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**COMMISSION STAFF WORKING DOCUMENT**

**IMPACT ASSESSMENT REPORT**

*Accompanying the document*

**Proposal for a**

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Directives 2009/102/EC and (EU) 2017/1132 as regards further expanding and upgrading the use of digital tools and processes in company law**

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## Glossary

Term or acronym	Meaning or definition
AML Directive	Anti-Money Laundering Directive - Directive 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing as amended by Directive (EU) 2018/843
BRIS	Business Registers Interconnection System established by Directive 2012/17/EU
BORIS	Beneficial Ownership Registers Interconnection System established by Directive 2015/849
CLEG	Company Law Expert Group, consisting of Member State representatives responsible for company law issues
eIDAS Regulation	Regulation (EU) 910/2014 on electronic identification and trust services for electronic transactions in the internal market
EPREL	European Product Registry for Energy Labelling
ESAP	European single access point
EUID	European Unique Identification Number
FATF	Financial Action Task Force
ICLEG	Informal Company Expert Group on company law and corporate governance, consisting of company law professors and practitioners
IRI	Interconnection of insolvency registers
LRI	Land Registers Interconnection system
PoA	Power of Attorney document
SDG Regulation	Regulation (EU) 2018/1724 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services
TFEU	Treaty on the Functioning of the European Union

## 1. INTRODUCTION: POLITICAL AND LEGAL CONTEXT

### 1.1. Political context

The Single Market has generated new opportunities for European companies and consumers, created millions of jobs and strengthened the productivity and global competitiveness of European companies over the last decades. The COVID-19 pandemic and, more recently, the war in Ukraine, highlighted the dependence of the European economy on external factors and underlined the value of the Single Market for the European economy. The **European Council conclusions of 24-25 March 2022** highlighted that *“the Single Market remains one of the European Union’s primary assets for sustainable growth and job creation, and is key to accelerating its green and digital transitions as well as strengthening the resilience of our economies”*, and, in particular, called for implementing the Industrial and SME Strategies, *“completing the Single Market, in particular for digital and services”*, *“preventing bottlenecks as well as removing remaining unjustified barriers and administrative burdens and avoiding new ones”*.

In the Single Market, there are around 26 million enterprises<sup>1</sup> employing 133 million persons. The overwhelming majority of these enterprises are micro, small and medium-sized enterprises (SMEs)<sup>2</sup>. They need a predictable legal framework that is conducive to growth and adapted to face the new economic and social challenges in an increasingly digital world. Such framework should provide companies with an enabling environment: to be set up, to operate, to expand across borders and, in general, to make most of their potential without unjustified barriers and administrative burden. EU company law plays an important role in laying down such a framework.

The company law framework, which encompasses the roles and responsibilities of the business registers, needs to respond to new challenges. The developments in digitalisation and technology have fundamentally changed how business registers operate, and how business registers, companies and stakeholders, in particular public authorities, interact with one another on company law related issues. These changes were further amplified by the recent COVID-19 pandemic, which proved that digital tools are essential to ensure the continuity of business operations and companies’ interactions with business registers and authorities.

In a more digitalised world, transparency and data about companies have gained a new dimension. Originally, the purpose of the public disclosure requirements about company data in the business registers was to protect third parties such as creditors. Today, the call for transparency goes much beyond this. Companies and investors need to get access to company data in order to find business partners and investment targets across the Single Market. Furthermore, whether it is due to the Panama Papers, Lux leaks or issues related to posted workers and social unfairness, civil society increasingly asks for more transparency about companies<sup>3</sup>. In addition, the role of business registers has developed beyond their traditional role of registering corporate entities. Today, there are increasing demands for access to more reliable company data from business registers. There is also an increasing need for a close co-operation with other public authorities across the Single Market, in particular those responsible for anti-money laundering/countering the financing of terrorism,

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<sup>1</sup> Eurostat, Business Demography Statistics 2022 define enterprise as *‘the smallest combination of legal units that is an organisational unit producing goods or services.... An enterprise carries out one or more activities at one or more locations’*. An enterprise may thus be a sole legal unit but also a combination of legal units;

<sup>2</sup> According to the latest June 2022 annual report on SMEs, there were approximately 22.8 million SMEs active in the EU-27 and these SMEs accounted for 99.8% of all enterprises in the non-financial business sector (i.e. NACE sectors of the economy except some such as agriculture, financial and insurance activities, human health and social work activities, education, arts, other service activities); SME Performance Review (europa.eu).

<sup>3</sup> Study on “Letterbox companies: overview of the phenomenon and existing measures”; [Letterbox companies - Publications Office of the EU \(europa.eu\)](https://publications.ec.europa.eu/publication-detail/-/publication/00000000-0000-0000-0000-000000000000).

taxation or law enforcement, e.g. to create better conditions to counteract abuse or fraud, or to effectively implement EU sanctions (e.g. against Russia or Belarus).

The EU company law was recently updated in response to digital developments to provide rules for fully online formation of limited liability companies, registration of branches and fully online submission of documents in the business registers<sup>4</sup>. The initiative subject to this impact assessment upgrades the EU digital company law further by addressing the need to increase the availability of company information in business registers, in particular at cross-border level, and to remove administrative barriers and burdens through the use of digital tools and processes when companies and public authorities use such information.

In a market characterised by the absence of internal borders, being able to access and use company data cross-border easily and without administrative burden underpins the economic activity and is essential to create a safer and more favourable economic environment for companies, consumers, and other stakeholders (investors, creditors, employees). Such conditions, in turn, are essential to ease doing business for companies, in particular SMEs, help them find ways to explore and expand to other EU markets, and therefore contribute to an economic rebound following the pandemic.

### ***Contribution to the political priorities and to other political initiatives***

The **Communication 2030 Digital Compass: the European way for the Digital Decade**<sup>5</sup> called for intensification of the ongoing work to accelerate Europe's digital transformation and stressed the importance of providing key public services online for European citizens and businesses. In this context, it set a target that 100% of key public services should be available online for European citizens and businesses by 2030. It also stressed the importance of creating connected public administrations, including through the use of the **once-only principle**. The importance of digital tools for businesses to access information, interact with authorities and enjoy access to justice, and the need for appropriate tools for authorities and legal professionals to communicate, exchange or submit documents securely cross-border was also strongly underlined in the **Communication Digitalisation of justice in the European Union - A toolbox of opportunities**<sup>6</sup>.

This proposal is included in the **2023 Commission Work Programme** as one of the key actions under the Commission's headline ambition of "Europe fit for the digital age"<sup>7</sup>. Under this headline ambition, the planned initiative will directly contribute to the objectives set out in these Communications and in that way, it will be also very relevant in responding to the call from the European Council on *completing the Single Market, in particular for digital and services*.

The **Communications Updating the 2020 New Industrial Strategy**<sup>8</sup> and **SME Strategy for a sustainable and digital Europe**<sup>9</sup> underlined the importance of strengthening the resilience of the Single Market and the role of a well-functioning Single Market to accelerate the recovery after the pandemic, and highlighted the important role that SMEs play in that context and in leading the green and digital transitions. The SME strategy, especially, mentioned that "*the Commission will consult and assess the need for additional company law measures to facilitate cross-border expansion and scale-up by SMEs*". The planned initiative will contribute to these strategies, in particular by aiming to abolish and reduce formalities in relation to use of company information in cross-border situations and to make the setting up of subsidiaries and branches in other Member States less time-consuming and more cost-effective. This will be very relevant in the context of the

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<sup>4</sup> [Directive \(EU\) 2019/1151](#) amending Directive (EU) 2017/1132

<sup>5</sup> [COM\(2021\) 118 final](#).

<sup>6</sup> [COM\(2020\) 710 final](#).

<sup>7</sup> [COM\(2022\) 548 final](#)

<sup>8</sup> [COM\(2021\) 350 final](#).

<sup>9</sup> [COM \(2020\) 103 final](#).

call by the European Council to “[...] *remove remaining unjustified barriers and administrative burdens and avoiding new ones*”.

Finally, the planned initiative can also contribute to the fight against abusive or fraudulent companies, to the implementation of EU rules on anti-money laundering/countering the financing of terrorism, building on the Financial Action Task Force (FATF) recommendation on transparency and beneficial ownership of legal persons<sup>10</sup> and to the effective implementation of EU sanctions against e.g. Russia or Belarus or any other possible country, **by creating better conditions for the imposition of such measures**, in particular through enhanced ex-ante controls about company data and increased transparency.

## 1.2. Legal context

### *EU company law rules*

EU company law rules laid down in the **Codified Company Law Directive**<sup>11</sup> set out provisions regarding the formation, capital and disclosure requirements, and domestic and cross-border operations (e.g. mergers) of limited liability companies.

In the last decades, there has been a number of developments at EU level to bring EU company law rules in line with digital developments. After first steps towards electronic filing and electronic copies in 2007<sup>12</sup>, an important milestone was the creation of the **Business Registers Interconnection System (BRIS)** in 2012<sup>13</sup>. BRIS became operational in 2017. Since then, Member States’ business registers have gradually connected to BRIS, with the last Member State joining at the beginning of 2022. Now BRIS interconnects all Member States’ business registers. It gathers certain information about EU limited liability companies, which is harmonised through common disclosure requirements in the Codified Company Law Directive, directly from Member States’ business registers and makes it available to the public at EU level through a single access point at the European e-Justice Portal<sup>14</sup>. In particular, BRIS gives free of charge access to a set of company information such as the name and legal form of the company, its registered office, the registration number, and, more recently, also to information, e.g. on company’s legal representatives, its cross-border branches, status and object of the company<sup>15</sup>. Furthermore, BRIS provides access to other company information, for which Member States may charge a fee, including e.g. instruments of constitution, accounting documents, the amount of capital subscribed, winding up of the company, declaration of nullity by the courts or termination of a liquidation of a company.

BRIS also provides secure means for exchange of information between business registers on certain cross-border issues regulated by the Codified Company Law Directive (e.g. regarding cross-border mergers), offering a technical means for cooperation between business registers and for implementation of the once-only principle in cross-border situations.

Most recently, the **Digitalisation Directive**<sup>16</sup> introduced fully online formation of companies, registration of branches and fully online submission of documents in the business register. It also made more company data available free of charge from business registers (e.g. on legal representatives, cross-border branches, status and object of the company) and established an

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<sup>10</sup> FATF recommendation 24, as revised in March 2022, includes requirements on company information in business registers, so called “basic information”; [Documents - Financial Action Task Force \(FATF\) \(fatf-gafi.org\)](#).

<sup>11</sup> [Directive \(EU\) 2017/1132](#) codified several company law Directives (from 1982 to 2012) into one legislative act.

<sup>12</sup> [Directive 2003/58/EC](#) amending Council Directive 68/151/EEC.

<sup>13</sup> [Directive 2012/17/EU](#) amending Council Directive 89/666/EEC and Directives 2005/56/EC and 2009/101/EC.

<sup>14</sup> [European e-Justice Portal – Business registers – search for a company in the EU \(europa.eu\)](#).

<sup>15</sup> Member States had to transpose most of these new provisions of the Digitalisation Directive by August 2022.

<sup>16</sup> [Directive \(EU\) 2019/1151](#) amending Directive (EU) 2017/1132.

exchange of information between Member States on disqualified directors. Also, the **Mobility Directive**<sup>17</sup> that regulates cross-border conversions, mergers and divisions, enhanced the use of BRIS in terms of introducing new exchanges between business registers (e.g. on cross-border conversions and divisions).

### 1.3. Scope of the impact assessment

The initiative subject to this impact assessment upgrades the digital company law further to **address the needs of direct users**, such as companies, other stakeholders and public authorities, to access and to use in the cross-border context reliable and up-to-date official company data, based on legal obligations, from business registers. This company data includes e.g. company name, legal form, company's legal representatives, instruments of constitution or accounting documents.

This initiative **does not cover the re-use of company information** from business registers **for commercial and non-commercial purposes**. The latter issue is regulated by the Open Data Directive<sup>18</sup>. Therefore, the so-called “intermediaries” i.e. private service providers who use company data from business registers as an input to their own commercial products and services, as well as non-commercial intermediaries, are outside the scope of the planned initiative. Similarly, this initiative is about company information based on legal obligations and, thus, does not cover commercial information about companies, e.g. concerning their credit history, their products or distribution channels. In addition, this initiative does not cover the obligation of business registers as statistical business registers, which is regulated by the Regulation on European business statistics<sup>19</sup>.

## 2. PROBLEM DEFINITION

### 2.1. What are the problems?

Business registers are established by law to facilitate the interaction of companies operating under the jurisdiction of the register with the Member State's authorities, other companies and the public, both when those businesses are established and throughout the course of their lifespan<sup>20</sup>. Company registration and information in business registers are crucial for ensuring an accountable, transparent and viable business environment. Companies, when they are formed, have a legal obligation to be registered in the business registers. The instrument of constitution and the subsequent registration in the business register gives the company the characteristic of a legal personality. Companies also need to file (submit) to the business register updated information throughout their life cycle. This company information in business registers has legal value, i.e. it can be relied on – at least to a certain extent - by third parties. Therefore, business registers are a primary source of trustworthy information about companies in the Single Market.

Traditionally, business registers have been operating at national level and most were created well before the Treaty of Rome and the emergence of digital technologies, in the 19<sup>th</sup>-20<sup>th</sup> century<sup>21</sup>. However, with the growing number of companies expanding economic activities to other Member States' markets through e.g. cross-border mergers, establishing cross-border subsidiaries or

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<sup>17</sup> [Directive \(EU\) 2019/2121](#) amending Directive (EU) 2017/1132.

<sup>18</sup> [Directive \(EU\) 2019/1024](#).

<sup>19</sup> [Regulation \(EU\) 2019/2152](#).

<sup>20</sup> [UNCITRAL Legislative Guide on Key Principles of a Business Registry](#).

<sup>21</sup> Study on the disclosure and cross-border use of company data, and digital developments related to company law (Milieu Consulting SRL) 2022 – hereinafter referred to as “supporting study”



branches, trading cross-border or providing cross-border services in the EU, there is an increasing demand for access to **official and reliable** information on companies in a cross-border context and for use of this company data for different purposes, by companies, business registers or authorities.

The problem is that access to and use of reliable company information from business registers in cross-border situations is still hindered by barriers. Firstly, company data that stakeholders as direct users, including authorities, are looking for is not yet sufficiently available in national business registers and/or cross-border through BRIS. Secondly, the direct use of such company data in cross-border situations (including administrative procedures, court proceedings) and setting up cross-border subsidiaries or branches) is still hindered or not possible.

This means that, even if the economy is more and more integrated, companies, including SMEs and other stakeholders, including public authorities and courts do not have yet optimal conditions – as regards the access to and use of company data - to be part of cross-border operations or procedures in the single market. For instance, possibilities for companies, and in particular SMEs to expand cross-border can be hindered if they cannot find easily accessible and comparable information about business partners or potential clients in other Member States and face costs in searching for this information. In a similar way, if creditors and investors have difficulty finding information about companies from other Member States, they might be less willing to search out businesses from other Member States to finance or invest in, and this can negatively impact companies including SMEs who are in need of such financing and investment.

The evidence for this initiative, including about problems and obstacles encountered by stakeholders, was gathered through wide-ranging consultation activities. These included a public consultation (83 respondents), a specific consultation of SMEs through an “SME panel”<sup>22</sup> (158 respondents, majority from SMEs in the form of limited liability companies), surveys (with business registers, public authorities, legal practitioners, business and financial organisations and individual companies<sup>23</sup>) and two virtual workshops (with business registers and companies) carried out in the context of an external contractor study<sup>24</sup> for this initiative, and targeted interviews (with key EU level stakeholders and with legal practitioners specialised in company law). Overall, the results of these consultation activities can be seen as providing a reliable picture of views of stakeholders because the information was gathered in parallel through different targeted channels to ensure that sufficient numbers of stakeholders were reached, and similar feedback was received in all of them. The interviews and workshops with stakeholders confirmed the findings of consultations and surveys, and also provided some real case examples of specific costs.

The problem tree below illustrates the main drivers, problems and consequences. The following sub-chapters describe the problems and the drivers in more detail.

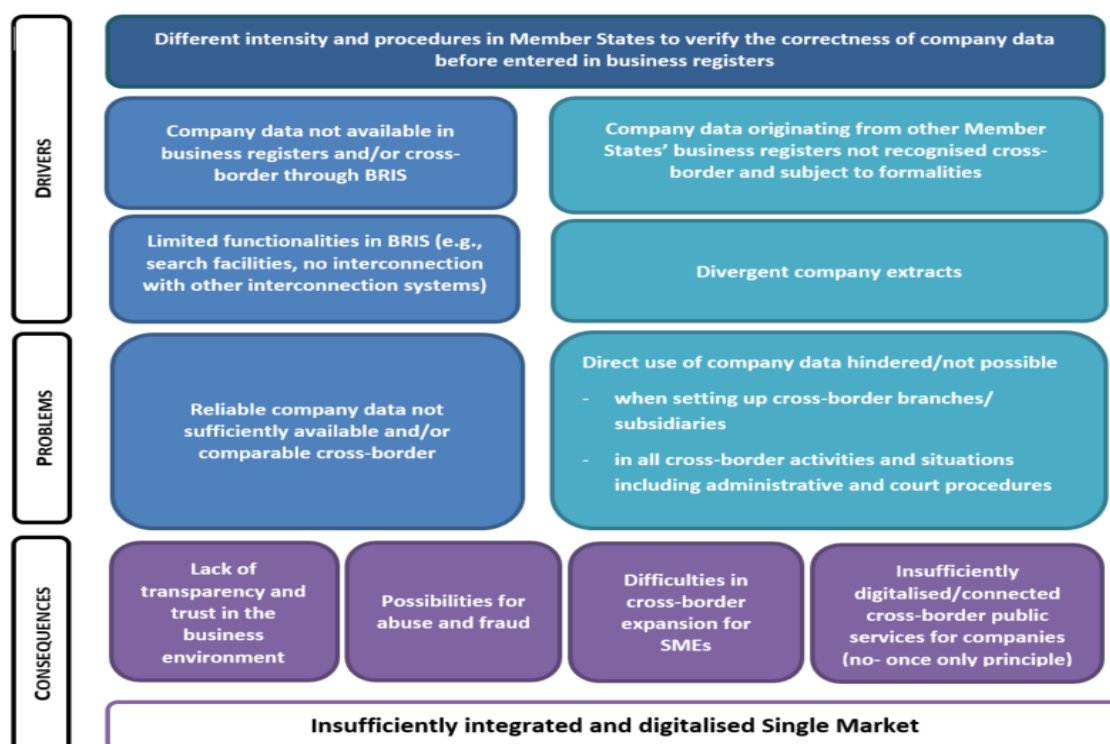
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<sup>22</sup> The 'SME panel consultations' are a tool that allows Commission service to reach SMEs in a targeted way and are organised in cooperation with the partners in the Enterprise Europe Network, a support network for small and medium-sized enterprises (SMEs) bringing together, among others, chambers of commerce and industry, regional development organisations or innovation support organisations.

<sup>23</sup> 25 business registers, 11 legal professionals, 1 financial institution, 3 business organisations, 20 public authorities (tax and labour) and 140 companies took part in these surveys.

<sup>24</sup> Study on the disclosure and cross-border use of company data, and digital developments related to Company Law. by Milieu Consulting srl. [Company law and corporate governance \(europa.eu\)](https://ec.europa.eu/economy_finance/company-law-and-corporate-governance-study_en)

## Problem tree



### 2.2. Reliable company data is not sufficiently available and/or comparable cross-border

#### *Need for more company data unsatisfied*

Investors, creditors, consumers or any other third party, but also companies and in particular SMEs, need to have access to reliable information about companies in the Single Market for several reasons. According to the respondents to the public consultation, the most important reason to have access to company data is to find or check information about a company, as a creditor, a business partner or a legal professional. Similarly, 75% of companies responding to the surveys for the supporting study<sup>25</sup> indicated that they needed company data cross-border to find information about potential business partners; 33% - for benchmarking/market analysis purposes, and 32% - to identify legal representatives. International surveys also confirm the use of business registers' data for business facilitation purposes<sup>26</sup> and in particular to check the consistency of information provided by companies (e.g. suppliers and/or customers), or as part of more detailed due diligence research into a company<sup>27</sup>.

Different authorities and courts also need to have data about companies to carry out many tasks related to administrative and judicial procedures. Yet, 70% of authorities responding to the public consultation confirmed they faced difficulties when accessing or verifying data about companies from business registers in another Member State. They also need company data to more easily identify and, therefore, take more effective actions to implement EU sanctions or against abusive,

<sup>25</sup> Surveys in the context of the supporting study.

<sup>26</sup> [The International Business Registers Report 2019 \(ebra.be\)](#).

<sup>27</sup> [Valuing the user benefits of Companies House data: policy summary \(publishing.service.gov.uk\)](#).

fraudulent companies, e.g. abusive letterbox companies. According to the 2019 study on letterbox companies<sup>28</sup>, numerous companies owned by foreign majority shareholders were located at the same address in the EU, e.g. in Latvia, Czechia, the Netherlands, Luxembourg, Slovakia and Denmark up to several hundreds of companies were located at the same addresses. The public authorities (mainly tax authorities) responding the supporting study survey confirmed that they needed data about companies from other Member States to check information (95%, 19 respondents), establish taxes (70%, 14 respondents) and to identify legal representatives, detect fraud and money laundering/terrorist financing and carry out controls (60%)<sup>29</sup>.

The problem is that stakeholders encounter difficulties when looking for and accessing data about companies from other Member States. For instance, companies reported such difficulties when expanding their business in another Member State in the evidence gathered in the context of the 2020 Single Market Strategy<sup>30</sup>, and this problem was seen as prominent especially among SMEs. For instance, for 53% of SMEs, “identifying business partners abroad” was too difficult according to the 2017/2018 Annual Report on European SMEs<sup>31</sup>. “Insufficient legal/financial information about potential business partners in other countries” was also seen as one of the significant obstacles by 59% of respondents to the 2019 Eurochambres survey<sup>32</sup>, it being particularly important for companies with less than 10 employees.

As regards company information available in business registers, which is the focus of this initiative, a majority of respondents encountered some difficulties when looking for and accessing data about companies from other Member States; only 20% respondents to the public consultation and 13% of SMEs replying to the targeted consultation of SMEs did not encounter any difficulties at all. The most often mentioned difficulty by respondents to the public consultation was that information about companies in different Member States was not comparable (48%, 34 out of 71 respondents), that stakeholders were not able to find/have access to it at EU level but only in national business registers (35%, 25 out of 71), and language difficulties (34%, 24 out of 71). Business associations, companies and legal professionals stressed in particular the lack of comparability and not having access at EU level whereas public authorities most frequently mentioned language difficulties. Similarly, for SMEs responding to the SME panel it was a problem that the information could be only found on companies’ websites (19%) or only in business registers (12%)<sup>33</sup>. In addition, 15% of SMEs could not find/access company information at all. Some stakeholders also mentioned during consultation activities that it was sometimes challenging - even for legal professionals specialised in company law - to identify the website of the official business register in other Member States as there are many private websites also providing company information.

As to the type of information, the consultation activities identified the following gaps: (1) *lack of information about other legal forms than limited liability companies*; (2) *lack of information about place of management and place of the main economic activity*; (3) *lack of information about company groups and ownership*; (4) *lack of information about third country branches at EU level*; (5) *lack of connected EU level systems*; (6) *other difficulties*.

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<sup>28</sup> Letterbox companies: overview of the phenomenon and existing measures Final Report, [Letterbox companies - Publications Office of the EU \(europa.eu\)](https://publications.ec.europa.eu/publications-detail/-/publication/00000000-0000-0000-0000-000000000000).

<sup>29</sup> Similar purposes are also found by [The International Business Registers Report 2019 \(ebra.be\)](https://publications.ec.europa.eu/publications-detail/-/publication/00000000-0000-0000-0000-000000000000).

<sup>30</sup> See Communication “[Identifying and addressing barriers to the single market](#)” and Staff Working Document “[Business Journey on the Single Market: Practical Obstacles and Barriers](#)”.

<sup>31</sup> [SME Performance Review \(europa.eu\)](https://publications.ec.europa.eu/publications-detail/-/publication/00000000-0000-0000-0000-000000000000)

<sup>32</sup> [Business Survey - The state of the Single Market \(eurochambres.eu\)](https://publications.ec.europa.eu/publications-detail/-/publication/00000000-0000-0000-0000-000000000000), incl. 1107 entrepreneurs from 27 EU countries.

<sup>33</sup> Respondents could only choose one answer, therefore lower numbers of respondents per difficulty.

### *Lack of information about other legal forms than limited liability companies*

The majority of consulted stakeholder groups across the consultation activities were in favour of making information about other types of companies than limited liability companies available. In particular, different stakeholder groups, including companies, agreed that information about partnerships should be made available centrally at EU level through BRIS. For instance, 71% (48 out of 68) of respondents to the public consultation were in favour of having access to information about other legal forms in general, and 36 out of those (including a number of business associations and public authorities) were in favour of having access to information about partnerships. So were 115 out of 117 of SMEs replying on this issue in the SME panel. 91% of legal practitioners, 90% of public authorities, 72% of companies and 70% of business registers in the supporting study surveys considered that having information on partnerships at EU level would be beneficial. Most Member States' representatives in the Commission's expert group (CLEG) were in favour of transparency on partnerships.

Partnerships play a significant role in many Member States and are economic operators on equal footing with limited liability companies. In 2022, the number of partnerships registered in the EU amounts to about 2 million<sup>34</sup>. Therefore, having good access to cross-border information about partnerships is seen as important by stakeholders, as shown by replies to the consultations above, and the lack of it means that e.g. companies and other stakeholders planning to cooperate or cooperating cross-border with partnerships face difficulties to find information. The lack of partnerships information can also have an impact on e.g. transparency on groups (as partnerships appear in company group structures) or on tackling fraud and abuse.

In addition, it also limits the possibility to use such information to develop connected EU level systems/administrations (see below e.g. EPREL or interconnection of BRIS with other systems) which leads to unnecessary use of extra resources and duplication. In addition, insufficient cross-border information about partnerships makes it more difficult to tackle their possible use for abusive purposes. While private limited liability companies seem to be the most commonly used legal form for (abusive) letterbox companies, partnerships can also play a role. For example, the Danske Bank money-laundering scandal involved limited partnerships and limited liability partnerships<sup>35</sup>; a 2016 report from the Danish tax authorities estimated that between 2010 and 2014, 384 (7%) of limited partnerships, which had foreign owners, could be used for illegal tax evasion abroad.<sup>36</sup>

### *Lack of information about the place of management and place of the main economic activity*

Limited liability companies amount to around 16 million companies<sup>37</sup>. The increasing need to have access to information about them - whether for business or public purposes - corresponds to their importance in the economy and was confirmed by the public consultation whereby 67% of respondents were in favour of EU company law rules requiring **disclosure of additional information about limited liability companies** in national business registers and via BRIS.

More specifically, the consultation activities confirmed the importance of and demand for information about the **place of management and the place of the main economic activity**. For instance, tax authorities responding to the supporting study surveys needed this information for the identification and detection of fraud and tax evasion (95% of tax authorities in case of place of management and 89% - in case of place of economic activity), and the responding legal

<sup>34</sup> Commission own calculations – see annex 6.

<sup>35</sup> <https://danskebank.com/-/media/danske-bank-com/file-cloud/2018/9/report-on-the-non-resident-portfolio-at-danske-banks-estonian-branch.pdf>

<sup>36</sup> <https://www.ft.dk/samling/20151/almdel/SAU/bilag/165/1619506/index.htm>

<sup>37</sup> Commission own calculations – see annex 6.

practitioners - for taxation purposes (55% of legal practitioners use place of management and 73% - place of economic activities). Legal practitioners also needed the place of economic activity for social security purposes (55%). Different stakeholders expressed support to have this information at EU level, e.g. 70% of respondents to the public consultation were in favour of disclosing the place of management in business registers and through BRIS, and 67% - the place of the main economic activity. A responding EU level SME association listed the place of management as one of their four priorities regarding company information that should be made available at national and EU level. SMEs responding to the SME panel were also strongly in favour, with 109 of 114 in favour of as regards the place of management, and 112 out of 113 - as regards the place of economic activity. Some Member States in the consultations pointed out that these concepts are not part of their legal systems and that they would need to be defined.

The lack of cross-border access to such information can lead to an administrative burden for companies to submit this information to authorities on a case-by-case basis when e.g. setting up a company, for insolvency/restructuring, for tax or social security purposes (more than half of companies responding to the supporting study survey had to provide information on place of management and/or place of economic activity for those purposes). The work of authorities and legal practitioners can also be cumbersome in this context. This was confirmed by the results of the supporting study where authorities, legal practitioners and companies confirmed that having this information available would reduce administrative burden (72% of all stakeholders, 95% of public authorities in case of place of management, and 81% legal practitioners and 66% of companies in case of place of management, and 73% of all stakeholders, 95% of public authorities, 72% legal practitioners and 69% of companies in case of the place of the main economic activity)<sup>38</sup>.

#### *Lack of information about groups of companies and ownership*

Concerning information about ownership, and in particular about **groups of companies**, many stakeholders (minority shareholders, potential investors, creditors, potential business partners, authorities, employees) but also civil society's associations and communities at large may have a legitimate interest in knowing the structure of the group to which the company belongs. Many stakeholders confirmed that they use and need information related to groups of companies. The taxation and anti-money laundering purposes were often mentioned by public authorities (mostly in charge of tax issues), legal practitioners and companies replying to the supporting study surveys<sup>39</sup>. Legal professionals also needed the group information to verify company data of a business partner of a company (70%), and companies also needed it to apply for funding.

The need for the information about groups can be explained by the fact that a group of companies is a common structure for organising business to maximise the allocation of material or human resources or corporate funds between networks of companies. The group structure may also impact the financial credibility and solvency of subsidiaries. Groups often deploy their economic activity beyond the country of their main headquarters, including by direct or indirect exporting, contract manufacturing, alliance, licensing, franchising or investment (e.g. through cross-border branches, cross-border subsidiaries, mergers and acquisitions). In 2020, 135,450 multinational enterprise groups were operating in the EU/EFTA, employing over 42 million people; 75 % of those were controlled by an EU (66 %) or an EFTA parent (9 %)<sup>40</sup>.

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<sup>38</sup> Regarding the place of management, 42% of respondents expected a burden reduction to a large/very large extent and further 30% to some extent. Regarding the main place of economic activity, 47% of respondents expected a burden reduction to a large/very large extent and another 26% - to some extent.

<sup>39</sup> For instance, 94% public authorities needed it for taxation purposes and 50% - for anti-money laundering purposes; and 80% legal professionals needed it for anti-money laundering purposes.

<sup>40</sup> [European statistical register on multinational enterprise groups](#).



The majority of stakeholders across consultation activities confirmed that it is important and beneficial to have better access to company information related to groups of companies including at EU level. 77% of respondents to the public consultation and 111 out of 113 SMEs responding to the SME panel were in favour; an EU level SME association listed information related to groups among their four priorities regarding company information that should be available not only at national but also at cross-border level and stressed that this information is indeed difficult to access and compare, which represents additional time and financial costs for SMEs. 76% of the respondents to the supporting study surveys also thought that it would be beneficial if information about groups were publicly available to the wider public in an easily accessible way and format in national business registers and BRIS. This need was also confirmed during targeted interviews with legal practitioners and was strongly supported by company law professors in ICLEG, who considered that it is important for any company's stakeholder to have access to information on the group's existence and structure. Some Member States considered that implementation of such requirements might be challenging including because this information was not yet available in their national business register.

