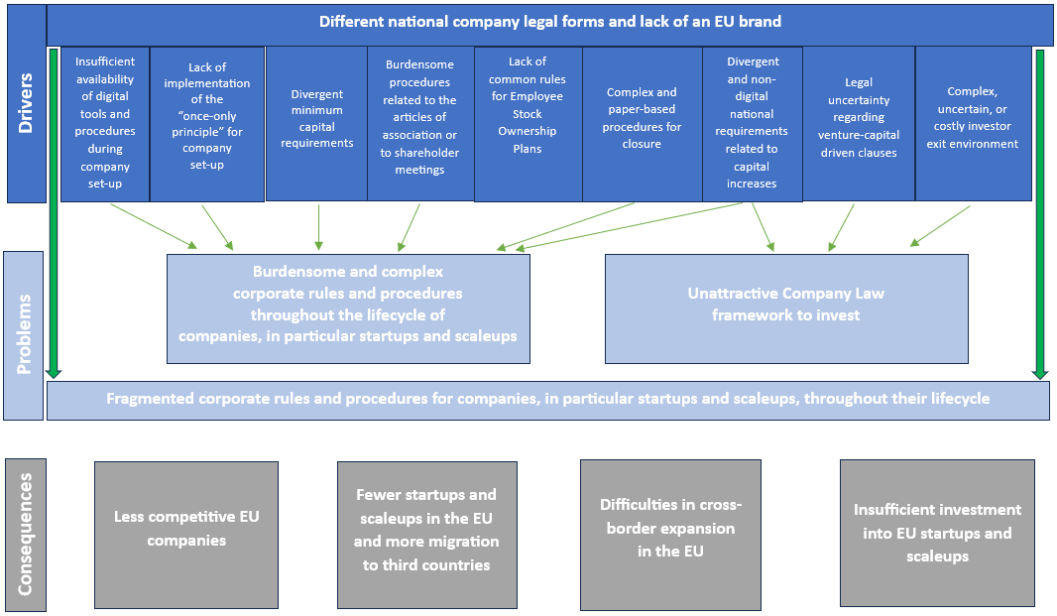
**Diagram 1: Startup lifecycle and corporate rules throughout this lifecycle**




This impact assessment focuses on problems and drivers related to corporate rules, including insolvency. The problem tree illustrates the main drivers, problems and consequences. The following sub-chapters describe the problems affecting companies, in particular startups and scaleups, across their lifecycle in more detail, followed by a description of the related drivers.

[23] IMF, Europe's Choice: Policies for Growth and Resilience, 16 December 2024.

**Diagram 2: Problem tree**




The evidence for this initiative, including about problems and obstacles faced by companies and founders, in particular startups and scaleups, was gathered through wide-ranging consultation activities[24]. These included a public consultation (1467 replies, with around 80% of those submitted by companies, founders and investors) and a call for evidence (879 replies) as well as 113 position papers submitted by different stakeholders. Two online workshops were organised with startup and scaleup companies and investors to provide real case examples of compliance costs. Information was also gathered through numerous bilateral meetings and targeted interviews with stakeholders, including startups. Meetings also took place with the representatives of the startup community behind the October 2024 petition for a "standardised pan-European "EU-Inc" and the "EU-Inc blueprint", which sets out proposals for a standardised company structure, a digital-first approach, a modern instrument for investment and a scheme for employee stock options. Discussions with industry, Member States, the European Parliament's Legal Affairs Committee and the relevant EU level stakeholder associations, including those representing different businesses[25], trade unions and legal professionals, also took place during 2025 in the framework of the High-level Forum on Justice for Growth[26] launched by Commissioner McGrath[27]. The 28th regime corporate legal framework was discussed at all four meetings, with particular focus on the problems faced by companies, digital solutions, the legal approach and measures to attract investment. The Danish Presidency also organised an exchange of views on the 28th regime during the September 2025 meeting of the Council Working Party on company law. Exchanges with other EU institutions also took place in the context of the development of the European Parliament own-initiative legislative report on the 28th regime and of the European Economic and Social Committee's study[28]. Discussions with company law professors in the Commission's Informal Expert Group on company law and corporate governance (ICLEG) also

[24] A description of all consultation activities and the feedback received is summarised in Annex 2.
[25] BusinessEurope, SMEUnited, European Startup Network, European Tech Alliance, European Digital SME Alliance, EuropeanIssuers.
[26] COM, High-Level Forum on Justice for Growth.
[27] Launched in March and concluded in November 2025.
[28] EESC, Establishing the 28th Regime in Europe.

provided an important contribution in terms of academic views and input on national rules and procedures.

#### 2.1.1. Fragmented corporate rules and procedures for companies, in particular startups and scaleups, throughout their lifecycle

The overarching problem that companies face in the EU is the fragmentation of rules across Member States. Over 80% of respondents to the public consultation agreed to a large or very large extent that different national company law rules and company forms create a barrier to setting up, operating or closing down a company in the EU. Calls from the startup community for a standardised pan-European corporate structure, e.g. in the EU-Inc petition[29], also stress the fragmentation of rules for companies as one of the main barriers.

The 27 national legal systems with distinct rules and procedures and more than 60 available national legal forms for limited liability companies[30] create a fragmented and complicated corporate landscape for companies. Such divergence leads to legal uncertainty and to high information costs whereby founders (or legal or other professionals on their behalf) need to search, assess and compare information about different legal forms each time they set up a company in another Member State. 88% of respondents to the public consultation considered the need for legal advice due to the complexity of different company legal forms and procedures as a barrier to a large or very large extent. According to the 2025 EESC study, 75% of companies expanding to a second Member State reported they had to hire external legal counsel to navigate these differences[31]. These burdens are relatively larger for smaller companies, such as startups with limited financial and human resources.

The problem of divergent national rules is accentuated by the absence of an EU company brand suitable for startups. 74% of respondents to the consultation saw the lack of an EU brand as one of the main barriers to doing business and attracting investment to a large or a very large extent. With no EU brand, known and trusted by investors and business partners, startups need to adopt a national legal form in every Member State where they want to establish themselves.

***Examples from the public consultation***:

*"It was a nightmare to navigate a company with two legal entities in 2 different countries (NL and DE). Hard in terms of employing people, letting international investors in. We need to have legal support in two countries which drives a lot of cost for us. Biggest barriers: signing the notarised deed of incorporation, depositing share capital at a bank and in-person ID verification with notary."*

*"We are currently operating in 6 countries (BE, NL, LU, DE, AT, CH) and had to setup 6 different companies to make this work and be able to employ people in each country. Different legal counsel needed for each country. It starts with getting a bank account, which can often not be done fully online with a lot of banks. From there, going to the notary also needs to happen in person in some countries." "The main problem is that it is different in every EU country; even if the essential contents are the same, you still need to spend huge amounts of time, effort and money on "getting it right", essentially just duplicating the same work over and over again."*

The same applies when a startup wants to set up a subsidiary in another country, with the fragmentation of corporate regimes making it more difficult to successfully scale up in the EU. 81% of respondents to the public consultation identified difficulties in expanding to other Member States via subsidiaries as a large or very large barrier.

[29] EU Inc Petition.
[30] Directive (EU) 2017/1132.
[31] EECS study quoting Eurochambres, 2024, p. 8.

In addition, fragmentation undermines the ability of European companies to compete for top talent and limits the growth potential of high-performing companies across the single market[32]. In the public consultation on the European Innovation Act, 60% of respondents agreed or strongly agreed that difficulties to offer globally competitive benefits and remuneration, including employee stock ownership plans (ESOPs) are preventing innovative companies in the EU from attracting and retaining talent. This is especially problematic for startups and scaleups that often cannot afford competitive salaries and use ESOPs for stock options to offer attractive benefits to their employees.

Finally, the respondents to the public consultation on the 28th regime, mainly founders and investors, described processes for closure of a company (outside of insolvency) as fragmented and said that delays often stem from divergent national procedures. In their view, this increases legal uncertainty for investors, tying up resources and capital that could otherwise be reinvested in new entrepreneurial projects. It also leaves inactive/dormant companies on national registers, resulting in administrative inefficiencies. This issue is important for startups given that their failure rate tends to be high due to challenges founders face while trying to grow their businesses. For example, the EU-27 five-year survival rate for enterprises born in 2013 and still active in 2018 was 45%[33]. In general, closure is an important stage of company's lifecycle, as evidenced by Eurostat data showing an 8.5% rate of enterprise deaths (exempting insolvency) in 2023 as compared to 10.5% for enterprise births.

### 2.1.2. Burdensome and complex corporate rules and procedures throughout the lifecycle of companies, in particular startups and scaleups

Setting up and operating a company in the EU is also hindered by complex and slow procedures resulting in compliance costs. The lack of consistent implementation of digital tools and processes across Member States accentuates this. Many company-related processes still require manual submission or physical presence. 81% of respondents to the public consultation considered that the insufficient availability of digital tools and procedures for setting up of companies created a barrier to a large or very large extent; 74% thought so regarding operation of companies; and 63% regarding the closure. The majority of respondents also considered that the involvement of notaries was burdensome and slowed down procedures. 73% said that it was not possible to carry out all the steps of the company formation without the involvement of intermediaries and many explained that notaries did not apply online tools (even if those existed) but required physical presence (e.g. to check identity, sign and certify documents).

***Examples from the public consultation***:

*"Incorporation was painfully slow, fraught with legal traps and cost us almost 50% of our seed capital of 50 000 EUR. It nearly killed the company right from the start".*

*"The process [in Spain] took 3,5 months and required five physical visits to various offices. It takes 1 hour maximum to setup the same startup in the UK. The delay meant missing two crucial grant deadlines. The notary requires physical presence for identity verification despite having a valid eIDAS certificate. Opening a bank account requires an in-person visit. Tax registration requires a physical stamp. Social security enrolment needs original documents. "*

*"I waited 6 weeks to get my one-person business in Austria approved because not possible "online"."*

*"I created 2 GmbHs in Germany. Notarisation was in person: EUR 1 000 amounting to 4% of my startup capital."*

*"I moved to Spain and I had to close the company because one of the requirements of the BV is to have a director living in the Netherlands. Opening and closing the company was costly."*

[32] Cf. COM, The Promotion of Employee Ownership and Participation, 2014, p. 92.
[33] Eurostat, Enterprise survival rates in the business economy, 2018.

Furthermore, despite the existence of specific EU rules on the use of electronic identification and electronic signatures, their inconsistent implementation is an important reason why companies cannot carry out fully on-line procedures. 88% of respondents replying on this issue indicated there were still problems with cross-border electronic identification of persons, of which 68% mentioned issues related to the recognition and/or acceptance of the electronic identification. This has an impact throughout companies' lifecycle as the underlying condition for online procedures is that the identity of founders, directors, shareholders can be verified electronically.

**As to the setting up stage,** according to the consultation activities, startups considered it took too long to set up a company in the EU. They argued that slow and complex processes and lack of possibility to set up a company in English pushed some founders to give up or set up in other jurisdictions such as Delaware due to its presumed business-friendly legal system and use of English language. According to the public consultation, 85% of respondents (989) set up a company but only 23% - in another EU/EEA country, and 21% (245) - abandoned setting up a company, out of which 71% - in their own country (EU/EEA), 39% - in another EU/EEA country and 11% - in a country outside the EU/EEA.

The problems related to slow setting up procedures mentioned in the public consultation often went beyond the company incorporation with business registers and included issues related to banks, tax, social security and anti-money laundering. These steps were said not to run in parallel, were often manual or disconnected from the registration of the company in the register and delayed the starting of a new business. 86% of respondents saw the lack of the "once-only" principle as a barrier and 84% stated that it was burdensome and time-consuming to have to submit company information separately to other authorities than the business registers.

The minimum capital requirements can also represent an entry barrier to founders. 68% of respondents agreed or strongly agreed that a minimum capital requirement creates an administrative burden for companies due to the formal process related to contributions. High capital thresholds for incorporation increase the upfront costs of establishing a business, which can be burdensome for early-stage companies seeking to launch quickly, sometimes even discouraging their entrepreneurial activity. Founders who seek to operate across multiple countries face legal uncertainty and burdens due to different minimum capital requirements and creditor protection mechanisms. A minimum capital requirement can also contribute to delays in setting up as it is frequently linked with opening a bank account, and a large number of respondents explained that this usually requires physical presence and that share capital deposits must often be verified in person at a bank.

***Respondents to the public consultation provided concrete examples,*** *such as that it took more than 2 months to open a bank account in the Netherlands. Some respondents also stated that banks require incorporation documents before opening a bank account, which further complicates and slows down registration and AML/KYC onboarding. Other examples included that, in Germany, it took 2 or even 4 months to obtain the tax ID with the company not being able to bill a client in that time. While it was possible to register a company in 20 minutes in Sweden, it took weeks to get a bank account verified, shareholder contributions verified in the bank, to receive a VAT number and to complete other formalities, and that real signatures on paper were required. In some cases, e.g. in Austria, there happened a circular loop whereby the mandatory capital had to be paid in to start the company but one could only open a bank account when the company was formed.*

**During the operational phase,** one of the most important procedures is to amend the instrument of constitution/articles of association, necessary for any changes to the management structure, decision-making processes, investors, profit distribution, corporate restructurings such as mergers, or capital increases. However, companies and investors often face significant problems and delays. Many replies to the public consultation mentioned non-digital and heavy formalities in cross-border situations (e.g., notarial deeds, apostilles/legalisation, certified translations, registry checks). Around 50% of respondents assessed the lengthy adoption of amendments due

to the involvement of intermediaries and the lack of clarity about the applicable legal framework as problematic (to a large or very large extent). The lack of fully digital procedures was mentioned by 80% – and limited acceptance of electronic signatures either from other Member States or third countries by 70% - as causing practical difficulties to a large or very large extent.

The operation of a company is also affected by how quickly important decisions can be made. 41% of respondents reported problems with organisation of general and board of director meetings online and among those, several business associations, competent authorities and legal professionals, as well as responding companies, founders and investors stressed that while online and hybrid meetings were increasingly recognised, using them in practice was more difficult due to legal and technical barriers and fragmented national requirements.

**As to the closure** (outside of insolvency), around 63% of respondents to the consultation considered that not being able to carry out all the steps with the business register fully online, and without the involvement of intermediaries, and that having to notify several authorities separately was a barrier (to a large or very large extent). The length of the closure procedure and the absence of a simplified or harmonised EU procedure for winding up were also seen as barriers to a large or very large extent (by 58% and 67% of respondents). Many founders and investors noted that this complexity makes winding-up disproportionately burdensome for SMEs and startups, and that it can discourage entrepreneurship because founders risk significant personal liability, and can prevent founders from closing inactive structures, thereby limiting their subsequent investments, which are essential for startup growth.

The concerns regarding the length, complexity and costs were also frequently mentioned as a deficiency by the respondents in the context of liquidation through insolvency proceedings in the absence of a digitalised procedure. In addition, discrepancies between the Member States' insolvency laws can make it more difficult to anticipate the outcome for value recovery and to price risks, including for debt instruments. These elements are of particular importance to the investors who provide financing to companies, including to startups and scaleups and the expected recovery value, time and costs affect the extent and conditions under which companies can get access to funding they need for their operations and growth. The providers of financing take the future risk of the company becoming insolvent, the value of recovered assets and the length and complexity of insolvency proceedings into account when they decide about the price they will charge that company for the capital offered.

### 2.1.3. Unattractive company law framework to invest

Attracting private investment is essential for the growth of startups and scaleups which rely heavily on external equity financing. However, not being able to attract financing is likely the biggest obstacle to European startup growth[34]. According to the Draghi Report[35], not a single EU company with a market capitalisation over EUR 100 billion has been created from scratch in the last 50 years. In contrast, all six U.S. companies valued above EUR 1 trillion were born in that same period. This stagnation is the direct result of a legal ecosystem not facilitating scaling.

The feedback to the public consultation confirmed that founders and companies face financing problems and problems to attract private investment, and that attracting investment is significantly hindered by the fragmentation and complexity of company law rules across the EU. According to the consultation, 86% of respondents identified legal complexity as a major barrier to investment, and 84% pointed to rigid capital and shareholder-rights rules as impeding capital

[34] Weik, The Startup Performance Disadvantage(s) in Europe: Evidence from Startups Migrating to the U.S., 2024.
[35] The Draghi report on EU competitiveness, Part A, September 2024, p. 6.

injections. More than 70% highlighted the lack of accessible digital tools and information for completing investment procedures. Foreign investors also pointed to burdensome tax-identification procedures and limited clarity on shareholder rights. Overall, the consultation indicates a broad perception that company law frameworks impose high costs, long delays and legal uncertainty, reducing the attractiveness of EU companies for investment.

Investors wanting to invest in newly created startups or more mature companies must conduct extensive, costly due diligence on each different national company form for every country they plan to invest in. They must spend time and capital verifying how corporate governance rules, liability of directors and shareholders and other rules apply to different company forms in each jurisdiction. The Draghi Report identifies it as a structural weakness, noting that high costs associated with adhering to heterogenous national regulations are a key factor contributing to innovative European companies "failing to scale up" and the persistent gap in later-stage financing compared to the US market[36]. They contribute to the persistent home-bias within European venture capital markets and create additional transaction costs compared with other large markets like the US, where the Model Business Corporation Act[37] and the Delaware General Corporation Law provide two widely known corporate legal frameworks**.**

In addition, different national constraints on the use of standard venture capital instruments compromise legal certainty for investors and founders and prevent them from relying on a common set of predictable rules for structuring deals, allocating rights, and enforcing contracts. Investors cannot rely on EU-wide standardised documents, reducing confidence and discouraging cross-border investment. There are no standard early-stage funding instruments used consistently throughout the EU, in contrast to the US, where the Simple Agreement for Future Equity (SAFE)[38] has become a widely adopted seed-stage financing tool. This imposes disproportionate burdens on early-stage companies, which must either redesign venture capital contracts to fit local legal constraints or adopt costly workarounds, creating friction at the very moment when firms need simplicity and speed to secure financing. As a result, transaction costs remain high, and investment activity continues to be overwhelmingly domestic. It also hinders the emergence of large, pan-European funds for later-stage financing, where scaleups require large injections of capital to compete globally.

EU startups receive smaller funding round sizes, fewer follow-on investments, and much less late-stage capital than their US counterparts. Recent evidence confirms that European companies face a substantial late-stage funding gap: European startups are only half as likely as US startups to raise a USD 15M+ financing round, with just 4.1% reaching this threshold compared to 8.3% in the United States. This structural difference has contributed to an estimated USD 375 billion funding gap over the past decade[39]. According to the EIF Venture Capital Survey 2024[40], firms in venture-capital portfolios identified securing equity finance, i.e., obtaining timely and sufficiently large follow-on funding rounds, as their main challenge during the scaleup phase, followed by customer acquisition and retention and recruiting skilled professionals. The 2024 EIB study “The Scale-Up Gap”[41] shows that while companies located in the EU raise similar amounts as companies located in San Francisco do in their first five years, the divergence opens sharply

[36] The Draghi report on EU competitiveness, Part A, September 2024, p. 24.
[37] The Model Business Corporation Act (MBCA) is a widely used standard corporate statute developed by the Uniform Law Commission and the American Bar Association.
[38] The SAFE was created and published by Y Combinator. It is a financing contract on the issuance of equity rights to be converted at a later data, commonly used by startups in seed funding rounds.
[39] Atomico, State of European Tech 2024, p.89
[40] EIF, Venture Capital Survey 2024, p. 36.
[41] EIB, The Scale-Up Gap, July 2024.

thereafter. By year ten, European scaleups have raised around 50% less cumulative capital, a result that holds even after controlling for industry, founding year and business-cycle effects.