The lack of cross-border access to information about groups of companies means e.g. that companies and other stakeholders wanting to check if their business partner is part of the group face difficulties to find information. SMEs and other companies face administrative burden when having to provide group related information to authorities on a case-by-case basis for tax or anti-money laundering purposes, or when applying for funding (around half of companies in the supporting study surveys said they needed to provide group information for those purposes). For example, SMEs often need to prove whether they are part of the group or an autonomous company when applying for funding. The recent evaluation of the SME recommendation<sup>41</sup> found that to verify the SME status, a company that is part of a group may need to include the data from the other companies in the group and that the cost and complexity to verify such status increased for non-autonomous companies, especially those with complex ownership structures and documentation in other countries. In that context, stakeholders suggested that the SME definition could be applied more efficiently i.e. by increasing digitalisation of SMEs and public administrations, and improving access to company data including by further development of BRISs.

This was confirmed by results of the supporting study surveys where 78% of all respondents (82% of legal practitioners, 82% of public authorities and 75% of companies) said that having the group information at EU level would help to reduce administrative burden.

#### *Lack of information about third country branches at EU level*

While branches of EU limited liability companies are already available in BRIS, information about third country company branches (i.e. branches of non-EU companies) is not. There was strong support for making this information accessible through BRIS in the public consultation with 90% responding participants in favour, and high support was expressed in the supporting study surveys with 73% of all respondents (in particular, 94% of public authorities and 81% of legal practitioners) confirming that having this information at EU level would be beneficial).

#### *Lack of connected EU level systems*

Another problem raised in the consultation activities is that public authorities, companies, legal professionals and other stakeholders who need company data or company related data need to **search for them in different systems, such as BRIS or** the EU interconnection of beneficial

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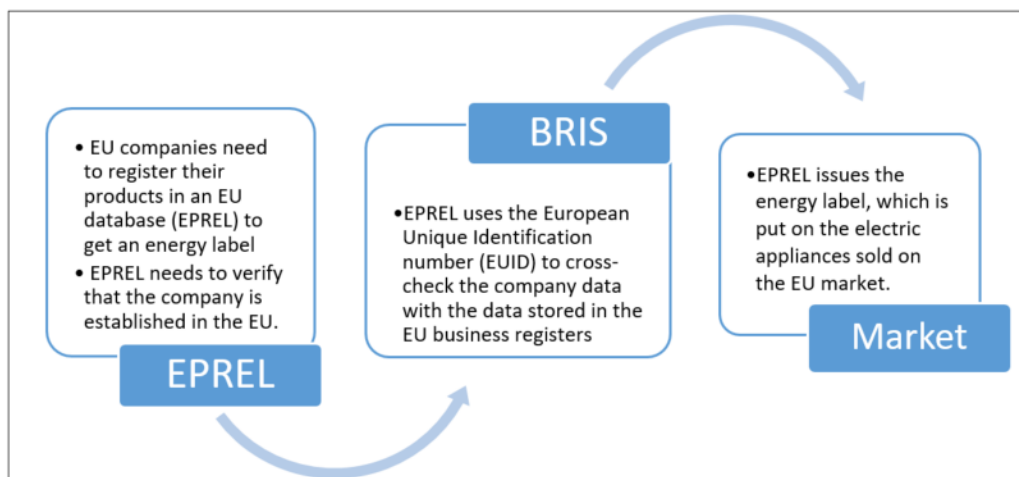
<sup>41</sup> [Register of Commission Documents - SWD\(2021\)279 \(europa.eu\)](#).

ownership registers (BORIS)<sup>42</sup>, **due to the lack of connection between them.** Although the data is interrelated, it can be found only separately in these systems. This is also demonstrated in stakeholder views during the consultation activities, where a majority of respondents to the public consultation (82%) were in favour of linking BRIS with the EU interconnection of beneficial ownership registers and 67% of respondents to the supporting study surveys thought it useful. In the discussions in CLEG, most Member State also experts have considered interconnection of BRIS with other systems, such as BORIS, beneficial.

In addition, the development of connected EU level systems/administrations and drawing full benefits from those is also hindered by the lack of data about other legal forms than limited liability companies in BRIS, and so far limited use of the EUID, which is not yet used by all EU interconnection systems (e.g. the insolvency registers interconnection system (IRI)<sup>43</sup>), is not available for other legal forms (as explained below), and is not sufficiently used by registers and authorities to unequivocally identify EU companies.

*Example of use of BRIS and EUID (European Unique Identification Number)<sup>44</sup>*

The EUID is based on the national registration number and is available free of charge in BRIS. To get registered in the European Product Registry for Energy Labelling (EPREL)<sup>45</sup>, companies need to prove that they are established in the EU/EEA. Thanks to the use of the EUID in EPREL to cross-check the company data through BRIS, companies do not have to provide separate evidence that they are EU/EEA companies. However, as the EUID is currently available for limited liability companies and their cross-border branches only, EPREL cannot use this system for other entities, e.g. partnerships. Other cross-checks need to be used, which creates administrative burden for companies and relevant EU authorities, and hinders once-only filing.



In addition, the fact that systems/administrations are not connected at the EU level may also contribute to fraud and abuse given that fraudulent companies can take advantage of the fact that authorities do not share the information between themselves.

### Other difficulties

<sup>42</sup> [European e-Justice Portal – Beneficial ownership registers interconnection system \(BORIS\) \(europa.eu\)](https://european-courts.eu/e-justice-portal/boris)

<sup>43</sup> [European e-Justice Portal - Bankruptcy & insolvency registers - search for insolvent debtors in the EU \(europa.eu\)](http://european-courts.europa.eu/portal/portal.do)

<sup>44</sup> Limited liability companies must have the EUID according to the Codified Company Law Directive.

<sup>45</sup> [Regulation \(EU\) 2017/1369](#) setting a framework for energy labelling and repealing Directive 2010/30/EU.

Practical obstacles may also make it difficult to effectively access company data on a cross-border basis. Although the public consultation showed that many stakeholders are familiar with BRIS (74% of respondents) and use it (67%), it revealed that public authorities and business associations were more familiar with BRIS as compared to companies and EU citizens. Other consultation activities (i.e. the supporting study surveys and the consultation of SMEs) showed that respondents mainly used websites of companies or business registers to find information about companies from other Member States. 8% of the respondents to the supporting study survey and 4% of SMEs replying to the SME panel used BRIS to access cross-border company data.

The consultation activities also showed that search in BRIS could be improved; 83% of respondents to the public consultation asked for more **search functionalities** centrally at EU level via BRIS (in particular by legal form, registered office or country-by-country reports) and improved search for company data through BRIS was seen as important by SMEs (94 out of 115). The limited search functionality was also mentioned by 42% of respondents responding to the supporting study surveys, and in particular by business registers and legal practitioners (61% and 70%).

In addition, another difficulty reported was the **need to pay fees to access information and documents from business registers**, indicated by legal practitioners, business registers and public authorities responding to the supporting study surveys. 73% of respondents to the public consultation were in favour of having more company data available free of charge at EU level through BRIS.

### **2.3. Direct use of company data is hindered/not possible when setting up cross-border subsidiaries and branches**

Setting up subsidiaries or branches in other Member States or carrying out cross-border operations with companies in other Member States are means for EU companies, including SMEs, to expand their economic activities beyond the national borders. There are approximately half a million EU subsidiaries (i.e. companies with a separate legal personality) belonging to ultimate owners located in the EU<sup>46</sup>. In addition, there are around 70,000 EU subsidiaries that are controlled by ultimate owners located outside the European Union<sup>47</sup>. Concerning branches (with no separate legal standing from the main company), there are about 50 000 cross-border branches and 20 900 third-country branches, against more than 4.3 million domestic branches in the EU.<sup>48</sup>

The results of consultation activities also give an example of how many companies try to set up cross-border subsidiaries or branches. 13% of SMEs (mainly private and public limited liability companies) replying to the SME panel indicated they already had an establishment/place of business in another Member State, 9% were planning to have one whereas 5% tried but gave up. Similarly, 20% of companies responding to the supporting study survey had or were considering setting up a subsidiary in another Member State.

When setting up cross-border subsidiaries or branches, companies still often face administrative barriers, which create administrative burden and may even have a deterrent effect. In this context, stakeholders representing companies, and in particular SMEs and start-ups, call for additional measures, which would make it quicker and less costly to create a presence to explore markets in other Member States<sup>49</sup>. The 2021 Single Market Strategy findings also stressed that despite progress, the *“European SMEs experience legislation as complex and burdensome, especially due to the different procedures in Member States. These barriers deter many from doing cross-border*

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<sup>46</sup> Supporting study

<sup>47</sup> Supporting study

<sup>48</sup> Supporting study. These figures on branches should be taken with caution given the difficulties in data collection.

<sup>49</sup> Meetings with SME organisations.



*business and scaling-up”.*

As to specific difficulties when setting up cross-border subsidiaries or branches, the consultation activities show that in a big majority of Member States, companies need to resubmit data, which exists in their national business registers, to the registers of other Member States. The main difficulties mentioned by companies in the public consultation and by SMEs in the SME panel included the need for certified translation of company documents and for legalisation/apostille of these documents<sup>50</sup>. For instance, around half of SMEs with experience of setting up subsidiaries/branches abroad mentioned the need for legalisation/apostille and certified/sworn translation in the SME panel.

60% of those answering SMEs faced administrative costs or time consuming procedures linked to such difficulties; and costs for legal advice (e.g. from lawyers or notaries), translations, legalisation costs were mentioned by a few respondents in this context. The need for legalisation of documents and certified translations when setting up branches for companies, and to a lesser extent subsidiaries, was also mentioned by nearly half of the legal practitioners replying to the supporting study surveys. The existence of costs for companies (time, legal cost and fees) in such cross-border situations was also confirmed by the targeted interviews with practising lawyers. These administrative barriers create a significant administrative burden (time, legal cost and fees) for companies as shown by a concrete case below.

**According to a lawyer interviewed in the context of targeted consultations<sup>51</sup>, to obtain a company extract about the parent company when establishing a subsidiary in another Member State, the following steps need to be taken, resulting in the following costs:**

- 1) Identification that the business register is the official one (and not just e.g. a commercial database). This, including getting a company extract may require the involvement of a lawyer, which might cost up to EUR 100 and, depending on whether a cooperation with a lawyer in that Member State already exist or not, take time (up to 7 days).
- 2) Delivery of the company extract is free of charge in some Member States, but in others it is against a fee.
- 3) Depending on the form of the extract, obtaining notarisation and/or apostille, which in practice usually requires involving a lawyer, takes up to 7 days and costs up to EUR 300 (EUR 150 for notarisation and apostille and EUR 150 for foreign lawyer's assistance)
- 4) Sending the paper document: up to 3 days and cost of the courier fees of ca. EUR 30.
- 5) An official translation: depending on the size of the document, up to 3 days, cost ca. EUR 100.

**This means that to get an official extract, which can be used in another Member State where the subsidiary will be set up, may cost up to 530 EUR and take up to 17 days.**

This experience was confirmed by other sources (other bilateral interviews and desk research)<sup>52</sup>. In practice, this means that companies setting up a subsidiary or a branch in another Member State cannot yet rely on the once-only principle. This is also reflected in the calls in the EU Start-up Nations Standard<sup>53</sup> to make it possible to submit legal documents from other EU jurisdictions as

<sup>50</sup> See Annex 2 with synopsis report on consultation activities for more detail.

<sup>51</sup> Interview with a Polish lawyer.

<sup>52</sup> Furthermore, different costs for cross-border use of company information, such as costs of company extract, cost of legalisation/apostille, costs of certified translation were gathered through legal mapping of all Member States in the supporting study (Annexes 6 and 7).

<sup>53</sup> [Startup Nations Standard](#).

proof for the incorporation of a start-up (or creation of a subsidiary of an existing start-up expanding in the single market).

#### **2.4. Direct use of company information is hindered or not possible in all cross-border activities and situations, including administrative and court procedures**

Companies often need to provide information about their registered office, legal representatives, their status, object of the company or its activity in the context of administrative procedures, e.g. to obtain funding or for social security purposes, authorisations, public procurement, taxation, or in court proceedings in another Member State. These requirements are based on different sectoral requirements, which result in a situation where companies often have to provide similar information for different purposes in a cross-border situation despite the fact that such information is already available in their national business registers. Companies also often need to prove to the authorities that they are an EU company, e.g. in the example about European Product Registry for Energy Labelling (EPREL) explained above. However, based on sectoral EU legislation, it is sometimes not clear what specific information a company needs to provide to prove this.

The consultation activities confirmed that companies face difficulties or find it impossible to use the information, which is already in their national business register, also in other cross-border situations, including when dealing with competent authorities or in court proceedings in another Member State. This was the case for a majority (73%) of companies in the public consultation. The company data in the business register of one Member State is often not accepted as evidence in other Member State, probably due to the perceived risk of inaccuracy of the registered information from another Member State; instead, they require additional evidence and extra formalities, which generates costs and delays for the parties relying on the registered information<sup>54</sup>. Such further conditions are imposed due to **lack of trust** in cross-border company data, even if company documents and information from the business registers of other Member States are accepted among EU Member States.

Similarly to setting up subsidiaries and branches cross-border, the main difficulties mentioned by stakeholders in the public consultation and by SMEs in the SME panel also related to requirements of certified translation of company documents and their legalisation/apostille. For instance, 33% of SMEs with experience of setting up subsidiaries or branches abroad needed certified translations and 22% - legal certification (apostille); and over half of SMEs involved in cross-border court proceedings needed certified/sworn translation of company information/documents. Similarly, more than half of legal practitioners and of public authorities responding to the surveys for the supporting study needed certified or sworn translations of documents (64% and 53% respectively) and 45% of practitioners and a third of authorities also mentioned the need for authentication (apostille) in administrative and court procedures. Furthermore, 60% of the legal practitioners faced difficulties dealing with company law procedures due to differences in electronic formats required by authorities and courts, and 50% due to requirements from business registers.

These difficulties and requirements often lead to administrative burden, additional costs and delays as shown in a concrete example below.

A lawyer interviewed in the context of targeted consultations<sup>55</sup> indicated the following main problems/costs to access and use company information from business registers:

1) **Local access:** often not possible to access public information remotely,

<sup>54</sup> ICLEG report on the use of company data (to be published on the Commission company law policy website and in the Register of expert groups once finalised).

<sup>55</sup> Interview with a Spanish lawyer.

- 2) Need for **translation** into the local language,
- 3) **Apostille**,
- 4) **Delays** due to legal formalities,
- 5) **Legal costs** of approximately EUR1,000 / EUR 2,000,
- 6) **Internal costs for the managers** of the companies to manage it. Increased bureaucracy, and
- 7) **"Opportunity" cost** that discourages the closing of transactions or discourages the pursuit of cross-border alternatives.

These difficulties may have an important impact on the transaction or can even have a deterrent effect, in particular for SMEs, which have less resources and knowledge to handle formalities and procedures and are often obliged to pay services providers or lawyers to handle those. It has been estimated that where a big company spends one Euro per employee because of a regulatory duty, a small business might have to spend on average up to ten Euros<sup>56</sup>. 64% of SMEs with experience of setting up cross-border subsidiaries/branches responding to the SME panel faced administrative costs or time consuming procedures when dealing with authorities in other Member States.

In addition, the company extracts, which confirm that the company is validly incorporated and exists (i.e. an "identity card" for companies), vary between Member States and cannot be used in cross-border situations without burdensome and costly formalities. As shown by targeted consultations with legal professionals and also examples below, the procedures vary from one Member State to another, or even within the Member State, and it is difficult or sometimes even impossible at the beginning of a procedure to establish what documents are needed and with which formalities, and whether a company extract will be accepted by public authorities in another Member State, leading to legal uncertainty.

#### ***Examples of additional requirements imposed by courts or authorities***

As regards the power of the director(s) to represent the company, for example, **German courts** often require a certificate by a German notary who accessed the register in another Member State and attests that the information about the power of representation is correct. Where the legal value of the foreign register does not correspond with that of the German register (at least from the court's point of view), because the foreign register does not verify the accuracy of the information, German courts do not even accept this and require various other documents (varying from court to court). The above-mentioned examples are based on judgments of the German courts, which mostly concerned UK companies. They were cited in an academic paper<sup>57</sup> and according to an expert view, the position of the courts would presumably be the same with respect to, for example, Irish or Danish companies.

The **Supreme Court of Justice of Austria** (OGH) held in 2015 that if an Austrian notary gets an excerpt from the Dutch companies register and certifies it, this document does not have the evidentiary value of a public document. It can thus not be used to prove who can represent the company for purposes of entry into the Austrian land register. The OGH reasoned that in case of foreign registers, it can be difficult for the notary to check the plausibility of the register data due to the different legal system and language. According to an Austrian practitioner, excerpts from company registers of other EU Member States are usually accepted by the Austrian land register

<sup>56</sup> 'Models to reduce the disproportionate regulatory burden on SMEs. Report of the Expert Group', European Commission, May 2007

<sup>57</sup> ICLEG report on the use of company data.

and the Austrian companies register if there is a certified translation and an apostille. Sometimes the registrar also requires a certified translation of the apostille.<sup>58</sup>

The magnitude of costs due to obstacles when using company extracts cross-border could be high because such extracts are very important for companies and legal professionals who rely on them to confirm information about companies and identify them, and because they are frequently used for many different purposes in cross-border situations. For instance, they are needed to obtain different permits and certificates, to open a bank account for the company, to take part in public tenders, to apply for funding, and in many other cross-border situations such as the conclusion of a cross-border contract with clients and suppliers or the verification of company's legal capacity before the court of another Member State. The company extract is also required by EU law in certain procedures<sup>59</sup>.

For example, a lawyer from Poland who took part in a workshop organised for the supporting study mentioned that in case of any administrative or court proceedings in Poland (whether initiated by the represented company, against it or including its participation in any other way), a standard set of Power of Attorney (PoA) document and a company excerpt from the relevant register are both necessary attachments to any filing. Power of Attorney (PoA) is needed to prove that a lawyer can represent the company and the company extract is needed to prove that the person signing the PoA is indeed registered in the business register as authorised representative of the company (e.g. board member).

## **2.5. What are the problem drivers?**

### **2.5.1. Company data is not available in business registers and/or cross-border through BRIS**

Currently, EU company law lays down harmonised disclosure requirements, which regulate which information companies need to disclose, i.e. make it publicly available through submitting such information in the business register, and through BRIS. However, the Codified Company Law Directive covers disclosure requirements only for limited liability companies, as listed in its Annex II, and only the information that is listed in its Article 14 such as company name, legal form, the instrument of constitution, registered office, authorised legal representatives or accounting documents. Articles 18 and 19 stipulate which information is available through BRIS as well as which information is available free of charge via BRIS.

This means that the disclosure of other company information is currently not required by EU company law rules and is left to national laws; therefore, national business registers may store and give access to more data on companies than is required by EU company law. This includes, for instance, information on legal forms other than limited liability ones (including e.g. partnerships).

For instance, **partnerships** are registered in business registers in all Member States, yet there are some differences between the types of partnerships and types of information made available about them across the EU.<sup>60</sup> Also, even if this data is available in national registers, it is not available at EU level through BRIS and it is thus more difficult and burdensome to access the information on those companies cross-border.

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<sup>58</sup> ICLEG report on the use of company data.

<sup>59</sup> E.g. Commission Implementing Regulation (EU) 2021/1224 on the EU Schengen Area Entry/Exit System (EES), Art. 10, paragraph 6.

<sup>60</sup> See Annex 12.

Some other information on companies that is important for stakeholders, e.g. **on groups of companies and ownership**, is only available in some business registers and it may be dispersed in different documents or databases, not publicly available or not available at all. The supporting study found that 24% of the responding business registers have information about the structure of the group and EU parent company and 19% about the third country parent company as well as information on the ownership rights between the members of the group.<sup>61</sup>

In some other Member States, there are only indirect means of disclosure of the group's affiliation, for example through identification of controlling shareholders, including e.g. IT, AT, DE or PL. This information is disclosed in the national business registers but only for private limited liability companies (although in IT, the identity of the shareholders of a public company is also disclosed together with the financial report on an annual basis).<sup>62</sup> However, it requires burdensome "upstream research" of the entire shareholding chain in order to find who the ultimate parent of a particular subsidiary is, and this research might not provide information on intermediate parent companies registered abroad<sup>63</sup>.

In EU company law, the single-member company Directive<sup>64</sup> requires that single members are disclosed in the business register or entered in a register kept by the company and accessible to the public. Other EU law provides certain rules on the information related to the groups of companies. Pursuant to the Accounting Directive<sup>65</sup>, the parent company established in the EU and preparing consolidated accounts must include all the group member companies in the notes to the consolidated accounts<sup>66</sup>. However, this provides a "list" of subsidiaries rather than complete information on the structure of the group and focuses on companies preparing consolidated accounts. These rules are subject to national exemptions, as a result of which for instance in Spain, only around 1000 companies provide consolidated accounts<sup>67</sup>. In addition, larger companies have to disclose in the explanatory notes to their individual financial statements the name and registered office of the ultimate parent company<sup>68</sup> drawing up consolidated financial statements and the next upper intermediate parent<sup>69</sup>. As regards subsidiaries, the disclosure obligation does not apply to subsidiaries that are small companies, unless a Member State went beyond the EU requirements<sup>70</sup>.

Yet other EU disclosure requirements may apply only to certain members of the group (e.g. listed companies) and not for the whole group<sup>71</sup>. In other cases, disclosure requirements related to group related information might be for specific purposes and therefore not allowing an overview of the group. For instance, the AML Directive requires public disclosure about beneficial owners (natural person(s) as ultimate owners) of legal entities<sup>72</sup>.

Some other company information might be even more difficult to find because it might not be available in national business registers. For instance, this is the case for information about the

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<sup>61</sup> Supporting study.

<sup>62</sup> ICLEG report on transparency.

<sup>63</sup> ICLEG report on transparency.

<sup>64</sup> [Directive 2009/102/EC](#).

<sup>65</sup> [Directive 2013/34/EU](#).

<sup>66</sup> Article 28 (2) of Directive 2013/34/EU.

<sup>67</sup> ICLEG report on transparency.

<sup>68</sup> Article 17(1)(l) of Directive 2013/34/EU.

<sup>69</sup> Article 17(1)(m) of Directive 2013/34/EU.

<sup>70</sup> As allowed by Article 16(2) of Directive 2013/34/EU.

<sup>71</sup> For example, in EU capital markets rules, listed companies have a duty to disclose a) the crossing of pre-determined percentages as regards voting rights held by their own shareholders (Directive 2004/109/EC), b) a duty on issuers to identify their controlling shareholders (Regulation (EU) 2017/1129) or c) a duty to include in the annual report additional information on shares with special control rights (Directive 2004/25/EC).

<sup>72</sup> ICLEG report on transparency.

**effective place of management of companies**, head office, principal place of business, central administration, the location where the most important decisions are taken by the company's management, **the location where the main economic activities of the company take place** or similar concepts. In the supporting study out of 22, seven Member States indicated that they record information on both the place of effective management and the place of the main economic activities.

As regards the information on the effective place of management of companies, some Member States which have this information in the register are those, which require a “real seat” of the company in their territory as a condition for establishment there.

### **2.5.2. Limited functionalities in BRIS (e.g. search criteria, no interconnection with other EU interconnection systems)**

BRIS is currently not connected to other interconnection systems relating to company-relevant information. The interconnection of all insolvency registers (IRI)<sup>73</sup> was established in 2021 following Regulation (EU) 2015/848 and is accessible on the European e-Justice portal. The beneficial ownership registers interconnection system (BORIS)<sup>74</sup> became operational in 2021 on the basis of Directive (EU) 2015/849 as amended by Directive (EU) 2018/843. The BORIS interconnection uses the same technology and technical infrastructure created for BRIS (i.e. the "European central platform"). All these interconnections have different lifespans and have been developed separately, although all are accessible on the European e-Justice portal and two of them (BRIS and BORIS) use the same infrastructure and technology.

The functioning of BRIS is based on the EUID, which every limited liability company has. The EUID also links these companies and their cross-border branches. The EUID is free of charge and builds on national registration company and contains the following elements: a) country code, b) business register identifier and c) company's registration number. It is also compliant with ISO 6523. However, the EUID in BRIS is currently available only to limited liability companies and their cross-border branches and, with the exception of BORIS, it is currently not used to link company information stored in different registers<sup>75</sup>.

Finally, the harmonised criteria for the BRIS search service provided on the European e-Justice Portal were established by the Commission Implementing Regulation 2021/1042<sup>76</sup>. It allows the search via BRIS by company name and registration number. This is based on the information disclosed and available through BRIS in accordance with the Codified Company Law Directive. However, the need for increased and more sophisticated search criteria goes hand in hand with the increasing need for more company information.

### **2.5.3. Different intensity and procedures in Member States to verify the correctness of company information before it is entered in business registers**

Currently, EU company law lays down limited harmonised obligations to verify how company data should be checked before it is entered into business registers. Article 10 of the 1968 First Council Directive<sup>77</sup> (now Article 10 of the Codified Directive) requires Member States to provide for either i) preventive administrative or judicial control at the time of the formation of the company; or ii) for the instrument of constitution, the company statutes and any amendments to those documents to be

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<sup>73</sup> [European e-Justice Portal - Bankruptcy & insolvency registers - search for insolvent debtors in the EU \(europa.eu\)](#)

<sup>74</sup> [European e-Justice Portal – Beneficial ownership registers interconnection system \(BORIS\) \(europa.eu\)](#)

<sup>75</sup> For an example of the use of EUID for other authorities, see example on EPREL above.

<sup>76</sup> [EUR-Lex - 32021R1042 - EN - EUR-Lex \(europa.eu\)](#)

<sup>77</sup> [First Council Directive 68/151/EEC.](#)

drawn up and certified in due legal form. However, it leaves it to the Member States to specify the items to be checked, the intensity of the checks and other details of the process. This was due to differences between the standards of Member States at the time of the adoption of this provision in 1968<sup>78</sup>. More recently, Directive (EU) 2019/1151 introduced minimum harmonisation for ex-ante checks (e.g. checking the identity of the natural person) applicable to fully online formation/registration of certain companies (private limited liability companies) and to the fully on-line filing of documents to the business register by all limited liability companies<sup>79</sup>. They were introduced primarily to provide safeguards against any abusive/fraudulent use of online procedures and not specifically to ensure reliability of data; they only apply to on-line procedures while for any offline procedures and for formation/registration of other company types, there are no mandatory EU rules.

As to national rules in place, all Member States carry out, to a certain extent, an ex-ante scrutiny of company documents and information, i.e. check or verify those, before they are entered in the business register. However, there are different approaches in Member States based on their legal traditions. The differences relate to the intensity of checks, procedures or also to the person/body in charge of verifying the information (e.g. notaries or lawyers together with the business register or only the business register).<sup>80</sup>

#### **2.5.4. Company data originating from other Member States' business registers is not recognised cross-border and subject to formalities**

The acceptance of company documents or information from other Member States' registers by authorities or courts is usually subject to some conditions. Most national authorities or courts require an apostille to accept company documents/information from other Member States' business register as valid for administrative procedures or court proceedings in their country. Apostille is a certificate issued by a competent authority which proves the authenticity of the document, and which is then recognised by all countries party to the *Hague Convention (Apostille Convention)*<sup>81</sup>. All Member States are party to this Convention and it applies to public documents, including administrative ones, which, in turn, include extracts from business registers<sup>82</sup>. Eight Member States (AT, BE, BG, DK, EE, ES, LV, and SI) have implemented apostilles in electronic format<sup>83</sup>. In a limited number of countries, there are bilateral agreements, which simplify this procedure. However, it seems that many of these agreements are restricted to civil status documents. The scope of these agreements may also vary and there is a certain degree of uncertainty as to whether or not they apply to documents from other Member States' business registers. In addition, all documents/information from business registers are not treated in the same way. While an extract from a foreign business register would be considered as a foreign public document, other information not in the form of an official document would be treated as private documents.<sup>84</sup> This means that in practice, the situation is not clear and the conditions for acceptance of documents and the requirements to have apostille vary depending on circumstances and purposes across Member

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<sup>78</sup> The approaches varied e.g. between DE, which required both judicial control and notarisation of the statutes, IT where judicial control was needed or BE and LU which called for notarisation of the statutes only.

<sup>79</sup> Articles 13g and 13j Of Directive (EU) 2019/1151.

<sup>80</sup> More detailed information will be presented in tables in Annex 12.

<sup>81</sup> Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents (the Apostille Convention),

<sup>82</sup> The Hague Conference on Private International Law, Permanent Bureau, [Apostille Handbook, A Handbook on the Practical Operation of the Apostille Convention, 2013.](#)

<sup>83</sup> See the [Implementation Chart of the e-apostille.](#)

<sup>84</sup> Supporting study.



States<sup>85</sup>. The legal uncertainty created by unclear and varying rules and practices is confirmed by targeted consultations. While the Public Documents Regulation<sup>86</sup> removed unnecessary formalities (apostille) for citizens, companies in cross-border situations continue to face the legal uncertainty and administrative burden.

Meeting this requirement can be costly and costs for apostille vary across Member States, as shown in the table in Annex 8. Applying for an apostille can also cause additional costs in terms of time. In addition to legalisation/apostille requirements, documents or information must also be typically translated into the language of the relevant Member States by certified translators.

- According to a law firm interviewed as part of the targeted consultations, it took almost **two months** to obtain the information to conclude a cross-border acquisition of a Spanish company by a French company, mainly because of the delay in **obtaining the apostille** for the information received from the business register.
- For instance, for the documents from another Member State's business register to be recognised as legal evidence for legal proceedings in a Spanish court, the formal authenticity of the documents needs to be confirmed (e.g. by apostille), they need to be translated into Spanish<sup>87</sup>.

As regards requirements when a (parent) company sets up branches or subsidiaries in other Member States, the business register or the body/person in charge in that country requests information about the parent company in addition to information about branch or subsidiary. For example, for the setting up a cross-border branch, all Member States (except DK) require additional documents/information compared to those required for setting up domestic branches. This includes information relating to the foreign (parent) company e.g. its name, legal form, amount of the subscribed capital, information on its corporate status, annual financial statements, proof of the registration of the foreign company in the relevant business register or copy of the instrument of incorporation<sup>88</sup>. Although this information already exists in the business register of the parent company, the companies are still often required to re-submit it with formalities, including translation and legalisation/apostille. Similar rules apply when setting up cross-border subsidiaries.

Only a few Member States (e.g. BG, EL, LT and LV) retrieve the documents required for the registration of branches of foreign companies directly from other business registers. Some others responded to the surveys for the supporting study that their national rules did not provide for a direct retrieval of information from other Member State business registers, or that the technical means for a direct retrieval of data from other business registers was lacking, or that all information necessary to set up a branch in some Member States was not available through BRIS<sup>89</sup>.

### 2.5.5. Divergent company extracts

Business registers in most Member States issue company extracts. The aim of these documents is to provide in one document basic or more detailed company data that is available in the business register at the moment when the extract is generated by the register. However, currently there are

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<sup>85</sup> Supporting study.

<sup>86</sup> [Regulation \(EU\) 2016/1191](#) amending Regulation (EU) No 1024/2012

<sup>87</sup> Article 323.2° of Civil Procedure Law regarding legalisation; Article 144 of the Civil Procedure Law regarding the translation; and Article 323.1 of the Civil Procedure Law regarding the formalities in the other Member State. For consolidated jurisprudence in Spain on this issue, see e.g. Resolution of Supreme Court of Spain of 21/11/2016.