To improve their funding prospects, a growing number of high-growth European startups incorporates or redomiciles a parent company outside the EU while keeping their operational and R&D activities in an EU subsidiary. According to Mind the Bridge's study, approximately 14% of European scaleups operate as "dual companies" (i.e., relocating their headquarters abroad while keeping operations in the EU), and 82% of these move their headquarters to the United States[42]. Importantly, these dual entities accounted for a disproportionately high share of all capital, signalling that Europe's highest-potential firms are the most likely to adopt third-country legal structures. More recent EU-level evidence confirms this trend. According to the EIB "Scale-Up Gap" Report[43], roughly one in four European high-growth companies with over EUR 10 million in cumulative funding have created a parent or holding company outside the EU, most commonly in the US. The EIB finds that 15% of EU scaleups have relocated their headquarters (vs. 9% US, 12% UK), with 74% of EU relocations going outside the EU, primarily to the United States. Between 2008 and 2021, 40 out of 147 EU 'unicorns' (i.e., privately held startups with a valuation of US$1 billion or more) relocated abroad, mostly to the US. As of 2025, the EU hosted 110 unicorns, compared with 687 in the US and 162 in China[44].

This pattern of relocation is not only structural but also has measurable consequences. Evidence shows[45] that migrant companies raise significantly more venture capital, file more patents and, conditional on exit, achieve substantially larger valuations than comparable companies that remain in the EU. Migration does not make a firm more likely to exit, but it materially increases the scale and outcome of successful exits, suggesting that companies relocate primarily to access legal and financial infrastructures that the EU does not yet provide.

*The so-called "Delaware Flip" is a corporate restructuring used by fast-growing European startups to relocate to Delaware driven by the need to access the deeper pool of US venture capital. By executing the flip, the startup simplifies US fundraising, streamlines the path to a potential IPO, and establishes a corporate structure that is palatable to future international acquirers, even as core R&D operations often remain in the EU. Recently, the Spanish startup Cafler, which provides digital vehicle services received unanimous approval from their shareholders to transition from a Spanish limited liability company to a US corporation, establishing its new registered office in Delaware. The company's president and co-founder stated that the relocation strategy positions Cafler "in a geography that is more favourable for current investors and for the future, especially in the US"[46].*

*During the preparation of this initiative, interviews took place with several founders and representatives of European 'unicorns'[47] including both businesses with parent entities in the EU and businesses that had set up parent entities registered in the state of Delaware. Businesses that had carried out a Delaware flip particularly emphasised the increased attractiveness of their company to international investors. In contrast, businesses whose parent company remained in the EU highlighted difficulties in attracting such investors. According to one of the founders interviewed, their company, which has completed successful funding rounds up to Series C+, was asked by investors in every single round to consider a Delaware flip.*

Finally, equally important for access to late-stage funding are viable exit options as they determine how and when investors can realise the value of their stakes. In early-stage and growth financing, investors typically expect to recover their investment, and any return, through share transfers to new investors, secondary sales to venture capital funds, or public offerings (IPOs)

[42] Mind the Bridge, European Dual Companies – Scaleup Migration?, June 2017.
[43] EIB, The Scale-Up Gap, July 2024.
[44] EIB, The Scale-Up Gap, July 2024.
[45] Weik, The Startup Performance Disadvantage(s) in Europe: Evidence from Startups Migrating to the U.S., 2024.
[46] Entrepreneur Loop, "Spanish Startup Cafler Relocates Operations to Delaware Seeking American Investment", 30 September 2025.
[47] Privately held startup companies with a valuation of USD 1 billion or more.

once the company has matured. The availability of predictable and efficient exit routes is therefore critical for attracting capital, as it directly affects the risk-return balance of the investment. Still, in the 2024 EIF Venture Capital Survey[48], fund managers cited the exit environment in the EU as the biggest challenge for the development of venture capital, even surpassing fundraising challenges.

While the overall financing and exit environment is out of scope of this initiative and being addressed by initiatives under the savings and investments union and by EU financing programmes, existing company law frameworks in the EU contribute to this challenging exit environment for investors through fragmented rules and burdensome formalities for share transfers. Restrictions or legal uncertainty surrounding venture capital exit clauses (e.g. liquidation preferences, redemption shares, drag-along rights) discourage investment in EU-incorporated companies and drive investors toward jurisdictions where such terms are freely enforceable. At the same time, the lack of fully integrated EU financial markets encourages companies to pursue exit strategies (including IPOs) outside the EU rather than on domestic financial markets.

### 2.2. WHAT ARE THE PROBLEM DRIVERS?

#### 2.2.1. Different national company legal forms and lack of an EU brand

The overarching driver is that national company legal forms are different across Member State and that there is no suitable EU legal form and no distinct EU brand for smaller companies such as startups. The existing EU European Company (*Societas Europaea*, SE)[49] legal form is designed for large public limited liability companies. It can only be created by existing companies from different Member States or national companies with subsidiaries in other Member States, which makes it ill-suited to newly created startups. The SE also requires a minimum subscribed capital of EUR 120 000, which is out of reach for a seed-stage business operating on minimal funding.

Member States provide for one or more distinct national legal forms for companies. This means distinct rules for corporate governance, issuance of shares, shareholders agreements, implementation of financing instruments and capital increases. In addition, as a response to the needs of startups and to promote their growth, some Member States have undertaken reforms of their legal forms to allow greater flexibility, such as the German *Unternehmergesellschaft* – UG, a "Mini-GmbH". Other Member States have introduced new simplified legal forms, such as the French *société par actions simplifiée,* SAS and the Polish *Prosta Spółka Akcyjna*, P.S.A.. Austria has also recently introduced the Flexible Capital Company (FlexCo) to enhance capital access and employee ownership[50].

These simplified legal forms represent divergent national solutions to solve challenges faced by startups. For instance, the French SAS prioritises flexibility to create tailor-made articles of association to accommodate complex venture capital-style governance and share agreements, making it highly customizable but not necessarily the quickest to set up. The Polish P.S.A. can be a purely digital solution, and it focuses on speed (24-hour setup when a standardised template is

[48] EIF, Venture Capital Survey 2024, p.38.
[49] The other EU legal forms also do not provide appropriate solutions for startups. The European Economic Interest Grouping, EEIG, is a vehicle for collaboration among companies or legal bodies and/or natural persons and not for external investment and is to facilitate the economic activities of its members with its own activity staying strictly ancillary. The European Cooperative Statute, SCE, is aimed at cooperatives.
[50] For a historical and comparative overview of several simplified legal forms introduced in the past decades, see Nicolussi, ECFR 2025, 195, pp. 206 et seq.

used) and ease of entry with a symbolic PLN 1 capital and possibility to provide contributions of work and services for shares rather than cash alone. The German UG is different as it is a "stepping stone", with minimal starting capital (EUR 1) but strictly mandated accumulation of capital until it reaches the full EUR 25 000 required to become a GmbH. Finally, the Austrian FlexCo tackles investor and employee financial participation by offering specific enterprise value shares and adopts advanced capital increase mechanisms but has a higher minimum capital requirement of EUR 10 000. These legal forms also differ as regards the notarial involvement to set them up; the UG and FlexCo require a notarial deed for the instrument of constitution, while this is an option for SAS founders; and not required if the standardised template is used for the P.S.A.

#### 2.2.2. Insufficient availability of digital tools and procedures during company set-up

The existing EU company law rules, in particular the Digitalisation Directive (EU) 2019/1151, make it possible to carry out fully online the whole process of establishing private limited liability companies, and subsidiaries, including drawing up of the instrument of constitution and all the steps to enter the company in the business register, directly or through intermediaries (e.g. notaries). Similarly, the Directive ensures the fully online registration of cross-border branches and fully online filing, eliminating in all these cases the need for the mandatory physical presence of founders and directors[51]. For the electronic identification of founders, directors and the use of electronic signatures, the Directive relies on the eIDAS Regulation. Member States are also required to make online templates for setting up private limited liability companies available and set a deadline for online formation to be completed within five working days where a company is formed by natural persons who use the templates (or within ten working days in other cases)[52]. At the same time, these rules were recently transposed (August 2023), and 75% of respondents to the public consultation thought that the EU rules on fully online setting up of companies were not fully/correctly implemented and 73% - that companies were not aware of the existing rules and possibilities. The consultations also showed that there may also be issues with their implementation in Member States in particular in cross-border situations[53].

Furthermore, the existing EU rules do not yet address all aspects that were raised in the consultations by businesses, and in particular startups. For instance, the EU rules do not harmonise the content of the online templates for setting up of companies and the template in a language other than the official language of a particular Member State is only for information purposes. 68% of the respondents to the consultation confirmed that it was not possible to carry out all the steps of the company formation in English. Furthermore, the deadlines, although they speed up the registration procedure, they count from the time that all the formalities are complied with and do not cap the time needed to do the necessary formalities before submission of documents. Finally, setting up of a company takes place only at national level and according to the national substantive requirements.

#### 2.2.3. Lack of implementation of the “once-only principle” for company set-up

The public consultation showed that companies are required to submit similar information to several authorities when setting up a company: to tax authorities to obtain the TIN (according to 90% of respondents), to social security funds or other competent authority due to social security

[51] Except in limited cases when reasons to question the legal capacity/authority of applicants to represent a company.
[52] From the date of completion of all formalities or from the date of payment of a registration fee, the payment in cash for share capital, or the payment for the share capital by way of a contribution in kind, as under national law.
[53] This is likely to improve, as Regulation (EU) No 910/2014 mandates all Member States to make European Digital Identity Wallets available by the end of 2026.

obligations (67%), to the relevant authority related to anti-money laundering issues (55%) and for other purposes, such as obtaining a VAT identification number (36%). In addition, respondents explained that, at present, obtaining a TIN or a VAT identification number can cause considerable delays, often weeks or even months.

The EU company law rules already provide for a number of "once-only" exchanges through BRIS[54]. However, it does not harmonise – and does not implement the once-only principle – in case of other formalities related to setting up of a company, such as obtaining a TIN or a VAT identification number, registering for social security or filing beneficial ownership information. These vary significantly, and often the company once registered in the business register needs to separately submit the company information and data available in the business register also to these different authorities[55]. For instance, in many Member States the TIN is issued without a separate application when a company is registered in the business register but in some (e.g. Czechia, Poland and Ireland), the company needs to file a separate application with the tax administration. While in some Member States (e.g. Belgium and France), the TIN and/or the VAT identification numbers match, contain or are technically related to the company registration number, in others (e.g. Croatia, Germany and Italy), this is not the case. Even in the Member States where the TIN is issued upon registration, the time to verify the tax relevant data may differ substantially, from one working day (e.g. Hungary) to several weeks (e.g. Czechia).

In most Member States, the business register also records beneficial ownership information but in some (e.g. Germany and Poland) the beneficial ownership information is filed to a different authority, resulting in companies needing to provide the basic company information (e.g. company name, EUID, legal form, address, legal representatives) again. An upcoming Commission Implementing Regulation on formats for submitting beneficial ownership information will require beneficial ownership registers to reuse or request data already available in other registers, if a series of conditions apply. Therefore, it is not guaranteed that the company information in the business register will be reused automatically in all cases.

#### 2.2.4. Divergent minimum capital requirements

Different Member States have historically relied on diverse mechanisms to protect creditors, including rigid capital maintenance rules and formal procedures tied to minimum capital. Over time, many Member States have considered that minimum capital is not an effective or necessary instrument for creditor protection, leading to reforms in private limited liability companies to abolish or reduce minimum capital thresholds and introduce alternative safeguards such as solvency and balance sheet tests or strengthened directors' liability rules. Currently, minimum capital thresholds for private limited liability companies vary significantly, reflecting fragmentation and divergent approaches in national company laws. For example, the Finnish Oy and the Estonian OÜ have no minimum capital, the Dutch B.V. requires EUR 0.01 and the French SAS requires EUR 1, while the Spanish S.L. requires EUR 3 000, the Austrian FlexCo requires EUR 10 000 and the German GmbH requires EUR 25 000 (its variant UG initially requires EUR 1).

Minimum capital must be subscribed and in many Member States also paid into a bank account and certified before incorporation can be completed. In several countries (e.g. Germany, Spain,

[54] E.g. when setting up cross-border subsidiaries and branches, striking off companies, changing of company information or during cross-border mergers, divisions and conversions, as set out in Commission Implementing Regulation (EU) 2021/1042 or will be covered in implementing acts following Directive (EU) 2025/25.
[55] https://archive.doingbusiness.org/en/reports/global-reports/doing-business-2020

Austria, Italy[56]), the law obliges founders to produce bank certificates or notarial confirmation of paid-in capital as a precondition for incorporation, leading to longer incorporation periods.

#### 2.2.5. Burdensome procedures related to the articles of association or shareholder meetings

Member States regulate the procedure to amend the articles of association differently, with some allowing amendments to be approved through fully online shareholder meetings while others require strictly physical meetings or place heavy conditions on remote participation. National laws diverge substantially in areas such as quorum and voting rules, authentication requirements and the technological tools permitted for shareholder communications (e.g., electronic notices, e-voting, virtual attendance)[57].

Even where online or hybrid meetings are legally permitted, practical implementation is hindered by inconsistent identity verification mechanisms, uneven acceptance of electronic signatures across borders, difficulties to validate proxies digitally and divergent national e-voting standards. Many countries still require notarial authentication with in-person verification for resolutions amending the articles, which prevents end-to-end digital workflows and imposes disproportionate burdens on foreign or cross-border shareholders.

#### 2.2.6. Lack of common rules for Employee Stock Ownership Plans

Across the EU, companies face a highly fragmented company-law environment that makes it difficult to implement employee stock ownership plans (ESOPs) in a simple, reliable and cross-border manner. National rules differ significantly on core legal aspects such as the issuance and transfer of shares, mandatory involvement of notaries, shareholder-approval procedures, capital-increase rules, and restrictions on share classes. As noted in the Commission's 2014 Study on Employee Ownership[58] and documented in detailed country reports for all 27 Member States in the 2024 PEPPER V Report[59], even basic operations, such as issuing new shares, allocating options, or updating shareholder registers, trigger divergent formalities. This patchwork of requirements forces firms to maintain multiple parallel ESOP structures, exclude employees in certain jurisdictions from equity participation, use costly and legally risky workarounds or look for suboptimal alternatives such as phantom shares.

In cross-border situations, employee stock options granted in one Member States may not be recognised by another Member State due to varying definitions, conditions or frameworks, which may result in subjecting them to less favourable taxation compared with stock options granted under the national framework of that other Member State. This causes issues to cross-border employment situations where a company employs a person residing in another Member State or when an employee moves across borders. Despite reforms in several Member States including Germany, France, Spain, Italy, and Austria in recent years, Member States' tax frameworks related to employee stock options remain very different. In particular, Member States tax income derived from stock options at different moments – at grant, vesting, exercise or disposal of the underlying shares and some Member States tax employee stock options twice, at exercise and at

[56] In several Member States, incorporation requires proof that the subscribed capital has been paid into a bank account, which cannot be issued until AML/KYC checks are completed: Spain, LSC (RDL 1/2010) Art. 62 and 80; Germany, GmbHG §7(2)–(3) and §8(2); Austria, GmbHG §6(2) and §10(1) (and FlexKapGG §6). These provisions oblige founders to obtain bank confirmations before registration, causing sequential delays.

[57] ICLEG, Report on Virtual Shareholder Meetings and Efficient Shareholder Communication, Sections 2.2, 3.1–3.3, 4.1–4.3, substantial divergences in Member States' rules on meeting formats, quorum and voting rules, authentication requirements, and permitted technological tools, create practical difficulties and additional costs for companies operating across borders.

[58] COM, The Promotion of Employee Ownership and Participation, 2014.

[59] Kelso Institute Europe, The PEPPER V Report, January 2024, pp. 87 et seq.

sale. Taxation of income derived from employee stock options before disposal of the underlying shares leads to situations where employees are subject to tax on unrealised gains ('dry tax charge'), potentially causing liquidity issues. Furthermore, misaligned moments of taxation between Member States may generate double taxation and exacerbate the above-mentioned cross-border issues, especially for highly mobile employees.

Another issue related to the taxation of employee stock options is the characterisation of the income derived therefrom. Some Member States (usually those that tax the income derived from employee stock options before disposal) tax such income as 'employment income' and, in addition, they sometimes require the payment of social contributions, whereas others (usually those that tax the income at issue at the moment of disposal) tax that income as capital gains. This also causes issues in cross-border situations and may lead to double taxation.

### 2.2.7. Complex and paper-based procedures for closure

National procedures to close companies, outside of insolvency, often take a long time due to waiting periods and requirements of e.g. notarised filings or public notices. For instance, in some jurisdictions such as Germany, the start and termination of liquidation need to be filed to the commercial register and there is a statutory waiting period (often a "Sperrjahr" or blocking year) to allow creditors to register claims, which can delay the final closure by a few months up to over a year. In Belgium, closing the company can be done with a single deed but a report from the statutory auditor (or an external auditor or chartered accountant) needs to be provided to the notary, making even the simplified process more complex and time-consuming. The Poland's liquidation process requires formal notification to the National Court Register (KRS), announcement to the Court Journal and a mandatory at least 3-month waiting period for creditors to register claims, further extending the total process, which often exceeds 6-12 months. In France, there are several steps with different deadlines and while it cannot exceed three years, still an extension can be requested, creating fixed costs especially for very small businesses. Even new simplified company forms in Member States often remain subject to the same national liquidation procedures.

In all Member States, the dissolution, the appointment of a liquidator and usually the final closure accounts need to be registered with the commercial registry. Multiple filings to other authorities are often necessary. For example, a separate clearance is needed from the tax authority, often a lengthy process as it can usually only begin after the physical disposal of assets (e.g. Austria and Malta). Mandatory official publications in gazettes or newspapers (e.g. Germany and Poland) are a pre-condition to launch the waiting periods while separate filings may also be required with social security authorities. In several countries, final filings for dissolution, particularly involving notaries or court clerks, often demand original physical documentation, authenticated signatures and certified copies, e.g., in Italy, original, notarized decision of dissolution needs to be submitted to the Registro delle Imprese. Similarly, mandatory submissions from creditors to the liquidator to announce their claims are frequently carried out via registered post, adding delays.

Simplified "fast track" liquidation procedures that offer a quick, cost-effective solution to close solvent companies differ and exist only in a few Member States. For example, Luxembourg employs a "once-stage dissolution" procedure for single member companies, where the sole shareholder can immediately dissolve the company and assume its assets and contingent liabilities. The Netherlands has a "turbo liquidation" procedure; a company with no assets can be dissolved and struck off the register immediately by shareholder resolution, which bypasses the statutory liquidation process but with strict transparency requirements on directors.

There are differences in Member States' laws also in the context of liquidation in insolvency; Although, the proposal for the Insolvency Directive aims to establish minimum harmonised rules

on a number of key aspects of insolvency proceedings, the current EU insolvency framework would still not provide for comprehensive digital insolvency procedures specifically for innovative companies, startups or scaleups.

### 2.2.8. Divergent and non-digital national requirements related to capital increases

The EU Company Law *acquis* does not cover the digitalisation and other aspects of capital increase procedures for private limited liability companies. Therefore, these are regulated by national laws and remain legally complex because of numerous procedural steps but also because they vary substantially across jurisdictions. In most Member States, increasing the share capital entails a sequence of mandatory legal acts, e.g. convening a shareholders' meeting, adopting a resolution to amend the articles, issuing subscription declarations, and registering the updated capital structure, each governed by detailed legal requirements.

In several Member States, the involvement of notaries or other intermediaries is required to authenticate key company acts. For example, in Germany, Austria, Italy, Spain, Poland and others, shareholder resolutions amending the articles of association and subscription declarations of newly issued shares must be executed before a notary. However, even between Member States with a notarial system, the role of notaries varies significantly, ranging from mandatory involvement for all substantive changes to only for specific transactions such as in-kind contributions (e.g. Estonia). This regulatory patchwork creates an expensive compliance burden and a lack of legal predictability.

Foreign investors face an additional legal obstacle: in some Member States, subscription to shares is legally impossible until the investor obtains a national TIN or equivalent. These requirements stem from national tax rules that oblige foreign natural and legal persons to complete identification, document legalisation of required documents (e.g., the power of attorney) and administrative registration before participating in a capital increase. In the absence of an EU-wide investor identifier, each Member State applies its own rules, formats and verification standards.

**Case study: Non-digitalised capital increase procedures as a barrier to investment (Spain)**

*In Spain, capital increases are governed exclusively by national law and involve multiple mandatory formal steps, none of which can be completed through a fully digital procedure. A shareholders' resolution amending the articles of association, the subscription of newly issued shares and the registration of the updated capital structure all require notarial intervention and physical presence, either directly or through a notarised power of attorney.*

*For foreign investors, these formal requirements are compounded by national tax identification rules. As a general rule, foreign natural persons must obtain a Foreigners' Identification Number (NIE) before subscribing to shares, through non-digital procedures carried out in Spain or via Spanish consulates abroad. Foreign legal entities must obtain a corporate tax identification number (NIF first), which requires the submission of legalised or apostilled documentation and typically the appointment of a local representative. Legal representatives are also required to hold an individual NIE, adding further procedural steps and delays.*

*In this regard, Law 28/2022 on the promotion of the startup ecosystem introduced a limited simplification by allowing foreign investors in qualifying startups to obtain a tax identification number, without first securing a NIE, which can be completed online. However, this exception is narrowly circumscribed and does not apply to most scaleups or more mature companies[60].*

*Overall, the Spanish framework illustrates how the lack of digitalisation, combined with mandatory notarial formalities and fragmented tax identification requirements, results in a costly and time-consuming capital increase process, particularly for cross-border investment beyond the startup phase.*

[60] Pursuant to Article 3 of Law 28/2022, it is limited to companies that qualify as *"sociedades emergentes"* (startups), namely entities that, inter alia: (i) have been incorporated for no more than five years (or seven years in specific sectors); (ii) have not been created as a result of a merger, division or conversion; (iii) have an annual turnover not exceeding EUR 10 million; and (iv) have not distributed dividends

### 2.2.9. Legal uncertainty regarding venture-capital driven clauses

High-growth companies typically require venture capital (VC) to fund early expansion. While venture capital investors often ask for certain economic and control rights to protect downside risk and align incentives, these are structurally incompatible with prevailing doctrines of some continental European company-law systems related to corporate governance, par-value capital, capital-maintenance and equal treatment of shareholders.

Expected control rights of VC investors include veto, board seat and board observer rights, which can conflict with board-autonomy rules, statutory decision-making powers and shareholder-rights provisions in Member States. Similarly, transfer-related mechanisms operate poorly in many Member States. For example, clauses which require shareholders to sell their shares together with the shares of other shareholders in an acquisition ('drag along') can be deemed incompatible with mandatory minority-protection rules and equal-treatment principles.

Regarding economic rights, key contractual mechanisms asked by venture capital investors such as liquidation preferences, protection against dilution of their stake, convertible preferred shares or participating/cumulative dividends cannot be reliably implemented in all Member States. For example, liquidation preference clauses, which guarantee investors priority on exit before *common* shareholders[61], are in some Member States interpreted as an unlawful return of paid-in capital or an infringement of equal-treatment principles, because they reorder shareholder priority outside formal profit distributions. Anti-dilution protections (e.g., 'full ratchet' clauses or weighted average formula) can conflict with capital-maintenance rules, since adjusting conversion ratios reallocates nominal capital without a corresponding contribution. Similarly, redeemable or convertible preferred shares, essential to manage exit horizons, are constrained by prohibitions in some countries on 'disguised' share buy-backs or capital restitution, while participating dividends risk being treated as disproportionate distributions breaching the locked-in capital doctrine.

In addition, rigid rules based on par value and legal capital may prevent the use of modern early-stage instruments such as Simple Agreements for Future Equity (SAFEs) and other convertible funding mechanisms that rely on arrangements offering early investors a better price per share than later investors, for example discounts or valuation caps. In many Member States, shares cannot be issued below their nominal/par value, meaning that a SAFE converting at a 20–30% discount (although common in global early-stage financing) could constitute an unlawful issuance or a breach of capital-maintenance rules. Likewise, conversion at a valuation cap typically reallocates nominal value without new capital, conflicting with mandatory par-value equality and the prohibition on disguised capital distribution.

**Case study: Limits to anti-dilution mechanisms under Italian Company Law [62]**

*A typical clause used by VC investors in the United States is an anti-dilution clause that automatically adjusts the conversion price of preferred or convertible instruments on a down-round (i.e., where shares are offered at a lower price than in previous funding rounds) so that the investor's economic and voting positions are preserved without further cash contribution.*

*In practice, these clauses are self-enforcing in common-law markets and protect VC investors from ex post dilution. In Italy, however, the corporate law framework makes such automatic mechanisms legally precarious and practically unworkable. Italian law requires that newly-issued shares be paid-up (no issuance for nothing), strongly*

[61] *Common* shareholders are founders, employees, or early investors holding ordinary shares without preferential rights (e.g., liquidation preferences or anti-dilution protections), which are typically reserved for preferred VC investors.

[62] This case study builds on the analysis in Enriques/Nigro/Tröger, Can U.S. Venture Capital Contracts Be Transplanted into Europe? Systematic Evidence from Germany and Italy, June 2025.

*protects shareholders' pre-emptive rights, and subjects transfers or capital increases to mandatory substantive and procedural safeguards (including withdrawal/appraisal rights and the "principle of fair value"), all of which undermine a VC's ability to receive additional shares without a corresponding capital contribution or to have conversion mechanics operate below par value*[63].

*As a result, market practice in Italy resorts to imperfect workarounds (e.g., contingent shareholder-approved issuances, veto rights, buy-sell or veto mechanics) that are not self-enforcing, are litigation-prone, and do not reproduce the economic effect or certainty of U.S. anti-dilution protection, contributing to a less attractive investment environment for VC investors.*

### 2.2.10. Complex, uncertain or costly investor exit environment

Despite the crucial role of exit mechanisms for attracting venture and growth financing as well as attracting talent with employee stock ownership, national rules governing private limited companies in some Member States require in-person steps and the involvement of notaries or intermediaries for transfer of shares, thereby raising transaction costs. In Spain, for example, transfers of *participaciones sociales* (quota-shares in an Sociedad Limitada [S.L.]) must be executed in a public deed before a notary[64], who must also verify compliance with the legal pre-emption procedure. Since the 2023 reform of the Notarial Act[65], such deeds may also be authorised by videoconference, provided identity verification requirements are met. However, practical use remains limited due to technical constraints and uneven adoption.

Similarly, in Germany[66], the purchase and assignment of shares in a GmbH must be notarised in person, rendering rapid electronic share transfers impossible. Notary costs for a purchase and assignment agreement for shares in a German GmbH typically range between EUR 120 and EUR 9 870, depending on the share price[67]. These formalities intended to protect shareholders and to ensure legal certainty result in administrative burdens and delays that clash with the needs and fast-moving nature of venture capital financing, particularly in secondary sales between professional investors. Insofar as costs are incurred due to the mandatory involvement of intermediaries, they also make employee stock ownership less attractive, as they reduce the profit that employees can realise from the sale of their shares.

Finally, in most EU Member States, company law rules legally prevent shares of private limited companies from being traded on trading venues. To become a public limited liability company with access to equity trading venues, private companies must typically undergo a formal conversion (e.g., from an S.L., GmbH, or Besloten Vennootschap [B.V.] into an Sociedad Anónima [S.A.], Aktiengesellschaft [AG], Naamloze Vennootschap [N.V.], or equivalent). Recent years have seen some Member States grant their formerly private company legal forms the possibility of accessing markets under certain conditions (e.g., the Dutch and the Belgian B.V.). While this eliminates the need for a conversion procedure, the key reason why European startups rarely pursue IPOs in the EU remains that EU public markets are relatively shallow and not fully integrated, offering lower liquidity than U.S. exchanges, which reduces the attractiveness of listing domestically[68].

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[63] Italian Civil Code related provisions: art. 2436 (capital and subscription rules), art. 2437/2437-ter (withdrawal/ appraisal rights), art. 2473 (SRL- change of corporate object and withdrawal), art. 2481-bis (authorised capital for SRLs), art. 2468 (rules on contributions); see also art. 2441 (exclusion of pre-emptive rights for capital increases) and related mandatory rules on capital maintenance.
[64] Article 106.1 LSC.
[65] Ley del Notariado, Art. 17 ter.
[66] §15(3) GmbHG.
[67] Cf. §34 and KV 21100 GNotKG.
[68] This broader challenge is being addressed under the Savings and investments union, in particular the Market Integration Package (cf. Annex 10).

### 2.3. HOW LIKELY IS THE PROBLEM TO PERSIST?

If no EU action is taken, overall, the fragmentation of national rules will continue and make it difficult to set-up companies, in particular startups, and scale up those companies in the EU. The lack of an EU-wide harmonised company form tailored to their needs would continue to complicate activities, investment and scaling up across the Single Market. At the same time, founders needs are likely to evolve in the EU. Startup founders would need to find a legal form which offers them the flexibility required to stay globally competitive and needed to be active across borders in the EU and which would allow them to attract the necessary financing to grow and scale.

Several Member States made efforts to update their corporate laws to address the needs of startups and this trend is likely to continue and possibly increase given the ongoing plans, see, e.g., Slovenia's plan to adopt a strategy and related legislation to support startups[69] and Germany's plans for facilitating incorporation within 24 hours[70]. However, these national legislative actions would continue to create a patchwork of laws rather than a unified common solution. A startup in Estonia can register in minutes, but that efficiency does not transfer when it scales to Spain or Poland and this situation would likely continue with solely national solutions as national legal forms are traditionally designed to operate best within national borders following national legal traditions making cross-border expansion a complex process. For this reason, it is equally unlikely that regulatory competition will lead to one Member State adopting an optimal corporate legal framework that businesses in all EU-27 would choose. More than 20 years after the European Court of Justice facilitated such competition through a series of landmark decisions on the freedom of establishment[71], this has not been the case.

Overall, if founders in the EU keep facing the current fragmentation in company law rules, they are likely to continue experiencing less favourable conditions than their counterparts in third countries with similarly large markets. In particular, a significant portion of promising startups will continue moving to the US to scale up in its large market and profit from its attractive funding conditions. As both the Letta and Draghi Reports have concluded, the problem would persist without an EU action because, under the current global competition conditions, a European startup's "home market" must be of a continental – and not a national – scale.

## 3. WHY SHOULD THE EU ACT?

### 3.1. LEGAL BASIS

This initiative aims to address the fragmentation of national rules by introducing a common unified set of rules including a harmonised national company form throughout the life-cycle of a company, by providing common rules for digital setting up of a company and by removing regulatory barriers to attract talent and to cross-border investment both in relation to EU and third country investors in order to boost innovation and to improve the functioning of the internal market. For objectives related to the freedom of establishment, the appropriate legal basis for the initiative could be Article 50 of the Treaty on the Functioning of the European Union (TFEU), requiring a Directive. However, for a more multi-pronged initiative consisting of a single act aiming at the approximation of national laws with measures introducing, inter alia, fast, digital and cost-effective procedures for EU and third country investors to invest as well as providing

[69] Slovenia wants to become one of the most attractive environments for startup companies by 2030 | GOV.SI.
[70] German coalition agreement, 2025, p. 4.
[71] Case C-212/97, Centros Ltd v Erhvervs- og Selskabsstyrelsen, 9.3.1999, ECLI:EU:C:1999:126; Case C-208/00, Überseering BV v Nordic Construction Company Baumanagement GmbH (NCC), 5.11.2002, ECLI:EU:C:2002:632; Case C-167/01, Kamer van Koophandel en Fabrieken voor Amsterdam v Inspire Art Ltd., 30.9.2003, ECLI:EU:C:2003:512.

investors with exit options to liquidate their investment through a share transfer or the listing of the companies to public markets, Article 114 TFEU could be considered as the appropriate legal basis given that the approximation of laws is necessary to ensure the smooth functioning of the internal market for investment and to boost the competitiveness of the EU economy as a whole. As regards the legal instrument to be chosen for the initiative, the direct applicability of a Regulation would reduce regulatory complexity and offer greater legal certainty for companies and their investors across the Union, thereby contributing to the functioning of the single market. The choice of the legal instrument would depend on the choice of the legal basis for the initiative.

### 3.2. SUBSIDIARITY: NECESSITY OF EU ACTION

As the described problems show, the current situation is mainly caused by divergent national rules and lack of a common set of rules at EU level. First, a coordinated action is required to introduce a common legal framework with a harmonised company form and an EU brand. Similarly, a co-ordinated action is required to ensure that all Member States have rules in place and that they work in cross-border situations. Such common rules and procedures should cover the setting up and operation of the company as well as ensure an investor-friendly environment. Finally, for companies to grow, it is crucial to be able to attract talent; therefore, ESOPs that work in cross-border situations are essential elements to achieve the objective pursued.

Member States acting individually could not satisfactorily remove the barriers because national company forms, including newly introduced simplified forms, could not achieve the introduction of European wide common rules including a harmonised legal form nor could they achieve rules and procedures that would be compatible and coherent in order to work in cross-border situations. A coherent common legal framework for a simplified company legal form aiming in particular to respond to the needs of startups and scaleups, attracting talent and investments can be achieved exclusively at EU level.

### 3.3. SUBSIDIARITY: ADDED VALUE OF EU ACTION

There is a strong added value of action at EU level in the context of this initiative because it focuses on boosting competitiveness by establishing a single corporate legal framework aiming to address the needs in particular of startups and scaleups across the Single Market and to provide the necessary legal certainty. It is impossible to achieve this through bilateral or multilateral cooperation between Member States that would not be able to address the fragmentation of the Single Market and would, on the contrary, result in further fragmentation. In addition, EU action is needed because this initiative aims to build on BRIS, which is already operational at EU level. EU action also ensures that a “once-only” principle is applied in all Member States and therefore, that incorporation is not only fast but also fully digital and recognized by all national authorities and business registers. Similarly, the initiative enables companies to attract and retain talent across the Union through ESOPs. Common rules are also required to provide clarity and a flexible legal framework that facilitates the implementation of the contractual agreements between the company and the investors, reducing the legal fees and time-to-contract that currently drain early-stage capital. Providing clear exit options for investors which would allow them to apply the same valuation and risk models across the single market also requires an EU action. In line with the principle of proportionality, the planned initiative will not go beyond what is necessary to achieve its objectives by targeting specific issues which could not be achieved by Member States on their own.

## 4. OBJECTIVES: WHAT IS TO BE ACHIEVED?

### 4.1. GENERAL OBJECTIVES

The general and specific objectives of this initiative are presented in the following table:

**Table 1: Overview of the objectives**

| OBJECTIVES | |
|---|---|
| **Specific objectives** | **General objectives** |
| - Provide a common corporate legal framework for companies, in particular startups and scaleups, in the EU<br>- Provide simple and efficient corporate rules and procedures throughout the company lifecycle<br>- Ensure that corporate rules provide an enabling framework to invest | - Contribute to strengthening the competitiveness of EU companies and the EU economy and to better functioning of the single market (overarching)<br>- Provide better conditions for starting a business and better opportunities for growth and scaling up for companies, in particular startups and scaleups, in the EU<br>- Encourage more investment into EU companies, and in particular startups and scaleups |

In order to respond to the problems identified, the overarching aim of the planned initiative is to contribute to strengthening competitiveness of EU companies and of the EU economy, and to better functioning of the single market, responding to the calls in the Letta and Draghi reports and following the Competitiveness Compass and the 2025 Single Market Strategy. The objective is to provide better business environment – through corporate rules – not only for starting a business but also better opportunities for growth and scaling up of companies and therefore, to encourage founders to set up companies, and in particular startups, in the EU and to stay in the EU to scale up and develop their companies. The objective of this initiative is also to encourage more investment into EU companies, and in particular startups and scaleups, given the crucial importance of access to investment and financing for these companies to develop and grow.

### 4.2. SPECIFIC OBJECTIVES

To address the problem drivers, the initiative aims to meet the below specific objectives.

***Provide a common corporate legal framework for companies, in particular startups and scaleups in the EU***

The consultation activities showed that the fragmentation was an overriding problem both for entrepreneurs wishing to set up and grow a company and for cross-border investors. The initiative would seek to reduce this fragmentation by providing a common framework for companies, and in particular startups and scaleups, through a harmonised legal form that would exist according to the same set of main rules in all Member States and a clear EU brand which would be recognised and trusted by business partners and investors. At the same time, the planned initiative would aim to strike the right balance between providing common rules but also leaving flexibility for the founders, which is in particular important for startups to be able to adapt quickly to changing market needs.

***Provide simple and efficient corporate rules and procedures throughout the company lifecycle***

Overall, the consultation activities confirmed the need for simpler and less costly rules for companies, in particular for startups who need speed and simplicity to be able to quickly respond to opportunities in the market and are deterred from setting up and scaling up in the EU by lengthy, complex and costly procedures. In this context, the planned initiative would aim to simplify and make rules more efficient by introducing digital-only procedures for 28$^{th}$ regime companies, when companies set up, to make their governance and decision-making easier as well as when solvent or insolvent companies close down. This is in line with the calls from the overwhelming majority of respondents to the public consultation (86.5%) for digital-only tools and processes without paper-based alternatives. The initiative would also look at other ways to make the setting up 28$^{th}$ regime companies simple and efficient, including as regards access to registration, use of templates and minimum capital requirements. The planned initiative would

also aim to simplify rules by ensuring that authorities involved, e.g. in the setting up and closing of 28th regime companies, i.e. business registers, tax and social security authorities, beneficial ownership registers, share the company information directly without companies needing to resubmit it to every authority (once-only principle). Respondents to the consultation stressed the importance of employee stock ownership plans to attract and retain talent by startups and scaleups; the initiative would aim to provide simple and efficient rules on ESOPs to make it easier for 28th regime companies to set up such plans.