<sup>88</sup> Supporting study

<sup>89</sup> Supporting study.



different practices across Member States with regard to the structure and content, length, cost of company extracts and regarding languages in which they are issued<sup>90</sup>.

## 2.6. How likely is the problem to persist?

If no additional EU action is taken in this area, overall, there will continue to be **limited transparency and limited availability of reliable company data in business registers and at EU level (through BRIS)** about 16 million limited liability companies and about around 2 million partnerships. Furthermore, **barriers to direct use of company data in cross-border situations will continue to exist, including insufficient use of the once-only principle** and therefore, double requirements for companies when setting up cross-border subsidiaries or branches.

At the same time, users' needs will be likely to evolve. In line with digital developments, the interest in company data is increasing and stakeholders will continue to be more and more interested in easy access to reliable/official company data for different purposes. In response, Member States are already making efforts and will most likely continue to improve (and digitalise) company law procedures and access to company data at national or regional level, as well to connect companies and different authorities or connect different authorities. The Nordic Smart Government (NSG) project run by the Nordic trade registers, which aims to enhance the automation and use of financial data between companies and from companies to the authorities<sup>91</sup>, or the cooperation between the Estonian and the Finnish registers to simplify cross-border data exchange<sup>92</sup>, are examples of such regional developments. However, without EU level action, such national or regional developments would not be able to create a reliable and trustworthy business environment and remove barriers to the use of company data when setting up cross-border subsidiaries and branches and in other cross-border situations, including administrative procedures and court proceedings. In certain regions, as a result, companies would be in a more preferential situation than in others.

The reforms in the third countries close to the EU would also be likely to continue and have an impact on developments in the EU. For instance, the United Kingdom is about to perform a major reform of its business register as it is considered to be a key element of the information architecture of the UK economy and estimated that to be worth £1-3 billion to its users. The reform is meant to respond to current challenges and in particular to concerns about the accuracy of the companies' register as well as to enable the register to play a greater role in tackling economic crime and fraud<sup>93</sup>.

The commercial service providers would also continue to sell company data online against substantial fees, however, they would not be able to provide up-to-date company data for official use, on which third parties can rely and which is required by public authorities and which can be obtained from business registers and through BRIS. In addition, other types of commercial service providers such as those offering services to obtain company extracts from business registers, including apostille and translations, would continue to emerge. This could aggravate the difficulties to identify the official source of company data on-line.

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<sup>90</sup> More detailed information is presented in tables in the Annex.

<sup>91</sup> [Nordic Smart Government](#) (Denmark, Finland, Sweden, Iceland and Norway).

<sup>92</sup> [Commercial registers of Estonia, Finland sign agreement on data exchange :: The Baltic Course | Baltic States news & analytics \(baltic-course.com\)](#).

<sup>93</sup> [Corporate Transparency and Register Reform White Paper \(publishing.service.gov.uk\)](#).

New targeted initiatives or sectoral legislation might be also put forward at national or EU level, with an aim to fill in this gap in company information, requiring companies to submit information for their purposes, and possibly creating new EU databases or EU level registries. This would likely result in multiple and overlapping reporting requirements and thus increased administrative burden for companies given that company registration is a national, EU and international level legal obligation and the other initiatives would not be able to replace it but would in practice only add to it. Any new databases or registries would also require public funding both at national and EU level, leading to unnecessary additional expenses at both levels, given that business registers and BRIS already exist and can be extended.

In general, the work towards providing key public services online for European citizens and businesses and creating connected public administrations, including through the use of the once-only principle, would be ongoing following the Communication 2030 Digital Compass, towards the target of 100% of key public services being available online for European citizens and businesses by 2030. However, while Member States would continue to work towards that target at national level, without a targeted EU initiative, these objectives could not be achieved for cross-border procedures between companies and public authorities (in particular business registers), which rely on the use of the official company data in business registers. These would continue to be hindered by burdensome formalities. Similarly, solely actions at the national level would not be sufficient to apply the once-only principle for setting up of cross-border branches and subsidiaries.

### **3. WHY SHOULD THE EU ACT?**

#### **3.1. Legal basis**

This initiative aims to enhance transparency in the Single Market by increasing the amount and improving the reliability of company information available in national business registers and at EU level (i.e. cross-border through BRIS) and thus complement the existing harmonised disclosure requirements enshrined in the Codified Company Law Directive. In addition, this initiative aims to ensure legal certainty and lift barriers to the use of company information in cross-border situations, including administrative procedures and court proceedings, and when setting up cross-border subsidiaries and branches, and thus enhancing and facilitating the freedom of establishment by companies. For these objectives to be achieved, in line with the Codified Company Law Directive, the appropriate legal basis for the initiative is Article 50 of the Treaty on the Functioning of the European Union (TFEU), in particular articles 50(2) (b) (close cooperation between the competent authorities in the Member States), 50(2) (c) (abolition of administrative procedures and practices forming and obstacle to freedom of establishment), 50(2) (f) (progressive abolition of restrictions on freedom of establishment) and 50(2) (g) (coordination measures concerning the protection of interests of companies' members and other stakeholders) should be envisaged. In addition, Article 114 of TFEU could possibly be added.

#### **3.2. Subsidiarity: Necessity of EU action**

As the problems described earlier show, the current situation is mainly caused by divergent national rules and lack of appropriate rules at EU level. First, to increase the scope of available company data at EU level through BRIS, a coordinated action is required to ensure that all Member States have the data in their business registers and that the data is accessible comparable and multilingual format centrally at EU level through BRIS. Similarly, co-ordinated action is required to ensure that there are common checks of company data before it is entered into a national business registers to improve its reliability and facilitate its use in a cross-border situations. Finally, to enable the cross-

border use of company data including the application of the once-only principle requires the elimination of barriers.

Therefore, Member States acting individually could not satisfactorily remove the barriers because rules and procedures would need to be compatible and coherent in order to work in cross-border situations. A coherent legal framework for cross-border transparency and availability of company data, and for cross-border use of company data can be achieved exclusively at EU level.

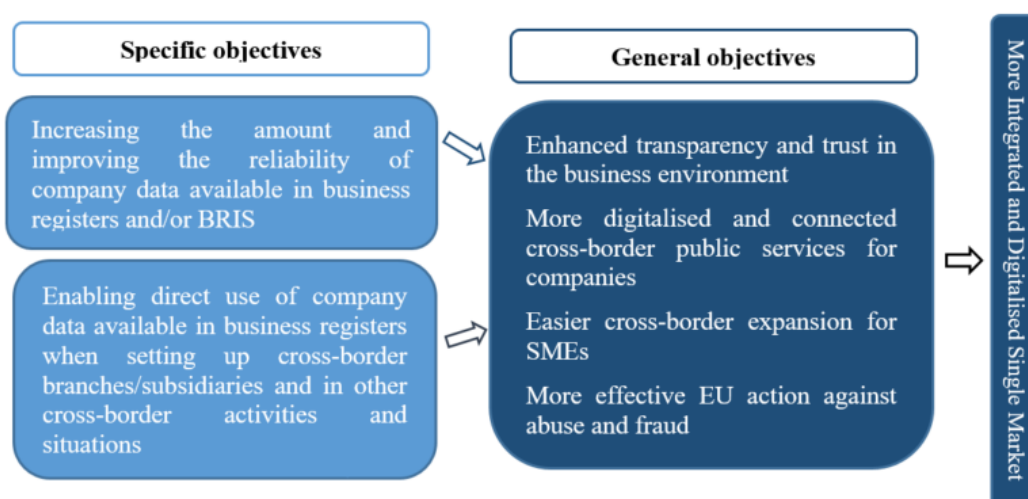
### 3.3. Subsidiarity: Added value of EU action

There is a strong value added of action at EU level in the context of this initiative because it focuses on cross-border issues. Improving the availability and reliability of comparable and multilingual company data at EU level and cross-border is an objective that needs to be achieved at EU level. In addition, EU action is needed because this initiative aims to build on BRIS, which is an already operational EU level system of interconnection and provides for multilingual and comparative company information cross-border. Similarly, the value added from linking the EU level systems of interconnection of registers can also be only achieved by an EU action. Common rules are also required to ensure that similar checks of company data are carried out before it enters business registers and only those can result in increased legal certainty about company data for companies, authorities and other stakeholders in the Single Market. The objective of enabling direct use of company data from business registers in cross-border situations equally requires action at EU level to introduce the once-only principle or provide for a common company extract that would be recognisable in all Member States. In line with the principle of proportionality, the planned initiative will not go beyond what is necessary to achieve its objectives by targeting specific cross-border issues (i.e. needs of direct users to access and use cross-border official company data from business registers) which could not be achieved by Member States on their own.

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

The general and specific objectives of this initiative are presented in the following figure.

### Objectives



### 4.1. General objectives

In order to respond to the problems identified, the overarching aim of the planned initiative is to contribute to the creation of a more integrated and digitalised Single Market by creating more

reliable legal framework that provides legal certainty for companies and other stakeholders while contributing to the fight against abuse. The objective is to enhance transparency about companies in the Single Market, through the use of digital tools (such as BRIS), to create trust between Member States, while at the same time reducing overall administrative burden for companies and other stakeholders in cross-border situations. The aim of the initiative is also to enhance cross-border cooperation in particular between business registers (more connected public authorities) in the Single Market and at the same time, to make it easier for SMEs to expand cross-border.

In addition, by building on the “first hand” information about companies in business registers and their interconnection at EU level, the planned initiative would encourage more authorities (e.g. tax authorities) to use the company data directly from the business registers and BRIS and thus reduce the burden on companies by extending - de facto - the application of once-only principle (i.e. companies would not need to submit the information to authorities because authorities would access directly the information in the business registers). The initiative would also lay down the foundations for more connected public administrations cross-border in the Single Market by making it possible to connect other EU level systems/registers to BRIS.

This would contribute to complementing the Single Market, in particular for digital as called by the European Council conclusions of 24-25 March 2022.

## **4.2. Specific objectives**

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

### **4.2.1. Increasing the amount and improving the reliability of company data available in business registers and/or BRIS**

The first objective is to make more information about EU companies available in business registers and in particular in BRIS. The consultation activities for this IA showed demand for more company data, with 87% of respondents to the public consultation in favour of more harmonised company information being made available on a cross-border basis (through BRIS), with majorities in favour across stakeholder groups<sup>94</sup>. The planned interventions would seek to do this by building on the company information, which is available in the national business registers and making it available at EU level in BRIS. In addition, based on stakeholder needs, the initiative would seek to provide access to more information both in national business registers and BRIS. However, having more information available alone would not meet the objective sought. All the stakeholders, authorities and public at large need to be able to trust that the information about companies is accurate, up-to-date and trustworthy so that they can rely on it for their business purposes or in administrative or court procedures. Therefore, the initiative also seeks to ensure that company data, which is entered into business registers and which is also accessible through BRIS, is accurate, up-to-date and trustworthy. Finally, in order to further enhance the access to company data, the initiative seeks to improve the ways of searching for company information in BRIS and to find synergies between BRIS and other EU level register interconnection systems, which contain company information.

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<sup>94</sup> All responding companies and legal professions, 93% of public authorities, 81% of EU citizens and 68% of business associations were in favour.

#### **4.2.2. Enabling direct use of company data available in business registers when setting up cross-border branches/subsidiaries and in other cross-border activities and situations**

The second objective is to enable the use of the company information available in business registers and in BRIS in cross-border situations. In consultation activities stakeholders in general confirmed the existence of obstacles to cross-border use of company data and were overall supportive of introducing measures to help companies when setting up subsidiaries/branches or in contacts with authorities/courts in other Member States. First prerequisite for this is that company data in business registers is reliable, which is addressed under the first objective. This also shows the interlinkages between different problem drivers as well as between the objectives. The second prerequisite for the cross-border use of company data is that its use is not hampered by costly and time-consuming formalities creating administrative burden, complicating and slowing down procedures. Therefore, the planned initiative aims to address the administrative barriers and formalities as well as the diversity of national company extracts, which EU companies need use when operating cross-border. Finally, concerning setting up of cross border subsidiaries and branches, the initiative aims to ensure that the company doing such cross-border expansion would not need to file information, which already exist in its own business register, twice or more and thus could rely on the application of the once-only principle.

### **5. WHAT ARE THE AVAILABLE POLICY OPTIONS?**

#### **5.1. What is the baseline from which options are assessed?**

In the absence of any EU action, the BRIS could not provide access to any new information beyond what is regulated by Articles 14 and 19 of the Codified Company Law Directive. Information on other types of companies would remain available only in the national business registers, while other information (such as on groups) would continue to be only sporadically available. Stakeholders would need to access each national business register separately to find such information (in case it exists) in other Member States, including the associated difficulties to compare such data as well as the language barriers. This would mean that all stakeholders, be it companies, investors, creditors, legal professionals, authorities or the public in general would neither have access to additional comparable official information at EU level about 16 million limited liability companies in the EU nor to information about around 2 million partnerships.

The implementation of the Anti-Money Laundering Directive<sup>95</sup> improves transparency by making information about beneficial owners of legal entities and arrangements publicly available, but it does not provide access to any other information about corporate entities. In addition, not taking further action to increase transparency about companies at EU level could mean that certain company types, on which there is less transparency, could be used for fraudulent/abusive purposes.

As regards ex-ante verification of company data, some progress would be achieved through the implementation of the 2019 Company Law Digitalisation Directive which introduced some basic ex-ante checks (e.g. checking the identity of the natural person) before the company (mainly private limited liability company) is registered fully on-line or when the company files fully on-line new information into the business register. However, the primary aim of those checks is to provide safeguards against any abusive/fraudulent use of online procedures and they are limited to online procedures. Thus, in general, the reliability of company data cross-border would continue to create a problem for the cross-border use of such data.

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<sup>95</sup> Directive (EU) 2015/849 as amended by Directive (EU) 2018/843.

The possibility to use company data in cross-border situations would continue to be hindered by costly formalities or sometimes even be impossible. As to the SMEs, which represent 98-99% of limited liability companies in the EU, these problems could affect around 40% of SMEs<sup>96</sup>, as those are engaged in cross-border activities. It would be unlikely that without any targeted EU intervention the use of the once-only principle (no double submission of the same information) when a company sets up cross-border subsidiary or branch would be implemented. Every year, this would concern around 4,000 new cross-border subsidiaries and 4,500 new cross-border branches. In addition, no comprehensive simplification in formal requirements could be expected in cross-border situations. Even if Member States would introduce some changes e.g. digitalise company extracts, they would continue to be divergent, and not recognised across the Single Market without translation and further formal requirements (apostille). Thus, companies would continue to face costly and lengthy procedures due to double submission requirements. This would not only concern those who set up cross-border subsidiaries or branches but all EU companies which engage in cross-border activities, be it cross-border trade, services, investment, public procurement, and take part in administrative procedures in that context, or which are parties to court proceedings.

Other specific EU level initiatives could continue to apply, e.g. the European Single Access Point (ESAP)<sup>97</sup> initiative, once agreed upon by the co-legislator. It would facilitate access mainly to entity and product related financial market information for investors, with the purpose of serving financial market needs. It would not include any mechanism for cross-border cooperation and exchange of company data. Also, the Single Digital Gateway would continue to apply, but it does not cover business registers, company procedures and use of company data in cross-border administrative procedures. These and some other related initiatives are described in Annex 9.

As a result, in the baseline scenario costs would remain significant for users. Limited transparency would maintain higher costs for accessing cross-border company data and companies and other stakeholders would continue to be hindered and face costs when trying to use cross-border company data in administrative procedures or court proceedings or when trying to expand their business activities through subsidiaries or branches cross-border. This would lead to missed opportunities for companies in the Single Market.

## **5.2. Description of the policy options**

This section describes policy options which address the drivers described in section 2.2 above. They aim to i) make more company data available in business registers and accessible cross-border through BRIS, ii) interconnect BRIS with other systems and enable better searches, iii) to make such company data in business registers and BRIS more reliable and iv) enable the cross-border use of company data from business registers in cross-border situations. The preferred option will be presented as a package of measures.

All the policy options presented in this section are based on legislative measures. This is because this initiative builds on the existing EU company law. The Codified Company Law Directive regulates company information available in business registers and through BRIS and the related implementing acts ensure the uniform technical implementation of these legal obligations (e.g. comparability of data in BRIS and interoperability). Finally, the described drivers, which the policy

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<sup>96</sup> IA on public documents. Other sources showed similar data, e.g. more than one third of SMEs (36%) imported from another country within the EU, while 30% exported to another EU country, according to the 2015 Eurobarometer 421 on internationalisation of SMEs (fl\_421\_sum\_en.pdf). According to the 2018 report on “SMEs growing beyond borders”, the proportion of exporting SMEs varies somewhat across the various databases, ranging from 42% to 54% ([SME Performance Review \(europa.eu\)](https://ec.europa.eu/economy_finance/sme-performance-review)).

<sup>97</sup> Proposal for a Regulation establishing a European single access point providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability (COM/2021/723 final)

options aim to address, are all of legal nature and it would be only possible to address them through legal action.

The following tables summarise the baseline scenario and how the different policy options can address the different drivers. The overall intervention logic, which shows how policy options address the drivers (i.e. causes of the problems) in order to meet the specific and the general objectives is included in Annex 5.

### 5.2.1. Policy options 1 to make more company information available in business registers and/or BRIS

In order to contribute to the specific objective 1, namely to increase the amount of company data available in business registers and/or BRIS, a number of options are considered. The policy options consist of different clusters of company data, which vary in terms of whether data is already available in business registers or not as well as in terms of scope i.e. number of companies covered. The policy options are not based on a specific threshold (certain turnover, number of employees) because to address stakeholders' needs and to increase transparency in the market, it is not possible to differentiate companies according to thresholds. Therefore, the policy options include the entire clusters.

Making more company data available in business registers and/or BRIS			
Baseline (status quo)	Policy Option 1a	Policy Option 1b	Policy Option 1c
Data on limited liability companies in BRIS as provided in Art. 18 and 19 of Codified Company Law Directive. Data on partnerships, third country branches and single member companies mainly in national business registers – not in BRIS. Data about the place of management, place of the main economic activity, groups remains scattered, available only in some business registers and not in BRIS.	Make information about partnerships and third country company branches available in BRIS	Option 1a + make information about cross-border group structures and ownership available in national registers and BRIS	Option 1b + make information about - place of management - place of the main economic activity available in national registers and BRIS

Under **option 1a**, information about other types of companies than limited liability ones, i.e. partnerships, would be also made available through BRIS<sup>98</sup>. This would apply to around 2 million partnerships in the EU<sup>99</sup>. Today, this information is already filed in national business registers but it is not covered by EU rules. Therefore, this option would introduce certain harmonised disclosure requirements for partnerships at EU level to ensure that these entities file the same basic information in business registers regardless of the Member State where they are registered. The harmonised requirements would build on the example of the existing EU disclosure requirements

<sup>98</sup> Article 16(6) of Directive 2017/1132 lays down requirement that documents and information submitted is stored by the registers in a machine-readable and searchable format or as structured data (by 1 August 2023). BRIS requires Member States to exchange specific information as structured data since 2017.

<sup>99</sup> See annex 6.



for limited liability companies<sup>100</sup> but would be adjusted for partnerships on the basis of their characteristics and taking into account the existing national disclosure requirements for these entities. In addition, while EU Company Law already requires that third country company branches are disclosed in national business registers, this option would make information about them available in BRIS<sup>101</sup>. In line with the current Article 19 of the Codified Company Law Directive, this option would make certain information in BRIS accessible free of charge, while for others Member States could require payment of fees in BRIS.

Under **option 1b**, in addition to information about partnerships and third country company branches, the information related to cross-border group structures, which is only available in a few business registers<sup>102</sup> would also be made available in all the business registers and via BRIS. There are around 135.000 cross-border groups of companies in the EU<sup>103</sup>. This option would thus apply to around 2 million partnerships as well as to around 135,000 cross-border groups. It would consist of harmonised requirements for companies to disclose some group-related information, e.g. in terms of how the group is formed but not covering information related to intra-group transactions or other activity of economic nature between the members of the group. The disclosure requirements would not aim to harmonise the concept of a “group” but would rather follow a similar approach to the current disclosure requirements which do not include any substantive harmonisation, and it would, to the extent possible, build on the concepts already included in the EU acquis<sup>104</sup>. The company heading the group would also be required to provide an easy and user-friendly description/visualisation of the group structure to their national business register<sup>105</sup>. This information would allow to have a comprehensive overview of a group in one place. In addition to the above, information about the single member (i.e. ownership) for the single-member limited liability companies which the EU company law rules already require to be disclosed in the business register or in a public register kept by the company<sup>106</sup>, would be made available via BRIS. Single-member companies are also often used in group structures<sup>107</sup>.

Under **option 1c**, information related to their place of management and the place of the main economic activity of limited liability companies, which is only available in a few business registers<sup>108</sup>, would also be made available in all the business registers and via BRIS. Therefore, this option would apply to around 2 million partnerships, around 135,000 cross-border groups and to around 16 million limited liability companies. Similarly as for groups, this option would involve introducing new disclosure requirements at EU level, as this information is currently most often not required or disclosed by business registers, and this option would also not aim to harmonise these concepts at EU level<sup>109</sup>.

In addition, a few stakeholders suggested that BRIS should give access to all information available in national business registers. However, given the way BRIS is technically constructed including as regards the data comparability and interoperability, this is not a technically feasible option.

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<sup>100</sup> Articles 14 and 19 of Directive 2017/1132.

<sup>101</sup> There are no estimations available about number of third country branches in the EU.

<sup>102</sup> See Annex 12 for more information.

<sup>103</sup> [Structure of multinational enterprise groups in the EU - Statistics Explained \(europa.eu\)](https://ec.europa.eu/economy_finance/structure-of-multinational-enterprise-groups-in-the-eu-statistics-explained).

<sup>104</sup> Building on e.g. the concepts in the Directive 2013/34/EU (Accounting Directive)

<sup>105</sup> E.g. building in the Accounting Directive in terms of frequency of reporting. This structure could also contain information about other legal entities, other than limited liability companies, e.g. foundations, if these are also part of the group.

<sup>106</sup> Directive 89/ 667/EEC

<sup>107</sup> E.g. in case another legal person is the sole member of the company.

<sup>108</sup> See Annex 12 for more information.

<sup>109</sup> It would follow a similar approach to the current disclosure requirements, which do not include any substantive harmonisation.



### 5.2.2. Policy options 2 to interconnect BRIS with other systems and enable better searches

As an additional element to increase transparency, facilitate access to company information and thus further contribute to the specific objective 1, policy options 2 would aim to **link BRIS with other EU level systems of interconnection of registers**. The policy options differ in terms of scope i.e. which companies would be covered by the interconnection and search facilities as well as in terms of technical features and functions.

Interconnecting BRIS with other systems and enabling better searches		
Baseline (status quo)	Policy Option 2a	Policy Option 2b
No interconnections, but each interconnection system will be developed separately and stakeholders will need to access each system separately to carry out searches on companies. EUID will continue to be used in BRIS and BORIS. Search via BRIS will continue to be available by company name and registration number.	<ul style="list-style-type: none"> <li>- interconnection of BRIS with beneficial ownership registers interconnection system (BORIS)</li> <li>- use of EUID (European unique company identifier) to link company information stored in different systems</li> <li>- new search functionalities in BRIS</li> </ul>	Policy Option 2a + <ul style="list-style-type: none"> <li>- interconnection with Insolvency Registers interconnection system (IRI)</li> </ul>

Under **option 2a**, BRIS would be interconnected at EU level with the EU Beneficial Ownership Registers interconnection system (BORIS), which uses the same technology and technical infrastructure created for BRIS (i.e. the "European central platform"). The European unique company identifier (EUID), which limited liability companies and their cross-border branches have according to EU company law rules<sup>110</sup> and which partnerships covered under options 1 would also have and which BORIS also requires<sup>111</sup> would be used to link the information available about a particular company in both registers. In practice, this would mean that when searching for information about a particular company in BRIS, apart from information available through that system, one would be also able to find the information accessible through BORIS on the beneficial owner(s) of that company available for public access (and vice versa). This would mean being able to search about 16 million limited liabilities and their cross-border branches as well as 2 million partnerships at once. This would be supported by enhanced search functions in BRIS, enabling searches by e.g. legal form.

Under **option 2b**, BRIS would not only be interconnected to BORIS, but also to the EU Insolvency Registers Interconnection system (IRI). This would allow to search for information about a particular company in BRIS and BORIS (i.e. about all limited liability companies and partnerships covered by options 1) as well as to find out in IRI if a particular company is insolvent or not, depending on the availability of this information at national level. The IRI interconnection system is assessed as a separate option given that it does not use the same technology and technical infrastructure as BRIS and BORIS, and it does not yet use EUID. Therefore, connection between BRIS and IRI raises additional issues and requires more development.

<sup>110</sup> EUID is constructed on the national registration number.

<sup>111</sup> [Commission Implementing Regulation \(EU\) 2021/369](#) of 1 March 2021 establishing the technical specifications and procedures required for the system of interconnection of central registers referred to in Directive (EU) 2015/849 of the European Parliament and of the Council.

### 5.2.3. Policy options 3 to ensure an adequate verification of company data before it is entered into the business register

Policy options 3 aim to contribute to the specific objective 1, namely to **improve the reliability of company data in business registers**. In addition, by increasing the reliability of company data, these policy options aim to address the current insufficient trust between Member States and thus contribute to facilitating direct use of such company data in cross-border situations (objective 2). The options include the introduction of harmonised rules – ranging from less to more extensive ex-ante check procedures - to ensure that company data was adequately verified in all Member States before it was entered in business registers.

Ensuring adequate verification company data before it is entered into the business registers		
Baseline (status quo)	Policy Option 3a	Policy Option 3b
The common requirements (e.g. checking the identity of the natural person) continue to apply mainly to fully on-line registration of private limited liability companies and subsequent on-line filings with the aim to provide safeguards against any abusive/fraudulent use of online procedures. No requirements to check the reliability of company data.	Obligation to check a harmonised list of elements	Policy Option 3a + common basic procedural requirements for ensuring reliable and up-to-date data

Under **option 3a**, business registers<sup>112</sup> in all Member States would need to carry out similar checks in line with a harmonised list including, e.g. the identity of the applicants and compliance with legal requirements (legality). Such checks would be carried out before the company data enters the register, at the time of registration of a new company and each time new company data is filed. They would apply to limited liability companies, and also to partnerships as they would be covered by policy options 1.

**Option 3b** would set some additional common procedural requirements to further ensure reliability of company data in business registers. Such requirements could include e.g. harmonised deadlines within which companies should file changes to their company data in the register and could require Member States to have in place measures and processes to ensure timely filing of information and correct data as well as obligations on business registers to keep their registers updated.

Finally, theoretically, an additional option could be considered to harmonise which authorities should carry out the ex-ante checks in all Member States. This would ensure the highest level of checks in all Member States. However, such an option is not included because it would not be a realistic and politically feasible option given the important divergences between Member States (i.e. authorities in charge include business registers, notaries, lawyers).

<sup>112</sup> In this context business registers include any authority or person or body mandated under national law to carry out these tasks.

#### 5.2.4. Policy options 4 to enable direct use of company data from business registers in cross-border situations

These policy options aim to contribute to the specific policy objective 2 i.e. enable direct use of company data available in business registers when setting up cross-border branches/subsidiaries and in other cross-border activities and situations. Whereas policy option 4a focuses on cases when new subsidiaries/branches are set up, policy options 4b and 4c address the cases where already existing companies have cross-border activities and/or are parties to cross-border administrative procedures or court proceedings. Option 4c addresses specific formalities with specific impacts.

Enabling direct use of company data from business registers in cross-border situations				
Baseline (status quo)	Policy Option 4a	Policy Option 4b	Policy Option 4c	Policy Option 4d
Companies are required to re-submit the information, which already exists in their business register, when carrying out cross-border expansion (by setting up subsidiaries or branches), accompanied by formalities such as apostille, certified translations. Furthermore, authorities and courts do not directly use company data from business registers in cross-border administrative or court procedures, but require companies to resubmit the company information, often with formalities such as apostille, certified translations.	Requirement to apply once-only principle (no resubmission of company information) when a company from a Member State sets up subsidiaries or branches in other Member States	Option 4a + harmonised company extract containing a common set of company data, and mutual recognition of certain company data	Option 4b + abolition of formalities (apostille)	

**Option 4a** would apply when companies set up subsidiaries and branches in other Member States. It would introduce a requirement that companies would not need to resubmit information already filed in their national business registers in those cases (once-only principle). In practice, this would mean that the company setting up a subsidiary or a branch would be only required to file (in that other Member State) specific information regarding the subsidiary or branch. The needed information about that (parent) company could be accessed directly through BRIS or it could be exchanged between business registers via BRIS (as BRIS already provides secure means for exchange of information between business registers and technical means to implement the once-only principle in cross-border situations). This could take place in a similar way to the already existing exchanges of information via BRIS.

Under **option 4b**, in addition to the requirement to apply once-only principle as described in option 4a, a harmonised company extract would be introduced for EU limited liability companies and partnerships. Companies could use this extract in all cross-border activities and situations (including administrative procedures and court proceedings) where they need to prove that e.g. their company is validly incorporated. The extract would contain a common set of information (such as company name, registered office, legal representatives) and it would constitute a digital company “identity card” for EU companies. It would follow an example of national company extracts, but in contrast to those, it would be recognised in all Member States without any further formalities, translated into all EU languages, and available free of charge. In addition, Option 4b would also put an obligation on authorities and courts to recognise certain company data (beyond that included in the common extract) publically disclosed in other Member States’ registers. This would mean that national registers, authorities or courts would be obliged to accept information from another Member State’s register as an equivalent of what is required domestically. In practice, this option would mean that authorities and courts could consult company information directly in business register and BRIS, and the company would not be required to resubmit the existing information again (so application of *de-facto* once-only principle).

**Option 4c** would add to option 4b and ensure that specific formalities (apostille<sup>113</sup>) for the use of extract and other company information in business register in cross-border activities and situations would be abolished between Member States. Instead, business registers should provide electronic certified copies of the required information. Use of trust services for the electronic copies and extracts by the business registers is already required by the Codified Company Law Directive<sup>114</sup>. It would also be possible to obtain certified electronic copies from BRIS. Given that the company data is digital and mostly machine-readable<sup>115</sup>, this option could also abolish the requirement of certain certified translations.

### **5.3. Options discarded at an early stage**

The following policy options were considered but discarded at an early stage and the reasoning is described in Annex 10:

- a) Making information on co-operatives available via BRIS (discarded for reasons of technical feasibility).
- b) Interconnecting BRIS with the Land Registers Interconnection (LRI) (discarded for reasons of technical and legal feasibility)
- c) Introducing harmonised rules for fully online formation for partnerships (discarded for reasons of legal feasibility (it is needed first to harmonise disclosure requirements for partnerships before introducing on-line procedures))
- d) Introducing measures for virtual registered offices at EU level (discarded for reasons of political and legal feasibility - premature)

## **6. WHAT ARE THE IMPACTS OF THE POLICY OPTIONS AND HOW DO THEY COMPARE?**

This section includes an assessment of the proposed policy options in comparison to the baseline scenario. 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 1.1). Figure below shows the selected impacts and stakeholders.

### **Selected impacts and stakeholders**

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<sup>113</sup> In the EU, the procedure of legalisation has been largely substituted by the similar formality of the apostille. In this Impact assessment, reference to apostille covers both apostille and legalisation.

<sup>114</sup> Art. 16a(4) of Directive 2017/1132

<sup>115</sup> Art. 16(6) of Directive 2017/1132 requires Member States by 1 August 2023 to ensure in a machine-readable and searchable format or as structured data. BRIS already requires Member States to exchange specific information as structured data.

Main category of impacts	Stakeholders					
	Companies	Business registers	Other public authorities (tax, labour, courts)	Society i.e. other stakeholders such as consumers	Qualitative	Quantitative
Trust and transparency in the market, for all stakeholders in particular for companies (benefit)	•	•	•	•	•	
Ease of doing business and access to the market (including competitiveness, trade) (benefit)	•			•	•	
Reduction and increase in administrative burdens on companies (cost and benefit)	•				•	Full
Adjustment costs for business registers and other public authorities (cost)		•	•		•	Full
Enforcement costs for business registers		•			•	
Savings related to operational costs for business registers and other public authorities (benefit)		•	•		•	
Digital economy (benefit)	•	•	•	•	•	
Fight against fraud and abuse (benefit)			•	•	•	
Functioning of the internal market (benefit)				•	•	

The assessment of policy options is based on evidence e.g. from stakeholders, literature, previous impact assessments and/or expert assessment. Each policy option is evaluated on its effectiveness, efficiency and coherence. Under the effectiveness, it was assessed to what extent the objective is realised by each policy option. Under efficiency, the policy options were assessed against the selected impacts and under coherence, the assessment was about what extent each policy option improves internal and external coherence. 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 a) for the costs, the score shows the increase in costs and b) for benefits the score shows an increase in benefits. For example, score 0 means that no impact, while score 2 means rather limited increase in costs/benefits, 5 means 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 make more company information available in business registers and/or BRIS

### Effectiveness

PO1a = partnerships and third country company branches in BRIS

PO1b = PO1a + cross-border group structures and ownership in national registers and BRIS

PO1c = PO1b + place of management and of the main economic activity in national registers and BRIS

	PO1a	PO1b	PO1c
<b>Specific objective 1:</b> Increasing the amount and improving the reliability of company data available in business registers and accessible cross-border through BRIS	2	3	5
<b>Specific Objective 2:</b> Enabling direct use of company data available in business registers when setting up cross-border branches/subsidiaries and in other cross-border activities and situations	1	2	3

All the policy options are relevant and would contribute to addressing objective 1 because they will increase the amount of company data in business registers and BRIS, and address the needs of stakeholders who confirmed in consultation activities that they needed these types of data about companies from other Member States. While option 1a will cover 2 million partnerships and also third-country branches, 1b applies in addition to 135,450 cross-border groups and single member limited liability companies, and option 1c will add to those information about place of management and of the main economic activity of 16 million limited liability companies. Option 1c will thus be most effective as it will make most company information available in business registers and BRIS and will have most impact on increasing the transparency in the market.

The objective of enabling direct use of company data in cross-border situations will be achieved primarily by measures described below but policy options 1 will also contribute indirectly as company data can only be used cross-border if it is available in business registers and cross-border through BRIS. For the same reasons as above, option 1c will contribute the most to objective 2.

### **Efficiency**

Main categories of impacts	PO1a	PO1b	PO1c
<b>Benefits for businesses</b>			
Trust and transparency in the market	2	3	4
Ease of doing business and access to the market (cross-border)	1	2	2
Administrative burden reduction for companies	-	-	-
<b>Costs for businesses</b>			
Administrative burden increase for companies (one-off)	0	2	4
<b>Benefits for business registers/public authorities</b>			
Savings related to operational costs for business registers (recurrent)	2	2	2
Savings related to operational costs for other public authorities (recurrent)	2	3	3
<b>Costs for business registers/public authorities</b>			
Adjustment costs for business registers (one-off/recurrent)	2	2	2
<b>Benefits for society at large (i.e. consumers)</b>			
Fight against fraud and abuse	2	3	4
Digital economy	1	2	2
Functioning of the internal market	(not scored separately)		

These policy measures will benefit companies, in particular SMEs, as they will more easily find comparable, multilingual (harmonised) information. Better access to information about business partners and potential clients in other Member States should make doing business easier for companies. In addition, better access to data about companies in other Member States for potential creditors and investors might facilitate access to finance for these companies or encourage investments in such SMEs. Policy option 1c is expected to bring highest benefits by making most information available cross-border.

Option 1c will also bring most benefits (as compared to 1a and 1b) to business registers, other public authorities and courts as having more comparable and easier accessible data should facilitate their work when they look for information about companies from other Member States. It is clear

from the supporting study survey that public authorities (e.g. tax authorities) have strong interest in the company data covered by these policy options, in particular about cross-border groups and place of the main economic activity, both in terms of trust and because this data can contribute to the fight against anti-competitive behaviour and abuse.

At the same time, depending on the Member State, these options may result in some new filing costs on companies, which currently do not file such information to the register. The information under policy option 1a is already filed in business registers, thus no new filing costs are calculated. As regards options 1b and 1c, all those companies which do not file such information to the business register today would need to do this as a result of the initiative subject to this impact assessment. However, after this implementation phase, companies would need to comply with these disclosure requirements as with any other disclosure requirements. This means that if they eventually change their place of management or economic activity, they would need to file this change to the business register. However, such changes are only happening relatively rarely, if not at all, during the life-time of a company. Concerning groups, in order to avoid cost, this impact assessment aligns the filing of changes in the groups (i.e. when controlling shareholders change) with filing of accounting documents (once in a year). As to newly created companies, this information would be part of the filing for the incorporation/registration of new companies and is thus assumed to be included in the overall incorporation/registration fee.

The filing costs will be one-off costs and Member States should not charge separately for these items. Their implementation could be spread over time (i.e. companies will have e.g. 3 years to file this information). Alternatively, it could be considered that business registers should not charge for this initial filing to avoid administrative burden on companies and also because this does not represent a loss of existing revenue for business registers. However, because there are some adjustment costs for business registers and loss of revenue due to other measures in this initiative, this impact assessment takes a conservative approach and assesses potential filing costs for those companies which need to do this new filing.

These costs will be higher under option 1c as more companies fall under its scope, i.e. not only groups, but all those limited liability companies which do not currently file the place of management and place of the main economic activity. The potential filing cost is calculated for 14 million companies which is a very high (in other words, conservative) estimate given that such information already exists in a number of Member States (see footnote 119). On that basis, the costs are estimated to amount to around EUR 311 million one-off cost<sup>116</sup>. This means around 22 EUR per company which needs to file this information. These options will also each impose some one-off IT development costs for business registers, estimated at EUR 2.7 million (EUR 100,000 per Member State)<sup>117</sup>. The efficiency of this option is overall positive given that in spite of one-off costs for companies and business registers, it will have strong recurrent benefits in terms of trust and transparency in the market for all stakeholders, and ease of doing business and access to the market for companies. Although it is difficult to estimate the value of information, according to the recent

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<sup>116</sup> According to the supporting study, in 7 Member States both information about the place of management and place of the main economic activity is already registered, which corresponds to around 5.6 million limited liability companies for whom there will be no new costs. Consequently, around 10 million remaining limited liability companies would need to bear this one-off cost of filing this information as a result of implementation of this initiative. However, this impact assessment has taken a very conservative approach and has estimated the potential cost for 14 million limited liability companies without deducting those 5.6 million companies. This would mean that the total one-off cost for option 1c could be EUR 220 million instead of 311 million estimated in this impact assessment.

<sup>117</sup> In carrying out those IT developments, Member States will be able to build on and benefit from their recent IT developments and investments meet their targets on digitalisation. This may lower their adjustment cost.



estimate<sup>118</sup>, the value of basic company information (e.g. registered addresses, company numbers, dates of incorporation, nature of business) was estimated at approximately £800 (950 euros) per user per year. It can be reasonably assumed that the value of reliable information in the cross border context in the EU in BRIS would not be less, but probably significantly higher than the value of information in a national setting as described by the White Paper cited.

More information about companies will lead to increased transparency and trust about companies in the single market and help companies to do business cross-border, consumers to make informed choices when dealing with companies from other Member States, and authorities to tackle fraud or abuse.

## **Coherence**

Options 1a, 1b and 1c are all coherent and complementary with the other policy options in the initiative with the following scores: 3, 4 and 5 (see annex 4, section 2.4). In particular, the more company data is made available (options 1) and the more reliable it is (options 3), the more its use can be facilitated under options 4. Interconnection of different EU systems (options 2) will also provide an easier access to wider company data and thus complement options 1. Option 1c ensures the most coherence as it provides most company data that can be consulted through interconnection with other systems under option 2 and used under option 4.

All options ensure coherence with relevant EU law and other EU initiatives. In particular, options are coherent with EU rules and international standards in the area of anti-money laundering/countering the financing of terrorism, respectively the AML Directive and the FATF standards<sup>119</sup> as having more company data available facilitates the implementation of anti-money laundering/countering the financing of terrorism measures, correctness of beneficial ownership data as well as authorities' work to fight abuse of corporate entities. The options are also coherent with initiative on the European single access point (ESAP) for financial market information, as ESAP focuses mainly on entity and product related information that is relevant mainly for investors, with the purpose of serving market needs. The Open Data Directive regulates the re-use of data held by Member States' public authorities for commercial or non-commercial purposes, which is not covered by the planned initiative. Finally, this initiative will be relevant for recent taxation initiatives as more transparency will help tax authorities' work when in need of reliable company data. In particular, information on groups and place of management and economic activity will be valuable data for taxation.

## **6.2. Policy options 2 to interconnect BRIS with other systems and enable better searches**

### **Effectiveness**

PO2a = Interconnection of BRIS with beneficial ownership register interconnection system (BORIS), use of EUID (European unique company identifier), new search functionalities in BRIS

PO2b = PO2a + Interconnection with insolvency registers interconnection system (IRI)

	PO2a	PO2b
<b>Specific objective 1:</b> Increasing the amount and improving the reliability of company data available in business registers and accessible cross-border through BRIS	3	4
<b>Specific Objective 2:</b> Enabling direct use of company data available in business registers when setting up cross-border branches/subsidiaries and in other cross-border activities and situations	2	2

<sup>118</sup> "Corporate Transparency and Register Reform White Paper" from the UK Department for Business, Energy & Industrial Strategy.

<sup>119</sup> In particular Recommendation 24 as amended in March 2022.



Both options are relevant for objective 1 because they facilitate access to important company information by interconnecting BRIS with other EU level interconnection systems. The use of EUID to link information about a particular company across those systems would make it possible to search for more company data in one place. Across all consultation activities, the majority of respondents were in favour of linking BRIS both with the interconnection of beneficial ownerships registers (BORIS) and of insolvency registers (IRI). Member State experts have also considered such interconnection beneficial. Additional search functionalities in BRIS (e.g. also by legal form) – supported by majority of respondents to the public consultation and the consulted SMEs - would also contribute to this objective by making it easier to find company data in BRIS. Policy option 2b is the most effective measure to meet the objective as it will connect BRIS with two other interconnection systems and facilitate search for more company data.

The specific objective 2 will be achieved primarily by measures described below. However, the use of the EUID as a unique company identifier will also contribute to facilitating the cross-border use of company data by helping to unequivocally identify companies and e.g. their cross-border branches, companies which are part of cross-border mergers, divisions or conversions. This information is valuable to all stakeholders including creditors and shareholders. Making it possible to search for more company data in one place through interconnecting BRIS with other systems can also indirectly facilitate the cross-border use of company data.

### **Efficiency**

Main categories of impacts	PO2a	PO2b
<b>Benefits for businesses</b>		
Trust and transparency in the market	3	4
Ease of doing business and access to the market (cross-border)	1	1
Administrative burden reduction for companies (recurrent)	1	1
<b>Costs for businesses</b>		
Administrative burden increase for companies	-	-
<b>Benefits for business registers/public authorities</b>		
Savings related to operational costs for business registers (recurrent)	2	3
Savings related to operational costs for other public authorities (recurrent)	2	3
<b>Costs for business registers/public authorities</b>		
Adjustment costs for business registers (one-off/recurrent)	-	-
<b>Benefits for society at large (i.e. consumers)</b>		
Fight against fraud and abuse	2	3
Digital economy	3	3
Functioning of the internal	(not scored separately)	

These options will reinforce trust and transparency in the market as stakeholders will be able to search information about a specific company more easily in several registers with the help of the unique company identifier (EUID). BRIS connected with BORIS (option 2a) would already bring benefits but these would be higher if BRIS is also connected with IRI (option 2b) as then more company information is accessible in one place for all stakeholders, increasing also trust in the market. EUID exists today for around 16 million limited liability companies and their cross-border branches in BRIS. BORIS also uses it. By extending its use to partnerships and using it to also connect information in IRI, the company is unequivocally identified in every register and that data in different registers is connected to the same company. EUID has no cost implications on companies. It is based on the national registration number.

Companies would save in searching cost for looking for information about a specific company in other Member States, which would make it easier to do business with partners abroad. Public authorities would also be able to consult the company information directly without the need to search or ask companies for it. Easier access to more sets of information would in particular facilitate the work of authorities and obliged entities<sup>120</sup> to implement e.g. anti-money laundering/countering the financing of terrorism rules, ensure the correctness of beneficial ownership data as well as to fight fraud and abuse. For example, the obliged entities under the Anti-Money Laundering Directive or those dealing with insolvency procedures could cross-check the company information directly through BRIS. Business registers would also benefit as it would be possible to check all data via accessing one interconnection of registers instead of two or three.

There will be adjustment cost neither for companies nor for business registers. The IT development needs to be done centrally by the Commission (to connect interconnection systems). The adjustment cost for the EU budget is estimated to be EUR 100,000 for option 2a and EUR 500,000 for option 2b. Due to technical reasons, the connection with BORIS is less costly than with IRI.

Thus, overall policy option 2b will be more efficient. Linking EU level systems of interconnection would strongly contribute to creating more connected public administrations at EU level and cross-border. In addition, the use of EUID would make it possible to also connect other EU level systems/registers (as the example of EPREL shows) to BRIS, bringing further benefits and contributing to a more digitalised Single Market.

### **Coherence**

Options 2 are coherent and complementary to other policy options, in particular to options 1 (as explained above), but also to options 3 and 4. Option 2a got score 4 and option 2b score 5 (see annex 4 section 2.4). The use of EUID as company identifier enables the unequivocal identification of the company and can thus connect the company information in different registers. It also connects companies and their cross-border branches and in a similar way it can be used to connect parent companies and their subsidiaries and can thus help to implement policy options 3 and also the use of company data in cross-border situations under options 4. Coherence is higher for option 2b as it is coherent with both the relevant anti-money laundering rules (beneficial owners' registers) and insolvency rules.

### **6.3. Policy options 3 to ensure an adequate verification of company data before it is entered into the business register**

### **Effectiveness**

PO3a = obligation to check a harmonised list of elements

PO3b = PO3a + common basic procedural requirements for ensuring reliable and up-to-date data

	PO3a	PO3b
<b>Specific objective 1:</b> Increasing the amount and <b>improving the reliability</b> of company data available in business registers and accessible cross-border through BRIS	3	4
<b>Specific Objective 2:</b> Enabling direct use of company data available in business registers when setting up cross-border branches/subsidiaries and in other cross-border activities and situations	2	4

<sup>120</sup> Under the AML Directive, all private sector operators subject to AML/CFT requirements (e.g. credit institutions, real estate agents, notaries, certain persons trading in goods) must perform verifications on their clients. This includes the need to identify the customer and verify their identity (in the case of corporate clients the identification and verification of the company and its beneficial owners)

Policy 3a will be effective in improving the reliability of company data, i.e. ensuring that companies and other stakeholders can trust it. It will require business registers<sup>121</sup> in all Member States to do similar checks before company data enters the register. Common rules for verification of company data are an adequate and important means to ensure its reliability; this was confirmed by respondents to the public consultation and company law professors<sup>122</sup>. In addition, legal professionals, in particular notaries underlined the importance of adequate checks for ensuring the reliability of company data in registers. Option 3b will be even more effective in reaching objective 1 by setting additional procedural requirements (e.g. deadlines for filing company data to the register, measures to ensure timely and correct filing).

Both options will also contribute to achieving objective 2 as increasing the reliability of company data should address the current insufficient trust in company data between Member States, and facilitate its direct (i.e. without additional formalities) use in cross-border situations. Policy 3b will be more effective as it will lead to more reliable company data and more trust.

### **Efficiency**

<b>Main categories of impacts</b>	<b>PO3a</b>	<b>PO3b</b>
<b>Benefits for businesses</b>		
Trust and transparency in the market	3	4
Ease of doing business and access to the market (cross-border)	2	3
Administrative burden reduction for companies (recurrent)	-	-
<b>Costs for businesses</b>		
Administrative burden increase for companies	-	-
<b>Benefits for business registers/public authorities</b>		
Savings related to operational costs for business registers (recurrent)	1	2
Savings related to operational costs for other public authorities (recurrent)	3	4
<b>Costs for business registers/public authorities</b>		
Adjustment costs for business registers (one-off/recurrent)	2	2
Enforcement costs for business registers (recurrent)	1	2
<b>Benefits for society at large (i.e. consumers)</b>		
Fight against fraud and abuse	3	4
Digital economy	1	1
Functioning of the internal market	(not scored separately)	

These two options will strongly contribute to creating more trust and more legal certainty in the market for all stakeholders. While making company data increasingly available (policy options 1) is the pre-requisite, the creation of the necessary trust requires that such data is accurate and up-to-date. Therefore, the benefits will be higher for option 3b as the additional basic common procedural requirements will make the data more trustworthy and lead to increased legal certainty.

Such increased trust and legal certainty will be beneficial for companies, and should reduce transaction costs because third parties, such as creditors and shareholders, can rely on company data. Similarly, the increased legal certainty under both measures, but to a larger extent under option 3b, can benefit business registers and other authorities, as it should result in them trusting company data from registers in other Member States and reduce the need for additional documents

<sup>121</sup> In this context business registers include any authority or person or body mandated under national law to carry out these tasks.

<sup>122</sup> ICLEG report on use of company data.

from companies. Overall, having more reliable company data in business registers would make such data easier to use cross-border.

These policy options would on their own not result in a tangible reduction or increase in administrative burden for companies as the requirements will mostly address business registers. The costs are estimated to amount up to EUR 4 million for all business registers. Whether any additional resources would be needed, will depend on the Member State and the checks already in place at national level. In this context, some business registers<sup>123</sup> expected increases in adjustment costs to be small as ex-ante checks were already in place. In particular option 3b may also create some limited enforcement costs for some business registers due to need to ensure timely and correct filing of company information and to keep registers updated.

The efficiency of this option is considered overall to be positive as improving reliability of company data would enhance trust between Member States and create more legal certainty in the Single Market, which is essential for companies to be able to exercise their fundamental freedoms and for consumers to make informed choices about and trust companies from other Member States. These measures will also contribute to fighting against abuse.

### **Coherence**

Options 3 are pre-requisite for making the company data available under options 1 more reliable. Having more reliable company data in business registers will bring more trust and more legal certainty in the market and between Member States and lay down foundations for cross-border use of such data without burdensome formalities under options 4. These policy options are therefore fully coherent and complementary. They were scored both to 4 (see annex 4, section 2.4).

Policy options, in particular Option 3b, are coherent with the EU rules and international standards in the area of anti-money laundering/countering the financing of terrorism, in particular with FATF recommendation 24<sup>124</sup>. These options also aim to ensure that the company data is adequate, accurate and up-to-date. Finally, enhanced ex-ante controls under these options could also contribute to implementation of current EU taxation initiatives taxation, fight against abuse or fraudulent companies and to the effective implementation of sanctions against Russia and Belorussia and, in general, to all areas (e.g. social policy, transportation) where trustworthy company data is needed. There is no significant difference between the two options.

## **6.4. Policy options 4 to enable direct use of company data from business registers in cross-border situations**

### **Effectiveness**

PO 4a = Once-only principle (no resubmission of company information) when a company from a Member State sets up subsidiaries or branches in other Member States

PO 4b = PO4a + harmonised company extract and mutual recognition principle for certain company data

PO 4c = PO4b + abolition of formalities (apostille)

	PO4a	PO4b	PO4c
<b>Specific objective 1:</b> Increasing the amount and improving the reliability of company data available in business registers and accessible cross-border through BRIS	1	2	2
<b>Specific Objective 2:</b> Enabling direct use of company data available in business registers when setting up cross-border branches/subsidiaries and in other cross-border activities and situations	3	4	5

<sup>123</sup> Taking part in consultations in context of the supporting study.

<sup>124</sup> Which includes obligations on business registers.

All the options are effective, to different degrees, in meeting the objective 2 to enable direct use of company data in business registers in cross-border situations. Option 4a already provides a significant improvement because it results in fully direct use of data about parent companies (without the need for the parent companies to resubmit information) between business registers in different Member States when setting up cross-border subsidiaries and branches. However, options 4b and 4c will be more effective as they will in addition address obstacles in other cross-border activities including in administrative or courts procedures. Option 4c will be most effective as it will in addition also remove formalities (apostille), in line with calls from stakeholders.

Measures under policy options 4 can indirectly contribute to objective 1 as well. For instance, introducing a common company extract with a common set of company data, translated into all EU languages will mean that every company has the same data in the extract, and that this data is thus comparable and multilingual, which contributes to the transparency and creates more trust about companies.

### **Efficiency**

	PO 4a	PO 4b	PO 4c
<b>Benefits for businesses</b>			
Trust and transparency in the market	2	3	3
Ease of doing business and access to the market	3	4	5
Administrative burden reduction for companies (recurrent)	1	4	5
<b>Costs for businesses</b>			
Administrative burden increase for companies	-	-	-
<b>Benefits for business registers/public authorities</b>			
Operational cost savings for business registers (recurrent)	2	2	2
Operational cost savings for public authorities (recurrent)	-	2	3
<b>Cost for business registers/public authorities</b>			
Adjustment costs for business registers (recurrent)	1	2	2
Adjustment costs for other public authorities (recurrent)	1	2	2
<b>Benefits for society at large (i.e. consumers)</b>			
Fight against fraud and abuse	2	3	3
Digital economy	3	4	4
Functioning of the internal market	(not scored separately)		

These policy options build in particular on the policy options 3 which will make company data more reliable. When Member States (including business registers) trust each other and that the company data in other Member States is correct, there is no need for double submission of documents when setting up cross-border subsidiaries and branches. The policy option 4c will score the highest as it will bring direct benefits.

These policy options will facilitate the expansion of companies to other Member States' markets by setting up cross-border subsidiaries (new company) and branches (new fixed establishment) as well as facilitating other cross-border activities. They will remove an important administrative burden for companies. Under option 4a, companies would save substantially by the introduction of once-only-principle as they would not have to submit any documents about a parent company when setting up cross-border subsidiaries and branches. Every year, this would concern around 4,000 new cross-border subsidiaries and 4,500 new cross-border branches with annual recurrent savings for companies estimated to amount to EUR 7.5 million.

Benefits would be even higher with introduction of a free multilingual common company extract under option 4b, which companies would be able to use in cross-border activities be it in the context of cross-border trade, services, public procurement, and which would not require certified

translation. The annual savings for companies under option 4b are estimated at EUR 330 million. The option 4c would bring the highest benefits as also the apostille would not be needed. The annual savings under option 4c are estimated to amount to around EUR 437 million. The reduction of administrative burden will help in particular SMEs, which represent 98-99% of limited liability companies in the EU, not only to set up cross-border subsidiaries and branches but also reduce formalities in all their cross-border activities be it cross-border trade, services, cross-border sub-contracting; this impact would be relevant as around 40% of SMEs are engaged in cross-border activities.

There should be also benefits for business registers due to cost savings because they would not need any more to ask and examine many documents from companies from other Member States. Some business registers<sup>125</sup> were of the view that the application of the once-only principle (under option 4a) and the common extract (under option 4b) would bring more benefits than costs. This impact assessment assumes that the option 4a, which introduces the implementation of the once-only principle via BRIS, would amount to similar costs as those related to the implementation of earlier exchanges between business registers through BRIS. Therefore, it is estimated that option 4a will incur a one-off average cost of EUR 2.7 million euros to business registers (i.e. 100,000 EUR per Member State)<sup>126</sup>. In addition, under option 4a companies setting up cross-border subsidiaries and branches would do not need an extract which represents an estimated loss of revenue of 41,000 EUR per year for business registers. Under options 4b and 4c, it is estimated that the common extract would be available free of charge for companies for cross-border use once per year and are to amount to a loss of revenue of EUR 7.9 million per year for business registers.

As to other authorities, they would also benefit from the mutual recognition of company data as they could accept information from another Member State's register as an equivalent of what is required domestically and consult company information directly in business register and BRIS. There would also be savings from the common company extract - in particular in time and resources of handling company information - as public authorities would not have to ask for and examine additional documents. In practice, authorities and courts could consult company information directly in business register and BRIS and the company would not be required to resubmit the existing information (so application of *de-facto* once-only principle) which would in turn result in burden reduction not only for the public authorities, but also for the companies. On the other hand, those public authorities in charge of issuing apostille will face loss of revenue, which under option 4a and 4b, are estimated to amount to EUR 74,000 per year. Under option 4c, the loss of revenue would be EUR 9.5 million per year. However, public administrations also face costs for issuing the apostille due to unclear rules and legal uncertainty. Some Member States issue apostilles immediately, the majority of Member States need one working week. Therefore, although those public authorities will face loss of revenue due to abolishing the apostille (fees), the overall savings will be positive. For example, in another context, it has been estimated that by abolishing the apostille, the administrative burdens for the public authorities would be reduced by EUR 5-7 million annually<sup>127</sup>.

### **Coherence**

The measures under these options are in particular complementary to and dependent on the measures under options 3. The facilitation of cross-border use of company data will depend on the

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<sup>125</sup> In the consultation activities.

<sup>126</sup> In carrying out those IT developments, Member States will be able to build on and benefit from their recent IT developments and investments meet their targets on digitalisation. This may lower their adjustment cost.

<sup>127</sup> SWD(2013) 144 final



trust in such data between Member States. These options are thus coherent with the other elements of the proposal and were scored as 3 (Po4a), 4 (Po4b) and 5 (Po4c) (see annex 4, section 2.4).

These options, in particular option 3c, contribute to the objective of the Communication 2030 Digital Compass: the European way for the Digital Decade to provide online key public services online for European businesses. It also contributes to removing remaining unjustified barriers and administrative burdens in the Single Market as described in the European Council conclusions of 24-25 March 2022. The initiative pursues the objective of the Public Documents Regulation<sup>128</sup> by removing unnecessary formalities (apostille) for companies in cross-border situations, similarly to how it was achieved by that Regulation for citizens. Finally, it is fully coherent with the Single Digital Gateway Regulation as the latter provides for online cross-border administrative procedures but excludes from its scope company law procedures.

## 6.5. Comparison of impacts

The table below summarises the results of the assessment of all policy options described in section 6. The policy options were compared by way of a multi-criteria analysis (MCA) taking into account their effectiveness, efficiency, coherence and proportionality. The purpose of the MCA was to assess how the costs compared to benefits. The MCA relied on two components, the scores assigned to each policy option and on weights assigned to each impact representing its relative importance. A single score was awarded per policy option on a scale 0-5 based on the in-depth analysis of the available evidence, both quantitative and qualitative<sup>129</sup>. The weights were impacted by the related stakeholders, the nature of the impact (one-off or recurrent) and the link to the policy objectives. The total weighted score for each policy option was calculated as the scores of each policy options against the identified impacts, multiplied by the weight assigned to each specific impact. The weighted values of the costs were subtracted from the benefits<sup>130</sup>.

Effectiveness was weighted 30%, efficiency 60% and coherence 10%. All options lead to a net benefit, indicating that the benefits outweigh the costs. Option 1c scores higher mainly due to effectiveness. Option 2b is the highest in all three aspects. Option 3b has the highest score in effectiveness and efficiency. Option 4c ranks highest in all three aspects. The results of the MCA summarised in the following table show that policy options 1c, 2b, 3b and 4c rank highest.

	Weights	PO1a	PO1b	PO1c	PO2a	PO2b	PO3a	PO3b	PO4a	PO4b	PO4c
<b>Effectiveness</b>	30%	0,450	0,750	1,200	0,750	0,900	0,750	1,200	0,600	0,900	1,050
<b>Efficiency</b>	60%	0,264	0,306	0,231	0,583	0,725	0,375	0,536	0,497	0,919	1,119
<b>Coherence</b>	10%	0,300	0,400	0,500	0,400	0,500	0,400	0,400	0,300	0,400	0,500
<b>Total</b>	<b>100%</b>	<b>1,014</b>	<b>1,456</b>	<b>1,931</b>	<b>1,733</b>	<b>2,125</b>	<b>1,525</b>	<b>2,136</b>	<b>1,397</b>	<b>2,219</b>	<b>2,669</b>

A separate sensitivity test was performed considering 45-45-10% ratio for effectiveness, efficiency and coherence. In addition, a partial sensitivity test was performed on 12 main assumptions of the calculations of costs and benefits. These sensitivity tests confirmed the robustness of the results<sup>131</sup>.

<sup>128</sup> [Regulation \(EU\) 2016/1191](#) amending Regulation (EU) No 1024/2012

<sup>129</sup> See introduction to section 6 above and annex 4, sections 2.1-2.4.

<sup>130</sup> For more detailed explanation, see annex 4, section 2.5.1 on multi-criteria analysis.

<sup>131</sup> See annex 4.



## 7. PREFERRED OPTION

### 7.1. Package of preferred measures

Based on the assessment above, the preferred option consists of a package of the following measures. The measures under the four main areas are mutually reinforcing. The options 1 and 2 provide more company data available cross-border and easier access to it, while option 3 ensures that such data is more reliable and can be trusted by all stakeholders. Making the data more reliable under option 3 is also the prerequisite for enabling the direct use of such data cross-border. Therefore, they are all needed to most comprehensively address the drivers of the problems and to achieve the objectives of the planned initiative.

In line with the principle of proportionality, the initiative will not go beyond what is necessary to achieve those objectives. It is targeted (as it focuses on the needs of direct users to access and use cross-border official company data from business registers) and it addresses cross-border aspects which could not be achieved by Member States on their own. That option will provide a clear net benefit for companies and society as a whole.

<b>Making more company data available in business registers and/or BRIS</b>	<b>Policy option 1c:</b> Making information about partnerships and third country company branches available in BRIS, and making information about cross-border group structures and ownership as well as place of management and place of the main economic activity available in national registers and BRIS
<b>Interconnecting BRIS with other systems and enabling better searches</b>	<b>Policy option 2b:</b> Connecting BRIS with beneficial ownership registers interconnection system (BORIS) and with Insolvency Registers interconnection system (IRI), use of EUID (European unique company identifier) and new search functionalities in BRIS
<b>Ensuring adequate verification company data before it is entered into the business registers</b>	<b>Policy option 3b:</b> Obligation to check a harmonised list of elements and common basic procedural requirements for ensuring reliable and up-to-date data
<b>Enabling direct use of company data from business registers in cross-border situations</b>	<b>Policy option 4c:</b> Once-only principle (no resubmission of company information) when a company from a Member State sets up subsidiaries or branches in other Member States, harmonised company extract, mutual recognition principle for certain company data and abolition of formalities (apostille)

This package of measures tackles the identified drivers and addresses the objectives in the most effective and efficient way, while being coherent with other EU initiatives.