***Ensure that corporate rules provide an enabling framework to invest***

The consultation activities confirmed that companies experience problems to attract private investment, and that high-growth companies aiming to scale across the EU face, among others, fragmented and complex company-law rules, which reduce their attractiveness to investors. In this respect, the planned initiative aims to address the divergences across the EU by providing a flexible governance system for 28th regime companies and a flexible capital framework in particular related to increasing capital, issuing shares and requirements linked to minimum capital. Given the importance of financing for startups and scaleups, the planned initiative also aims to enable founders to raise financing in a flexible way, taking into account the availability of modern early-stage financing instruments. As the availability of predictable and efficient exit routes is critical to attract capital and therefore to create an enabling framework to invest in 28th regime companies, the planned initiative also provides enabling provisions in this context, including to make transfers of shares easier.

## 5. WHAT ARE THE AVAILABLE POLICY OPTIONS?

### 5.1 WHAT IS THE BASELINE FROM WHICH OPTIONS ARE ASSESSED?

In the absence of an EU action, startup founders would continue to face over 60 different national company forms for limited liability companies in the 27 Member States and would need to adopt a different national legal form in every Member State in which they plan to incorporate. Member States would continue to reform their national corporate rules but without being able to address cross-border situations and to provide a recognisable EU brand.

As to the setting up of companies, the implementation of the Digitalisation Directive is likely to improve and allow founders to set up private limited liability companies fully online, including with notaries, but with templates in national languages and through national interfaces. The electronic identification of natural persons (e.g., founders) and use of qualified electronic signatures, in particular in cross-border situations are likely to improve through the availability of European Digital Identity Wallets under the eIDAS Regulation. Registration with business registers would be subject to time limits set in the Digitalisation Directive, but the costs and time of involving intermediaries (notaries) is likely to continue to vary between Member States. Member States are also likely to continue to introduce the once-only principle in the context of registration (possibly regarding TIN or VAT identification numbers) but the national solutions would likely vary. The implementation of EU Anti Money Laundering (AML) legislation enabling beneficial ownership registers to retrieve basic company information from business registers would provide further improvement, but companies would still need to file additional information separately.

During other phases of the life cycle, companies are likely to continue to face divergent requirements across Member States, including those related to amendments of the articles of association, shareholders' meetings and company closures. In insolvency liquidations, in certain

cases digital channels would have to be made available[72], whereas all other aspects would be likely to remain non-digitalised. While Member States would be likely to simplify, digitalise and introduce new procedures (as e.g. done with a simplified "turbo liquidation" in the Netherlands), this would not reduce fragmentation or ensure compatible solutions in cross-border situations. The up-take of ESOPs, including those using employee stock options, is likely to remain constrained by diverging approaches between Member States. More Member States are likely to further develop and provide incentives, including a favourable tax treatment, but only for specific national ESOP schemes.

As to attracting investment, there might be some convergence between Member States on company law features relevant for attracting investment, but important differences in capital and share regimes, including minimum capital requirements and formalities for capital increases, are likely to persist. As regards exit options for investors, formal requirements on share transfers would continue to vary considerably between Member States.

While other initiatives, in particular the proposal for European Business Wallets and Single Digital Gateway/OOTS[73], would overall improve the business environment through digital solutions, they would not directly address the problem drivers identified in section 2.2.

As a result, the costs would remain significant for founders to set up and scale up their companies in the EU and for investors mainly due to persistent fragmentation of the rules and procedures. This would lead to missed opportunities for companies in the Single Market.

### 5.2 DESCRIPTION OF THE POLICY OPTIONS

This section outlines the policy options. The report presents seven distinct sets of policy options, each addressing a specific group of problem drivers identified in section 2.2 above. The links between policy options, problem drivers and policy objectives are also presented in the intervention logic at the end of this section. The policy options aim to create a common, simple and flexible corporate law framework that can support companies, and in particular startups and scaleups in attracting investment and growing across the Single Market. They cover the main features related to a future 28th regime company, including creating a harmonised company legal form, how it can be set up and who can set it up, how it can be registered, and the main elements such as its governance model (organisation), operation (digital procedures for general meetings, capital increase), the use of modern early-stage financing instruments like SAFEs, the employee stock options, share transfers as well as its closure. As regards its seat, the 28th regime company would be subject, as any other EU company, to the fundamental freedoms including the rulings of the Court of Justice of the European Union[74]. This means that in accordance with the freedom of establishment, founders would be free to choose the Member State in which they would like to incorporate a 28th regime company. The law applicable to the organisation of such a company would be generally determined by its registered office and all Member States would need to recognise the legal capacity of a 28th regime company lawfully incorporated in another Member State. At the same time, the legislative initiative will introduce new elements, additional to the existing rules, for 28th regime companies and only those are assessed as policy options in this IA.

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[72] Pursuant to the Restructuring and Insolvency Directive 2019/1023/EU, it must be possible to perform, by use of electronic means of communication (a) the filing of claims; (b) the submission of restructuring or repayment plans; (c) notifications to creditors; (d) the lodging of challenges and appeals.

[73] See section I and Annex 10, also EP's PD JUST In-depth Analysis p. 40 on the general potential of SDG.

[74] Notably: Case C-212/97, Centros Ltd v Erhvervs- og Selskabsstyrelsen, 9.3.1999, ECLI:EU:C:1999:126; Case C-208/00, Überseering BV v Nordic Construction Company Baumanagement GmbH (NCC), 5.11.2002, ECLI:EU:C:2002:632; Case C-167/01, Kamer van Koophandel en Fabrieken voor Amsterdam v Inspire Art Ltd., 30.9.2003, ECLI:EU:C:2003:512; Case C-210/06, Cartesio Oktató és Szolgáltató bt, ECLI:EU:C:2008:723.

Overall, the policy options cover the company life cycle from a company creation through growth, maturity to closure. However, given that some measures cut across these different phases, the policy options are presented by topic and not according to the life cycle stages. All the policy options are based on legislative measures. This is because all the described drivers, which the policy options aim to address, are of legal nature and it would only be possible to address them through legislative action. In addition, given that the Commission has committed to present a legal act creating the 28th regime corporate legal framework in the Competitiveness Compass and subsequent Single Market and Startup and scaleup Strategies, and that Member States have called for a legal act in the European Council Conclusions, the preferred option will be composed of a package of legislative measures (selected policy options) that will together constitute such a legal act.

Finally, the planned legislative initiative will make use of the existing digital tools and systems and substantive rules in Codified Directive (EU) 2017/1132 as amended by the Digitalisation Directive 2019/1151 and the Upgrading digital company law Directive 2025/25[75]. For instance, it would apply to the future 28th regime companies the existing EU rules on fully online setting up of companies and subsidiaries, registration of cross-border branches and fully online filing with business registers. 28th regime companies would be also required to disclose mandatory company information as set out in EU rules. They would have a European Unique Identifier (EUID) and also be able to use the already existing EU Company Certificate and the EU Digital Power of Attorney and benefit from reduced formalities such as no need for apostille for company documents. Once set up as 28th regime companies, they would also be able to carry out cross-border mergers, conversions and divisions in line with the existing EU rules. While those existing rules will be part of the legal framework available to 28th regime companies, they are not presented as new policy options in this Impact Assessment given that they are already part of EU company law and were subject to specific Impact Assessments.

The design of the policy measures was informed by a structured assessment of the problems and their underlying drivers, as well as by a review of regulatory approaches in other jurisdictions and existing practices in Member States. In particular, elements of corporate legal frameworks in third countries and in several Member States that have proven effective in supporting start-ups and scale-ups were examined, while identifying gaps and limitations where national solutions remain insufficient to address cross-border situations. The drafting of the measures also benefited from extensive engagement with stakeholders, including founders, investors, business associations, legal practitioners and public authorities, through consultations, workshops and targeted exchanges. These inputs helped to identify where the current framework falls short in practice and to calibrate the measures so that they directly address the key drivers of the problem while remaining proportionate and feasible.

**Policy options 1 to provide a harmonised company legal form for entrepreneurs**

In order to contribute to the objective of ensuring a common corporate legal framework, these policy options focus on creating a harmonised company legal form and in particular, on who could benefit from it. While the 28th regime company will be a limited liability company (i.e. company limited by shares), the policy options differ in terms of whether only the company legal form for a 28th regime company would be harmonised or also its branches, who could set up such

[75] Directive (EU) 2017/1132 codified 6 Directives and was amended by Directive (EU) 2019/1151 on the use of digital tools and processes in company law (Company Law Digitalisation Directive), Directive (EU) 2019/2121 on cross-border conversions, mergers and divisions (Mobility Directive) and by Directive (EU) 2025/25 on further expanding and upgrading the use of digital tools and processes in company law (UDCL).

a 28th regime company and how. This has important impact on scope as it would determine what could be the potential take-up of the new legal form.

The policy options do not assess whether the initiative should apply only to limited liability companies which qualify as innovative companies or as startups or whether it should be open to all limited liability companies. This is because all different consultation activities have clearly shown that almost all stakeholders call for a legal form which would respond to the needs of innovative companies but be available to all limited liability companies. A limitation to innovative companies would require that at the incorporation stage, such a company would need to demonstrate that it meets the pre-defined criteria for innovative companies. This could be difficult for newly established startups (e.g. demonstrate any R&D spending or turnover). In addition, any limitation to a specific sub-set of companies would mean that a company would need to change its legal form when it does not meet the definition anymore, resulting in extra administrative burden. The 'EU Inc blueprint' also raised some of these reasons stressing that the future proposal should not be only for startups or early-stage companies[76]. For all these reasons, the limitation of the scope to innovative companies is from the outset discarded.

**Table 2: Description of Policy Option 1**

| A harmonised legal form | | | |
|---|---|---|---|
| **Baseline (status quo)** | **Policy Option 1a** | **Policy Option 1b** | **Policy Option 1c** |
| Member States maintain and may introduce new national legal forms. Directive 2017/1132 regulates the fully-online setting up of companies without harmonising the incorporation requirements. The European Company (SE) EU legal form is available for large public limited liability companies. | Introduce a new harmonised legal form for a 28th regime company with a recognisable EU brand, to be set up by natural persons as founders. | Option 1a + to be set up also by legal persons (28th regime subsidiaries), with a possibility for existing companies to convert through domestic conversions, and with harmonised rules for setting up of branches of 28th regime companies. | Option 1b + a possibility for existing companies to create a 28th regime company through a cross-border conversion, division or merger in accordance with Directive 2019/2121. |

Option 1a would introduce a new harmonised company legal form for 28th regime companies, which Member States would need to introduce into their national legal orders. This company legal form would provide an EU brand, which all companies under this form would include in their name. Under this option, a 28th regime company could only be created by natural persons as founders, therefore this option would be only for newly created companies.

Under option 1b, in addition, legal persons (companies) could set up their subsidiaries as a 28th regime company under the harmonised legal form and new 28th regime companies could also set up further 28th regime subsidiaries, making the 28th regime company legal form available for groups of companies. In addition, a 28th regime company could also register a harmonised 28th regime company branch in the same or another Member State in case it wanted to carry out its activities through a branch rather than opening a new legal entity (subsidiary). Finally, existing companies could also covert into a 28th regime company through a domestic conversion.

[76] EU Inc, What we DON'T want!.

Under option 1c, existing companies could also create a 28th regime company through a cross-border conversion, merger or division, following the procedures set out for those cross-border operations in Directive (EU) 2019/2121.[77]

**Policy options 2 to make registration of companies, in particular startups, quicker and simpler**

In order to contribute to the objective of ensuring simple and efficient corporate rules and procedures throughout the company lifecycle, a number of policy options are considered to make the registration of 28th regime companies quicker and simpler, in particular taking the needs of startups and scaleups into account.

In the context of calls for quicker setting up, some stakeholders, in particular from the startup community, have called for the creation of an EU-level registry for registration of 28th regime companies. The creation of such an EU central registry for businesses would require building a new framework and infrastructure to enable a centralised registration system at Union level. In order for such a system to be functional, it would normally require setting up an EU body in charge of the registration and issuing of certificates about 28th regime companies, with appropriate budget, human resources and premises, and the creation and maintenance of a database of such companies at EU level. This would not be a realistic option politically, legally and financially. It is also not necessary given that BRIS interconnects national business registers and provides a means to make company information publicly available at EU level and to exchange information between EU business registers and thus can be developed to provide a central EU interface for registration. Therefore, the option to create an EU level registry for registration of 28th regime companies is discarded from the outset and not presented as an option.

The policy options are thus based on the development of a central EU interface through BRIS for the registration a 28th regime company in the respective national business registers. The options vary in terms of level of procedural harmonisation.

**Table 3: Description of Policy Option 2**

| **Registration of a 28th regime company** | | | |
|---|---|---|---|
| **Baseline (status quo)** | **Policy Option 2a** | **Policy Option 2b** | **Policy Option 2c** |
| Registration is purely at national level. Deadlines for fully online setting-up a company according to Directive 2019/1151. Member States are obliged to provide national model instrument of constitution template in English as a reference document. Mandatory preventive administrative, judicial or notarial control. | Create a central EU interface based on BRIS for the registration of 28th regime companies with harmonised bilingual templates (EN/national language) and preventive administrative, judicial or notarial control | Option 2a + introduce a deadline (48 hours) and cost ceiling of EUR 100 to complete the registration including the preventive administrative, judicial or notarial control when the standardised template is used by founders as natural persons. | As policy option 2b with preventive control by judicial or administrative authorities (but excluding notaries) when the standardized template is used by founders as natural persons. |

Under **option 2a,** a central EU interface would be created through BRIS for founders to be able to register 28th regime companies by using a standard single harmonised template with structured data for registration and instrument of constitution/articles of association, which would exist in

[77] This is thus a creation of a 28th regime company through such cross-border operations and is different from the question of an existing 28th regime company carrying out itself such cross-border operations. EPRS European Added Value Assessment also emphasises the potential of the 28th regime in the context of defence technology scaleups.

English and in national language of the Member State where the 28th regime company would be registered. Under this option, BRIS would transfer the template to the relevant national business registers together with the relevant structured data. Having BRIS, based on technologies which ensure that the information is encrypted, not modifiable and securely transferred to the relevant business register, as the backbone of the central EU interface would ensure legally certain registration procedure. The rest of the fully online formation of the 28th regime company would be carried out in accordance with Codified Directive 2017/1132 as amended by Directives 2019/1151 and 2025/25, including preventive check carried out by administrative authorities, courts or notaries, depending on Member State.

**Option 2b** would ensure that a 28th regime company could also be set up through a central EU interface but this option would, in addition, ensure that all formalities for the registration of a company, including preventive check, would be carried out within the set deadlines of 48 hours and under a cost ceiling of EUR 100 in all Member States when the standardised template is used by founders as natural persons.

**Option 2c** would follow option 2b in most aspects but would differ in relation to who could carry out preventive checks. In option 2c, there would be no notarial involvement. This would mean that Member States where notaries currently carry out preventive checks, would need to ensure that preventive checks are carried out by other administrative or judicial authorities.

**Policy options 3 to ensure once-only submission of information in the context of registration**

As an additional element to make the formation of the 28th regime company quicker and simpler, the policy options below aim to ensure that the founder does not need to submit the same information several times to different authorities in the context of the registration. The policy options provide that company information is automatically transferred by business registers to other authorities (i.e. government-to-government, G2G) and differ in terms of authorities involved as well as whether other identifiers (beyond the registration number and the EUID), which are needed by a company to be operational, could be received as part of the registration process.

**Table 4: Description of Policy Option 3**

| Once-only submission of information in the context of registration | | | |
|---|---|---|---|
| **Baseline (status quo)** | **Policy Option 3a** | **Policy Option 3b** | **Policy Option 3c** |
| In the context of registration, companies need to deal with the authority in charge of issuing the tax identification number (TIN) and VAT identification number and submit information to social security authorities in accordance with national law. As to the beneficial ownership information, the beneficial ownership register can retrieve the company information available in the national business register from the register in accordance with Implementing Act | In the context of the company registration, ensure that the information about the company is transferred from the business register to the authority in charge of issuing the TIN, to the social security authority and to the beneficial ownership register, with any beneficial ownership information as part of the template, without the 28th regime company needing to submit it again ("once-only principle"). | Option 3a + the 28th regime company would obtain the TIN from the relevant authority[78] as part of the registration process, with any additional information needed to obtain the TIN as part of the template. | Option 3b + the 28th regime company would obtain the VAT identification number from the relevant authority as part of the registration process (unless more information needs to be checked). |

[78] This option would not apply to those cases where the TIN is also the VAT identification number.

Under **option 3a**, in the context of the registration, the relevant company information, submitted by a 28th regime company to business register in the Member State where it is registered, would be automatically transferred by that business register to the national authority competent for issuing the TIN and the VAT identification number, social security authority and beneficial ownership register in the same Member State. This would provide for a "once-only" approach and mean that the company would not need to resubmit the same information separately to other authorities. This option would require that the information and any additional information needed for the beneficial ownership register, would be already submitted to the business register by the company as part of the template/in the context of registration.

Under **option 3b**, in addition, as part of the information registration process, the relevant national authority would issue the TIN to the 28th regime company, instead of the company needing to separately apply for it. This option would require that the information needed by the relevant authority to issue the TIN would need to be already submitted by the company as part of the standardised registration template/in the context of the registration.

Under **option 3c,** in addition to receiving a TIN number, the 28th regime company would also receive the VAT identification number from the tax authority, as part of the registration process. This option would require that the information needed by the tax authority to issue the VAT identification number would need to be already submitted by the company as part of the standardised registration template/in the context of the registration, with the possibility for the tax authority to check additional case-specific information.

**Policy Options 4 to facilitate closure (liquidation) of the company**

Policy options 4 also aim to contribute to the specific objective of ensuring simple and efficient corporate rules and procedures throughout the company lifecycle, and in particular focus on the closure of 28th regime companies. They cover both liquidation outside of insolvency as well as insolvency related closure. The options provide for simplification of the procedure to different degrees, including through the use of digital tools.

**Table 5: Description of Policy Option 4**

| Closure (liquidation) of the company | | | |
|---|---|---|---|
| **Baseline (status quo)** | **Policy Option 4a** | **Policy Option 4b** | **Policy Option 4c** |
| Company liquidation both inside and outside insolvency, remains governed by divergent national rules, resulting in varied timelines, high costs and complex formalities. | Ensure that all relevant filings by the liquidator for closure outside of insolvency are transferred from business register to other authorities ("once-only principle") and allow online filing of claims from creditors | Option 4a +simplified liquidation procedure (outside of insolvency) for no assets/no debts to be concluded within a specific short deadline. | Option 4b + Simplification of insolvency procedures thanks to their full digitalisation |

**Option 4a** would allow a 28th regime company or a liquidator to submit company information only once to the business register, with that information being then transmitted electronically by business registers to the other relevant national authorities, e.g., tax and social security authorities, so that no separate submissions of the same information would be necessary any more to those other authorities. In addition, creditors would be able to submit their claims online to the liquidator when they undergo liquidation outside of insolvency, both voluntary and involuntary.

**Option 4b** would in addition introduce a fast-track liquidation procedure outside of insolvency for simple situations where companies do not have any assets or any liabilities. The procedure

would be conducted fully online, require minimal documentation and be concluded within a harmonised short deadline.

**Option 4c** would in addition simplify liquidation in insolvency procedures thanks to their full digitalisation. This would mean that all communications between the competent authorities and the insolvency practitioners as well as all other parties to the proceedings (the debtor, the creditors) within such proceedings would have to be performed by electronic means. It would also involve the establishment and mandatory use of electronic auction systems as well as their interconnection for the sale of the assets of the debtor.