### 7.2. Impacts of the package

#### *Economic impacts*

The package of preferred measures, by making more important company data publicly available in business registers and at EU level through BRIS and improving its reliability, will reduce overall administrative burden on companies and in turn facilitate access to finance and the creation of businesses. In addition, the facilitation of the cross-border use of such data, when creating new subsidiaries or branches cross-border or in other cross-border situations, including administrative or court procedures, will result in important recurrent cost savings and thus will substantially ease conducting cross-border business activities and facilitate access to other Member States' markets. By increasing transparency and trust in the market as well as by facilitating cross-border company creation and having a positive impact on cross-border activities, the initiative should stimulate cross-border trade, services and investment flows and thus contribute to the competitiveness and growth in the Single Market. These measures will apply to around 16 million limited liability companies and 2 million partnerships in the EU.

The package will result in some implementation costs for certain companies. These costs will only apply to companies, which currently do not file information to the business register. These will be one-off costs and Member States should not charge separately for these items. Their implementation could be spread over time (i.e. companies will have e.g. 3 years to file this information). These one-off costs are estimated to amount to around EUR 311 million<sup>132</sup>. On the other hand, companies which are or are planning to engage in cross-border business activities and/or creating new cross-border subsidiaries or branches, will benefit from recurrent annual savings (burden reduction) of around EUR 437 million per year. When comparing the one-off cost (around 311 million) against recurrent annual savings for companies (around 437 million per year), it is clear that the **benefits** much outweigh the one-off costs and that the initiative will bring significant burden reduction for companies in the Single Market.

#### *Impacts on SMEs<sup>133</sup>*

The planned initiative, as the already existing EU company law *acquis*, does not make a distinction between SMEs and larger companies and all companies fall under its scope of application. As the SMEs account for 98-99% of limited liability companies in the EU and around 40% of SMEs are engaged in cross-border activities and operations or investing cross-border, the initiative will be particularly beneficial to them.

The easier access to company data and the removal of administrative and financial barriers for its cross-border use will be in particular beneficial to SMEs as they do not have the financial and administrative resources of large companies. SMEs will also strongly benefit from increased legal certainty as they are more affected by unclear and complex rules than bigger companies. It has been estimated that where a big company spends one Euro per employee because of a regulatory duty, a small business might have to spend on average up to ten Euros<sup>134</sup>. The initiative also responds to the calls to facilitate the expansion of start-ups in the Single Market made in the EU Start-up Nations Standard<sup>135</sup>.

#### *Impacts on business registers and other public authorities*

This package is a continuation of developments related to digitalisation that have been taking place in company law so far. The increased accessibility and reliability of company data, and better connections between registers, thanks to the once-only principle and also interconnecting other EU level systems/registers to BRIS, should facilitate registers' work due to easier search for company data from other Member States and reduced need to request documents from companies.

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<sup>132</sup> These one-off costs are estimated on the assumption that the policy option 1c subject to this impact assessment would cover cross-border groups and place of management and economic activity for all limited liability companies which do not file such information today. However, if the policy option 1c would have a different scope e.g. include also domestic groups and cover the place of management and economic activity only in cases where the place of management or economic activity is in a different country than the registered office, the costs would be less than those estimated in this impact assessment. This is because although the number of groups would be higher, the number of limited liability companies needing to file the information about place of management/economic activity would be only a fraction of the estimated 14 million companies. Therefore, number of domestic groups and number of limited liability companies which have place of management/economic activity in another country than their registered office would be much less than 14 million and therefore the estimation in this impact assessment represents a conservative estimation in all scenarios.

<sup>133</sup> See also SME test in Annex 13.

<sup>134</sup> 'Models to reduce the disproportionate regulatory burden on SMEs. Report of the Expert Group', European Commission, May 2007

<sup>135</sup> [Startup Nations Standard](#) - to make it possible to submit legal documents from other EU jurisdictions as proof for the incorporation of a start-up (or creation of a subsidiary of an existing start-up expanding in the single market)

The increased trust and legal certainty will not only benefit companies but also business registers and other authorities, as it should result in them trusting company data from registers in other Member States and therefore reduce the need for additional documents from companies. In addition, this package ensures a more secure and business-friendly environment, which contributes to incentivising companies to remain and expand in the Single Market as well as attracting new investments, which will also benefit business registers.

The package is expected to entail one-off costs for business registers to adapt the IT systems of around EUR 5.4 million, and recurrent costs e.g. to carry out ex-ante verification of company data, estimated at around EUR 4 million per year for all business registers. In this context, some business registers<sup>136</sup> expected increases in adjustment costs to be limited as ex-ante checks were already in place. It is also likely that there will be some loss of revenue e.g. for those business registers, which charge access fees for company extracts, estimated at around EUR 7.9 million for all business registers together. However, in the consultation activities, some business registers<sup>137</sup> were of the view that the application of the once-only principle and the common extract would bring more benefits than costs.

As to other public authorities, they would also be able to consult the company information directly from business registers. Easier access to more sets of information would in particular facilitate the work of authorities and obliged entities<sup>138</sup> to implement e.g. anti-money laundering/countering the financing of terrorism rules and improve the reliability of beneficial ownership data. It would also help to fight fraud and abuse. In general, other authorities and courts could consult company information directly in business register and BRIS and the company would not be required to resubmit the existing information which would in turn result in burden reduction also for public authorities. On the other hand, public authorities in charge of issuing apostille will face loss of revenue, which is estimated to amount to EUR 9.5 million per year. However, due to current unclear rules, legal uncertainty and the related human resources and time needed to issue an apostille, the abolishing of the apostille is estimated to result in overall administrative burden reduction<sup>139</sup>.

#### *Impacts on the functioning of the Internal Market<sup>140</sup>*

The package of preferred measures is expected to be highly beneficial for companies, in particular SMEs, and the society in general, including consumers, due to its expected strong positive impact on ease of doing business and access to the markets in the EU, and on providing more trust and transparency of company data across the EU. More available, accessible and reliable cross-border company data will also facilitate the fight against abuse and fraud and this initiative will thus contribute to creating a fairer Single Market. This will consequently increase the competitiveness of the law abiding companies and lead to a fairer share of the market in which each company is doing business.

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<sup>136</sup> Taking part in consultations in the supporting study.

<sup>137</sup> In the consultation activities.

<sup>138</sup> Under the AML Directive, all private sector operators subject to AML/CFT requirements (e.g. credit institutions, real estate agents, notaries, certain persons trading in goods) must perform verifications on their clients. This includes the need to identify the customer and verify their identity (in the case of corporate clients the identification and verification of the company and its beneficial owners)

<sup>139</sup> SWD(2013) 144 final

<sup>140</sup> Given that there is an overlap with other impacts in this Impact Assessment, the impact on the functioning of the Internal Market was not counted separately.

The free movement of goods, services and capital will be easier as businesses will be able to extend their operations cross-border with less administrative burden. Easier cross-border setting up and activities for companies can also lead to more employment. Downstream, consumers will have better access to company information and thus will be in a position to make better informed decision when buying or contracting with companies from other Member States. Alone the value of basic company data is estimated to be at approximately £800 (950 euros) per direct user per year in a purely national setting<sup>141</sup>. It can be reasonably assumed that the value of reliable information in the cross border context of the EU BRIS would be significantly higher.

#### *Impact on digitalisation and related environmental impacts*

The initiative aims to upgrade the EU digital company law further through the use of digital tools and processes. It will make more company data available online through BRIS, on the e-Justice portal. It will also better connect public authorities working with companies and company data, both by introducing the use of the once-only principle but also by connecting other EU level systems/registers to BRIS and using the EUID (as the example of EPREL shows). Connecting EU level systems of interconnection would strongly contribute to creating more connected public administrations at EU level and cross-border, and contribute to a more digitalised Single Market. Finally, the measures addressing the abolishing of the formalities (apostille) rely on the use of BRIS for secure digital exchange and co-operation between registers, e.g. in the context of the once-only principle to set up subsidiaries/branches in other Member States. The initiative will introduce a digital harmonised company extract and will focus on the use of electronic copies (and their certification in line with the eIDAS Regulation). Overall, this initiative will provide ‘digital by default’ solutions to increase transparency about EU companies and ‘digital by default’ company law procedures to facilitate the use of the company data cross-border. In this way it will significantly contribute to the EU digital society and economy, including directly contributing to the objective of the Communication 2030 Digital Compass: the European way for the Digital Decade to provide 100% of key public services online for European businesses.

The initiative could have some positive environmental impacts due to increased possibility to use digital procedures and tools between business registers and companies, and also between business registers in different Member States through BRIS, and an increased application of the once-only principle, as described above. This would mean e.g. reducing the use of paper. However, these expected impacts would be relatively small and therefore, are not assessed in detail in this IA. Given that the expected impacts would be positive, the proposal is consistent with the ‘do no significant harm’ principle, with the climate-neutrality objective set out in Article 2(1) of European Climate Law<sup>142</sup> and the 2030 and 2040 targets.

#### *Fundamental rights*

The preferred option will facilitate the implementation of the rights of establishment in any Member State, as prescribed by Article 15(2) of the Charter of Fundamental Rights. There should be positive impact on companies benefitting from the opportunities offered by the Single Market, in particular concerning the freedom to conduct business set out in Article 16 of the Charter. The preferred option will require the disclosure and cross-border access of certain information in relation to legal entities (e.g. limited liability companies, partnerships). However, certain personal data will also be disclosed such as partners, single-member shareholders. This data is normally already publicly

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<sup>141</sup> “Corporate Transparency and Register Reform White Paper” from the UK Department for Business, Energy & Industrial Strategy.

<sup>142</sup> Regulation (EU) 2021/1119 of 30 June 2021 establishing the framework for achieving climate neutrality.

disclosed in Member States and this initiative makes such data available cross-border. Also, Member States may process some personal data to verify the company data which is already the case in most Member States. The interconnection of BRIS with other EU systems will not impact the protection of personal data as each system will maintain its autonomy and independency. The proposed solutions are necessary and proportionate to enhance transparency, create trust between Member States when using company information cross-border and contribute to fight against fraud and abuse and will ensure the protection of personal data in line with Article 8 of the Charter, the EU law on data protection including the relevant case-law<sup>143</sup>.

### **7.3. Application of the ‘one in, one out’ approach**

The package of preferred measures is estimated to bring a very strong positive recurrent impact in terms of reducing administrative burden for companies, and in particular SMEs which account for a large share of businesses in the EU, estimated to amount to around EUR 437 million per year. In particular, this would be due to the introduction of the once-only principle for setting up of cross-border subsidiaries and branches, which would concern around 4.000 new cross-border subsidiaries and 4.500 new cross-border branches and result in annual recurrent savings estimated at EUR 7.5 million. In addition, the benefits would come from introducing the common company extract and removing formalities (apostille) in cross-border activities and situations - be it in the context of cross-border trade, services, public procurement - including in administrative or court procedures and thus contributing to the application of once-only principle. Companies would also benefit from increased transparency of company data, its improved accessibility and reliability and thus, higher legal certainty in cross-border situations, however, these benefits cannot be monetised. The package is also expected to be highly beneficial for the society in general, including consumers, due to its expected positive impact on providing more accessible and reliable company data across the EU, and therefore allowing consumers to make more informed choices when dealing with companies from other Member States.

At the same time, depending on the Member State, the package of preferred measures may result in some new one-off costs on companies for filing information to the register, estimated to amount to around EUR 311 million. However, these costs would only apply to companies, which currently do not file such information to the register and an effort would be made in the planned initiative to limit those costs to the extent possible by e.g. spreading the implementation of such filing requirements over time (i.e. companies would have e.g. 3 years to file this information) and requiring Member States not to apply the initial filing costs separately for this new data. The package would not introduce any administrative burden for consumers or citizens in general.

Overall, the recurrent savings for companies are expected to much outweigh the one-off costs related to filing of additional company data and therefore, the planned initiative is expected to generate recurrent net cost savings for companies, and in particular SMEs.

## **8. 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, e.g. by organising transposition workshops and encouraging exchanging of best practices, including in the context of the Commission’s Company Law Expert Group (CLEG). As a second step, the Commission will focus on monitoring the implementation of the package to assess if it is successful in achieving the specific objectives identified in this Impact Assessment.

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<sup>143</sup> Regulation (EU) 2016/679, Regulation (EU) 2018/1725, e.g. Case C-398/15 Manni.

The following table presents operational objectives in the form of monitoring indicators connected to specific objectives. These possible indicators could be used for the purpose of monitoring and could also serve as a basis for a future evaluation:

Specific objectives	Operational objectives - Monitoring indicators	Monitoring period	Sources of data	Actors responsible for collecting data
Increasing the amount and improving the reliability of company data available in business registers and accessible cross-border through BRIS	<ul style="list-style-type: none"> <li>- increase in number of requests for company data available through BRIS,</li> <li>- number of requests for company data available also through BORIS and IRI</li> <li>- increase in number of legal entities with an EUID number</li> <li>- views of stakeholders (companies, registers, public authorities) on the extent to which it is possible to search for and access company data on a cross-border basis</li> </ul>	Monitored on annual basis, starting not earlier than one year from the time when the measures are fully implemented and operational in the Member States, and for a duration of 5 years.	<p>European e-Justice portal - BRIS, BORIS, IRI systems</p> <p>Studies, surveys, targeted bilateral contacts with relevant stakeholders</p>	European Commission
Enabling direct use of company data available in business registers when setting up cross-border branches/subsidiaries and in other cross-border activities and situations	<ul style="list-style-type: none"> <li>- reduction in costs of setting up subsidiaries or branches cross-border for companies</li> <li>- number of issued common company extracts</li> <li>- views of stakeholders (companies, registers, public authorities) on the extent to which it is possible to use company data directly on a cross-border basis</li> </ul>	Monitored five years after measures are fully implemented and operational in the Member States.	<p>Business registers</p> <p>Member State representatives in CLEG</p> <p>BRIS (notifications of cross-border subsidiaries or branches possibly through BRIS)</p> <p>Studies, surveys, targeted bilateral contacts with relevant stakeholders</p>	<p>Member States</p> <p>European Commission</p>

The draft proposal for the legislative initiative would include a commitment to carry out an evaluation in the future to assess the impacts of the new initiative. It would be carried out by the Commission on the basis of the information gathered during the monitoring exercise, and additional input collected from the relevant stakeholders, as necessary.

## **ANNEX 1: PROCEDURAL INFORMATION**

### **1. LEAD DG, DECIDE PLANNING/CWP REFERENCES**

This Impact Assessment Report was prepared by DG Justice and Consumers (DG JUST).

The DECIDE Planning reference of the initiative "Upgrading Digital Company Law" is PLAN/2021/11038. Currently it is being considered for inclusion into the 2023 Commission Work Programme.

### **2. ORGANISATION AND TIMING**

Five Inter-Service Steering Group (ISSG) meetings, consisting of representatives from various Directorates-General of the Commission, were held in 2021 and 2022 during the preparation stage of this impact assessment.

The first meeting took place on 9 July 2021, attended by the Secretariat General, the Legal Service, ECFIN, EMPL, TAXUD, COMP, ESTAT, TRADE, GROW, FISMA, DIGIT and CNECT.

The second meeting was held on 3 December May 2021, attended by the Secretariat General, the Legal Service, ESTAT, EMPL, CNECT, TAXUD, FISMA, TRADE, GROW and ECFIN.

The third meeting was held on 23 June 2022. Representatives from the Secretariat General, the Legal Service, MOVE, TRADE, GROW, TAXUD, REFORM, FISMA, COMP and DIGIT were present.

The fourth meeting was held on 15 July 2022. Representatives from the Secretariat General, TRADE, ESTAT, ECFIN, REFORM, FISMA, COMP and DIGIT were present.

The fifth meeting took place on 7 September 2022. Representatives from the Secretariat General, the Legal Service, TRADE, ESTAT, REFORM, COMP, TAXUD, CNECT GROW, MOVE and DIGIT were present.

All the meetings were chaired by DG JUST.

DG JUST has considered the comments made by DGs in the intermediate and final versions of the IA.

### **3. CONSULTATION OF THE RSB**

An Upstream meeting with the Regulatory Scrutiny Board was held on 19 May 2022.

The Impact Assessment accompanying this proposal was examined by the Regulatory Scrutiny Board on 12 October 2022. A positive opinion with reservations was received on



14 October<sup>144</sup> and the recommendations from the Board were duly addressed in the final version of the impact assessment.

RSB comments on 14 October 2022	How RSB comments have been addressed in the IA
<p>The Board notes the additional information provided by the DG and commitments to make changes to the report. However, the report still contains significant shortcomings.</p> <p>The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:</p> <p>(1) The report does not provide sufficient evidence on the consequences for businesses of the current lack of certain data in the business registers.</p> <p>(2) The cost benefit analysis does not take into account all the recurrent costs for businesses resulting from this initiative.</p>	<p>The report was adapted to take into account RSB comments. See response to the RSB recommendations on specific points below.</p>
<p>(1) The report should strengthen the problem definition and the problem analysis. It should provide evidence of the existence of a problem for each of the types of data covered by the initiative that warrants their inclusion in BRIS. It should better explain, with evidence, the consequences of the lack of this data for businesses active in more than one Member State. In particular, it should substantiate the claim that the cross-border expansion of Small and Medium Enterprises is hindered by the current situation.</p>	<p>The report was adapted to provide more evidence of the existence of problems for each type of company data covered in the initiative and more explanation was added to explain the consequences of the lack of this data on stakeholders, including SMEs (mainly in sections 2.1, 2.2).</p>
<p>(2) The report should clearly separate stakeholder views from other evidence. It should explain that the need for more data is mainly gathered through the public and the targeted consultations. It should explain how the stakeholders were selected, how representative the samples are and what the limitations of the consultation activities are. The report should also be transparent on the data sources for the cost and benefit calculations.</p>	<p>In order to draw a clear division between stakeholder views and other evidence (e.g. on numbers of companies), a succinct explanation about the nature of consultations and their limitations was added in the report (in section 2.1).</p>

<sup>144</sup> [Link to the positive opinion of the RSB to be added.](#)

<p>(3) The report should make sure that all relevant costs and benefits are taken into account when assessing the options and classify them correctly for the purpose of the One In, One Out approach. In particular, it should identify and quantify, to the extent possible and proportionately, the recurrent costs for existing and newly created companies as a result of the proposed legal obligation to disclose and file new company data (e.g. place of management or place of economic activity) to business registers. If some recurrent costs are considered negligible, the report should demonstrate it. The report should always compare the policy options to the baseline and correctly take the business-as-usual costs into account. It should also be clear how the costs and benefits are distributed among the stakeholder groups.</p>	<p>The explanations about the costs which are taken into account are now also elaborated in the main report, including those concerning the newly created companies. All the policy options are compared to the baseline. In addition to annex 3, the main report also shows the costs and benefits per stakeholder groups (Chapter 6, introduction and sections 6.1-6.5).</p>
<p>(4) The main body of the report should clarify how the efficiency scores and the multicriteria scores have been calculated, i.e. how costs and benefits have been weighted and integrated into the scores. It should be clear from the tables in the main report what the variations between scores represent.</p>	<p>The explanations about the efficiency scores and multi-criteria scores and the weighting have been added into the main report. The detailed explanations including what the variations between scores represent are in the methodological annex 4 to the report (section 6.5).</p>
<p>(5) The report should define measurable, operational and time-bound objectives that indicate if the initiative is successful or not. These operational objectives should be based on more precise specific objectives</p>	<p>The main report now contains operational objectives in the form of monitoring indicators connected to specific objectives. The text also sets the monitoring period for the assessment of such operational objectives, as well as an indication of the sources of data and the actors responsible for collecting the data (Chapter 8).</p>

#### 4. EVIDENCE, SOURCES AND QUALITY

The impact assessment draws on an extensive amount of desk research, external studies, a study carried out on behalf of the Commission to accompany this IA and wide-ranging consultations described in detail in Annex 2. The input from these consultations was collected and processed by the experts in the Company Law Unit of DG JUST (JUST A3).

Data and information were collected, amongst others, from the following sources for this impact assessment:

Sources	Information/Summary
<b>Study on the disclosure and cross-border use of company data, and digital developments related to company law (Milieu Consulting) 2022</b>	Supporting study for this Impact Assessment. It collects information on relevant national company law rules of the Member States and basic relevant data needed for the impact assessment. It collects information through surveys to stakeholders and interviews on stakeholders needs, practical obstacles. It also analyses technical requirements and analyses impacts of potential measures.
<b>FATF</b>	An inter-governmental body, the Financial Action Task Force (FATF) is the global money laundering and terrorist financing watchdog. It sets international standards that aim to prevent these illegal activities and the harm they cause to society. The information and data of the mutual evaluations of FATF were used in this impact assessment. <a href="https://www.fatf-gafi.org/home/">https://www.fatf-gafi.org/home/</a>
<b>EBRA reports</b>	The International Business Registers Survey and Report aims to assist business registers in comparing their own practice and performance with those of other jurisdictions. <a href="https://www.ebra.be/">The International Business Registers Report 2019 (ebra.be)</a>
<b>Corporate Transparency and Register Reform White Paper</b>	A study of the Department for Business, Energy & Industrial strategy on the planned reform of the Company house, United Kingdom. <a href="https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/78444/corporate-transparency-and-register-reform-white-paper.pdf">Corporate Transparency and Register Reform White Paper (publishing.service.gov.uk)</a>
<b>UK Policy summary</b>	This report presents the findings of research commissioned by the Department for Business, Energy and Industrial Strategy (BEIS) to value the user benefits of Companies House (CH) data. <a href="https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/78444/valuing-the-user-benefits-of-companies-house-data-policy-summary.pdf">Valuing the user benefits of Companies House data: policy summary (publishing.service.gov.uk)</a>
<b>ICLEG papers</b>	The Informal Company Law Expert Group held discussions, performed research and provided recommendations to DG JUST concerning transparency and cross-border use of company data.
<b>BRIS Impact Assessment</b>	This report assesses and examines the impacts of the policy options incorporated in the BRIS Directive (Dir. 2012/17) in relation to the creation of a system of interconnection of registers. <a href="https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32010D11309-00-01-EN-ORI-00">MARKT-2010-11309-00-01-EN-ORI-00 (europa.eu)</a>
<b>Public documents Impact Assessment</b>	This report measures and analyses the impacts of the policy options incorporated in the Public Document Regulation (Reg. 2016/1191) in relation to the exemption from legalisation and similar formality and simplification of other formalities relating to certified copies as well as in relation to relevant translations and multilingual standard forms. <a href="https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32016R1191-01-EN-20160616">EUR-Lex - 52013SC0144 - EN - EUR-Lex (europa.eu)</a>
<b>Permanent Bureau of The Hague Conference on Private International Law, Apostille Handbook</b>	The Handbook is the final publication in a series of three produced by the Permanent Bureau of the Hague Conference on Private International Law on the Apostille Convention following a recommendation of the 2009 meeting of the Special Commission on the practical operation of the Convention. <a href="https://www.hcch.net/en/instruments/conventions/textes/?docid=300&amp;lang=en">Apostille Handbook, A Handbook on the Practical Operation of the Apostille Convention, 2013</a>
<b>Eurostat Business Demography Statistics 2022</b>	This article presents statistical data on business demography in the European Union (EU), treating aspects such as the total number of active enterprises in the business economy, their birth rates, and the survival rate. <a href="https://ec.europa.eu/eurostat/tgm/table.do?tab=table&amp;init=1&amp;language=en&amp;code=sdg-8.4.2&amp;plugin=1">Business demography statistics - Statistics Explained (europa.eu)</a>
<b>Eurostat structure of multinational</b>	This article gives an overview of multinational enterprise groups operating in EU countries and European Free Trade Association (EFTA) countries in

<b>Enterprise groups in the EU</b>	2020, according to the data available in the EuroGroups Register (EGR). <a href="#">Structure of multinational enterprise groups in the EU - Statistics Explained (europa.eu)</a>
<b>SME Performance review</b>	The SME performance review is one of the main tools the European Commission uses to monitor and assess countries' progress in implementing the SME strategy and the Small Business Act. With an emphasis on the priorities under the SME strategy and the SBA, the review brings comprehensive information on the performance of SMEs. <a href="#">SME Performance Review (europa.eu)</a>
<b>UNCITRAL Legislative Guide on key principles of a business registry</b>	This UNCITRAL Guide provides a reference tool for policymakers, registrars and experts involved in business registries reform on the features of an effective and efficient business registry and the minimum necessary requirements for a business to register. <a href="#">UNCITRAL Legislative Guide on Key Principles of a Business Registry</a>
<b>Letterbox study</b>	This study provides an overview about letterbox companies mainly in the EU. It describes the phenomenon and its characteristics, presents possible ways to quantify letterbox companies, analyses different types and uses made of letterbox companies, examines the role played by national company law requirements and maps the existing measures that could have an impact on letterbox companies. <a href="#">Letterbox companies - Publications Office of the EU (europa.eu)</a>
<b>Nordic Smart Government &amp; Business</b>	This is a programme run by Nordic countries in collaboration in order to create value for SMEs by making real time business data accessible and usable for innovation and growth across the region, in an automatic, consent based and secure manner. <a href="#">Nordic Smart Government</a>
<b>Communication on Digitalisation of justice in the European Union. A toolbox of opportunities</b>	The Communication on Digitalisation of justice in the European Union proposes a toolbox of measures targeted at fostering digitalisation of justice with the aim to improve access to justice and the efficiency of justice systems. The approach set out in the Communication is to achieve better use of digital technologies, in full respect to fundamental rights and the principles of proportionality and subsidiarity. <a href="#">Communication on Digitalisation of justice in the European Union and Proposal for e-CODEX Regulation   European Commission (europa.eu)</a>
<b>Commission Staff Working Document Business Journey on the Single Market: Practical Obstacles and Barriers</b>	The document aims to identify current obstacles to the single market at the time it was drafted. <a href="#">EUR-Lex - 52020SC0054 - EN - EUR-Lex (europa.eu)</a>
<b>Communication Identifying and addressing barriers to the single market</b>	This Communication focuses first on the top 13 barriers to cross-border activity, as most commonly reported by businesses (with regard to cross-border trade or establishment) and consumers (with regard to cross-border purchase of goods or services). The presented barriers follow the key steps of the “journeys” that businesses and consumers make in the single market. <a href="#">communication-eu-single-market-barriers-march-2020_en.pdf (europa.eu)</a>
<b>Eurochambres Business Survey: The state of the Single Market, Barriers and Solutions 2019</b>	The objective of this survey is to make the bridge between businesses and European policy-makers to help the latter to identify the right priorities for the coming years. <a href="#">Business Survey - The state of the Single Market (eurochambres.eu)</a>

## ANNEX 2: STAKEHOLDER CONSULTATION (SYNOPSIS REPORT)

In accordance with the consultation strategy, the objective of the consultation activities was to gather data evidence and stakeholder views for the preparation of the initiative “Upgrading Digital Company Law” regarding i) transparency (better access to more information about companies in the EU); ii) using company data available in national business registers in cross-border administrative or judicial procedures; iii) using the information in the business registers when setting up subsidiaries and branches in other Member States; and iv) digitalising company law procedures and addressing new digital developments in EU company law.

Specifically the consultation activities **aimed to gather the views of stakeholders about:**

- Existence of problems in the areas to be covered by this initiative as well as the evidence about the magnitude and EU dimension of such problems;
- Different policy options, which can be considered in the areas to be covered by this initiative;
- Data to assess better the costs and benefits of different policy options.

This annex is structured in two main chapters:

**Chapter I – Consultation activities and sources of information** presents the description of the methodology that the services of the Commission have used e.g. open public consultation, targeted consultation of stakeholders, consultations of Member States and expert groups, studies, workshops, surveys, interviews. It also provides information on the main stakeholders’ groups.

**Chapter II – Result of the consultation activities** analyses the results of the consultation activities by the two main dimensions of the policy options as presented in the impact assessment.

### CHAPTER I - CONSULTATION ACTIVITIES AND SOURCES OF INFORMATION

#### 1. Stakeholder groups relevant for the consultation activities

According with the consultation strategy, the relevant stakeholder groups are:

- **business registers**, which contain and make publicly available company information. They are also involved in company law procedures in contacts with companies and legal professionals, as well as in contacts with business registers in different Member States (including through BRIS);
- **national authorities**, such as tax authorities, labour law authorities, courts, beneficial owner registers, which verify information in particular about companies from other Member States in the context of different administrative or court proceedings;
- **business associations/organisations**, which represent interests of companies of different sizes and in different sectors and can share experiences of their members in areas to be covered by this initiative;

- **trade unions**, which represent employees' interests and can share experiences of employees e.g. as users of company data;
- **legal professionals**, who are involved in company procedures, such as lawyers and notaries;
- **companies**, including **SMEs and start-ups**, which use company law procedures to set up and run their businesses, including on a cross-border basis, and that need information about companies to make well-informed business decisions;
- **investors, creditors**, who need information about companies to make well-informed decisions related to their investments or business partners;
- **citizens**, who need to find or check information about companies;
- **academic experts and think tanks** with expertise on the issues to be covered by this initiative (e.g. for research, statistical purposes);
- other **users of company data or actors of company law procedures** deemed relevant.

## 2. Consultation activities and other information sources

The services of the Commission have used a wide range of methodological tools for the consultation activities for this initiative. Consultations started early, in 2021. In particular, DG JUST carried out the following activities:

- The Commission published an **Inception Impact Assessment** on the initiative.

The feedback period started 20 July 2021 with a deadline for **feedback from stakeholders** by 17 August 2021. In total, eight stakeholders provided feedback. Amongst the respondents there were public authorities (business registers), business associations, companies, citizens, legal professionals and other organisations. (Summary available in section 3)

- **Open online public consultation** (the [Summary Report](#) is available online)

The consultation was published on 21 December 2021 and responses were accepted until 8 April 2022. 83 organisations and individuals responded to the consultation. Most responses came from Germany (20%), followed by Spain (13%), and Belgium (12%), (which included replies from EU level associations), Austria (8%) and the Netherlands (6%). There was a small number of replies from most other Member States. Single non-EU responses were also received from Iceland, Switzerland and Iran.

Public authorities (mainly Ministries of Justice or business registers but also authorities/agencies dealing with specific issues such as economic crime or anti-money laundering) from 12 different Member States including Spain, Belgium, Sweden, Cyprus, Estonia, Finland, Latvia, Malta, the Netherlands, Poland, Portugal and Slovakia participated in this consultation. One contribution was received from Iceland. 12% of responses (10 out of 83) came from companies. Half were micro (1 to 9 employees), three large (250 or more employees), and one each small (10 to 49 employees) and medium (50 to 249 employees). All responding companies were registered in a Member State (Germany, Austria, Greece, Italy, Poland and Spain). Less than half (4) carried out (part of) their activity in several EU Member States and a third (3) were part of a group of companies.

All questions were optional to allow stakeholders the possibility to focus on the topics of most relevance and interest for them. Some questions were targeted at specific stakeholders. It was also possible to provide additional information through open questions and by uploading papers to allow stakeholders to provide the necessary details. Respondents made use of these options and not all replied to all questions.

- **SME panel consultation**<sup>145</sup>

This consultation took place between 2 May and 10 June 2022. In total, 158 stakeholders replied to this consultation in the EU Survey webpage. Majority of responses were submitted by SMEs in the form of limited liability companies: 64% by private limited liability ones (99 out of 155) and 14% by public (22 out of 155). 5% of replies came from partnerships (8) and 3% - from cooperatives (5). 10% of respondents were self-employed (16). Most responses came from Portugal, followed by Romania, Spain, Czechia and Poland. There were a few replies from Hungary and Italy, and a couple of individual responses from some other Member States (Cyprus and Germany, and Austria, Bulgaria and Lithuania, respectively). In terms of size of the responding companies, 39% were micro enterprises or self-employed (1 to 9 employees), 32% small (10 to 49 employees), 22% medium (50 to 249 employees), and 7% mid-cap and bigger companies (250 or more employees). 25% of respondents who answered this question were part of a group of companies (39 out of 153). In a few cases, their parent companies were located in another Member State (6) or in a non-EU country (8) and otherwise, they were in the same Member State. The results of the SME panel are attached in Annex13.