**Policy options 5 for attracting talent**

In order to contribute to the objectives of ensuring simple and efficient corporate rules and procedures for companies, and in particular startups and scaleups throughout their lifecycle and of providing an enabling framework to invest, a number of policy options are considered in particular to facilitate the participation of employees in the financial success of 28$^{th}$ regime companies and to make it easier for those companies to attract and retain talent.

**Table 6: Description of Policy Option 5**

| Attracting talent | | | |
|---|---|---|---|
| **Baseline (status quo)** | **Policy Option 5a** | **Policy Option 5b** | **Policy Option 5c** |
| Fragmentation in terms of general conditions and taxation of employee financial participation, leading to different approaches and varying degrees of uptake in Member States | Possibility for 28th regime companies to set up ESOPs and issue classes of shares with distinct voting rights | Option 5a + introduce an optional common employee stock ownership scheme for 28th regime companies, based on employee stock options and with common criteria ('EU-ESO') | Option 5b + provide harmonised timing for the taxation of employee stock options granted in the context of the EU-ESO |

**Option 5a** would ensure that 28th regime companies can set up employee stock ownership schemes (ESOPs), allowing them to also issue classes of shares with distinct or no voting rights for this purpose. 28th regime companies would be generally free to choose the structure of such ESOPs, e.g. if they should be based on the granting of stock options or shares, and the taxation would remain subject to Member States' national frameworks.

**Option 5b** would complement option 5a by providing for an optional common employee stock ownership scheme tailored to the needs of startups and scaleups specifically for 28th regime companies (EU-ESO). The EU-ESO would be based on stock options that 28th regime companies could grant their employees and the employees of their subsidiaries. This would happen in line with a pre-defined vesting schedule, setting out the period between the granting and the first date the stock options can be exercised.

**Option 5c** would include a provision deferring the moment of taxation of employee stock options granted under the EU-ESO until the disposal of the shares acquired through the exercise of their stock options. This would ensure that the employees of 28th regime companies who participate in the EU-ESO are taxed only on realised gains, thus avoiding a 'dry tax charge'.

**Policy options 6 for a flexible governance and capital regime for founders and investors**

These policy options aim to contribute to the objectives of ensuring simple and efficient company law procedures throughout the company lifecycle and of creating an enabling framework to invest. The aim is to provide a flexible governance system with online meetings of corporate bodies, a capital regime that meets the needs of startups and the expectations of early-stage and venture capital investors, and digital procedures throughout the operational phase.

**Table 7: Description of Policy option 6**

| A flexible governance and capital regime for founders and investors | | | |
|---|---|---|---|
| **Baseline (status quo)** | **Policy Option 6a** | **Policy Option 6b** | **Policy Option 6c** |
| Member States maintain divergent governance and capital regimes and procedural formalities, including non-harmonised minimum capital requirements, burdensome steps for capital increases and additional requirements, e.g. that foreign investors need to obtain a tax identification number (TIN) often involving a physical presence requirement. | Create a flexible governance system, provide simple and fully digital procedures for increasing capital and issuing shares and enable the use of modern early-stage financing instruments like SAFEs. | Option 6a + 0/EUR 1 minimum capital but no paid-in share capital for incorporation of 28th regime companies and harmonised creditor protection safeguards in addition to capital maintenance rules. | Option 6a + common minimum share capital of EUR 5 000 for incorporation of 28th regime companies with harmonised creditor protection safeguards based primarily on capital maintenance. |

**Option 6a** would provide for flexible, common rules on the governance of the company, including a minimum requirement for 1 shareholder and 1 director and the possibility to conduct meetings of the corporate bodies online, either fully or in hybrid mode. This option would also simplify capital increase and share issuance procedures by allowing them to be carried out fully digitally and reducing formalities such as simplifying the issuance of the TIN for foreign investors through a fully online, streamlined and time-efficient procedure. This policy option would also allow 28th regime companies to authorise the board of directors to decide on a share issuance, and it would allow 28th regime companies to issue convertible instruments (e.g. convertible loan notes) and warrants, enabling founders to raise early financing in an easy, fast and flexible way and supporting the use of modern early-stage financing instruments like SAFEs (Simple Agreements for Future Equity).

**Option 6b** would, in addition to policy option 6a, provide that a 28th-regime company could be incorporated with 0/EUR 1 minimum capital but no paid-in share capital for incorporation, removing the need to open and certify a bank account for depositing the initial capital before incorporation. In light of the lack of any requirement for paid-in capital, creditor protection would not just rely on capital maintenance, but additional safeguards would be added, notably the requirement for directors to carry out a balance sheet test and a solvency test before approving distributions to shareholders. Where the directors do not carry out these tests or do not carry them out with sufficient care and the company becomes unable to pay its debts, the directors would be personally liable for the damages resulting from the distribution.

**Option 6c** would also build on policy option 6a but, as an alternative to policy option 6b, it would introduce a common minimum share capital requirement of EUR 5 000, placing it in the middle range of legal forms that currently require a (not just symbolic 1 EUR) minimum capital in the EU. Creditor protection under this option would primarily be achieved through harmonised safeguards on the maintenance of capital.

### Policy options 7 to facilitate exit options

In order to contribute to the objective of creating an enabling framework to invest for startup founders and investors, the following policy options would aim to facilitate exit options for shareholders of 28th regime companies. They focus on simplifying the transfer of shares – to different degrees - and on enabling access to public equity markets for 28th regime companies.

**Table 8: Description of Policy option 7**

| Facilitating exit options | | | |
|---|---|---|---|
| **Baseline (status quo)** | **Policy Option 7a** | **Policy Option 7b** | **Policy Option 7c** |

| | | | |
|---|---|---|---|
| Different procedures in Member States as regards share transfers, often requiring in-person steps and/or the mandatory involvement of intermediaries, depending on the legal company form. Access to public equity markets restricted to public limited liability forms in most Member States. | Ensure that transfers of shares of 28th regime companies can be carried out fully digitally. | Option 7a + no requirement to involve intermediaries in share transfers of 28th regime companies. | Option 7b + a possibility for Member States to allow access to public equity markets to 28th regime companies. |

**Option 7a** would allow for transfers of 28th regime companies' shares to be executed fully digitally and where Member States require the involvement of intermediaries, such as notaries or lawyers, in share transfers, these intermediaries would have to provide their services fully online.

**Option 7b** would maintain these fully digital procedures for transfers of shares of 28th regime companies. In addition, it would not require the involvement of notaries or lawyers in such share transfers, but any transfers would need to be notified to the 28th regime company and recorded in a digital register of shares maintained by the company.

**Option 7c** would provide Member States with the option to allow 28th regime companies access to public equity trading venues, provided they comply with all national and EU rules for companies entering these public equity markets[79]. Where Member States would not choose to allow access to such markets to 28th regime companies, these companies would need to convert to a national public limited liability form for such access.

### 5.3 OPTIONS DISCARDED AT AN EARLY STAGE

The following policy options were considered in the context of the 28th regime corporate legal framework but discarded at an early stage, taking into account in particular views expressed by stakeholders as well as political and legal considerations. The reasoning for the discarding of the first two policy options is already described in section 5.2 and in the introductions to policy options 1 and 2. For the further reasoning on all other discarded options, see Annex 9.

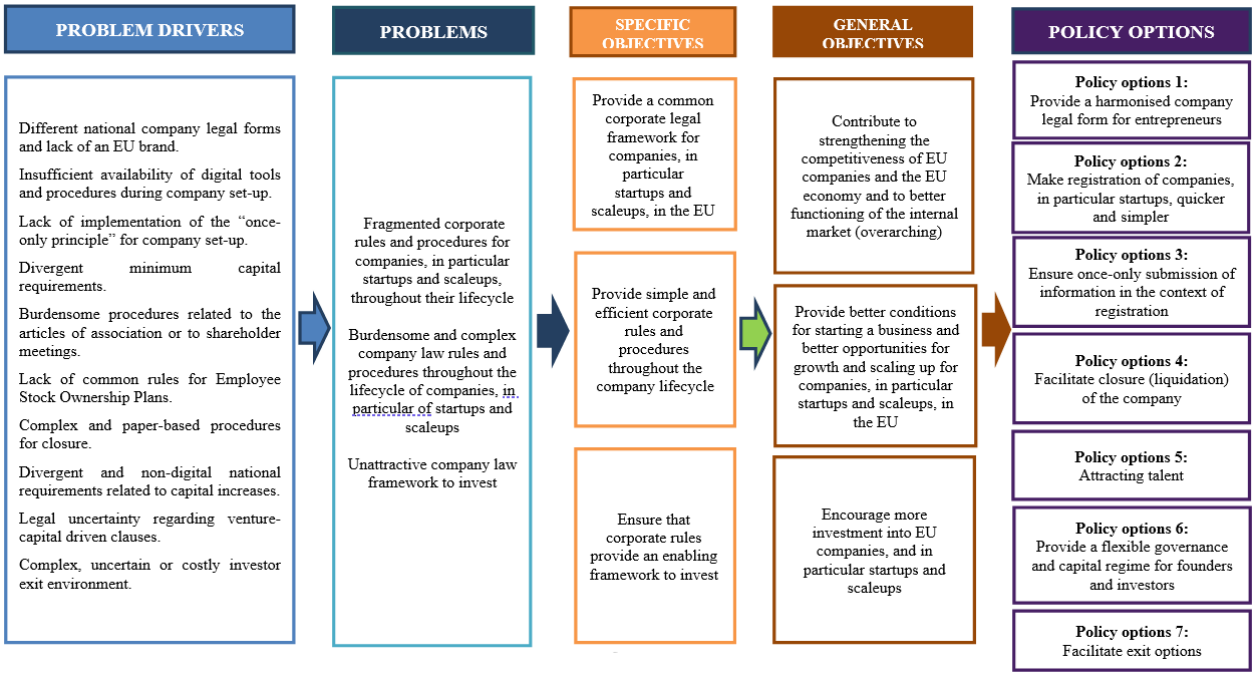
- Limitation of scope of this initiative to innovative companies or startups (discarded for reasons of political feasibility in light of clear feedback from stakeholders against a limitation of the scope and as such limitation could result in extra administrative burden);
- Creation of an EU-level registry for registration of 28th regime companies (discarded for reasons of technical and political feasibility as well as coherence, as BRIS already plays an important role in company law procedures and can be developed to provide a central EU interface);
- Harmonisation of employee participation rules for 28th regime companies (discarded for reasons of legal and political feasibility, as employee participation harmonisation would require a different legal basis and would not garner the necessary political support);
- Harmonisation of the type of taxation (employment income or capital gain) of employee stock options granted in the context of the common EU-ESO (discarded for reasons of political feasibility, as this harmonisation would significantly interfere with Member States' sovereignty, some of which have zero or low-rate capital gains taxation).
- Common rules for access to public equity markets (discarded for reasons of coherence; a comprehensive set of additional, more rigid rules would be required, conflicting with the aim of a simple and flexible framework);

[79] This option would notably not affect capital markets laws and regulations (e.g., prospectus requirements under Regulation (EU) 2017/1129). Access requirements of individual trading venues would equally be unaffected.

- Asset locks as an option under 28th regime (discarded for reasons of coherence and relevance; asset locks would conflict with the aim of the 28th regime corporate legal framework to attract investment and require a distinct set of rules).
- A simplified insolvency procedure for the 28th regime (discarded for reasons of incompatibility with the main structure, mechanism and the objectives of 28th regime as such a procedure could apply only to companies without any legal or financial complexity).

## 5.4 INTERVENTION LOGIC

**Diagram 3: Intervention logic**



## 6. WHAT ARE THE IMPACTS OF THE POLICY OPTIONS?

This section includes an assessment of the proposed policy options. The impacts assessed to be relevant for the policy options in this IA were selected on the basis of their expected magnitude, their likelihood, their relevance to stakeholders and the link to Commission objectives in line with the Better Regulation Guidelines (see Annex 4, section 1). The figure below shows the selected impacts and stakeholders:

**Diagram 4: Selection of impacts and shareholders**

| Main category of impacts | Assessment | | | | | |
|---|---|---|---|---|---|---|
| | Society | Companies | Investors (incl. employees with ESOPs) | Public administrations and notaries (EU, national) | Qualitative | Quantitative |
| Ease of doing business (benefit) | | ● | | | ● | |
| Ease of attracting investment (benefit) | | ● | ● | | ● | |
| Administrative burden reduction (benefit) | | ● | ● | | ● | partial |
| Administrative and adjustment costs (cost) | | ● | ● | | ● | |
| Benefits for public authorities | | | | ● | ● | |
| Costs for public authorities | | | | ● | ● | partial |
| Functioning of the internal market and competitiveness (benefit) | ● | ● | ● | ● | ● | |

The assessment of policy options is based on evidence from the open public consultation and workshops with companies, bilateral interviews and meetings and other sources including the discussions at the High Level Forum on justice for growth, literature review, previous impact assessments and/or expert assessment. Each policy option is evaluated on its effectiveness, efficiency and coherence. Under effectiveness, it was assessed to what extent each policy option meets the objectives, with some policy options analysed against all three objectives and some – against the relevant one(s). Under efficiency, the policy options were assessed against the selected impacts and under coherence, the assessment was about the extent to which each policy option improves internal and external coherence.

A combination of quantitative, monetary and qualitative assessment was adopted. All the available evidence is translated into a straightforward scoring system to have comparable scores between policy options as well as between various impacts. Every policy option is assessed and scored in comparison to policy option 0 (the baseline) for the applicable part of the lifecycle, including investment**.** All the available evidence is translated into scores (0-5). In the scoring, the options are compared to the baseline and not between the options (see Annex 4, section 2.1.2).

As to the efficiency assessment, the scoring system (0-5) is similar for costs and benefits compared to the baseline. This means that for the costs, the score shows the increase in costs compared to the baseline and for benefits, the score shows an increase in benefits compared to the baseline. For example, a score of 0 means no impact, while a score of 2 means rather limited increase in costs/benefits and a score of 5 means a very large increase in costs/benefits. Policy options are then compared to select a preferred option on each main issue. The following sub-sections summarise the results of the assessment.

### 6.1 Policy options 1 to provide a harmonised company legal form for entrepreneurs

**Effectiveness**

PO1a - Introduce a new harmonised legal form for a 28th regime company with a recognisable EU brand, to be set up by natural persons as founders.
PO1b - PO1a + to be set up also by legal persons (28th regime subsidiaries), with a possibility for existing companies to convert through domestic conversions, and with harmonised rules for setting up branches of 28th regime companies.

PO1c - PO1b + a possibility for existing companies to create a 28th regime company through a cross-border conversion, division or merger in accordance with Directive 2019/2121.

| | PO1a | PO1b | PO1c |
|---|---|---|---|
| **Specific objective 1**: Provide a common corporate legal framework for companies, in particular startups and scaleups, in the EU | 2 | 3 | 4 |

These policy options would contribute to objective 1 by providing a harmonised legal form for 28th regime companies with a recognisable brand. Options 1b and 1c would be more effective in terms of meeting the objective of a common corporate legal framework by providing not only a harmonised legal form with a recognisable EU brand, but also a harmonised 28th regime branch. PO1b and 1c would make a common legal form and a common branch available for potential startup founders (natural persons) and for legal persons (groups could benefit as a parent company could also be a founder). PO1b would in addition make it possible to create a 28th regime company through domestic conversion and PO2c through cross-border mergers, divisions or conversions, both of those therefore being more effective than PO2a.

## Efficiency

| Main categories of impacts | PO1a | PO1b | PO1c |
|---|---|---|---|
| **Companies and investors** | | | |
| Ease of doing business | 2 | 3 | 4 |
| Ease of attracting investment | 2 | 3 | 4 |
| Administrative burden reduction (benefit) | 2 | 3 | 4 |
| Administrative and adjustment costs | 0 | 1 | 2 |
| **Public authorities** | | | |
| Costs | 1 | 2 | 3 |
| Benefits | 2 | 3 | 3 |
| **Economy and society at large** | | | |
| Functioning of the internal market and competitiveness | 2 | 3 | 4 |

Policy Options 1 have a horizontal and enabling character; rather than generating strong standalone efficiency gains, they create the structural conditions under which the other policy options can operate effectively. Introducing a single, common corporate legal form is a necessary precondition for the effective application of common registration procedures, once-only information exchange, digital governance, investment-related measures and exit mechanisms introduced under subsequent options. Therefore, it is also an important element for making doing business in the EU easier for founders and an enabling element to facilitate attracting investment to 28th regime companies. Founders and investors would not need to carry out a due diligence of all the different national legal frameworks where they plan to set up a company or invest.

Under PO1a, only founders as natural persons could create a 28th regime company. Based on feedback from founders and small companies, including the results of the public consultation, it is estimated that 90% of new 28th regime companies would be founded by natural persons. This would be equal to 1 502 new 28th regime companies in the 1st year and 277 958 over 10 years (see Annex 4). PO1b and 1c would score higher because they would make it possible also for legal persons to be founders of 28th regime companies and thus relevant for groups. It is estimated that this would correspond to 8% of newly created 28th regime companies, i.e., 134 companies in the first year and 24 707 over 10 years. In addition, under these options, 28th regime companies could be created through a domestic conversion. Considering the interest of existing startups in the 28th regime, it is estimated that 1.9% of the 28th regime companies would be created this way. In the 1st year, this would amount to 32 conversions and over the period of 10 years to 5,868 28th

regime companies. As to the creation through cross-border operations under PO1c, these are assessed to be relatively costly and take at best a few months[80], and therefore, are not expected to be used by early startups with limited financial resources. However, cross-border operations might be of interest to scaleups, which may wish, for example, to merge with companies from other Member States to create a 28th regime company. It is estimated that 0.1% of 28th regime companies would be created through such cross-border operations, which would amount to 2 28th regime companies in the first year and to 309 over 10 years. Both PO1b and 1c are expected to create some adjustment costs for existing companies.

Member States would need to ensure that this corporate legal form would be part of their national order and available to founders and companies in their Member State. As this new corporate legal form would be available in parallel to the existing national legal forms for companies, it would not affect the existing national company legal forms but would enlarge the choice available to founders. As in case of choosing any other legal form, founders would be free to decide whether they will create a company with an existing national form (e.g. a German GmbH or a French SAS) or whether they will create a 28th regime company under the new legal form proposed in this initiative. At the same time, Member States would need to adapt other relevant laws such as tax and labour laws as necessary. PO1c would require most adjustments as compared to other options (e.g., require adaption of national laws related to cross-border conversions, divisions and mergers) and therefore, result in higher costs for public authorities. At the same time, public authorities would also benefit by being able to rely on common rules and a recognisable brand when dealing with 28th regime companies registered in other Member States.

Similarly, the 28th regime corporate legal form would also be available in parallel to the EU legal form for public limited liability companies, *Societas Europea* (SE) introduced through Regulation (EC) 2157/2001. The two regimes – the SE and the 28th regime corporate framework – would respond to different types of companies and their different needs. They would both offer alternative optional frameworks for companies and, therefore, this co-existence would not result in any practical problems.

The harmonised corporate legal form across the EU would reduce fragmentation and thus, have a positive impact on the functioning of the internal market. It would also strongly reduce the time spent on legal advice and its costs. In contrast to the US, where corporate law is mostly State based, the initiative would provide common rules throughout the single market, thus having a positive impact on the EU's competitiveness vis-à-vis third countries.

**Coherence**

Policy options 1a, 1b and 1c are coherent and complementary with other options because PO1 would provide a common legal form with a recognisable brand, which is at the heart of this initiative. The other policy options would provide complementary common rules and procedures relevant in the lifecycle of companies, in particular startups and scaleups.

By providing a harmonised company legal form addressing the 28th regime company's whole lifecycle, these options are coherent with the objectives of the Competitiveness Compass to make it possible for innovative companies to benefit from a single, harmonised set of EU-wide rules wherever they invest and operate in the Single Market. They also directly respond to the

[80] Directive 2019/2121: harmonised procedure with several steps, including drawing up the draft terms of the cross-border operation, a report by management to shareholders and employees, a report by an independent expert and a reasoned response to employees, and can include negotiation of employee participation in company boards.

announcement of an EU corporate legal framework in the Single Market and the Startup and Scaleup Strategies. Their coherence scores are 3, 4 and 4 respectively.

### 6.2 Policy options 2 to make registration of companies, in particular startups quicker and simpler

**Effectiveness**

PO2a - Create an EU single interface based on BRIS for the registration of 28th regime companies with harmonised bilingual templates (EN/national language) and preventive administrative, judicial or notarial control.
PO2b – PO2a + introduce a deadline (48 hours) and cost ceiling of EUR 100 to complete the registration including the preventive administrative, judicial or notarial control when the standardised template is used by founders as natural persons.
PO2c – As PO2b but with preventive control by judicial or administrative authorities (excluding notaries) when the standardized template is used by founders as natural persons.

| | PO2a | PO2b | PO2c |
|---|---|---|---|
| **Specific objective 1**: Provide a common corporate legal framework for companies, in particular startups and scaleups, in the EU | 2 | 3 | 3 |
| **Specific objective 2**: Provide simple and efficient corporate rules and procedures throughout the company lifecycle | 3 | 4 | 4 |

Policy options 2 would contribute to objective 1 and even more strongly to objective 2 as a common EU system for registration of 28th regime companies with harmonised templates would be an essential part of the common corporate legal framework and provide founders with simpler and more efficient registration procedures. PO2a would already be an important step towards a common framework and simple and efficient registration, but PO2b and 2c would be more effective by providing also a harmonised deadline of 48 hours and a price ceiling of EUR 100 for the registration in the whole EU. PO2c would not change the overall effectiveness by requiring that the responsibility for preventive control be taken over by other authorities instead of notaries. Both would further reduce legal uncertainty, lead to faster planning and lower risk for potential founders, and result in a predictable and non-deterrent entry cost for founders.

**Efficiency**

| Main categories of impacts | PO2a | PO2b | PO2c |
|---|---|---|---|
| **Companies and investors** | | | |
| Ease of doing business | 3 | 4 | 4 |
| Ease of attracting investment | 2 | 3 | 3 |
| Administrative burden reduction (benefit) | 3 | 4 | 4 |
| Administrative and adjustment costs | 0 | 0 | 0 |
| **Public authorities** | | | |
| Costs | 2 | 3 | 4 |
| Benefits | 1 | 1 | 1 |
| **Economy and society at large** | | | |
| Functioning of the internal market and competitiveness | 2 | 3 | 3 |

These policy options would strongly contribute to making business easier and they would respond to a strong call from startups and the rest of the business community as they would make it easier and quicker for founders (natural persons) to register a new 28th regime company. Option 2b and 2c would have the strongest impact because they would simplify the setting up of companies most and make it quickest to register a 28th regime company. They would provide more legal certainty to founders (natural persons) and investors through the bilingual/EN template for an instrument of constitution/Articles of Association and would facilitate attracting investment both from intra-EU as well as from third country investors. All the options integrate the preventive control in a streamlined registration process resulting in important efficiency gains. Preventive control is key to reducing administrative formalities in the use of company

information by other companies (as e.g. business partners), creditors or public authorities and to ensuring mutual recognition, and therefore, the efficient application of the "once-only" principle. It is also important for the prevention of abusive or fraudulent letter-box companies linked to tax evasion and/or money laundering. PO2a leaves the preventive control to Member States, while PO2b integrates the preventive control within the cost ceiling and set deadline of EUR 100 and 48 hours but leaves it to Member States to decide whether preventive control will be carried out by judicial or administrative authorities or by notaries. PO2c requires judicial or administrative preventive control.

These policy options would strongly reduce the administrative burden as founders would not need to check different requirements and use different interfaces and templates in each Member State where they want to register a company. PO2b and 2c would be the most efficient as the cost of registration and time involved are capped at 48 hours and EUR 100. It is estimated that for each founder setting up a 28th regime company, both Po2b and 2c would bring cost savings between EUR 550 and EUR 1 300 depending on the Member State of registration and whether a notary is involved and national template is used or not. This would amount to a total one-off administrative burden reduction between EUR 152 876 900 and EUR 340 256 273 for the estimated 277 958 new 28th regime companies founded by natural persons over a period of 10 years. At the same time, given that these policy options cover setting up a new optional company legal form, they would not entail any adjustment costs.

As regards public authorities, there would be some costs to implement these policy options and adapt to the single interface. Given that all Member States have already invested in IT developments to connect national business registers to BRIS, they will be able to reuse existing technology and would only need to develop the new software to receive the company registration data from the single interface through BRIS, amounting to an estimated EUR 100 000 per Member State, EUR 2.7 million in total. In addition, under PO2b and 2c, those Member States where preventive control is carried out by other authorities than business registers, would need to ensure technical solutions or adapt the existing ones, to connect the authorities, including notaries (under Po2b) to the business registers. The cost of connecting the IT system is estimated at EUR 50 000 per Member State as the average incremental cost of connecting existing IT systems of authorities performing preventive control to the business register. Such estimate is based on the assumption that in most Member States preventive control authorities already interact with business registers and would therefore require only limited adaptation to accommodate the additional data flows foreseen under this policy options. Where such connections do not yet exist, the related costs are expected to remain limited, as information exchange between public authorities typically relies on widely used open standards (such as open APIs) that can be acquired from third-party providers and adapted, rather than developed from scratch. The cost of further development of BRIS, needed in the context of this initiative, including as regards the user interface for company registration, is estimated at EUR 1 million for the Commission.

In addition, the cost ceiling of EUR 100 to complete the registration when using a standardised template, would entail reduced revenue for business registers and other authorities involved in the registration, including preventive control. Such reduced revenue is largely attributable to net increase of companies, i.e. companies that would not have been created in absence of a 28th regime, hence suggesting that the company registrations facilitated would likely offset, at least to some degree, the reduced revenue through increased economic activity, job creation, and subsequent tax contributions. As to PO2c, it would be expected to result in additional costs for authorities as the responsibility for preventive control currently carried out by notaries would need to be taken over by other authorities, impacting the legal systems of those Member States and leading to adjustment costs. At the same time, all options with harmonised bilingual

templates could make it easier for business registers to process the information submitted to register 28th regime companies, bringing some benefits to public authorities, and centralising preventive checks within one administrative or judicial authority under option 2c could also create cost savings for public bodies in those Member States where these checks are currently carried out by a notary and an administrative or judicial authority.

All policy options would directly reduce fragmentation in the single market by providing that 28th regime companies could be set through a centralised EU level system while at the same time fully integrated into Member States' systems and regulatory environment. PO2b and 2c would have an additional strong impact and would also contribute to enhancing the competitiveness of the EU economy by providing an affordable and fast setting up of 28th regime companies compared to other jurisdictions. This would be an important positive development given the current situation where many startup founders abandon setting up a company in the EU because of regulatory fragmentation and slow and costly procedures and instead set up a company outside the EU, e.g. in Delaware.

Given the strong positive impact on ease of doing business, considerable reduction in administrative burden for companies and positive contribution to functioning of the internal market and to competitiveness, the efficiency of this option is considered overall to be positive even if it will also result in some costs for public authorities.

**Coherence**

Options 2a, 2b and 2c are coherent with the other policy options under the initiative – with the scores: 3, 4 and 4 - as they provide a foundation for the legal framework governing the 28th regime companies. They are in particular coherent with options 3 as they complement each other to provide for a quick and efficient setting up of a company both with the business registers and with other authorities relevant for the registration. These policy options, and mostly PO2b, will be in line with policy objectives under the Single Market and Startup and scaleup Strategies which called for the possibility of enabling companies to establish in Europe more rapidly, ideally within 48 hours, under the 28th regime. They will be also coherent with – and build on - the digital procedures and systems in the EU company law, and in particular on BRIS. As they integrate preventive control into the streamlined registration process, they are in line with the Upgrading digital company Directive (EU) 2025/25, which made the setting up of companies and filing in all Member States subject to mandatory preventive control, carried out by administrative or judicial authorities, or notaries. These options are also coherent with the anti-money laundering and taxation policies aiming at prevention of abusive or fraudulent letter-box companies linked to tax evasion and/or money laundering. Finally, these options would be coherent with and rely, like the Company Law digitalisation Directive, on the European Digital Identity Framework established under Regulation (EU) No 910/2014.

### 6.3 Policy options 3 to ensure once-only submission of information in the context of registration

**Effectiveness**

PO3a - In the context of the registration, ensure that the information about the company is transferred from the business register to the authority in charge of issuing the TIN, to social security authority and to the beneficial ownership register, with any beneficial ownership information as part of the template, without the 28th regime company needing to submit it again ("once-only principle").
PO3b – PO3a + the 28th regime company would obtain the TIN from the relevant authority as part of the registration process, with any additional information needed to obtain the TIN as part of the template.
PO3c – PO3b + the 28th regime company would obtain the VAT identification number from the relevant authority as part of the registration process (unless tax authorities need more case specific information than what included in the template).

| | PO3a | PO3b | PO3c |
|---|---|---|---|
| **Specific objective 1**: Provide a common corporate legal framework for companies, in particular startups and scaleups, in the EU | 1 | 2 | 3 |
| **Specific objective 2**: Provide simple and efficient corporate rules and procedures throughout the company lifecycle | 2 | 3 | 4 |

All the policy options would contribute to objectives 1 and 2 as applying the "once-only principle" to setting up of 28th regime companies would be an important part of the common corporate legal framework and to provide simpler and more efficient procedures. The lack of once-only submission to authorities was highlighted as a problem in the consultation activities under the policy options founders setting up 28th regime company would not need to separately submit information to the authority in charge of issuing the TIN and the VAT identification number, social security authorities and beneficial ownership registers. PO3c would contribute most by providing the largest range of common procedures.

**Efficiency**

| Main categories of impacts | PO3a | PO3b | PO3c |
|---|---|---|---|
| **Companies and investors** | | | |
| Ease of doing business | 2 | 3 | 4 |
| Ease of attracting investment | 0 | 0 | 0 |
| Administrative burden reduction (benefit) | 2 | 3 | 4 |
| Administrative and adjustment costs | 0 | 0 | 0 |
| **Public authorities** | | | |
| Costs | 1 | 2 | 2 |
| Benefits | 1 | 2 | 3 |
| **Economy and society at large** | | | |
| Functioning of the internal market and competitiveness | 2 | 3 | 4 |

These policy options would simplify setting up of 28th regime companies for founders and in that way, also contribute to the ease of doing business in the EU. Policy option PO3c would score the highest as not only the company information would be shared with the authority in charge of issuing the TIN and the VAT identification number, social security authorities, and beneficial ownership registers, but the company could also receive the TIN and VAT identification numbers, leading therefore to biggest simplification for the founders. The once-only-transmission of information between registers and those authorities and beneficial ownership registers, and therefore no need to resubmit company information, would also reduce administrative burden for companies. The savings would be highest under PO3c thanks to founders being able to receive the TIN and VAT numbers without additional separate submissions (but with information being already part of the original template), although in some cases tax authorities might need to check additional information for VAT purposes, diminishing this benefit. The savings would be mainly due to time saved by founders. It is estimated that for each founder setting up a 28th regime company PO3c would bring cost savings between EUR 80 and EUR 341 depending on the Member States of registration. This would amount to total of savings of EUR 28 718 065 for the setting up the estimated 277 958 new 28th regime companies over a period of 10 years.

The policy options would impose one-off IT costs on some Member States[81] to need to ensure a technical solution for the automatic transmission of the company information. Given the digitalisation of public authorities, this is expected to entail only marginal extra IT costs due to the possibility to exchange data through standard Application Programming Interfaces (APIs),

[81] See Annex 4 for details per Member States.

which is a standard technology and a normal development for achieving the 2030 target of 100% digital public services for businesses under the Digital Decade Policy Programme 2030 (that on average in 2025 already stands at 86.2% completion[82]). The costs related to once-only transmission of information between business registers and beneficial ownership registers should also diminish thanks to interconnection between BRIS and BORIS, following the Upgrading digital company law Directive (EU) 2025/25. At the same time, the public authorities concerned would benefit from these policy options, and in particular PO3c, as company information would be directly transferred (including information required by beneficial ownership registers and for the TIN and VAT purposes). They would not have to request or review additional documents from companies, which should result in cost savings e.g. in time and handling company information. The once-only transmission of company information – in particular PO3c – would also contribute to encouraging founders to set up in the EU by simplifying the setting up of 28th regime companies.

**Coherence**

Options 3a, 3b and 3c are all coherent and complementary with the other policy options under the initiative with the following scores: 3, 4 and 5. They are in particular coherent with policy options 2 as the application of the once-only principle will ensure that the setting up of the company is rendered even simpler and quicker thanks to no need to re-submit similar information to other authorities. PO3c ensures most coherence as it provides for most simplification by ensuring that TIN and VAT identification numbers can be provided as part of the registration procedure.

These policy options, and mostly option 3c, contribute to digitalising the single market, in particular through exchanging digital data between authorities, which importance was underlined in the 2025 Single Market Strategy. They are also coherent with the Digital Decade, which aims to enhance the Member States' capacity to make their public administrations more digital and data-driven, and with the recent developments to digitalise the EU company law, in particular the Digitalisation and Upgrading digital company law Directives, which already introduced the use of the "once-only principle" in a number of contexts. These options – in particular 3b and 3c - also contribute to the objectives of ensuring automated identification of taxpayers, as set in the evaluation report on the Directive on Administrative Cooperation (DAC) 2011/16/EU[83]. They are also coherent and complementary with the Single Digital Gateway Regulation and the Once-Only Technical System (OOTS), which enables an automated cross-border exchange between authorities of documents and data for procedures covered under the SDG. Finally, by ensuring that the company information subject to preventive control will be used for beneficial ownership purposes, these options are coherent and contribute to the AML Directive 2024/1640[84], which requires Member States to keep accurate and up-to-date beneficial ownership information.

### 6.4 Policy options 4 to facilitate closure (liquidation) of the company

**Effectiveness**

PO4a - Ensure that all relevant filings by the liquidator for closure outside of insolvency are transferred from business register to other authorities ("once-only principle") and online filing of claims from creditors.
PO4b – PO4a + simplified liquidation procedure (outside of insolvency) for no assets/no debts to be concluded within a specific deadline.

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[82] COM, State of the Digital Decade 2025 Factsheet, June 2025.
[83] Report on the evaluation of Council Directive 2011/16/EU on administrative cooperation in the field of taxation, COM(2025) 695 final.
[84] Directive (EU) 2024/1640 on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

PO4c – PO4b + simplification of insolvency procedures thanks to their full digitalisation

| | PO4a | PO4b | PO4c |
|---|---|---|---|
| **Specific objective 1**: Provide a common corporate legal framework for companies, in particular startups and scaleups, in the EU | 1 | 2 | 3 |
| **Specific objective 2**: Provide simple and efficient corporate rules and procedures throughout the company lifecycle | 2 | 3 | 4 |

All policy options would contribute to objective 1 as providing rules for closure of solvent and insolvent 28th regime companies would constitute an important contribution towards a common framework that would span the whole lifecycle of 28th regime companies. PO4a and 4b would cover a number of aspects relevant for solvent companies but PO4c would be the most effective for contributing towards a common framework, as it would also address closure of in case of insolvency and simplify the procedure through digital solutions.

However, these policy options would be even more effective in meeting objective 2. Fully online filing to the liquidator and once-only transmission of information under PO4a and a simple, harmonised a procedure for simple closures of solvent companies under PO4b would provide simpler and more efficient procedures for 28th regime companies. PO4b would also provide more legal certainty and allow to close solvent companies more quickly. PO4c would be most effective in terms of simplicity and efficiency as, in addition, it would also make insolvency liquidation procedures more efficient through digitalisation.

**Efficiency**

| Main categories of impacts | PO4a | PO4b | PO4c |
|---|---|---|---|
| **Companies and investors** | | | |
| Ease of doing business | 2 | 3 | 4 |
| Ease of attracting investment | 1 | 2 | 3 |
| Administrative burden reduction (benefit) | 2 | 3 | 4 |
| Administrative and adjustment costs | 0 | 0 | 0 |
| **Public authorities** | | | |
| Costs | 1 | 2 | 3 |
| Benefits | 1 | 2 | 3 |
| **Economy and society at large** | | | |
| Functioning of the internal market and competitiveness | 2 | 3 | 4 |

Given a high failure rate of startups, efficient closure is important for the overall ease of doing business as it allows founders to direct their resources (human and financial) into new entrepreneurial projects. In this context, these policy options would have a positive impact by making it possible for founders to more efficiently close companies, and therefore, diminish the cost of failure. These options and mostly PO4c would also encourage investors to invest into 28th regime companies knowing that their capital will not be trapped but could be reinvested efficiently after the closure of a company and making it easier to calculate the financial risk of their investments.

Companies would save on the administrative burden of multiple filings in closure cases outside of insolvency under PO4a, estimated to amount to EUR 3 150 199, based on the assumption that 8.5%[85] of the new 28th regime companies might need to liquidate. In addition, savings would be higher for companies without assets and debts thanks to a harmonised simplified procedure under

[85] According to 2025 Eurostat, there was an 8.5% rate of enterprise deaths (exempting insolvency) as compared to a rate of 10.5% of enterprise births in 2023 in the EU. Research done in the US (Startup Failure Rate Statistics) refers to even higher rates with the failure rate being 10% in the first year.

PO4b[86], which is estimated to result in a reduction of costs by EUR 131 258 and in significantly shorter time, possibly by around 8 months, of the closure procedure. PO4c would score the highest thanks to digitalisation of the closure procedure for insolvent companies, including scaleups and startups.

Overall, the costs for public authorities are expected to be limited. Member States would need to ensure a technical solution for the automatic submission of the company information from the register to other authorities for closures of solvent companies under PO4a but this is expected to only entail marginal extra IT costs due to the possibility to exchange data through standard APIs. Similarly, no or little additional costs are also expected due to digitalising the insolvency proceedings under PO4c, since the work on digitalisation of judicial procedures in Member States, including insolvency procedures, is already on-going. Some costs could be expected for development and maintenance of platforms for electronic auctions systems in insolvency (which already exist in 14 Member States for online judicial auctions but are only used by 3 MS for insolvency cases), which are estimated to amount to between EUR 185 000 to 370 000 for their development, and to EUR 324 000 for their maintenance for all Member States. At the same time, authorities and in particular business registers would benefit from some reduced administrative inefficiencies linked to inactive and dormant companies left in national registers and from some cost savings e.g. in time and handling of company information thanks to digitalisation of the procedures.