- The Commission contracted an **external consultant** (Milieu Consulting) to carry out a study, including specific tasks such as **desk research and literature review, analysis, targeted e-surveys and interviews with key stakeholders** to assist the Commission in collecting evidence, providing analysis, and cost estimates for the initiative.

The evidence collected from these activities includes: a legal mapping of the national company law systems of all 27 Member States carried out by legal experts; an overview of stakeholders' needs and obstacles based on 5 surveys (to business registers, public authorities, legal practitioners, business and financial organisations, individual companies), which collected views from 25 business registers, 11 legal professionals, 1 financial institution, 3 business organisations, 20 public authorities (tax and labour) and 140 companies; and statistical data on the impacts of potential measures.

The contractor organised, with the participation of Commission's services, **virtual workshops** to gather views, knowledge and data on specific issues, and to gather the views of different stakeholder groups in more detail. During these workshops, stakeholders had the chance to share their views including through short, targeted

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<sup>145</sup> The SME panel is a tool that allows Commission service to reach SMEs in a targeted way and are organised in cooperation with the partners in the Enterprise Europe Network, a support network for small and medium-sized enterprises (SMEs) bringing together, among others, chambers of commerce and industry, regional development organisations or innovation support organisations.



surveys, and the Commission had an opportunity to go into greater depth on particular points and to exchange and compare viewpoints in a dynamic setting.

- A virtual **workshop with EU business registers** was held on 21 June 2022 with the participation of representatives from nine Member States.
- A virtual **workshop with companies** was held on 22 June 2022. It was planned with 12 confirmed representatives of companies but due to last minute cancellations, took place with four representatives from different Member States. Notwithstanding to the multiple channels used to contact companies, it proved to be difficult to have high number of companies participating in the workshop. Nevertheless, the participating companies provided valuable input confirming the existence of the problems relevant for this initiative and gave several practical examples in particular concerning the difficulties faced when trying to use company data cross-border.
- DG JUST organised in Q3 2022 five **virtual interviews with legal professionals** – lawyers working in the field of company law and legal counsels (in-house-lawyers) dealing with company law employed by EU companies. These interviews gave a valuable insight into the daily practice and difficulties in cross-border company law and other administrative and judicial procedures. The lawyers provided concrete examples on administrative burdens, costs and time needed for procedures. In addition, they provided their views on what improvements to cross-border use of company data would facilitate their work.
- **Bilateral meetings (targeted consultations)** were organised between DG JUST and key stakeholders in the area of company law to discuss issues most relevant for them:
  - BusinessEurope
  - Council of the Notariats of the European Union (CNUE)
  - European Trade Union Confederation (ETUC)

The list of bilateral meetings and virtual interviews are included in Annex 15.

- Two virtual meetings were held with the Commission **Company Law Expert group** (CLEG) bringing together Member State representatives from Ministries responsible for company law issues on 30 September 2021 and 20 June 2022. The subgroup of CLEG dealing with BRIS, the CLEG-BRIS, bringing together Member States representatives from business registers, also joined the latter meeting<sup>146</sup>.
- The Commission **Informal Company law Expert Group** (ICLEG) consisting of 17 company law academics and practitioners from 12 Member States and EFTA countries held six meetings during 2020, 2021 and 2022 with DG JUST where the issues relevant for the initiative were discussed. The minutes of these meetings are available in the Commission register of expert groups. ICLEG also drew up two reports on issues relevant for this initiative (on transparency of company law data and on the

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<sup>146</sup> [Register of Commission expert groups and other similar entities \(europa.eu\)](https://register.europa.eu/expert-groups/)

cross-border use of company data) and these will also be published in the register of expert groups when they are finalised<sup>147</sup>.

## CHAPTER II – RESULT OF THE CONSULTATION ACTIVITIES

The first section of this chapter analyses the results of the consultation activities. Where the views of different stakeholder groups on the same topic were substantially different, they are analysed and presented separately.

The second section describes other issues, which were part of a broader reflection on the potential initiative at the beginning of the process.

The third section presents a summary of the feedback received by stakeholders on the inception impact assessment.

### Section 1: Analysis of results

For ease of presentation, the policy options are regrouped under the main objective they seek to meet, namely increased transparency and enabling direct use of company data in business registers in cross-border situations.

#### *1. Transparency*

- ☐ **Making more company information available in business registers and/or BRIS (policy options 1)**
- ☐ **Interconnecting BRIS with other systems and enable better searches (policy options 2)**

A large majority of consulted stakeholders, including SMEs, encountered some **difficulties when looking for information about companies**, in particular about companies in other Member States. Only 20% (14 out of 71) respondents to the public consultation and 13% (14 out of 110) replying to the targeted consultation of SMEs, did not encounter any difficulties when looking for and accessing data about companies from other Member States.

In replies to the public consultation, the **most often mentioned difficulty** was that information about companies in different Member States was not comparable (48%, 34 out of 71 respondents), followed by stakeholders not being able to find/have access to the relevant company information at EU level but only in the national business register (35%, 25 out of 71), and language difficulties (34%, 24 out of 71). In particular, lack of comparability and not having access at EU level were listed as the top difficulties by business associations, companies and legal professionals. Public authorities most frequently mentioned language difficulties.

The fact that the relevant information could be only found on companies' websites (19%, 21 respondents) or only in national business registers of companies (12%, 13 respondents) was also mentioned as a problem<sup>148</sup> by SMEs responding to the SME panel. In addition,

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<sup>147</sup> [Register of Commission expert groups and other similar entities \(europa.eu\)](https://european-council.europa.eu/media/en/press-articles/default/pressArticleDetails/11700)

<sup>148</sup> Respondents could only choose one answer when asked about difficulties, therefore lower numbers of respondents per difficulty.

15% of responding SMEs could not find or access the relevant company information at all (17 out of 110).

According to the results of the public consultation, the most important **reason to have access to company data** is to find or check information about a company, as a creditor, a business partner or a legal professional. Similarly, according to the surveys for the supporting study, 75% of companies indicated that they needed company information cross-border to find information about potential business partners; 33% - for benchmarking/market analysis purposes, and 32% - to identify legal representatives. Company information was also needed to verify who is the authorised representative of the company, for judicial proceedings (e.g. when company information is required by a court), when dealing with competent authorities (e.g. when applying to get SME funding, for taxation, for social security, for posting of workers), to make investment decisions. Other purposes indicated by stakeholders include, risk assessments, identifying stakeholders and intra-group transactions along with company structures, recovery of tax arrears, checking the registration of the company along with their scope of activity and registered office. According to legal professionals responding to the supporting study surveys company information was in particular needed to identify legal representatives, for judicial proceedings, for verification of company data for the preparation of contracts, to carry out controls/checks, for due diligence purposes and for administrative purposes. The public authorities (mainly tax authorities) responding the supporting study survey confirmed that they needed data about companies from other Member States to check information (95%, 19 respondents), establish taxes (70%, 14 respondents) and to identify legal representatives, detect fraud and money laundering/terrorist financing and carry out controls and checks (60%).

A number of other problems were mentioned during consultation activities, including difficulty to search on registers' websites, or technical and language difficulties. Some SMEs considered that company information in registers was not sufficiently reliable. In addition, another difficulty reported was the need to pay fees to access information and documents from business registers. In the surveys for the supporting study, nearly 50% of respondents indicated this as a problem. Similarly, 73% of respondents to the public consultation considered that there is a need to have more company data available free of charge centrally at EU level (through BRIS). In the context of accessing the information in national business registers, some stakeholders mentioned that it was sometimes challenging - even for legal professionals specialised in company law - to identify the official source of company data (i.e. website of the official business register) in other Member States as there are many private websites also providing company information.

74% of respondents who replied to the question on being familiar with the **Business Registers Interconnection System - BRIS - or the "Find a Company" page of the European e-Justice portal** confirmed their familiarity (53 out of 72). Public authorities and business associations were more familiar with BRIS as compared to companies and EU citizens. Out of those respondents familiar with BRIS, 67% used BRIS (35 out of 52), whereas 23% of respondents did not and 10% had no opinion. Nearly all public authorities familiar with BRIS use it.

According to the survey for the supporting study and the SME panel, respondents mainly used websites of companies directly to find information about companies from other Member States (43% and 45% respectively), followed by using business registers in other Member States (21% and 16% respectively). 8% of the respondents to the supporting study survey and 4% to the SME panel survey - used BRIS to access cross-border company data.

In general, the majority in **all consulted stakeholder groups** (companies, authorities, business organisations, business registers, trade unions, legal professionals, citizens) welcomed the Commission's initiative on Upgrading Digital Company Law and expressed their support for making more **harmonised company information available at EU level**. Among stakeholder groups responding to the public consultation, support was strongest from companies and legal professionals. Legal professionals (lawyers, notaries) in particular emphasised the need for making more complete and correct company data available cross-border from the trustworthy source (business register) with an easy access. Business associations mentioned that measures to increase transparency should not lead to an increase in administrative burden for companies and stressed the need to ensure a balance between transparency and protection of other values such as privacy.

In the supporting study surveys, all stakeholder groups (especially legal practitioners, public authorities and companies) considered that the most significant benefit from the planned measures to make more company data available would be to enhance trust in business environment (91% - 73% of legal practitioners, 65% - 53% of public authorities and 56% - 53% of companies).

As regards the specific types of company data, majority of **all consulted stakeholder groups** were in favour of making **information about other types of companies** than limited liability companies **available centrally at EU level (through BRIS)**. For instance, 71% of those replying to the public consultation were in favour (48 out of 68) of having more information about other legal forms than limited liability companies centrally at EU level (through BRIS), and 37 and 36 out of those mentioned cooperatives and partnerships respectively. 115 out of 117 of SMEs responding to the SME panel were in favour of having more information about **partnerships** at EU level. 90% of public authorities and 91% of legal practitioners, 72% of companies and 70% of business registers responding to the supporting study surveys thought that having information about partnerships at EU level would be beneficial.

The respondents to the public consultation overall considered that similar information should be made available as is currently the case for limited liability companies. Some respondents said that information about all types of companies should be available, referring also to associations, trusts or foundations. In consultation activities in CLEG, most Member States' representatives (business registers) also considered more transparency on partnerships beneficial (some pointing out that otherwise these company types could be used for abuse and fraud). Furthermore, in the consultations in CLEG, some Member States referred to the need for harmonised data in this respect and saw some challenges. Company law professors and practitioners in ICLEG recommended that information in the national registers of the Member States about unlimited and limited partnerships, and at least their partners with unlimited liability should be made available via BRIS, on the basis of some harmonisation.

Nearly all responding participants to the public consultation (90%) thought that the information about **third country branches in the EU**, which is already available in national business registers, should also be accessible centrally through BRIS (60 out of 67). This majority support was reflected across the different stakeholder groups. High support was also expressed in the supporting study surveys, with 73% of all respondents, and in particular 94% of public authorities and 81% of legal practitioners confirming that having this information at EU level would be beneficial.

The majority of stakeholders thought that it is important to have **better access to company information related to groups of companies**. Over three quarters of respondents to the public consultation (77%) was of this opinion (51 out of 66). Some business associations considered access to cross-border information on groups important, highlighting though that this should not lead to further requirements for companies. 111 out of 113 SMEs responding to the SME panel also considered that such information would be beneficial. An EU level SME association listed information related to groups among their four priorities regarding company information that should be available not only at national but also at cross-border level and stressed that this information is indeed difficult to access and compare, which represents additional time and financial costs for SMEs. 76% of the respondents to the supporting study surveys respondents, and in particular, 83% public authorities, 75% companies and 72% legal practitioners also indicated that it would be beneficial if information about groups of companies was available in an easily accessible way and format to the wider public in both the national business registers and through BRIS. 78% of all respondents to the supporting study surveys said that having the group information available at EU level would help to reduce administrative burden (82% of legal practitioners, 82% of public authorities and 75% of companies).

It was generally considered across the consultation activities that access to information about groups would enhance transparency and trust in the business environment and would make it easier to search for business partners. The majority of public authorities considered that it would be beneficial to have access to information on groups. Business/financial organisations and companies held mixed opinions but generally anticipated benefits if information on groups were to be made publicly available. Legal professionals cautioned that group information is different in the Member States, which might limit the value of having cross-border access to this information. Some Member States considered that implementation of such requirements might be challenging as group information might be extensive and some underlined that this information was not yet available in their national business register. Company law professors in ICLEG considered that it is important for any company's stakeholder to have access to information on the group's existence and structure.

In terms of purposes for which group-related data is used by the stakeholders, 94% of the public authorities (mostly in charge of tax issues) consulted in the context of the supporting study indicated that they use company data for taxation purposes and 50% - for anti-money laundering purposes. Other uses included e.g. the supervision of internal transfers of posted workers in company groups. 80% of legal professionals indicated that they use such information mainly for anti-money laundering purposes, 70% for verification of company data of a business partner of a company and 70% for preparation of contracts. Companies and business organisations needed group information for taxation, application for funding and anti-money laundering purposes.

67% of respondents in the public consultation were in favour of EU company law rules requiring **disclosure of additional information about limited liability companies** in national business registers and via BRIS (40 out of 60). There were majorities in favour among the responding companies, legal professionals and EU citizens whereas the views were more mixed among business associations and public authorities with approximately equal numbers of respondents in favour and against.

The supporting study surveys also showed that stakeholders, notably public authorities and legal practitioners, need to have access information about the place of management and the place of the main economic activity. In particular, tax authorities responding to the

supporting study surveys needed this information for the identification and detection of fraud and tax evasion (95% of tax authorities in case of place of management and 89% - in case of place of economic activity), and the responding legal practitioners - for taxation purposes (55% of legal practitioners use place of management and 73% - place of economic activities). Legal practitioners also needed the place of economic activity for social security purposes (55%). There was support to have this information at EU level across the consultation activities. 70% of respondents to the public consultation thought that the **place of management** and 67% - that the **place of main economic activity** of EU limited liability companies should be disclosed in business registers and made available through BRIS (45 and 43 respondents out of 64, respectively), while 25% replied that this should not be the case. A responding EU level SME association listed place of management as one of their four priorities regarding company information that should be made available at national and EU level. Many stakeholders replying to the supporting study surveys said that having this information available would help to reduce administrative (72% of all stakeholders, 95% of public authorities in case of place of management, and 81% legal practitioners and 66% of companies in case of place of management, and 73% of all stakeholders, 95% of public authorities, 72% legal practitioners and 69% of companies in case of the place of the main economic activity).

SMEs also supported disclosure of such information: 109 of 114 SMEs responding to the SME panel were in favour of making information about place of management available, and 112 out of 113 – about place of economic activity. In the supporting study surveys, majorities in particular among legal practitioners and authorities considered that the availability of such information would enhance trust in the business environment. The reasons mentioned during consultation activities in favour of such disclosure included taxation, insolvency/restructuring and social security purposes (mainly mentioned by authorities and legal professionals) as well as fight against letterbox companies. Notaries pointed out that while information on place of management and the place of main economic activity will provide more transparency and prevent misuse of company law, these concepts are not harmonised under EU law, which might mislead users and create legal uncertainty. Some Member States in the consultations pointed out that these concepts are not part of their legal systems and that they would need to be defined.

A majority of stakeholders (in particular authorities, business registers and legal professionals) considered that it would be useful to **link BRIS with the EU interconnection of beneficial ownership registers and the EU interconnection of insolvency registers**. Stakeholders were less supportive of connecting BRIS with the EU interconnection of land registers.

A majority of respondents to the public consultation (82% and 72%) thought that it would be useful to **link BRIS with the EU interconnection of beneficial ownership registers** (58 out of 71) **and the EU interconnection of insolvency registers** (51 out of 71). 41% thought it useful to connect BRIS with the EU interconnection of land registers. Some stakeholders, in particular notaries, expressed doubts about such interconnection due to different subject matter of both systems and privacy restrictions to access information in land registers. In the discussions in CLEG, most Member State experts have also considered interconnection of BRIS with other systems beneficial. Some Member States highlighted the importance of ensuring compliance with personal data protection rules. In the surveys for the supporting study, 67% of all respondents said that it would be useful to a large or very large extent to link BRIS to BORIS (74% of business registers, 90% of legal practitioners, 69% of public authorities, 61% of companies) and 66% - to link BRIS

to IRI (70% of business registers, 80% of legal practitioners, 70% of public authorities, 61% of companies).

83% of respondents to the public consultation asked for more **search functionalities** centrally at EU level via BRIS (50 out of 60), in particular on searching by legal form (e.g. by European Companies, SEs) and by registered office, but also by country-by-country reports. 113 out of 115 SMEs responding to the SME panel also considered this beneficial. The survey for the supporting study also confirmed that stakeholders considered that limited search functionality of both the business registers and BRIS caused difficulties, as some Member States limit searches to very limited time-frames or number of possible hits.

## *2. Use of company data in cross-border situations*

- ☐ **Ensuring adequate verification of company data before it is entered into the business register (policy options 3)**
- ☐ **Enabling direct use of company data from business registers in cross-border situations (policy options 4)**

In the consultation activities, many stakeholders highlighted the importance of reliable company data and confirmed that introducing common rules for verification of company data before it is entered into business registers would increase its reliability. Around 40% of public authorities, a third of legal practitioners, a quarter of companies and of business registers responding to the supporting study surveys saw increased legal certainty as the main benefit from the measures enabling the use of company information in cross-border administrative or court procedures (which in those survey also included introducing the ex-ante checks). The assessment by company law professors in ICLEG also confirmed that harmonising the requirements for ex-ante verification is the appropriate measure to increase reliability of company data<sup>149</sup>.

The importance of adequate checks for ensuring the reliability of company data in business registers was in general underlined by legal professionals, in particular notaries, in the public consultation and targeted interviews. Notaries considered that, today, at the cross-border level, in many cases company information may be unreliable, and, eventually, it might have no legal value. Business registers, can only fulfil their function of providing transparency and legal certainty for business transactions if the company information entered in reliable business registers is complete, correct and easily accessible. Notaries also considered that the information in business registers is only correct and reliable if register courts and/or notaries as public officials check the legal validity of corporate transactions and decisions, verify the relevant company data and securely identify the parties and applicants. Notaries also were of the opinion, that it should be up to the Member States to decide whether the standard of input control in another Member State satisfies its verification standards, i.e. whether it can be deemed equivalent to an own standard of input control. Finally, notaries were of the view that Member States should have discretion as to whether and how to design a system of preventive control that is in line with their legal traditions.

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<sup>149</sup> Commission expert group consisting of company law professors (ICLEG) proposed to consider rules for verification and checking of company data at EU level to further improve the reliability of registers in their paper on the cross-border use of company data.



Many of the stakeholders during the consultation activities also considered that defining common minimum rules for the verification of the correctness of company data before it is entered in a business register could facilitate its use when dealing with competent authorities or in court proceedings in another Member State. Defining common minimum rules for ex-ante check was the second most important means to facilitate the cross-border use of company data according to 43% of respondents to the public consultation (62%, 36 respondents). Companies replying to the surveys for the supporting study held mixed views, although more companies still expected rather a decrease in administrative costs (35%) than an increase (28%).

The majority of stakeholders considered that ensuring consistent ex-ante scrutiny through the introduction of minimum common standards for checking the company information before entering it into the business register would lead to a decrease in administrative costs and charges or would not have an impact at all, with only some adjustment costs expected by business registers. In the surveys for the supporting study, 27% of the responding registers expected a small (and 14% a significant) increase in administrative costs for introducing minimum common standards; in the workshop, 10 registers anticipated a slight rise in administrative costs but participants said that benefits will outweigh the administrative costs. 50% of business registers responding to the surveys for the supporting study indicate that introducing common ex-ante checks would lead to a significant or small increase in adjustment costs, with 10% expecting significant or small decreases, and 18% - no impact.

In general, stakeholders in the consultation activities considered it important to remove unjustified barriers and obstacles to the use of company information in cross-border situations.

The results of consultation activities gave an example of how many companies try to set up cross-border subsidiaries or branches. 13% of SMEs (mainly private and public limited liability companies) replying to the SME panel already had an establishment/place of business in another Member State (19 out of 151), 9% were planning to have one (14) whereas 5% tried but gave up (7). Similarly, 20% of companies responding to the survey for the supporting study indicated that they had or were considering setting up a subsidiary in another Member State. 13% already had or were considering setting up a cross-border branch.

As to specific difficulties when setting up cross-border subsidiaries or branches, the consultation activities show that in a big majority of Member States, companies need to resubmit data, which exists in their national business registers, to the registers of other Member States. In particular in the public consultation, companies, which faced difficulties when setting up branches or subsidiaries, indicated that the main problems concerned the need to provide a certified translation of company documents or information, followed by the need to have company documents legalised/have an apostille, and by a time-consuming procedure and administrative costs. This was confirmed by the results of the SME panel, where the responding SMEs with experience of setting up establishments abroad mentioned that documents had to be legalised to be valid in another Member State (apostille) (20 out of 40), that certified/sworn translation was needed (19) and that they could not use the information/documents from their company's business register (non-recognition) (13). 60% of those answering faced administrative costs or time-consuming procedures linked to such difficulties (15 out of 25); and costs for legal advice (e.g. from lawyers or notaries), translations, legalisation costs were mentioned by a few respondents in this context. The need for legalisation of documents and certified translations when

setting up branches for companies, and to a lesser extent when setting up subsidiaries, was also mentioned by nearly half of the legal practitioners replying to the survey for the supporting study. The existence of administrative barriers, and examples of the resulting administrative burden (time, legal cost and fees) for companies was confirmed by the targeted interviews with practicing lawyers specialised in company law.

Furthermore, the public consultation confirmed that companies face difficulties or find it impossible to use the information, which is already in their national business register, when dealing with competent authorities or in court proceedings in another Member State. A majority (73%) of companies who replied indicated that they have encountered such difficulties. Similarly, 70% of responding authorities confirmed they faced difficulties when accessing or verifying data about companies from business registers in another Member State. The report by ICLEG also mentioned that the company data in the business register of one Member State is often not accepted as evidence in other Member State, probably due to the perceived risk of inaccuracy of the registered information from another Member State; instead, they require additional evidence, which generates costs and delays for the parties relying on the registered information<sup>150</sup>. The main difficulties encountered by the respondents to the public consultation were that certified translation of company documents/information was required and that company documents had to be legalised/have an apostille. Similarly, 33% of SMEs responding to the SME panel with cross-border experience, needed certified translations when dealing with authorities in other Member States (9 out of 40) and 22% - legal certification (apostille) (6). 64% of those answering to this question faced administrative costs or time consuming procedures linked to such difficulties (14 out of 22). Over half of those who were involved in cross-border court proceedings needed certified/sworn translation of company information/documents (9 out of 17).

The surveys for the supporting study also showed that more than half of the legal practitioners consulted needed certified or sworn translations of documents (64%) and certification of documents (55%), and 45% mentioned the need for authentication (apostille) in administrative procedures and in court proceedings. Similarly, more than half of public authorities required certified or sworn translations of documents (53%), 41% - certification of documents and around 30% of public authorities mentioned the need for authentication (apostille). Furthermore, 60% of the legal practitioners surveyed indicated that they face difficulties dealing with company law procedures due to differences in electronic formats required by authorities and courts, and 50% due to requirements from business registers.

Stakeholders in general expressed support in the consultation activities to the planned measures to facilitate the cross-border use of company data. For instance as regards the **application of the once-only principle**, a majority of the SMEs (mainly private and public limited liability companies) responding to the SME panel thought that not having to resubmit the information already available in their company's business register would help their company when setting up cross-border subsidiaries and branches (65 out of 70). Around three-quarters of replying stakeholders to the public consultation also thought that applying the once-only principle would help when setting up subsidiaries (70%, 35 respondents) and branches (78%, 39 respondents) cross-border. Companies replying to the

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<sup>150</sup> ICLEG paper on the use of company data (to be published on the Commission company law policy website and in the Register of expert groups once finalised).

supporting study surveys saw an easier cross-border expansion of SMEs as the first benefit of the application of the once-only-principle (22% of replying companies).

Furthermore, 68 out of 75 of SMEs responding to the SME panel thought that having **less formalities** (for example, through the use of digital solutions applied by authorities thus reducing the need of legal certification of company data in procedures) would help their company. Similarly, respondents thought that introducing a **common digital company information extract** would help (64 out of 72). 59% respondents to the public consultation also thought that replacing the need for legalisation/apostille, e.g. by secure digital transmission channel would facilitate the use of company data cross-border (34). Consultations with practising lawyers specialised in company law confirmed that the application of once-only principle, and the abolishment of formalities when using cross-border company data would reduce costs and time needed for procedures. Lawyers provided examples from their daily practice on difficulties and costs and time spent with procedures. The common harmonised company extract was also supported by notaries, legal professionals and also by company professors in ICLEG. Many Member States were in general supportive of common company extract. Some mentioned that it should focus on basic company information and build on the existing register data. Most of Member States delegations were also open to the use of the once-only principle.

## **Section 2: Analysis of results – Other issues raised during consultation activities**

The initial consultations, in particular public consultation also include questions related to on-line formation of other companies than limited liability companies as well as about so called “virtual office”.

In the public consultations, about three quarters (72%) of those who replied (42 out of 58 respondents) think that it should be possible to allow fully online formation and filing for companies other than limited liability companies (e.g. partnerships) with the remaining 28% disagreeing. Some stakeholders considered that online formation of partnerships should only be introduced at EU level if experience with online formation of limited liability companies is available. In the discussions in CLEG, Member States were divided if introduction of online formation and filing for partnerships is necessary at stage.

In the public consultation, a majority of those who replied think that **virtual registered offices** could serve real business needs (31 out of 49), while 41 % have no opinion or gave no answer. 57% of respondents had no opinion or gave no answer to whether the **use of virtual registered offices is widespread/growing** (47 respondents out of 83). Amongst those who answered, 61% experienced the use to be widespread/growing opposed to 39% did not consider this happening (22 respondents out of 36). Close to half of those replying to this question viewed the **overall impact of companies using virtual registered offices** as negative (45%, 17 out of 38), 34% (13 out of 38) as positive and 21% (8 out of 38) as neutral. More than half of overall respondents had no opinion or gave no answer. As regards **what issues the use of virtual registered offices raises**, answers varied. Generally, respondents highlighted that virtual offices might facilitate the operation of shell companies, fraudulent behaviour and money-laundering, and might raise questions of applicable law and serving of official documents. In turn, some respondents considered that the use of virtual offices could have an overall positive impact reducing overheads for small companies and start-ups. When asked whether there is a **need for any action to address the use of virtual registered offices**, around half of those who answered (24 out of 45) see a need for action at EU level, 29% sees a need for action at national level and

18% does not see a need for action at all. 46% had no opinion or gave no answer (38 out of 83).

In general in the consultations, it deemed to be difficult to define the concept of virtual registered offices and stakeholders had in general mixed views, including in the CLEG discussions.

### **Section 3: Feedback on the Inception Impact Assessment**

Stakeholders who provided feedback to the inception impact assessment expressed support for the further digitalisation of EU company law, pointing out that the COVID-19 pandemic has showed how digital tools are essential to ensure the continuity of business operations and interactions with authorities on company law related issues. Stakeholders considered that EU level action is needed.

Enhancing transparency of company data and facilitating the cross-border use of company information was supported. Stakeholders, in particular business registers, agreed with the problem definition and confirmed the need to tackle the identified issues. BRIS was considered as a good platform that should be further developed to facilitate cross-border use of company data. Business associations particularly supported further digitalisation of company law procedures. Furthermore, they highlighted the importance of ensuring the recognition of documents/information issued by business registers, including the acceptability of electronic copies and the application of the once-only principle. Some submissions proposed that various digital tools and methods be considered in the future initiative.

## ANNEX 3: WHO IS AFFECTED AND HOW?

### 1. PRACTICAL IMPLICATIONS OF THE INITIATIVE

**Businesses** would be positively affected by the initiative. By making more important company data publicly available in business registers and at EU level through BRIS and improving its reliability, will reduce overall administrative burden on companies and in turn facilitate access to finance and the creation of businesses. In addition, the facilitation of the cross-border use of such data, when creating new subsidiaries or branches cross-border or in other cross-border situations, including administrative or court procedures, will result in important recurrent cost savings and thus will substantially ease conducting cross-border business activities and facilitate access to other Member States' markets. These measures will apply to around 16 million limited liability companies and 2 million partnerships in the EU.

The package will result in some implementation costs for certain companies. These costs will only apply to companies, which currently do not file information to the business register. These one-off costs are estimated to amount to around EUR 311 million. On the other hand, companies which are or are planning to engage in cross-border business activities and/or creating new cross-border subsidiaries or branches, will benefit from recurrent annual savings (burden reduction) of around EUR 437 million per year. When comparing the one-off cost (around 311 million) against recurrent annual savings for companies (around 437 million per year), it is clear that the **benefits** much outweigh the one-off costs and that the initiative will bring significant burden reduction for companies in the Single Market.

**Business registers** will be expected to overall benefit from the measures. The increased accessibility and reliability of company data, and better connections between registers, thanks to the once-only principle and also interconnecting other EU level systems/registers to BRIS, should facilitate registers' work. On the side of costs, the package is expected to entail one-off costs for business registers to adapt the IT systems of around EUR 5.4 million one-off cost, and recurrent costs e.g. to carry out ex-ante verification of company data, estimated at around EUR 4 million per year for all business registers. In this context, some business registers expected increases in adjustment costs to be limited as ex-ante checks were already in place. It is also likely that there will be some loss of revenue e.g. for those business registers, which charge access fees for company extracts. However the application of the once-only principle and the common extract would bring more benefits than costs

**Other public authorities** would also be able to consult the company information directly from business registers. Easier access to more sets of information would in particular facilitate the work of authorities, for example in fight fraud and abuse. The application of once-only principle would result in burden reduction also for public authorities. On the other hand, those public authorities in charge of issuing apostille will face loss of revenue, which are estimated to amount to EUR 9.5 million per year. However, due to current unclear rules and legal uncertainty and the related human resources and time needed to issue an apostille, the abolishing of the apostille is estimated to result in overall administrative burden reduction.

**Citizens/consumers** will benefit from easier access to reliable company data. Society at large will benefit from the initiative as it will facilitate the fight against fraud and abuse and will promote digital tools.

## 2. SUMMARY OF COSTS AND BENEFITS

<b>I. Overview of Benefits (total for all provisions) – Preferred Option</b>		
<i>Description</i>	<i>Amount</i>	<i>Comments</i>
<b>Direct benefits</b>		
Trust and transparency in the market	No quantified estimates available. Businesses, business registers, public authorities, legal professionals, and society at large will benefit from more transparency. Having more reliable company data in business registers will bring more trust and more legal certainty in the market.	See detailed description and motivation in Annex 4 on the sections on efficiency, (benefits under “Trust and transparency in the market”).
Ease of doing business	Companies will find more easily, comparable, multilingual (harmonised) information about business partners, potential clients etc. in other Member States through the measures on transparency.  EUR 437 million recurrent cost savings per year for companies is expected from the measures that enable direct use of company data from business registers in cross-border situations	See detailed description and motivation in Annex 4 on the sections on efficiency (benefits under “Ease of doing business and access to the market”).
Savings in operational costs for business registers	No quantified estimates available. Business registers will benefit from increased company data in BRIS and from the interconnections with different systems. Adequate verification of company data will result receiving/being able to access more reliable data from other registers. This will facilitate their work. The use of the once-only principle will allow business registers to receive the documents directly from other registers which will result in more streamlined processes and cost savings.	See detailed description and motivation in Annex 4 on the sections on efficiency (benefits under “Operational cost savings for business registers”).
Savings in operational costs for public authorities	No quantified estimates available. Public authorities will benefit from more company data comparable and easily accessible cross-border. Enable direct use of reliable company data from business registers in cross-border situations will streamline procedures which will lead to cost savings	See detailed description and motivation in Annex 4 on the sections on efficiency (benefits under “Operational cost savings for public authorities”).
<b>Indirect benefits</b>		
Fight against fraud	More transparency and easier use of verified company data in cross-border situations will facilitate the work of public authorities fighting fraud and abuse.	See detailed description and motivation in Annex 4 on the sections on efficiency (benefits under “Fight against fraud and abuse”).
Digital company	More transparency, interconnection of information systems and the application of the once-only principle will have a strong impact on digitalisation.	See detailed description and motivation in Annex 4 on the sections on efficiency (benefits under “Digital economy”).

Functioning of the internal market	More transparency and more reliable company data that can be used directly in cross-border situations will contribute to the creation of a more integrated and digitalised Single Market	See detailed description and motivation in Annex 4 on the sections on efficiency (benefits under “Functioning of the internal market”).)
<b>Administrative cost savings related to the ‘one in, one out’ approach*</b>		
Administrative burden reduction for companies	EUR 437 million cost savings per year (recurrent) for companies is expected from the measures that enable direct use of company data from business registers in cross-border situations	recurrent

<b>II. Overview of costs – Preferred option<sup>151</sup></b>							
		Citizens/Consumers		Businesses		Administrations (business registers and other public authorities)	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
<b>Policy option 1c</b>	Direct adjustment costs	-	-	-	-	EUR 2.7 million IT development cost for business registers (€ 100.000 per MS)	-
	Direct administrative costs	-	-	EUR 311 million	-	-	-
<b>Policy option 3b</b>	Direct adjustment costs	-	-	-	-	-	2 FTEs per MS – 54 FTE altogether per year for business registers. EUR 4 million per year.
<b>Policy option 4c</b>	Direct adjustment costs	-	-	-	-	EUR 2.7 million IT development cost (100.000 per MS)	Loss of revenue of EUR 7.9 million per year
	Direct administrative costs	-	-	-	-	-	Loss of revenue of EUR 9.5 million per year
<b>Costs related to the ‘one in, one out’ approach</b>							

<sup>151</sup> See details and explanations in Annex 4.



	Administrative costs (for offsetting)	-	-	EUR 311 million (one off)			
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### 3. RELEVANT SUSTAINABLE DEVELOPMENT GOALS

III. Overview of relevant Sustainable Development Goals – Preferred Option(s)		
Relevant SDG	Expected progress towards the Goal	Comments
SDG8 decent work and economic growth	This initiative will contribute indirectly to economic growth as it will enhance the business environment in the Single Market	

## ANNEX 4: ANALYTICAL METHODS

### 1. SCREENING OF IMPACTS

#### 1.1. IDENTIFICATION OF IMPACTS

All the impacts, which could potentially be associated with the policy options analysed in this Impact Assessment were identified. This was done on the basis of the “impacts checklist” set out in the ‘Better Regulation Guidelines’ (Tool #18), taking into account the evidence gathered in the supporting study, during consultation activities with stakeholders and on expert assessment.

The positive and negative, direct and indirect, intended and unintended, and short- and long-term impacts were considered. Table 1 shows potential relevant impacts, which were kept to further analyse their relevance for the planned initiative.

*Table 1.* ‘Long list’ of impacts

Impact type	Long list of impacts drawing on Commission IA guidelines	Potential relevant impacts considered
Economic Impacts	Conduct of business Position of SMEs Sectoral competitiveness, trade, and investment flows  Administrative burdens on business Functioning of the internal market and competition Public authorities (and budgets)	Conduct of business Position of SMEs Sectoral competitiveness, trade, and investment flows  Administrative burdens on business Functioning of the internal market and competition Public authorities (and budgets)
Social Impacts	Working conditions, job standards and quality Public health & safety and health systems Culture Governance, participation, and good administration	Governance, participation, and good administration
Environmental impacts	Climate Quality of natural resources (water, soil, air etc.) Biodiversity, including flora, fauna, ecosystems, and landscapes Animal welfare	Environmental impacts
Economic and Social impacts	Employment Income distribution, social protection, and social inclusion (of particular groups) Technological development /	Technological development /

	digital economy Consumers and households Capital movements; financial markets; stability of the euro Property rights; intellectual property rights	digital economy
Economic and Environmental impacts	Sustainable consumption and production Efficient use of resources (renewable & non-renewable) Land use The likelihood or scale of environmental risks	
Overarching Impacts	Territorial impacts (specific (types of) regions and sectors) Innovation (productivity and resource efficiency); research (academic and industrial) Fraud, crime, terrorism, and security, including hybrid threats Resilience, technological sovereignty, open strategic autonomy, security of supply Transport and the use of energy Food safety, food security and nutrition Waste production, generation, and recycling Third countries, developing countries, and international relations Sustainable development Fundamental rights	Fraud, crime, terrorism, and security, including hybrid threats           Fundamental rights

## 1.2. SCREENING OF IMPACTS

The following issues were taken into account when analysing the significance of impacts, which can be associated with the policy options in this IA, for different stakeholders:

- Their expected magnitude – taking into account the likely scale of impacts (i.e., the extent of expected costs and benefits), the number of companies affected, and the extent of change expected;
- Their likelihood – taking into account how likely it is for the positive and negative impacts to occur, and prioritising those for which there is robust evidence;
- Their relevance to stakeholders – taking into account views provided by relevant stakeholder groups during consultation activities; and

- Their link to Commission objectives, i.e., the extent to which each impact is aligned with the objectives of the initiative (to include all impacts that directly link to the objectives).

The assessment takes into account the views of stakeholders gathered through extensive consultation activities (public consultation, SME panel, surveys for the supporting study, targeted consultations with Member State company law experts, business associations, legal practitioners), academic papers by company law professors as well as evidence collected through desk research.

Some of the screened impacts are strongly interlinked and therefore, are covered jointly as it would be impossible to separately assess their impact.

Table 2 presents the expected magnitude, likelihood and relevance for stakeholders for all potentially relevant impacts, with additional explanation and marks which of those impacts were retained for detailed analysis.

**Table 2. Significance of impacts for all the policy options under consideration**

*Key: ‘●’ low; ‘●●’ moderate; ‘●●●’ high*

Impact type	Expected magnitude	Likelihood	Relevance for stakeholders	Link with the objectives (✓)	Comment	Retained (✓)
Economic impacts						
Conduct of businesses (hereafter: the ease of doing business and access to the market)	●●	●●●	●●●	☑	The ease of doing business refers to how easy or difficult it is to start or operate a business in a cross-border setting, e.g. by setting up a subsidiary or a branch in another Member State, or carry out commercial activities in another Member State. In the EU context it is tightly related to the access to the market and the (lack of) administrative or financial barriers that could hamper cross-border business activities. Under this impact category, the <b>conduct of businesses, position of the SME and the sectoral competitiveness, trade, and investment flows</b> will be jointly covered and analysed given that they are strongly interlinked and assessing their separate impact would be impossible.	☑
The <b>conduct of businesses</b> discusses whether the regulation is likely to impose additional costs for the businesses that might impact the creation or closing down of businesses, as well as the access to finance. It is expected that this initiative will create cost savings for companies as access to						

Impact type	Expected magnitude	Likelihood	Relevance for stakeholders	Link with the objectives (✓)	Comment	Retained (✓)
					<p>more reliable company data will be more widely available, which in turn will potentially facilitate access to finance and the creation of businesses. In addition, the facilitation of the cross-border use of such data, when setting up subsidiaries or branches cross-border or in other cross-border situations, including administrative or court procedures, will also result in cost savings. These cost savings are captured under the administrative burden below.</p> <p>As the <b>SMEs</b> account for around 98-99% of limited liability companies<sup>152</sup> in the EU, the new initiative will have an impact on their position, in particular of those SMEs that engage (or plan to engage) in cross-border activities and operations. The planned initiative, same as the already existing EU company law <i>acquis</i>, does not make a distinction between SMEs and larger companies. All companies, including SMEs, will fall under its scope of application and will be covered by its provisions, including e.g. a few additional disclosure requirements. However, the easier access to company data and the removal of</p>	

<sup>152</sup> The study 'Assessment and quantification of drivers, problems and impacts related to cross-border transfers of registered offices and cross-border divisions of companies' EY 2017

Impact type	Expected magnitude	Likelihood	Relevance for stakeholders	Link with the objectives (✓)	Comment	Retained (✓)
<p>administrative (and financial) barriers for its cross-border use will be in particular beneficial to SMEs as they do not have the financial and administrative resources of large companies.</p> <p><b>Sectoral competitiveness, trade, and investment flows</b> refers to impact on the cross-border trade and services and on the investment flows cross border given that the trust in the market can be increased as well as cross border company formation can be stimulated. The initiative will allow businesses to benefit from the Single Market as it will be easier to use company data when setting up cross-border subsidiaries and branches and in other cross-border operations and activities.</p> <p>Again, the conduct of businesses, the position of the SME and the investment flows and trade cannot be assessed separately in this context. Therefore, the three categories are jointly examined in an impact called ‘ease of doing business and access to the market’.</p>						
Conduct of business	●●	●●●	●●●	✓	See above	
Position of SMEs	●●	●●	●●●	✓	See above	



Impact type	Expected magnitude	Likelihood	Relevance for stakeholders	Link with the objectives (✓)	Comment	Retained (✓)
Sectoral competitiveness, trade, and investment flows	●	●●	●●	<input checked="" type="checkbox"/>	See above	
Trust and transparency in the market	●●●●	●●	●●	<input checked="" type="checkbox"/>	The initiative will impact the trust that companies have in the market and in potential business partners in other Member States as it will be easier for them to find this information. At the same time, public authorities, legal practitioners, consumers, creditors, and other stakeholders, including society at large, will have more trust in the market thanks to the increased availability of more reliable company data. Furthermore, the ex-ante controls will improve the trust in the quality of the company data even further.	<input checked="" type="checkbox"/>
Administrative burdens on business	●●	●●	●●●●	<input checked="" type="checkbox"/>	The initiative will impact the administrative burdens of businesses in multiple ways. First, it will create some information obligations for companies (e.g. regarding belonging to a group, place of management) Secondly, it will – through the application of the only-once principle - reduce administrative burden on companies when they set	<input checked="" type="checkbox"/>

Impact type	Expected magnitude	Likelihood	Relevance for stakeholders	Link with the objectives (✓)	Comment	Retained (✓)
					up subsidiaries of branches cross-border, and will also reduce burdens when companies use company data in cross-border situations (e.g. in administrative or court procedures) by introducing a common company extract and reducing formalities.	
Enforcement costs businesses					This initiative will ensure that the company information in all business registers is accurate, adequate and up-to-date which means that companies will need to comply e.g. with deadlines for filing. Companies will only face enforcement costs in case of non-compliance with rules. However, it is impossible to predict whether the non-compliance will increase or go down as a result of the policy options. Given that the overall assessment is that the change in enforcement would be limited (in both positive or negative terms), the expert assessment is that this impact should not be retained as such.	
Savings related to operational costs for business registers and for other public authorities					Due to the improvement of quality and reliability of company data, the sharing of information between business registers and searching for information about companies in other Member States will become more efficient after the adjustment period. This will result in operational cost savings for business registers.	✓

Impact type	Expected magnitude	Likelihood	Relevance for stakeholders	Link with the objectives (✓)	Comment	Retained (✓)
	•	••	••	<input checked="" type="checkbox"/>	The improvement of quality and reliability of company data should also result in some operational cost savings for public authorities, e.g. tax, labour authorities, or courts which need data about companies for tasks related to administrative and judicial procedures but also to more easily identify companies (including taking more effective action against fraudulent or abusive ones).	
Adjustment costs: business registers and other public authorities	••	••	•••	<input checked="" type="checkbox"/>	The initiative will create additional costs for business registers: the additional disclosure requirements and the application of once-only principle will require some IT developments, rules on ex-ante scrutiny could require some additional staff in the Member States (labour costs) and there could be some lost revenue from company extracts.	<input checked="" type="checkbox"/>
					As regards other public authorities, and in particular those in charge of issuing apostille, there could be some lost revenue given that this initiative will abolish formalities such as apostille.	
Enforcement costs for business registers	•	•	•	<input checked="" type="checkbox"/>	The initiative will ensure that the company in the business registers will be more reliable in order to create trust between Member States. In some Member States, business registers may face extra	<input checked="" type="checkbox"/>

Impact type	Expected magnitude	Likelihood	Relevance for stakeholders	Link with the objectives (✓)	Comment	Retained (✓)
Social Impacts						
Governance, participation, and good administration	•	•	•		The initiative implements eGovernment principles as it aims to provide digital tools for business registers and other authorities. In some Member States, the responsibilities of business registers will be affected (ex-ante control). The public will have enhanced access to more transparent and more reliable company information. The initiative is linked to the application of the once only principle (good administration).	
					The benefits of the good administration are included in the reduction of administrative burden, the ease of doing business and the transparency and trust in the market. Therefore, to avoid overlap (and to avoid double counting benefits) this impact is not assessed separately.	
Environmental Impacts	•	•	•		The initiative could have some positive environmental impacts due to increased possibility to use digital procedures and tools between business registers and companies, and also between business registers in different Member States through BRIS, and an increased application	

Impact type	Expected magnitude	Likelihood	Relevance for stakeholders	Link with the objectives (✓)	Comment	Retained (✓)
Economic and social impacts						
Employment	•	•	••		Due to a reduction of administrative burden and the reduction of hassle (increasing the ease of doing business) this initiative could impact cross-border investments, trade and services, and subsequently indirectly impact employment (due to increased investment) as well. However, the size and magnitude of these impacts would be difficult to assess. Therefore, the impact that is retained in 'ease of doing business and access to the market' is the investment across borders.	
Consumers and households	•	••	•		Downstream it will also be the case that consumers will have better access to company information and thus will be in a position to make better informed decision and reduce potential consumer detriment. However, this is not the retained as a specific impact but it is included in the increased trust in the market. Consumers have more and more reliable information about companies which helps them take informed decision when buying or	

Impact type	Expected magnitude	Likelihood	Relevance for stakeholders	Link with the objectives (✓)	Comment	Retained (✓)
					contracting with companies from other Member States.	
Digital economy	••	••	•••	<input checked="" type="checkbox"/>	This initiative focusses on simplifying (digitalising) procedures for cross border business activities (i.e. setting up branches, subsidiaries and other cross-border operations/activities). This initiative also generates opportunities for other administrations and/or courts to directly use the company data in cross-border situations. It will include the application of the once only principle in cross-border situations. This initiative also focusses on the reduction of burden and costs for businesses through the use of digital technology and the application of the once only principle.	<input checked="" type="checkbox"/>
<b>Overarching impacts</b>						
Fight against fraud and abuse	•	••	••	<input checked="" type="checkbox"/>	Increased availability and access to cross-border company data together with more reliable company data (as a result of an improved ex-ante quality control) will facilitate the work of authorities and lead to better results when fighting abuse and fraud.	<input checked="" type="checkbox"/>
Fundamental rights					The initiative will facilitate the implementation of the rights of establishment in any MS, as prescribed by Article 15(2) of the Charter. There	

Impact type	Expected magnitude	Likelihood	Relevance for stakeholders	Link with the objectives (✓)	Comment	Retained (✓)
should be positive impact on companies benefiting from the opportunities offered by the Single Market, in particular concerning the freedom to conduct business set out in Article 16 of the Charter. The key obstacles to cross-border operation should be removed (at least for SMEs). However, these impacts are assessed under the Functioning Internal Market and in particular under Transparency and trust in the market and ease of doing business and access to the market. In addition, the retained measures (proposed solutions) need to respect the protection of personal data in line with Article 8 of the Charter. However, this initiative does not have an impact on fundamental rights as such. Therefore, this impact is not retained.						
Functioning of the internal market	●●	●●●	●●●	<input checked="" type="checkbox"/>	The free movement of goods, services, capital, will be easier as businesses can extend their operations cross-border with less administrative burden. Easier cross-border setting up and activities for companies can lead to more employment.	<input checked="" type="checkbox"/>



Table 3. Selected significant impacts

Main category of impacts	Stakeholders						One-off (O) / Recurrent (R)
	Companies	Business registers	Other public authorities (tax, labour, courts)	Society i.e. other stakeholders such as consumers	Qualitative	Quantitative	
Trust and transparency in the market, for all stakeholders but in particular for companies (benefit)	•	•	•	•	•		R
Ease of doing business and access to the market (including competitiveness, trade) (benefit)	•			•	•		R
Reduction and increase in administrative burdens on companies (cost and benefit)	•				•	Full	Reduction R Increase O
Adjustment costs for business registers and other public authorities (cost)		•	•		•	Full	O/R
Enforcement costs for business registers		•			•		R
Savings related to operational costs for business registers and other public authorities (benefit)		•	•		•		R
Digital economy (benefit)	•	•	•	•	•		R
Fight against fraud and abuse (benefit)			•	•	•		
Functioning of the internal market (benefit)				•	•		R

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## 2. ASSESSING THE POLICY OPTIONS

This section includes an assessment of every policy options in comparison to Policy Option 0 (the baseline). Each policy option is evaluated on its **effectiveness (section 1)**, **efficiency (section 2)** and **coherence (section 3)**.

### 2.1. METHODOLOGICAL APPROACH

#### *2.1.1 General methodological approach*

The assessment of the policy options is based on a mixed methods approach in which the effectiveness, efficiency and coherence of the policy options are graded on a scoring system that comprises qualitative, quantitative and monetary data. The data employed for this analysis stems from various sources (public consultation, literature, previous impact assessments on related topics, workshops with stakeholders from business registers and private sector as well as the expert opinion of the team drafting the impact assessment).

It is clear from Table 3 that the various impacts of the policy options cover both tangible (e.g. administrative burden, adjustment costs) and intangible impacts (e.g. trust in the market); the latter require a different methodological approach for the assessment. The tangible costs are monetised either by employing the Standard Cost Model (Toolbox #60) or by cost comparison of the baseline (e.g. IT costs). Furthermore, many impacts are also scored by the views from stakeholders or by expert opinion on their magnitude of impact (see scoring system below) to have a comparative qualitative analysis as well. It was decided that for the purpose of this impact assessment it would not be relevant to monetise the intangible impacts through stated preference experiments (due to limited rationale, difficulty of choosing a payment vehicle and increased difficulty for the stakeholders) or through revealed preference (due to a lack of a comparable market of public information), but that it was more appropriate to apply a qualitative approach based on a straightforward scoring system. Furthermore, the policy options are defined by a few dominant impacts all of which are monetised and which show a clear trade-off (between administrative burdens for companies and adjustment costs for business registers/public authorities). All the other impacts, which are of second order in magnitude compared to the large trade-off, are assessed qualitatively (based on both quantitative and qualitative information from various sources).

Some of the costs relate to direct impacts, which magnitude can be assessed relatively easy, whereas other costs are (more) indirect and less likely to occur (see Table 2). More specifically, some of the impacts are dependent on the specific implementation of the initiative by Member States. For the assessment of the differences between the Member States we have used the existing evidence and cost information from business registers in the baseline to make assumptions about the cost information in the policy options. Often, this information is based on a large group of business registers (e.g. the qualitative cost information is based on 20 Member States) but not all (due to not having received response from all Member States). Therefore, extrapolations were made for the missing business registers, and the assessment was always conservative to make sure that the benefits were not overestimated and the costs were not underestimated. Again, the approach was followed to make sure that the net impact of the policy options was rather a lower end estimate than an overestimation.

The scoring system applied in this Impact Assessment is straightforward and easy to comprehend.

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### 2.1.2. Scoring approach

As outlined above, the combination of quantitative, monetary and qualitative assessment was adopted in this study. Some of the more intangible impacts were scored by the available evidence gathered from stakeholders, literature, previous impact assessment and/or the expert assessment of the unit drafting the Impact Assessment. For reasons of clarity, all the available evidence is translated into a straightforward scoring system to have comparable scores between policy options as well as between various impacts.

The scores range from 0 to 5 for all three pillars of the evaluation (effectiveness, efficiency and coherence).

#### ***Effectiveness:***

*The scoring system assessed to what extent the objective (or a specific part of the objective) is realised by the policy option at hand.*

5 means the objective is realised to a very large extent;

4 means the objective is realised to a large extent;

3 means the objective is realised to a moderate extent;

2 means the objective is realised to a rather limited extent;

1 means the objective is realised to a limited extent;

0: this option does not help the realization of this objective compared to the baseline.

#### ***Efficiency:***

*The scoring system is similar for costs and benefits, meaning that for costs it is an increase compared to the baseline and for benefits it is an increase compared to the baseline as well.*

5: means there is a very large increase in costs/benefits

4: means there is a large increase in costs/benefits

3: means there is a moderate increase in costs/benefits

2: means there is rather limited increase in costs/benefits

1: means there is limited increase in costs/benefits

0: this means that the impact does not change compared to the baseline.

Note 1: For the impacts for which there is monetized information, these impacts are also translated into scores to assess the overall efficiency.

Note 2: the scores should be interpreted compared to the baseline. The scores should at this stage not be assessed compared over various impacts. For instance, a score of 3 on administrative burden could reflect a larger impact than a score of 3 for adjustment costs. This

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relative comparison will be tackled in the Multi-criteria analysis (MCA) (see below under section 2.5).

**Coherence:**

*The scoring system assessed to what extent the policy option at hand improves internal and external coherence.*

5 means the coherence is improved to a very large extent;

4 means the coherence is improved to a large extent;

3 means the coherence is improved to a moderate extent;

2 means the coherence is improved to a rather limited extent;

1 means the coherence is improved to a limited extent;

0: this option does not help the coherence compared to the baseline.

## 2.2. EFFECTIVENESS OF THE POLICY OPTIONS

In this section, the options are analysed in order to assess to what extent they will reach the policy objectives of the initiative.

**Table 1: Effectiveness of policy options 1 to make more company information available in business registers and/or BRIS**

- Policy option 1a - Make information about partnerships and third country company branches available in BRIS
- Policy option 1b - Option 1a + make information about group structures and ownership available in national registers and BRIS
- Policy option 1c - Option 1b + make information about place of management and place of the main economic activity available in national registers and BRIS

	PO1a	PO1b	PO1c	Motivation
<b>Specific objective 1:</b> Increasing the amount and improving the reliability of company data available in business registers and accessible cross-border through BRIS	2	3	5	The consultation activities (public consultation, targeted consultation of SMEs and survey for the supporting study) showed strong support for making more company data available cross-border, with majorities in favour for all transparency measures <sup>153</sup> . Additional targeted consultations with stakeholders and experts also confirmed this. Some stakeholder groups highlighted specific types of data: for instance,

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<sup>153</sup> See annex 2 with synopsis for details of stakeholder views.

				<p>SMEs expressed highest support for having comparable information about additional legal entities; legal practitioners, company law professors and tax public authorities stressed the importance of information on groups.</p> <p>While all the options would contribute to address the needs of the stakeholders by making more company data available and thus be effective in meeting the objective, PO1c will be most effective. PO1c will provide most company information available in business registers and cross-border through BRIS in terms of types of data but also numbers of companies covered. While option 1a will cover 2 million partnerships, and 1b also 135 450 cross-border groups, option 1c will make available information about place of management and economic activity of all 16 million limited liability companies.</p> <p>However, none of these options will ensure that the company data would be more reliable as they will focus on data availability without having impact on its accuracy and correctness (including being up-to-date).</p>
<p><b>Specific Objective 2:</b> Enabling direct use of company data available in business registers when setting up cross-border branches/subsidiaries and in other cross-border activities and situations</p>	1	2	3	<p>The objective of enabling direct use of company data in cross-border situations will be achieved primarily by measures described below. However, measures under policy options 1 will also contribute to this objective as company data can only be used cross-border if it is available in business registers and cross-border through BRIS. This means that the more company data is made accessible in business registers and through BRIS, the more direct use can be made of it in cross-border situations. Therefore, PO1c is the most effective measure to meet the sought objective as it would make the most company information available via BRIS. However, the scores are relatively low given that the availability of information is only the pre-requisite for this objective, but cannot meet it alone.</p>

**Table 2: Effectiveness of policy options 2 to interconnect BRIS with other systems and enable better searches**

- Policy option 2a – Interconnection of BRIS with beneficial ownership registers interconnection system (BORIS), use of EUID (European unique company identifier), new search functionalities in BRIS

- Policy option 2b - Option 2a + Interconnection with Insolvency Registers interconnection system (IRI)

	PO2a	PO2b	Motivation
<b>Specific objective 1:</b> Increasing the amount and improving the reliability of company data available in business registers and accessible cross-border through BRIS	3	4	Interconnection of BRIS with other EU level interconnection systems and the use of EUID to link the information available about a particular company across those systems would make it possible to search for more company data in one place. Across all consultation activities, the majority of respondents were in favour of interconnecting BRIS with the interconnection of beneficial ownerships (BORIS) and of insolvency registers (IRI). Member State experts have also considered such interconnection beneficial. Additional search functionalities in BRIS – supported by majority of respondents to the public consultation and SME panel - would also contribute to this objective by making it easier to find company data in BRIS based on more search criteria (e.g. also by legal form). PO2b is the most effective measure as it will connect BRIS with two more interconnection systems and therefore facilitate access to more company data.
<b>Specific Objective 2:</b> Enabling direct use of company data available in business registers when setting up cross-border branches/subsidiaries and in other cross-border activities and situations	2	2	This objective will be achieved primarily by measures described below. However, the use of the EUID as a unique company identifier will also contribute to facilitating the cross-border use of company data, including by business registers, public authorities or courts, as it helps to unequivocally identify companies and e.g. their cross-border branches, companies which are part of cross-border mergers, divisions or conversions <sup>154</sup> . This information is valuable to all stakeholders including creditors and shareholders. Making it possible to search for more company data in one place through interconnecting BRIS with other systems can also facilitate the cross-border use of company data. However, the scores are relatively low given that the availability of information is only the pre-requisite for this objective, but cannot meet it alone.

**Table 3: Effectiveness of policy options 3 to ensure an adequate verification of company data before it is entered into the business register**

- Policy Option 3a - obligation to check a harmonised list of elements

<sup>154</sup> See description of EPREL system in section 2.2 of the Impact Assessment as an example.

- Policy Option 3b – Option 3a + common basic procedural requirements for ensuring reliable and up-to-date data

	PO3a	PO3b	Motivation
<b>Specific objective 1:</b> Increasing the amount and improving the reliability of company data available in business registers and accessible cross-border through BRIS	3	4	In the consultation activities, many stakeholders confirmed that introducing common rules for verification of company data before it is entered into business registers would increase its reliability. For instance, 43% of respondents to the public consultation considered such common rules as the 2 <sup>nd</sup> most important means to facilitate the cross-border use of company data. The assessment by company law professors also confirmed that harmonising the requirements for ex-ante verification is the appropriate measure to increase reliability of company data <sup>155</sup> . The importance of adequate checks for ensuring the reliability of company data in business registers was in general underlined by legal professionals, in particular notaries. PO3a will already contribute to increasing the reliability of company data cross-border by ensuring that same elements are checked in all Member States but PO3b will be more effective by also introducing some additional procedural standards to ensure reliability (e.g. including common filing deadlines).
<b>Specific Objective 2:</b> Enabling direct use of company data available in business registers when setting up cross-border branches/subsidiaries and in other cross-border activities and situations	2	4	By increasing the reliability of company data on a cross-border basis, the proposed measures will address the current insufficient trust in company data between business registers, public authorities or courts in different Member States, and therefore contribute to facilitating direct use of such company data (i.e. without additional formalities). Discussions with experts confirmed that a harmonised standard of verification would build trust in company data from other Member States. PO3b will be more effective as it will provide more harmonised rules relevant for reliability of company data and therefore is likely to result in more trust in company data between Member State registers and authorities cross-border.

<sup>155</sup> Commission expert group consisting of company law professors (ICLEG) proposed to consider rules for verification and checking of company data at EU level to further improve the reliability of registers in their paper on the cross-border use of company data.



**Table 4: Effectiveness of policy options to enable direct use of company data from business registers in cross-border situations**

- Policy Option 4a - Requirement to apply once-only principle (no resubmission of company information) when a company from a Member State sets up subsidiaries or branches in other Member States
- Policy Option 4b – Option 4a + harmonised company extract containing a common set of company data and mutual recognition principle for certain company data
- Policy Option 4c - Option 4b + abolition of formalities e.g. apostille

	PO4a	PO4b	PO4c	Motivation
<b>Specific objective 1:</b> Increasing the amount and improving the reliability of company data available in business registers and accessible cross-border through BRIS	1	2	2	This objective of having more and more reliable company data will be achieved primarily by measures described above. However, measures under policy options 4 can indirectly contribute to this objective as well. For instance, introducing a common company extract with a common set of company data, translated into all EU languages under PO4b will mean that every company has the same data in the common extract, and that the data is thus comparable and multilingual, which contributes to the transparency and creates more trust about companies. Still, the scores are low given that these measures will only to an extent indirectly impact the objective.
<b>Specific Objective 2:</b> Enabling direct use of company data available in business registers when setting up cross-border branches/subsidiaries and in other cross-border activities and situations	3	4	5	<p>There was clear feedback from stakeholders in the consultation activities (public consultation, SME panel) that not having to resubmit the company information already available in their business register would help in setting up subsidiaries and branches cross-border or in contacts with authorities/courts in other Member States. Similarly, stakeholders stated that being able to use a common company extract and having less formalities (e.g. no apostille) would facilitate the use of company data when dealing with competent authorities or in court proceedings in another Member State. Targeted consultations, in particular with legal professionals, also confirmed that introducing a common company extract would be very helpful to enable direct use of company data and that formalities, including apostille, cause considerable costs and delays.</p> <p>PO4a will already provide a significant improvement by resulting in fully direct use of data about parent companies - without the need for</p>

				companies to resubmit information and without formalities - between business registers in different Member States when setting up cross-border subsidiaries and branches. However, options PO4b and c will be more effective as they will in addition address obstacles in other cross-border situations, e.g. in administrative or courts procedures. PO4c will be most effective as it will, in addition to introducing a common company extract under PO4b also remove formalities (e.g. apostille on company data such as extracts).
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### 2.3. EFFICIENCY OF THE POLICY OPTIONS

This section analyses the efficiency of the various policy options based on the mapping of the impacts. The text below details the approach followed for each of the impacts separately and tables below shows the overview of the scoring for the efficiency criterion.

#### 2.3.1 Methodology of the efficiency scoring

For the efficiency scoring, the standard cost model (see Toolbox #60) is mainly used as well as for example for IT development cost estimations are used for IT costs. Please see above. For more information, see section 2.1.1. This section details the assumptions and cost calculation in detail.

Table in Annex 6 includes the number of limited liability companies and partnerships in the EU as well as number of new cross-border subsidiaries and branches.

#### **Policy options 1**

##### **Policy option 1a:**

##### **Make information about partnerships and third country company branches available in BRIS**

No costs have been calculated for businesses for this option as the information to be made available through BRIS (partnerships and branches of third country companies) is already available in the national business registers as they have already been disclosed by entities concerned. Thus, there is no additional filing fees foreseen for businesses; there will be only development costs for business registers to make this information available through BRIS. IT development costs for business registers are estimated 100.000 EUR per Member State, 2.7 million EUR in total. This figure is based on Member States costs to do the necessary developments for connection to BRIS so far (the same amount is calculated for each policy option).