By making it possible for founders to more efficiently close solvent and insolvent companies these policy options, and in particular PO4c, would allow founders to more quickly direct their resources (human and financial) into new projects and encourage investors to invest into 28th regime companies. Therefore, they would have a positive impact on competitiveness in the EU. This would be an important improvement as currently according to the Draghi Report, EU companies face higher restructuring costs compared to their US peers, which places them in a position of significant disadvantage in highly innovative sectors.

**Coherence**

Options 4a, 4b and 4c are coherent with the other policy options under the initiative with the scores: 2, 3 and 4, as they are essential to complete the framework that governs the 28th regime company from its creation until its closure, especially given the high failure rate of startups and importance of efficient closure to allow founders to be able to redirect resources to another business initiative. They are in particular coherent with policy options 3 as both sets of options include further digitalising of exchanges between authorities through the use of "once-only principle". They are also coherent with policy options 7, both addressing alternative scenarios towards the end of the company's lifecycle. PO4c would ensure most coherence allowing for faster procedures for both solvent and insolvent companies.

These policy options are coherent with and complement current EU rules in the area of insolvency, including the Restructuring and Insolvency Directive 2019/1023/EU and the proposal for the Insolvency Directive[87], expected to be adopted in the beginning of 2026 following the provisional political agreement reached in November 2025. They also respond to the Competitiveness Compass and the Single Market and the Startup and scaleup Strategies, which mentioned that a 28th legal regime would include aspects of insolvency and reduce the cost of

[86] Under the assumption that 1% of the solvent companies undergoing closure could benefit from the harmonised simplified procedure.
[87] COM(2022) 702 final.

failure, which these policy options would address by making closure of solvent and insolvent companies easier.

### 6.5 Policy options 5 for attracting talent

**Effectiveness**

PO5a - Possibility for 28th regime companies to set up employee stock ownership plans (ESOPs) and issue classes of shares with distinct voting rights.
PO5b – PO5a + introduce an optional common employee stock ownership scheme for 28th regime companies, based on employee stock options and with common criteria (EU-ESO).
PO5c – PO5b + provide harmonised timing for the taxation of employee stock options granted in the context of the EU-ESO.

| | PO5a | PO5b | PO5c |
|---|---|---|---|
| **Specific objective 1**: Provide a common corporate legal framework for companies, in particular startups and scaleups, in the EU | 1 | 2 | 3 |
| **Specific objective 2**: Provide simple and efficient corporate rules and procedures throughout the company lifecycle | 1 | 3 | 4 |
| **Specific objective 3**: Ensure that corporate rules provide an enabling framework to invest | 1 | 3 | 4 |

All three policy options contribute to objective 1. While PO5a would enable all 28th regime companies to set up ESOPs, including schemes for non-voting shares, thus removing some of the existing restrictions in Member States, option 5b – with the common scheme 'EU-ESO' – would be more effective as it would additionally provide a common scheme on the basis of which companies, including startups and scaleups, could set up stock option-based ownership plans. PO5c would remove different timings of taxation for the stock options granted in the context of the common EU-ESO in Member States as a further incentive to choose this scheme; by harmonising also this taxation aspect, it would be most effective at achieving objective 1. As regards objective 2, PO5a would contribute to it to a relatively small extent, as it would leave it to companies to make all relevant choices for setting up an ESOP within the legal limits, while PO5b would make a bigger contribution to simplifying procedures through the provision of the EU-ESO for 28th regime companies. PO5c would be most effective by additionally setting out a single, simple point in time for taxation with regard to the stock options granted in the context of the EU-ESO. All three policy options would also contribute to providing an enabling framework to invest with PO5c being the most effective as the added harmonised timing of taxation creates the most attractive conditions for employees to make use of the EU-ESO and become investors themselves, aligning their interests with the interests of other investors.

**Efficiency**

| Main categories of impacts | PO5a | PO5b | PO5c |
|---|---|---|---|
| **Companies and investors** | | | |
| Ease of doing business | 1 | 3 | 4 |
| Ease of attracting investment | 1 | 2 | 4 |
| Administrative burden reduction (benefit) | 1 | 2 | 3 |
| Administrative and adjustment costs | 1 | 1 | 1 |
| **Public authorities** | | | |
| Costs | 0 | 0 | 2 |
| Benefits | 0 | 0 | 0 |
| **Economy and society at large** | | | |
| Functioning of the internal market and competitiveness | 2 | 3 | 4 |

All three policy options would make it easier in particular for EU startups and scaleups to attract and retain talent by being able to offer competitive benefits to their staff through the use of

ESOPs which is crucial for outside investors and would incentivise employees to become shareholders themselves. They would thus have a positive impact both on the ease of doing business and on the ease of attracting investment. PO5a would have a moderately positive effect as 28th regime companies would not be limited by national company law requirements on available ESOP types and structures, including the choice of distinct voting rights of employee shares. PO5b would have a stronger positive effect as the common EU-ESO based on stock options, which are the most important instruments for startups and scaleups to facilitate employee stock ownership, would improve the perceived value of stock options by employees and the possibility for companies to signal their ability to attract and retain talent to investors. PO5c would achieve the best results as it also harmonises the timing of taxation of the stock options granted in the context of the EU-ESO, deferring it to the moment of disposal (meaning that an employee would not have to pay taxes on stock options when they are granted or exercised but only when stocks received through these options are disposed, which is the first time the employee would receive cash or liquid proceeds from their options). This would avoid a 'dry tax charge' on employees, making employee stock options significantly more attractive and improving their uptake by employees. PO5c would improve the ease of attracting investment in the strongest way as the harmonised taxation timing in all Member States would make it significantly more attractive for employees to actually exercise options, which would assure investors that a company using the EU-ESO has a mechanism in place to facilitate retaining key staff no matter where they are placed in the EU.

All three options will furthermore lead to administrative burden reduction. It is expected that these policy options would reduce the costs of professional advice on ESOPs, in particular regarding legal requirements and the preparation of necessary documents, which typically accounts for a large majority of the costs to set up an employee stock ownership plan. Option 5c would reduce burdens most because 28th regime companies could use a common, easy-to-use ESOP scheme with a harmonised timing of taxation, allowing many of them to rely on low-cost professional advice to set up the scheme. It is estimated that 10% of 28th regime companies would take up the EU-ESO under option 5c and that the estimated saving would amount to EUR 12 971 406 over a period of 10 years. Only limited one-off adjustment costs would be expected, notably for those companies converting into 28th regime companies and which have already set up ESOPs under their previous legal form in accordance with national laws.

As regards costs for public authorities and budgets, PO5c may result in changes to national legislation on the taxation of employee stock options. PO5c thus comes with negative liquidity effects for tax authorities (with corresponding positive liquidity effects for employees) due to the tax deferral that occurs in the context of the common EU-ESO. The effect is, however, expected to be moderate, especially when compared with the total amount of Member States' tax revenues, as PO5c would only modify the timing of taxation and as some Member States already offer similar schemes on employee stock options where taxation is deferred to the point of sale, in which cases no cost effects would be expected. Otherwise, none of the options 5 are expected to have any further significant cost-benefit impacts on public authorities and budgets.

Finally, all three options would contribute to the functioning of the internal market and to increased competitiveness as they would improve the practical feasibility and scalability of ESOPs within the single market. The improvement would be in particular noticeable under PO5b and 5c, given that the current fragmentation of national rules on ESOPs and on the moment of taxation of employee stock options and the lack of harmonisation related to ESOPs at EU level are often forcing companies to adopt different ESOP designs per Member States. The policy options and in particular PO5b and PO5c would also have a positive impact on competitiveness of the EU as having a harmonised system for the 28th regime companies would allow those

companies to better compete for top talent with other jurisdictions such as the US. The current ease of setting up stock option-based ESOPs in the US and the favourable treatment of stock options qualifying as 'incentive stock options' under federal tax laws is one of the important reasons for founders to set up or move their companies there.

**Coherence**

The policy options 5 are in particular complemented by policy option 6a whose measures on capital increases and share issuances facilitate that companies can provide shares for employees participating in ESOPs, but also by policy options 7, which facilitate exit opportunities for investors, including employee shareholders. As regards external coherence, the promotion of employee participation in profits and enterprise results has been on the agenda of the EU institutions and bodies for more than three decades. All three policy options also contribute to the Startup and scaleup Strategy's objective of supporting the attraction and retention of highly skilled and diverse talent from within the EU and from non-EU countries. Their coherence scores are thus 3, 3 and 4.

### 6.6 Policy options 6 to provide a flexible governance and capital regime for founders and investors

**Effectiveness**

PO6a - Create a flexible governance system, provide simple and fully digital procedures for increasing capital and issuing shares and enable the use of modern early-stage financing instruments like SAFEs.
PO6b – PO6a + 0 or EUR 1 minimum capital but no paid-in share capital for incorporation of 28th regime companies and harmonised creditor protection safeguards in addition to capital maintenance rules.
PO6c – PO6b + common minimum share capital of EUR 5 000 for incorporation of 28th regime companies with harmonised creditor protection safeguards based primarily on capital maintenance.

| | PO6a | PO6b | PO6c |
|---|---|---|---|
| **Specific objective 1**: Provide a common corporate legal framework for companies, in particular startups and scaleups, in the EU | 1 | 2 | 2 |
| **Specific objective 2**: Provide simple and efficient corporate rules and procedures throughout the company lifecycle | 3 | 4 | 3 |
| **Specific objective 3**: Ensure that corporate rules provide an enabling framework to invest | 3 | 4 | 3 |

These policy options cover a wide range of measures for a harmonised and flexible governance and financing regime and therefore, contribute towards all 3 objectives. PO6a would be effective by harmonising and providing digital solutions for a comprehensive number of issues related to governance, procedures for increasing capital and issuing shares, simpler formalities for TIN for foreign investors and enabling of modern financing instruments like SAFEs, which are relevant for attracting early-stage and VC investment. However, PO6b and 6c would be more effective as they would both provide common rules on minimum capital and creditor protection of 28th regime companies. PO6b would be most effective overall as the abolition of minimum capital before incorporation would free up initial funds for startup founders while still achieving sufficient creditor protection through other means than capital maintenance rules.

**Efficiency**

| Main categories of impacts | PO6a | PO6b | PO6c |
|---|---|---|---|
| **Companies and investors** | | | |
| Ease of doing business | 2 | 4 | 3 |
| Ease of attracting investment | 2 | 3 | 2 |
| Administrative burden reduction (benefit) | 2 | 4 | 3 |

| | | | |
|---|---|---|---|
| Administrative and adjustment costs | 1 | 1 | 2 |
| **Public authorities** | | | |
| Costs | 1 | 1 | 2 |
| Benefits | 1 | 3 | 2 |
| **Economy and society at large** | | | |
| Functioning of the internal market and competitiveness | 2 | 3 | 2 |

All these options would have a strong positive impact on the ease of doing business and making it easier to attract investment. PO6a reduces legal and coordination costs by simplifying share issuances and capital increases, enabling a fully digital and flexible governance and allowing the use of modern early-stage financing instruments. Both options 6b and 6c provide for creditor protection but PO6b, with the abolition of mandatory paid-in minimum share capital, would be most efficient in terms of contributing to the market entry of new founders and of improving companies' ability to engage investors quickly and flexibly, avoiding delays to incorporation. PO6c would improve legal clarity through harmonisation of minimum capital requirements but would require an upfront capital commitment of EUR 5 000, potentially delaying market entry and deterring founders from choosing the 28th regime (in particular if other company legal forms in their Member State have lower capital requirements).

The measures introduced under PO6a and common to all policy options, in particular the fully digital procedures, would reduce costs and administrative burdens usually associated with governance and capital operations, including costs of physical shareholders' meetings, in-person notarial appointments for capital increases and external advisory costs to adapt early-stage instruments (e.g. SAFEs) and VC financing contracts to restrictive national regimes. They would also reduce the time spent and delays in preparing physical meetings and documents per financing or governance event for founders, companies and investors. The efficiency gains under PO6a are estimated to amount to an average of EUR 1 100 per transaction[88]. The lack of minimum paid-in share capital at the moment of incorporation under option 6b would create further cost savings estimated at around EUR 400 per company in those Member States where paid-in share capital is currently required at the moment of incorporation or registration, amounting to total cost savings of EUR 55 206 278 over 10 years. These options are assumed to result in only limited one-off adjustment costs, e.g. for adapting internal processes to fully digital procedures for companies which decide to convert into the 28th regime.

Public authorities involved in governance and capital-related operations and professionals also exercising public functions, in particular notaries, would face limited and predominantly one-off adjustment costs under PO6a, as fully digital governance, online meetings of corporate bodies and simplified digital procedures for capital increases and share issuances would most likely require some adaptations to existing workflows or IT tools used. At the same time, some moderate efficiency gains could be expected for public authorities, stemming from less paper-based documentation and sequential processing, thanks to the use of digital procedures, and therefore lower administrative workload.

Policy options 6 would also have a positive impact on the functioning of the internal market and competitiveness by improving legal certainty and encouraging cross-border activity. PO6a would reduce transaction hurdles and coordination costs for companies and investors operating across Member States. PO6b would have the strongest positive effect because a harmonised capital framework with creditor safeguards but no requirement for paid-in capital before incorporation

[88] As the number of financing transactions that could be expected by 28th regime companies cannot reliably be estimated, no overall calculations were carried out.

would reduce structural entry barriers that currently differ across Member States and distort founders' choices, and would create more entrepreneur-friendly conditions, making the EU a more attractive place to set up companies as compared with other jurisdictions.

**Coherence**

Policy Options 6a, 6b and 6c are internally coherent with other policy options, with the respective scores of 3, 4 and 3. Measures under PO6a to facilitate capital increases help companies provide shares for employees participating in ESOPs, thereby supporting policy options 5. These measures are also mutually reinforcing with PO7 in terms of making 28th regime companies more attractive for investors. Furthermore, policy options 6b and 6c are coherent with PO2 by contributing to making the setting up of 28th regime companies simpler and quicker through a minimum capital requirement adapted to startups, with PO6b not requiring any paid-in capital for incorporation and thus removing the necessity to open a bank account before registration. PO6b therefore scores highest in terms of coherence.

As regards coherence with other EU policies, PO6a is in line with EU efforts to promote digital procedures and to reduce administrative formalities as followed in the recent developments of EU company law, especially in the Digitalisation and the Upgrading digital company law Directives. Its simple procedures for increasing capital and issuing shares also facilitate investment in EU companies, thereby contributing to a better connection between savings and productive investments as envisaged under the EU's Savings and Investment Union. PO6b and PO6c, by harmonising minimum capital requirements, contribute to a simpler and quicker setting up of 28th regime companies and therefore, respond to the calls for enabling companies to be set up in Europe more rapidly under the Single Market and Startup and scaleup Strategies, with PO6b showing the strongest external coherence.

### 6.7 Policy options 7 to facilitate exit options

**Effectiveness**

PO7a - Ensure that transfers of shares of 28th regime companies can be carried out fully digitally.
PO7b – PO7a + no requirement to involve intermediaries in share transfers of 28th regime companies.
PO7c – PO7b + possibility for Member States to grant access to public equity markets to 28th regime companies.

| | PO7a | PO7b | PO7c |
|---|---|---|---|
| **Specific objective 1**: Provide a common corporate legal framework for companies, in particular startups and scaleups, in the EU | 1 | 2 | 3 |
| **Specific objective 3**: Ensure that corporate rules provide an enabling framework to invest | 2 | 3 | 4 |

While all three options would contribute to objective 1, they would more strongly contribute to objective 3 in terms of improving the investment environment. PO7a would ensure that share transfers of 28th regime companies can be carried out fully digitally across the EU and PO7b would harmonise further by removing mandatory involvement of intermediaries. PO7c would be most effective as it enables Member States to allow 28th regime companies to attract financing through public equity markets without mandatory conversion into another legal form, which would make it possible to keep the EU-brand of the 28th regime at the IPO stage.

**Efficiency**

| Main categories of impacts | PO7a | PO7b | PO7c |
|---|---|---|---|
| **Companies and investors** | | | |
| Ease of doing business | 2 | 3 | 4 |
| Ease of attracting investment | 2 | 3 | 4 |
| Administrative burden reduction (benefit) | 3 | 4 | 4 |

| | | | |
|---|---|---|---|
| Administrative and adjustment costs | 1 | 1 | 1 |
| **Public authorities** | | | |
| Costs | 1 | 2 | 2 |
| Benefits | 1 | 1 | 1 |
| **Economy and society at large** | | | |
| Functioning of the internal market and competitiveness | 2 | 3 | 4 |

All three policy options improve the ease of doing business for investors and companies as well as the ease of attracting investments. The digital share transfers under PO7a would reduce costs and burdens that come with in-person and paper-based procedures, particularly in cross-border situations, and no mandatory involvement of intermediaries under PO7b would further reduce transaction costs and procedural delays. PO7c would have the most significant impact by also addressing investor exits on public markets. While the benefits of PO7c would primarily affect a small subset of companies (late-stage scaleups and other companies mature enough for going public), this option would be an important step to reinforce the credibility and attractiveness of the 28th regime legal framework throughout the full lifecycle of a company.

Both investors and companies would benefit from administrative burden reduction, including, due to reduced time and less costs linked to in-person formalities for share transfers under PO7a, which are estimated to amount to approximately EUR 700 per-transaction. PO7b delivers an even stronger reduction in costs by removing the mandatory involvement of notaries and other intermediaries, which is one of the main compliance cost drivers for share transfers under PO7b, with the estimated saving of EUR 1 780– EUR 2 850 for a growth-stage secondary transaction of EUR 500 000 due to reduced time and notarial and filing costs per transaction[89]. PO7c would help companies avoid the need for legal conversion but would only affect a small group of late-stage scaleups and other IPO-ready companies; as conversion costs are also relatively low when compared with overall costs of accessing public markets, it does not score higher than PO7b in terms of administrative burden reduction. At the same time, administrative and adjustment costs would be rather limited for all options. PO7b would additionally require companies to verify and record share transfers due to no involvement of intermediaries fulfilling this task, leading to limited costs that could however be absorbed within existing governance arrangements. PO7c would not impose new obligations or costs.

As regards costs for public authorities, including notaries, there would be only limited one-off adjustment costs under PO7a, mainly linked to ensuring infrastructures to support digital share-transfer procedures and to adapting workflows as necessary. The removal of mandatory intermediary involvement under PO7b would lead to revenue losses for intermediaries, including notaries, in those Member States where they are involved in share transfers. At the same time, moderate efficiency gains could be expected for public authorities due to fewer paper-based procedures and in-person appointments.

All policy options 7 would contribute to the functioning of the internal market as digital means would make share transfers faster and more predictable across borders and lower transaction costs that disproportionately affect cross-border investors. By eliminating divergent formalities for share transfers in notarial and non-notarial Member States, PO7b would further improve capital mobility and reduce home bias, also enhancing EU competitiveness and attractiveness compared to third-country corporate legal frameworks (e.g. the Delaware General Corporation

[89] Estimations for other scenarios are described in Annex 4 on methodology. The estimations focus on costs per transaction as it is not possible to extrapolate these costs to an EU-wide annual total, as there is no reliable data on the overall number of share transfers in private companies.

Law or UK Companies Act) that do not require the involvement of intermediaries in share transfers. PO7c offers the strongest positive impact on the functioning of the internal market and EU competitiveness as enabling 28th regime companies to go public would further enhance the Union's attractiveness as a place to scale and exit innovative companies.

**Coherence**

PO7a, PO7b and PO7c are coherent with other policy options under this initiative, with the respective scores of 2, 3 and 4. They are in particular coherent with policy options 6, and mostly with PO6a, as digital share transfers under PO7b and simpler and more digital capital increases and share issuances under PO6a both create a more attractive framework for investing in 28th regime companies. They also contribute to PO5 by facilitating transfers of shares, including those acquired through ESOPs, with PO7c being most coherent as it allows Member States to provide for the possibility of these shares being traded on public markets. PO7c score highest as it ensures consistency across the full corporate lifecycle, covering also investment through access to public equity market which is most relevant for late-stage startups and mature companies.

As regards coherence with other EU policies, PO7a is consistent with EU-wide efforts to promote digital procedures and reduce administrative barriers in business operations, in particular through the recent Digitalisation and the Upgrading digital company law Directives. PO7b complements those by further reducing legal fragmentation. All policy options are particularly coherent with the Savings and Investment Union, which supports both exits by investors in private companies and deeper and more integrated EU capital markets by facilitating IPO exits.

## 7. HOW DO THE OPTIONS COMPARE?

The policy options were compared through a multi-criteria analysis (MCA), which took into account the effectiveness, efficiency, coherence and proportionality of all policy options. The MCA relies on two components: the scores resulting from the assessment of each policy option and the weights assigned to each impact representing its relative importance. The scoring system is based on an ordinal scale ranging from 0 to 5, where scores indicate the direction and relative strength of impacts compared to the baseline, rather than measurable magnitudes. A score of 0 reflects no material change compared to the baseline, while a score of 5 reflects a very strong improvement net of the baseline. These scores are derived from a systematic assessment of available qualitative and quantitative evidence and are used to support a structured and transparent comparison of policy options, not to imply cardinal precision[90].

In the main MCA scenario, effectiveness, efficiency and coherence were weighted at 30%, 60% and 10% respectively. Effectiveness was assessed by scoring each of the three specific objectives separately, with each objective assigned a weight of 10%. Efficiency was assessed through seven distinct impacts, of which five impacts were each assigned a weight of 10% and two impacts (costs and benefits for public authorities) were each assigned a weight of 5%, with the overall efficiency score reflecting the net effect of benefits minus costs. Coherence was assessed as a single criterion with an overall weight of 10%. The results of the MCA show that policy options 1c, 3c, 4c, 5c, 6b and 7c rank highest under all three criteria. Policy option 2b scores higher due to efficiency. The table below summarises the results of the assessment of all policy options described in section 6.

**Table 9: Summary of the results of the assessment of all policy options**

[90] In line with the inherent limitations of ordinal scales, the MCA does not seek to calculate absolute impact values or net benefits, but to assess the relative performance of options across the criteria of effectiveness, efficiency and coherence. The MCA follows the approach recommended in the Better Regulation Toolbox #62.

| | Weight | PO1a | PO1b | PO1c | PO2a | PO2b | PO2c | PO3a | PO3b | PO3c | PO4a | PO4b | PO4c |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Effectiveness** | **30%** | 0.60 | 0.90 | 1.20 | 0.75 | 1.05 | 1.05 | 0.45 | 0.75 | 1.05 | 0.45 | 0.75 | 1.05 |
| **Efficiency** | **60%** | 0.85 | 1.15 | 1.40 | 0.95 | 1.30 | 1.25 | 0.60 | 0.90 | 1.25 | 0.70 | 1.10 | 1.50 |
| **Coherence** | **10%** | 0.30 | 0.40 | 0.40 | 0.30 | 0.40 | 0.40 | 0.30 | 0.40 | 0.50 | 0.20 | 0.30 | 0.40 |
| **Total** | **100%** | **1.75** | **2.45** | **3.00** | **2.00** | **2.75** | **2.70** | **1.35** | **2.05** | **2.80** | **1.35** | **2.15** | **2.95** |

| | Weight | PO5a | PO5b | PO5c | PO6a | PO6b | PO6c | PO7a | PO7b | PO7c |
|---|---|---|---|---|---|---|---|---|---|---|
| **Effectiveness** | **30%** | 0.30 | 0.80 | 1.10 | 0.70 | 1.00 | 0.80 | 0.45 | 0.75 | 1.05 |
| **Efficiency** | **60%** | 0.40 | 0.90 | 1.30 | 0.70 | 1.40 | 0.80 | 0.80 | 1.15 | 1.45 |
| **Coherence** | **10%** | 0.30 | 0.30 | 0.40 | 0.30 | 0.40 | 0.30 | 0.20 | 0.30 | 0.40 |
| **Total** | **100%** | **1.00** | **2.00** | **2.80** | **1.70** | **2.80** | **1.90** | **1.45** | **2.20** | **2.90** |

A second MCA scenario, applying alternative weights of 45%, 45% and 10% to effectiveness, efficiency and coherence respectively, was used to test the sensitivity of the results to changes in the weighting assumptions. The ranking of options remained unchanged, confirming the robustness of the conclusions[91]. An additional sensitivity analysis based on lower and higher take-up rates for the 28th regime corporate framework was conducted to assess the stability of the results under different uptake assumptions[92].

## 8. PREFERRED OPTION

### 8.1 Package of preferred measures

Based on the assessment above, the preferred option consists of a package of the following measures, as presented in the table below. They are all complementary. PO1 provides a common legal form with a recognisable brand and the other policy options provide common procedures relevant for different parts of the life cycle of 28th regime companies, including setting up (PO2 and 3), attracting and retaining talent through employee stock option plans (PO5), governance and financing including no minimum capital requirement (PO6), attracting investment through improved exit options to be able to scale up (PO7) and closure (PO4). Therefore, this package of measures tackles the identified drivers and addresses the objectives in the most comprehensive, effective and efficient way and is coherent with other EU initiatives.

The initiative aims to establish a single, legal framework aiming to address the needs in particular of startups and scaleups across the Single Market. Therefore, it is cross-border in nature and its aims could not be achieved by Member States on their own. It is also focused on those measures which are needed to build a coherent corporate legal framework and to address problems raised by stakeholders and the problem drivers. Therefore, in line with the principle of proportionality, the initiative does not go beyond what is necessary to achieve its objectives.

**Table 10: Summary of the preferred policy options**

| | |
|---|---|
| **Policy options 1 to provide a harmonised company legal form for entrepreneurs** | **Policy option 1c**: Introduce a new harmonised legal form for a 28th regime company with a recognisable EU brand, to be set up by natural persons as founders and by legal persons (28th regime subsidiaries), with a possibility for existing companies to convert through domestic conversions, and through a cross-border conversion, division or merger in accordance with Directive 2019/2121), and harmonised rules for branches of 28th regime companies. |
| **Policy options 2 to make registration of** | **Policy Option 2b:** Create an EU single interface based on BRIS for the registration of 28th regime companies with harmonised bilingual templates (EN/national language) and preventive control, and |

[91] The MCA tables and summary results are included in Annex 4 section 2.5.1.
[92] The sensitivity analysis results are presented in Annex 4 section 2.5.2.

| | |
|---|---|
| **companies, in particular startups quicker and simpler** | introduce a deadline (48 hours) and cost ceiling of EUR 100 to complete the registration including the preventive administrative, judicial or notarial control when the standardised template is used by founders as natural persons. |
| **Policy options 3 to ensure once-only submission of information in the context of registration** | **Policy option 3c**: In the context of the registration, ensure that the information about the company is transferred from the business register to the authority in charge of issuing the TIN and the VAT identification number, to social security authority and to the beneficial ownership register (with any beneficial ownership information as part of the template), without the 28th regime company needing to submit it again ("once-only principle"), and that the 28th regime company would obtain the TIN and the VAT identification number from the relevant authority as part of the registration process, with any additional information needed to obtain those as part of the template[93]. |
| **Policy options 4 to facilitate closure (liquidation) of the company** | **Policy option 4c**: Ensure that all relevant filings by the liquidator for closure outside of insolvency are transferred from business register to other authorities ("once-only principle"), provide for online filing of claims from creditors, a simplified liquidation procedure (outside of insolvency) for no assets/no debts, and simplified insolvency procedures thanks to their full digitalisation. |
| **Policy options 5 for attracting talent** | **Policy option 5c:** Possibility for 28th regime companies to set up employee stock ownership plans (ESOPs) and issue classes of shares with distinct voting rights, and an optional common employee stock ownership scheme for 28th regime companies, based on employee stock options and with common criteria (EU-ESO), and with harmonised timing for the taxation of employee stock options granted in the context of the EU-ESO. |
| **Policy options 6 to provide a flexible governance and capital regime for founders and investors** | **Policy option 6b:** Create a flexible governance system, provide simple and fully digital procedures for increasing capital and issuing shares and enable the use of modern early-stage financing instruments like SAFEs, and 0 or EUR 1 minimum capital but no paid-in share capital for incorporation of 28th regime companies and harmonised creditor protection safeguards in addition to capital maintenance rules. |
| **Policy options 7 to facilitate exit options** | **Policy option 7c:** Ensure that transfers of shares of 28th regime companies can be carried out fully digitally, without requirement to involve intermediaries, and with a possibility for Member States to grant access to public equity markets to 28th regime companies. |

## 8.2 Impacts of the package

This section assesses the overall impacts of the package of preferred measures. While the preceding analysis examined the impacts of the specific policy options in relation to the relevant part of the lifecycle, the assessment below focuses on the cumulative effects that arise from combining these measures into a single, coherent regulatory regime applicable to the entire lifecycle of 28th regime companies including investment, addressing all the identified drivers in section 2.2.

***Regulatory coherence, transparency and trust in 28th regime companies***

The package of preferred measures is expected to increase regulatory coherence and reduce fragmentation by providing companies, in particular startups and scaleups, with a single, consistent corporate legal framework applicable across Member States. It would enable founders and investors to base long-term organisational and growth decisions on a predictable set of rules. In addition, an easily recognisable EU brand is expected to bring increased transparency and strengthen trust in 28th regime companies. Investors, including venture capitalists, would be more likely to invest in 28th regime companies and other companies (suppliers, contractors) - more likely to do cross-border business with 28th regime companies.

[93] Unless such authorities need to check more case specific information than what is included in the template.

***Compliance burden reduction for 28th regime companies***

The package of preferred measures is expected to strongly reduce the compliance burdens faced by companies at each step of the 28th regime company's lifecycle. Each founder setting up a 28th regime company would benefit from cost savings between EUR 850 and EUR 1 300 depending on the Member State of registration[94]. This would amount to an overall one-off administrative burden reduction between EUR 227 828 649 and EUR 340 256 273 for the estimated 277 958 28th regime companies founded by natural persons (over a period of 10 years). In addition, thanks to the application of once-only principle in the context of registration, each founder is expected to benefit from additional savings between EUR 80 and EUR 341 depending on the Member States of registration, amounting to overall additional savings of EUR 28 718 065 over a period of 10 years. This would mean total savings of almost EUR 370 million for setting up 277 958 28th regime companies over 10 years. Finally, the removal of paid-in minimum share capital at the moment of incorporation would create further cost savings estimated at approximately EUR 400 per company amounting to total cost savings of EUR 55 206 278 over 10 years.

The package would also simplify the operational phase by introducing digital tools for corporate law procedures and allowing for online shareholder and board of direct meetings. In addition, it is expected that each 28th regime company setting up an employee ownership plan, including the easy-to-use EU-ESO scheme with a harmonised timing of taxation, could benefit from EUR 420 cost savings, with the estimated up-take of 10% by 28th regime companies over a period of 10 years resulting in an overall cost savings of EUR 12 971 406. Only limited one-off adjustment costs would be expected, notably for those companies converting into 28th regime companies and which have already set up ESOPs under their previous legal form.

As to the closure, based on the assumption that 8.5%[95] of the 28th regime companies might need to be liquidated (outside of insolvency), those companies are expected to save EUR 3 150 199 on the administrative burden of multiple filings. Savings would be higher for solvent companies without assets and debts undergoing a harmonised simplified procedure[96], which is estimated to reduce costs by EUR 131 258 and result in a much shorter timeframe, and digitalisation of insolvency procedures would be also expected to reduce costs for companies.

***Investment-friendly environment***

The package of preferred measures is also expected to strongly improve the investment environment for 28th regime companies by increasing legal certainty, standardisation and predictability for growth strategies as well as venture capital and other equity-based financing. Rather than directly increasing investment volumes, the package will primarily affect the conditions under which investors and companies assess risk, transaction costs and long-term viability in the EU.

Both investors and companies would benefit from administrative burden reduction, including due to reduced time and less costs linked to due diligence about legal requirements, in-person formalities for share transfers and mandatory involvement of notaries and other intermediaries, with the estimated saving of EUR 1 780 – EUR 2 850 for a growth-stage secondary share transfer transaction of EUR 500 000. Similarly, there would be cost and burden reductions thanks to fully

[94] Depending on whether a notary is involved and if a national template is used.
[95] According to 2025 Eurostat, there was an 8.5% rate of enterprise deaths (exempting insolvency) as compared to a rate of 10.5% of enterprise births in 2023 in the EU. Research done in the US (Startup Failure Rate Statistics) refers to even higher rates with the failure rate being 10% in the first year.
[96] Under the assumption that 1% of the solvent companies undergoing closure could benefit from the harmonised simplified procedure.

digital procedures to increase capital and issue shares, with savings estimated to amount to around EUR 1 100 per financing round[97]. In addition, while the package would leave it to Member States' discretion, it would provide legal certainty that 28th regime companies can attract financing through public equity markets without mandatory conversion into another legal form and thus keep the EU-brand of the 28th regime at the IPO stage.

***EU competitiveness and long-term economic dynamics***

By strengthening the regulatory framework for companies, in particular startups and scaleups in the single market, the package of preferred measures would make the EU a more attractive location for innovative and growth-oriented companies and therefore, contribute to the EU's long-term competitiveness. It would provide common rules throughout the EU Single Market and the 28th regime company would be recognised in all Member States, which would offer a strong advantage as compared to other jurisdictions, e.g. the US, where state laws require corporations to apply for a permission to operate in a state in which they are not registered (so-called foreign qualification).

The possibility for an affordable and fast incorporation of 28th regime companies would encourage European founders to set up their companies in the EU instead of third countries. The package would also enhance the EU's attractiveness as a place to scale and exit innovative companies, and to attract and retain employees, as a viable alternative to non-EU jurisdictions. More efficient approaches to closure of solvent and insolvent companies should also have a positive impact on competitiveness as these should reduce the costs of closure, currently considered higher in the EU as compared to other jurisdictions such as the US. The package of measures will also contribute to Sustainable Development Goals, and in particular SDG 8 on decent work and economic growth, SDG 10 on reducing inequality within and among countries and SDG 17 on partnership for the goals, as it will contribute to economic growth by enhancing the business environment in the single market, will improve companies', and in particular startups' and scaleups' access to cross-border markets, and will foster international cooperation and investment in the single market. All these effects are expected to materialise gradually and depend on uptake, learning effects and ecosystem development, and are therefore assessed qualitatively.

### 8.3 REFIT (simplification and improved efficiency)

This initiative is part of the 2026 Commission Work Programme as a new initiative under the heading 'A new plan for Europe's sustainable prosperity and competitiveness'. This initiative will not revise the existing legislation but put forward a new 28th regime corporate legal framework. This initiative has an important dimension in terms of administrative burden reduction and simplification, including through digitalisation and application of the "once-only principle" as shown in section 6 in the assessment of impacts of policy options and in section 8 summarising the impacts of the package of preferred measures. Overall, this initiative will positively contribute to REFIT.

### 8.4 Application of the 'one in, one out' approach

The 'one in, one out' approach was considered in relation to the preferred policy package. The initiative does not impose new mandatory administrative or compliance obligations on companies compared to the baseline. Accordingly, the estimated "IN" under the 'one in, one out' framework

[97] Estimations for other scenarios are described in Annex 4 on methodology. The estimations focus on costs per transaction as it is not possible to extrapolate these costs to an EU-wide annual total, as there is no reliable data on the overall number of share transfers in private companies.

is zero**.** At the same time, the initiative is expected to reduce administrative burdens for companies in particular startups and scaleups, that choose to operate under the 28th regime. These burden reductions have been quantified using the Standard Cost Model and are estimated at between EUR 328 million and EUR 440 million over a period of 10 years. These savings would be expected from simpler and more efficient registration procedures with the application of the once-only principle and no need to pay in minimum share capital at incorporation. The benefits would also come from the introduction of a common EU-ESO scheme for employee stock options with a harmonised timing of taxation, and measures to simplify and digitalise closure procedures for 28th regime companies. The reduction of administrative burden would be also expected both for companies and investors thanks to digital procedures and simplifications of transactions, including share issuances, capital increases and share transfers, and are estimated per transaction, to amount to EUR 1 780 – EUR 2 850 for a share transfer transaction and around EUR 1 100 per financing round. All these savings are reported as an "OUT".

## 9. HOW WILL ACTUAL IMPACTS BE MONITORED AND EVALUATED?

As a first step, the Commission will contribute to ensuring correct transposition of the package of preferred measures and focus on monitoring its implementation to assess if it is successful in achieving the specific objectives identified in this IA. As a second step, the Commission will evaluate the effectiveness, efficiency, coherence and EU added value of this initiative no sooner than 5 years after its entry into force to allow the necessary period for its implementation and evidence collection in Member States.

The monitoring results will support the assessment of whether the different components of the 28th regime corporate legal framework are functioning as intended and whether and what adjustments may be necessary over time.

**Table 11: Summary on Monitoring and Evaluation**

| Objectives | Monitoring indicators | Data sources |
|---|---|---|
| Contribute to strengthening the competitiveness of EU companies and the EU economy and to better functioning of the internal market. | - Number of companies incorporated as 28th regime companies per year<br>- Number of domestic conversions into 28th regime companies per year<br>- Number of 28th regime companies created through cross-border conversions, divisions or mergers per year | - BRIS |
| Provide better conditions for starting a business and better opportunities for growth and scaling up for companies, in particular startups and scaleups, in the EU. | - Number of 28th regime companies set up fully online through the EU central interface<br>-Number of 28th regime companies created with the standardised templates<br>-Number of 28th regime subsidiaries founded with parent companies in other Member States<br>-Number of cross-border corporate operations carried out by 28th regime companies (e.g. cross-border registrations, restructurings, mergers, divisions, cross-border branch registrations)<br>-Number of 28th regime companies using the simplified liquidation procedures | -BRIS<br>-Data from national authorities<br>-Targeted follow-up surveys or studies |

| | | |
|---|---|---|
| | - | |
| Encourage more investment into EU companies, in particular startups and scaleups. | -Number of successful investment rounds of 28th regime companies<br>-Value/market capitalisation of newly created 28th regime companies after 5 years<br>-Number of 28th regime companies using the EU-ESO<br>-Take-up of simplified financing instruments (including SAFEs) among 28th regime companies | -Data from national authorities<br>-Funding round databases<br>-Targeted follow-up surveys or studies |