##### **Policy options 1b + 1c:**

##### **Option 1a + make information about group structures and ownership (1b) + place of management and place of main economic activity (1c) available in national registers and BRIS**

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There are approximately 135.450 groups of companies in the EU<sup>156</sup>. The proportion of Member States that record information related to groups of companies in their business registers is, depending on the type of information, is between 19 and 24% (supporting study). An average of 21,5% has been calculated as the share of Member States where information on groups is already available in the national business registers. This option also includes single member limited liability companies in the EU. Current EU law<sup>157</sup> requires that information about the single member of the single-member limited liability companies are disclosed mainly in the business register which is the case at least in 21 Member States (support study). Single-member companies are limited liability companies and also used in group structures. Therefore there is no filing cost for such information

According to the supporting study, 37% of the companies are located in a Member State of which the business register already collects the information on place of management and 46% of companies are located in a Member State of which the business register has already information on main economic activity. Thus, it is calculated that remaining 63 of the companies will need to file the information on place of management and 54% of the companies will need to file information on place of economic activity. The number of groups is subtracted from the total number of limited liability companies to avoid double counting. The single member companies are limited liability companies, and thus included in the total number of limited liability companies.

Costs for options 1b and 1c: Companies are obliged to have information about their shareholders in business registers or in a register at the company's place<sup>158</sup> and to know the group structure under EU law obligations<sup>159</sup>. Therefore, companies normally have information on subsidiaries, parent companies and shareholders. As to the place of management and place of main economic activity, this is clearly information which companies also have. This means that there is no cost for companies to collect such information. Therefore, the calculations are based on filing costs in the business registers which are divergent in Member States. While in several Member States filing is free of charge for the companies, in many Member States filing is based on a flat rate (i.e. without consideration what information is filed), while in the rest of the Member States the actual filing cost depends on what company information is filed. In the latter group of Member States, the filing costs of similar information (e.g. change of director) have been considered. Alternatively, it could be considered that business registers cannot charge for this initial filing in order to avoid any administrative burden on companies and also because this does not represent a loss of existing revenue for business registers. However, because there are some adjustment costs for business registers and loss of revenue due to other measures which will be included in this initiative, this impact assessment takes a conservative approach and assesses potential filing costs for those companies which need to do this new filing. The calculation took into account that i) it is not possible to foresee what filing costs Member States will require for the additional information and ii) Member States should limit the filing costs by setting the rule that initial filing costs for these items should not be set separately. Thus, the filing costs for these three items have been set at 20 EUR as a one-off cost for companies. Time spent with filing is calculated 5 minutes work for a person

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<sup>156</sup> [European statistical register on multinational enterprise groups](#).

<sup>157</sup> Directive 89/ 667/EEC

<sup>158</sup> FATF recommendation 24.

<sup>159</sup> E.g. Directive 2013/34/EU, Directive (EU) 2015/849 as amended by Directive (EU) 2018/843 and proposal COM(2021) 420 final.

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in the company who does the filing (25 EUR/hour<sup>160</sup>) given that this is information that is normally readily available within the company. This time is calculated separately for each item under policy options 1b and 1c, thus three times five minutes for all three items altogether.

IT development costs for business registers are estimated at 100.000 EUR per Member State, 2.7 million EUR in total. This figure is based on information received from Member States on the costs to do the necessary developments for new versions of BRIS, for example for the update due to the Digitalisation Directive. Based on that figure, the combined IT costs for all relevant options under this initiative are estimated to be altogether around 5,4 million EUR. For the purpose of cost estimations of different options, this amount has been divided equally between options 1 and 4, where such IT development costs are involved.

## **Policy options 2**

### **Policy Option 2a:**

- **interconnection of BRIS with beneficial owners registers interconnection system (BORIS)**
- **use of EUID (European unique company identifier) to link company information stored in different**
- **new search functionalities in BRIS**

Development costs of BRIS by the Commission, including new search functionalities is estimated to be 100.000 EUR, based on the costs of the central system's development so far. The use of EUID will not entail costs as this already exists in BRIS based on the national business register number of the companies. There will be no costs for companies or separate costs for business registers.

### **Policy Option 2b:**

#### **Option 2a + Interconnection with Insolvency Registers interconnection system (IRI)**

Development costs of BRIS by the Commission, including new search functionalities is estimated to be 500.000 EUR, based on the costs of the central system's development so far.

## **Policy options 3**

### **Policy Option 3a:**

- **obligation to check a harmonised list of elements**

Given the differences between the national systems and procedures, the real cost varies from Member State to Member State. While some Member States will have no or very low cost, others may face a higher cost. For the purposes of the cost estimations an average for all Member States is calculated. Therefore, 2 FTEs per Member State – 54 FTE altogether per year – is estimated based on the input from business registers to the survey. The total cost thus would be EUR 4,050,000.

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<sup>160</sup> Eurostat standard

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**Policy Option 3b:****Policy Option 3a + common basic procedural requirements for ensuring reliable and up-to-date data**

For the same reason as above, an average cost for all Member States is calculated. The procedural requirements are not estimated to increase the average FTEs need per year as explained above.

**Policy options 4****Policy Option 4a:****Requirement to apply once-only principle (no resubmission of company information) when a company from a Member State sets up subsidiaries or branches in other Member States**

The measures under this option cover the situation when a company sets up a subsidiary or a branch in another Member State (so creation of a new company or fixed establishment in another Member State). The basis of the calculations is that there are approximately 15.6 million limited liability companies in the EU. According to the available information from the supporting study (based on ORBIS), there are approximately half a million EU subsidiaries (i.e. companies with a separate legal personality) belonging to ultimate owners located in the EU. According to the supporting study and based on data from ORBIS, the number of new incorporations of cross-border EU subsidiaries in 2021 was 3.686. This represents around 0,7% of the existing subsidiaries, thus this figure could well be underestimated. As regards cross-border branches of EU companies, there are no recent figures available and multiple attempts were made to gather this data. The estimation is therefore based on the available data from 2008. Although it is highly likely, that there is an increase in number of new cross-border branches per year since 2008, nevertheless 2008 figure related to the creation of new cross-border branches is used as a conservative approach. Additionally, given that we cannot foresee to what extent the number of branches and subsidiaries would increase as a result of the implementation of the policy options in the future, we have kept the number of newly started branches and subsidiaries constant over time. Again, this will be an underestimation and the benefits are very likely to be higher.

When setting up these cross-border subsidiaries and branches, companies need to receive a company extract in all cases (8186). The estimated average cost for certified extract is 5 EUR (annex 7).

As a conservative estimation, in 20% of the cases, they also need the instrument of constitution (i.e. in 80% of the cases this is not required, thus no costs attached). Depending on the Member States, such documents also need to be translated into the official language of the Member States where the subsidiary or the branch is being set up. It is assumed that only 75% of the instrument of constitution and also of the company extracts is translated because some countries have similar language. The average cost for translation of extract and instrument of constitution is estimated to be 33,05 EUR per page (see annex 8). It is estimated that 3 pages are translated for extract and 15 pages for the instrument of constitution.

Finally, the expert estimation (also taking into account legal uncertainty due to the unclear rules and different practices and as a conservative estimation) is that in 75% of the cases

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(6139) apostilles are needed for such documents. The average cost of apostille is 12 euro (annex 8).

Two days of work (883,20 minutes, 25 EUR/hour) are calculated for an employee in the company to carry out all the steps under this option (both for subsidiaries and branches as the procedure is similar). The cost for lawyer to get the documents is estimated to be 350 EUR. To be noted, that the cost estimations do not include the possible involvement and cost of a notary.

It is estimated that the common extract would be available free of charge for companies for cross-border use once per year and are to amount to a loss of revenue of EUR 40,000 per year for business registers. In addition, the loss of revenue would be 74,000 EUR per year for those public authorities in charge of issuing apostille (based on the same assumptions).

#### **Policy Option 4b:**

#### **Policy Option 4a + harmonised company extract containing a common set of company data and mutual recognition principle for certain company data**

While the option 4a covered the setting up a new company (subsidiary) or establishment (branch) in another Member State, this option covers the need of all companies to get an extract in any other context of cross-border activities during their life-time. Under this option the process to get a company extract for cross-border used and its cost is assessed.

The starting point is that there are approximately 15.8 million limited liability companies in the EU. There are different figures available concerning cross-border activities of SMEs. According to the Impact Assessment for the Public Documents Regulation in 2010, more than 44% of them are involved in some form of international contact. The Impact Assessment for BRIS in 2011 estimated that 25% of small and medium-sized enterprises (SMEs) in Europe export and 29% import within the single market. The SME Strategy 2020 stated that the single market accounts for 70% of the value of SME goods exports, and 80% of all exporting SMEs sell to other Member States.

In addition, for comparison, in 2021, around 9.0 million extracts were issued by business registers in 5 Member States<sup>161</sup>. Although these figures do not make a distinction between company extracts issued for domestic and cross-border use, it shows the magnitude of the use of the extracts.

This Impact assessment is based on the assumption that 10% of the limited liability companies (i.e. 1.56 million) need one extract every year. As explained above, this assumption is rather conservative given the share of companies engaged in cross-border activities and also the number of extracts delivered. In addition, it is likely that many companies need an extract more than once per year.

In order to assess the costs related to getting the extract. Two basic situations are considered to calculate the savings: 1) when company extract is requested today from the business register with the help of a lawyer (50% of the cases) or 2) or without the help of a layer, i.e. when the company gets it itself from the business register (50% of the cases). If a lawyer is

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<sup>161</sup> Information received from Member States.

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involved, then the cost of the lawyer's work is 150 EUR, and the extract costs 5 EUR. If the company gets it itself from the business register, then the time spent with the process is 240 minutes (25 EUR/hour) and the cost of the extract is 5 EUR. As regards translation costs of company extracts, it is assumed that it is needed only in 75% of the cases, as in the remaining 25% the language of the extract is accepted by the other Member State (e.g. an extract from Belgium in French to be used in France). To be noted, that these estimations do not include the possible involvement and cost of a notary. It is estimated that the common extract would be available free of charge for companies for cross-border use once per year and are to amount to a loss of revenue of EUR 7.9 million per year for business registers.

**Policy Option 4c:**

**Option 4b + abolition of formalities e.g. apostille**

To calculate the savings under this option, the average cost of apostille is considered to be 12 EUR. As a conservative estimation, it is assumed that only in half of the cases an apostille is needed. As above, it is assumed that in half of the remaining cases, the company extract is requested with the help of the lawyer, in the other half the company gets it itself. If a lawyer is involved, the cost of the lawyer is 150 EUR, and the apostille is 12 EUR. If the company gets it itself, then it is assumed that the employee of the company will work 240 minutes at 25 EUR hourly rate and the apostille costs again 12 EUR. As under option 4b it is estimated that the common extract would be available free of charge for companies for cross-border use once per year and are to amount to a loss of revenue of EUR 7.9 million per year for business registers. In addition, the loss of revenue would be 9.5 million EUR per year for those public authorities in charge of issuing apostille (based on the same assumptions).

IT development costs for business registers are estimated 100.000 EUR per Member State, 2.7 million EUR in total. This figure is based on Member States costs to do the necessary developments for connection to BRIS so far.

Standard cost model calculations on administrative burden

Policy option 1

Description procedure	Number (Q)	Frequency	%	Staff cost	Time spent (min)	Unit- of-pocket costs	Explanation	Administrative burden		
								T x P	Q	AB
Scenario PO 1a										
Scenario PO 1b										
Making the information on the structure of the group and on the ultimate parent company available (EU and outside EU)	135,450	1	21,50%		25,00	5,00	20,00	22,08	29.122	€ 643.105
Scenario PO 1c										
Making the information on the structure of the group and on the ultimate parent company available (EU and outside EU)	135,450	1	21,50%		25,00	5,00	20,00	22,08	29.122	€ 643.105
Making information about place of management (63%) and place of economic activity (54%) available in national registers and BMS	15.636.229	1	63,00%		25,00	5,00	20,00	22,08	14.072.606	€ 310.770.051
Administrative burden AS IS									€ 311.413.157	

Policy option 4

Description procedure	Number (Q)	Frequency	%	Staff cost	Time spent (min)	Unit- of-pocket costs	Explanation	Administrative burden		
								T x P	Q	AB
Scenario PO4										
Setting up a subsidiary in another MS	3,686	1	100,00%	25,00	883,20		Two days of internal hassle for all the steps in this policy option 4a. There is no change in OOP for setting up the subsidiary	368,00	3,686	€ 1.356.448
Setting up a branch in another MS	4,500	1	100,00%	25,00	883,20		Two days of internal hassle for all the steps in this policy option 4a. There is no change in OOP for setting up the branch	368,00	4,500	€ 1.656.000
Receiving certified company extract	8,186	1	100,00%				Cost for lawyer (350 euros), cost for certified extract (5 euros) and translation of extract and instrument of constitution (33,05 per page and 3 pages extract and 15 constitution) and cost of apostille for both documents (1272).			
Receiving instrument of constitution	8,186	1	20,00%	25,00	0,00	552,51	Assumption: only 75% is translated because some countries have similar language, 80% of countries do not require instruction of constitution	552,51	8,186	€ 4.522.867
Translation of documents (extract and instrument of constitution) for setting up subsidiary and branches	8,186	1	100,00%							
Requesting apostille for setting up subsidiary and branches	8,186	2	75,00%							
Administrative burden SAVING €										7.535.315



Scenario P04b										
Setting up a subsidiary in another MS	3,686	1	100,00%	25,00	883,20	Two days of internal hassle for all the steps in this policy option 4a. There is no change in ODP for setting up the subsidiary in another MS. Two days of internal hassle for all the steps in this policy option 4a. There is no change in ODP for setting up the branch in another MS.	368,00	3,686	1	1,356,448
Setting up a branch in another MS	4,500	1	100,00%	25,00	883,20	Two days of internal hassle for all the steps in this policy option 4a. There is no change in ODP for setting up the branch in another MS.	368,00	4,500	1	1,656,000
Receiving certified company extract	8,186	1	100,00%			Assumption: only 75% is translated because some countries have similar language. 50% of countries do not require apostille for setting up the branch.				
Receiving instrument of constitution	8,186	1	20,00%	25,00	0,00	Assumption: only 75% is translated because some countries have similar language. 50% of countries do not require apostille for setting up the branch.	552,51	8,186	1	4,522,867
Translation of documents (extract and instrument of constitution) for setting up subsidiary and branches	8,186	1	100,00%							
Requesting apostille for setting up subsidiary and branches	8,186	2	75,00%							
Requesting harmonized EU company extract ("company identity card") with lawyer help	15,771,679	1	5,00%	25,00	0,00	Assumption: 0,5 days of work internally if they do it themselves or cost of lawyer is 150 euro and 5 euro for extract	155,00	788,584	1	122,230,512
Requesting harmonized EU company extract ("company identity card") without lawyer help	15,771,679	1	5,00%	25,00	240,00	Assumption: 0,5 days of work internally if they do it themselves or cost of lawyer is 150 euro and 5 euro for extract	105,00	788,584	1	82,801,315
Translate company extract	15,771,679	1	7,50%	0,00	0,00		99,15	1,182,876	1	117,282,148
							Administrative burden SAVING 1 329,849,290			

Scenario P04c											
Setting up a subsidiary in another MS	3.686	1	100,00%	25,00	883,20		Two days of internal hassle for all the steps in this policy option 4a. There is no change in ODP for setting up the subsidiary.	368,00	3.686	1	1.356.448
Setting up a branch in another MS	4.500	1	100,00%	25,00	883,20		Two days of internal hassle for all the steps in this policy option 4a. There is no change in ODP for setting up the branch.	368,00	4.500	1	1.656.000
Receiving certified company extract	8.186	1	100,00%				Assumption: only 75% is translated because some countries have similar language. 50% of countries do not require certified extract (5 euros) and translation of extract and instrument of constitution (33,05 per page and 3 pages extract and 15 pages instrument of constitution).				
Receiving instrument of constitution	8.186	1	20,00%	25,00	0,00	552,51	Assumption: only 75% is translated because some countries have similar language. 50% of countries do not require	552,51	8.186	1	4.522.867
Translation of documents (extract and instrument of constitution) for setting up subsidiary and branches	8.186	1	100,00%								
Requesting apostille for setting up subsidiary and branches	8.186	2	75,00%								
Requesting harmonized EU company extract ("company identity card") with lawyer help	15.771,679	1	5,00%	25,00	0,00	155,00	Assumption: 0,5 days of work internally if they do it themselves or cost of lawyer is 150 euro and 5 euro for extract.	155,00	788.584	1	122.230.512
Requesting harmonized EU company extract ("company identity card") without lawyer help	15.771,679	1	5,00%	25,00	240,00	5,00	Assumption: 0,5 days of work internally if they do it themselves or cost of lawyer is 150 euro and 5 euro for extract.	105,00	788.584	1	82.801.315
Translate company extract	15.771,679	1	7,50%	0,00	0,00	93,15		93,15	1.182.876	1	117.282.148
Requesting apostille for company extract with help of lawyer	15.771,679	1	2,50%	25,00	0,00	162,00	Assumption: 0,5 days of work internally if they do it themselves or cost of lawyer is 150 euro and 12 euro for apostille.	162,00	394.292	1	63.875.300
Requesting apostille for company extract without help of lawyer	15.771,679	1	2,50%	25,00	240,00	12,00	Assumption: 0,5 days of work internally if they do it themselves or cost of lawyer is 150 euro and 12 euro for apostille.	112,00	394.292	1	44.160.701
Administrative burden SAVING											
										1	437.885.291

**Policy options 1 to make more company information available in business registers and/or BRIS**

- Policy option 1a - Make information about partnerships and third country company branches available in BRIS
- Policy option 1b - Option 1a + make information about group structures and ownership available in national registers and BRIS
- Policy option 1c - Option 1b + make information about place of management and place of the main economic activity available in national registers and BRIS

	Unit of measurement	PO 1a	PO 1b	PO 1c	Motivation
<b>BENEFITS FOR BUSINESSES</b>					
<b>Trust and transparency in the market</b>	Score 1-5	2	3	4	<p>These options will increase the transparency and availability of information in the market for businesses on the one hand and the accompanying trust this would generate in the market. The access to information and the trust in the market, however, cannot be assessed separately.</p> <p>Option 1c would score the highest compared to options 1b and 1a as it provides the most company data comparable and easily available across the EU and thus contributes most to enhance trust and transparency in the market/business environment. There was strong support for all transparency measures in the surveys carried out by the Commission and in the supporting study. 87% of those replying in the public consultation in favour of more harmonised company information available at EU level (67 out of 78), especially that finding/checking information about a company was seen as the most important reason for needing company data and as lack of comparable data and not being able to find it at EU level were the most often mentioned difficulties.</p> <p>All stakeholder groups (esp. legal practitioners, public authorities and companies) in the supporting study surveys considered that the most significant benefit from these</p>

					<p>measures was enhancing trust in business environment (91% - 73% of legal practitioners, 65% - 53% of public authorities and 56% - 53% of companies).</p> <p>Although it is difficult to estimate the value of information, according to the recent estimate<sup>162</sup>, direct users attributed the greatest value to the provision of financial information (e.g. annual reports and financial statements) which exist in the business register. The value of basic company information (e.g. registered addresses, company numbers, dates of incorporation, nature of business) is estimated to be slightly lower, at approximately £800 (950 euros) per user per year.</p> <p>It can be reasonably assumed that the value of reliable information in the cross border context of the EU BRIS would not be less, but probably significantly higher than the value of information in a national setting as described by the White Paper cited above.</p>
<b>Ease of doing business and access to the market</b>	Score 1-5	1	2	2	<p>Easing the doing of business (or reducing the hassle) and facilitating access to other Member States' market is a corollary to the increased transparency and trust. Companies will find more easily, comparable, multilingual (harmonised) information about business partners, potential clients etc. in other Member States. Similarly, when companies are accessing other Member States' markets, for example creditors will have easy access to the information about the company which will potentially facilitate access to finance and the creation of businesses. It is also likely that potential investors will more easily invest in SMEs in other Member States due to better information about the investment targets. Companies themselves will save time (hassle cost) in searching information about business partners which will contribute to making it easier to do business cross-border and access other markets. 115 out of 117 of SMEs responding in the SME panel thought that having comparable information about additional legal entities (e.g. partnerships) at EU level could most help when looking for information about companies from other Member States, and majorities were also in favour for other measures (109-112 out of 113-114).</p>

<sup>162</sup> “Corporate Transparency and Register Reform White Paper” from the UK Department for Business, Energy & Industrial Strategy.

					All stakeholder groups (esp. legal practitioners, public authorities and companies) in the supporting study surveys considered that the second most significant benefit from these measures was making it easier to search for information about business partners abroad (55% of legal practitioners for additional entities and groups, 47% of public authorities and 47%-40% of companies).
<b>Administrative burden reduction</b>					n/a – covered under admin increase below
<b>COSTS FOR BUSINESSES</b>					
<b>Administrative burden increase(one-off cost)</b>	Score Standard Model calculations	1-5 Cost	0	2	4
				€ 643.105	€ 311.31 0.343
<p>There will be no new filing for partnerships as information about partnerships already exists in all business registers or for third-country branches i.e. no cost (policy option 1a). Concerning groups, there is no costs for companies to collect such information because all companies (under FATF) are already required to either file information about shareholders to the business register or to keep a shareholder register at the company. The new filing cost related to groups and place of management and place of economic activity will be only for those companies, which do not need to file such information to the register today. It will be one-off cost and companies can comply with it over a period of time (for example 3 years). In addition, the initial filing costs for these items cannot be set separately so that filing costs can be limited. Overall, companies considered the effect on the administrative cost to be at least neutral or rather reducing it. In the supporting study surveys and workshops, 20% of companies thought that there will be no impact on administrative costs and around 34% that there would be an overall administrative cost reduction, while 20% thought that the administrative cost would increase. The overall administrative cost reduction reflects the fact that different authorities could have access to this information in business registers without the need for the company to provide it to each authority separately and also that the company itself can find that information easily about its business partners.</p>					

BENEFITS FOR BUSINESS REGISTERS				
Savings related to operational costs	Score 1-5	2	2	2
				Business registers will benefit from increased company data in BRIS. This data exists in multilingual form and is comparable, so business registers can more easily understand it and use it. This facilitates their work when they register companies (e.g. foreign companies, companies as shareholders) or when checking data about companies, preparing reports. Although the cost savings could be slightly bigger in relation to the policy option PO1c given that it provides for most additional information, it is however considered that overall the policy options have not an important impact in terms of cost savings for business registers.
BENEFITS FOR OTHER PUBLIC AUTHORITIES				
Savings related to operational cost for other public authorities	Score 1-5	2	3	3
				When more company data is comparable and easily accessible cross-border, public authorities can consult this information when checking data about companies directly without the need to search or ask companies for it. This means savings in particular in time. It is clear from consultations that public authorities (e.g. tax authorities) have strong interest in the company data under these policy options and that these measures will also bring strong benefits in terms of trust and transparency in the market, as explained above. The options 1b and 1c will create more benefits as information on groups, place of management and economic activity is of specific importance for public authorities (e.g. responsible for tax).
COSTS FOR BUSINESS REGISTERS/PUBLIC AUTHORITIES				
Adjustment costs for	Score 1-5	2	2	2
				One-off IT costs for updating the system but no need for additional staff for maintenance once new company data is included in the system (therefore no need to

<b>business registers</b>	IT costs	€2.7 million IT development cost (€ 100.000 per MS)	€2.7 million IT development cost (€ 100.000 per MS)	€2.7 million IT development cost (€ 100.000 per MS)	calculate FTEs). The IT costs are considered the same for all options because the difference is considered to be minor. The costs related to the necessary developments in the central platform of BRIS resulting from these options will be covered by the evolutive maintenance of the system under the EU budget <sup>163</sup> .
<b>Adjustment costs for other public authorities</b>					N/A as no specific adjustment costs.
<b>BENEFITS FOR SOCIETY AT LARGE (i.e. CONSUMERS)</b>					
<b>Fight against fraud and abuse</b>	Score 1-5	2	3	4	Making information on partnerships more comparable and accessible helps as these legal forms can also be used for abusive purposes. Information on groups and also on place of economic activity will add to the benefits as these provide important information in context to tackle fraud and abuse (e.g. related to letterbox companies). Most stakeholder groups in the supporting study survey thought that having comparable information under all the options (and in particular on additional entities and on place of economic activity) would contribute to the fight against anti-competitive behaviour and abuse. In particular 53% of public authorities for all options and legal practitioners (64% on groups and 45% on place of management). Importance of information on group structure also stressed by ICLEG ( <i>Having a clear view of the</i>

<sup>163</sup> The total overall yearly maintenance cost of BRIS which includes the analysis, design, implementation, testing and corrective maintenance costs of BRIS currently incurred by the Commission is EUR 2 million, financed by the Digital Europe Programme.

					<i>structure of the group, may also prove useful, and even essential, for authorities to investigate and contrast any possible tax or any other abuse or violation of law).</i> Therefore, PO1c would be the most efficient in terms of benefits, while PO1b and PO1a would also bring benefits but in a slightly lesser degree.
<b>Digital economy</b>	Score 1-5	1	2	2	The information in all POs would be accessible cross-border through digital means (through BRIS). All the policy options would thus have a positive impact on the digital economy and digital Single Market. PO1c and PO1b are scored higher given that they would make more data available cross-border than PO1a.
<b>Functioning of the internal market</b>					The objective of these policy options is to enhance transparency about companies in the Single Market, through the use of digital tools (such as BRIS). As explained above, this would create transparency and trust in the Single Market and help authorities to tackle fraud and abuse. More information about companies would also help consumers to make informed choices when buying, using services or contracting cross-border. This would in general contribute to a fairer Single Market. However, given that there is an overlap with other impacts in this table, the scoring is not counted twice.

**Policy options 2 to interconnect BRIS with other systems and enable better searches**

- Policy option 2a – Interconnection of BRIS with beneficial ownership register interconnection system (BORIS), use of EUID (European unique company identifier), new search functionalities in BRIS
- Policy option 2b - Option 2a + Interconnection with Insolvency Registers interconnection system (IRI)

	Unit of measurement	PO 2a	PO 2b	Motivation
<b>BENEFITS FOR BUSINESSES</b>				



<b>Trust and transparency in the market</b>	Score 1-5	3	4	These options will reinforce trust and transparency in the market. Stakeholders will be able to search information about a specific company easily in several registers with the help of the unique company identifier (EUID). EUID exists today for around 16 million limited liability companies and their cross-border branches in BRIS. BORIS also uses it. By extending the use of EUID to partnerships and connecting information in different registers with the help of EUID ensures that the company is unequivocally identified in every register and that data in different registers is connected to the same company. EUID has no cost implications on companies. It is based on the national registration number. Strong support in public consultation for both interconnections, with majority of respondents saying that it would be useful to link BRIS with the EU interconnection of beneficial ownership registers (70%, 58 out of 83) and the EU interconnection of insolvency registers (61%, 51 out of 83). Therefore, having BRIS connected with BORIS (PO2a) would already bring benefits but these would be higher if BRIS is also connected with IRI as then more company information is accessible in one place for all stakeholders, increasing also trust in the market (Po2b).
<b>Ease of doing business and access to the market</b>	Score 1-5	1	1	In addition, 83% of respondents to the public consultation asked for more search functionalities centrally at EU level via BRIS (50 out of 60) which is included in both policy options.
<b>Administrative burden reduction</b>	Score 1-5	1	1	As for transparency measures, companies would save in search cost for information about a specific company in other Member States through better and more accessible information. This will make it easier to do business with business partners abroad, as explained under the trust and transparency in the market impact above. The options are scored at the same level given that the difference of their impact on doing business cross border and accessing other markets is not important.
				The interconnection between BRIS and BORIS could also contribute to reducing administrative burden on companies. For example, the obliged entities under the Anti-Money Laundering Directive could cross-check the company information

				directly through BRIS. The same would also apply to the Insolvency register. Both options score similarly in this respect because this would rather rely on practical implementation.
<b>COSTS FOR BUSINESSES</b>				
<b>Administrative burden increase</b>		-	-	See above. EUID does not entail any cost for companies. N/A.
<b>BENEFITS FOR BUSINESS REGISTERS/PUBLIC AUTHORITIES</b>				
<b>Operational cost savings for business registers</b>	Score 1-5	2	3	Similarly to other stakeholders, business registers will also benefit from connecting the interconnections as it will be possible to check all data via accessing one interconnection of registers instead of two or three. This makes it easier for business registers to search/consult this information when checking data about companies. In the surveys for the supporting study, 65% of business registers said that it would be useful to a large or very large extent to link BRIS to BORIS and 61% to IRI. In addition, these interconnections could bring operational cost savings for those business registers which also hold beneficial ownership registers thanks to improved synergy. Higher benefit for option 2b as more systems will be interconnected.
<b>Savings related to operational costs for public authorities</b>	Score 1-5	2	3	When more company data is easily accessible cross-border, then public authorities can consult this information directly without the need to search or ask companies for it. This means savings in particular in time. It is clear from consultations that public authorities have strong interest in the company data under these policy options and that these measures will also bring strong benefits in terms of trust and transparency in the market, as explained above. In the surveys for the supporting study, 69% of public authorities said that it would be useful to a large or very large extent to link BRIS to BORIS and 69% of public authorities thought so in relation to IRI.

COSTS FOR BUSINESS REGISTERS/PUBLIC AUTHORITIES				
Adjustment costs for business registers		-	-	N/A as the adjustment costs would be financed at EU level because the EU systems would be interconnected. Development costs of BRIS by the Commission, including new search functionalities is estimated to be 500,000 EUR, based on the costs of the central system's development so far.
Adjustment costs for other public authorities	Score 1-5	-	-	N/A as no specific adjustment costs due to interconnection.
BENEFITS FOR SOCIETY AT LARGE (i.e. CONSUMERS)				
Fight against fraud and abuse	Score 1-5	2	3	Easier access to more sets for information (about companies, about beneficial owners, about insolvent companies) will facilitate the work of authorities and obliged entities (under the Anti-money laundering rules) to check the information about companies and detect abuse. Higher benefit for option 2b as more systems will be interconnected.
Digital economy	Score 1-5	3	3	Interconnecting the EU level systems of interconnection would strongly contribute to creating more connected public administrations at EU level and cross-border. In addition, the use of EUID would make it possible to also connect other EU level systems/registers (as the example of EPREL) to BRIS, bringing further benefits. Both options are scored equally given that both significantly contribute to the digitalisation of the Single Market.
Functioning of the internal market				The objective of these policy options is to enhance transparency about companies in the Single Market further through connecting EU level systems. As explained above, this would create transparency and trust in the Single Market and help authorities to tackle fraud and abuse. More information about companies would also help consumers to make informed choices when buying, using services or contracting cross-border. This would in general contribute to a fairer Single Market. However, given that there is an overlap with other impacts in this table, the scoring is not counted twice.

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**Policy options 3 to ensure an adequate verification of company data before it is entered into the business register**

- Policy Option 3a - obligation to check a harmonised list of elements
- Policy Option 3b – Option 3a + common basic procedural requirements for ensuring reliable and up-to-date data

	Unit of measurement	PO 3a	PO 3b	Motivation
<b>BENEFITS FOR BUSINESSES</b>				
<b>Trust and transparency in the market</b>	Score 1-5	3	4	Having more reliable company data in business registers, as a result of these measures, will bring more trust and more legal certainty in the market for all stakeholders, and the benefits should be higher for option 3b as there would be additional common requirements for checks making the data more trustworthy for business registers from other Member States. Around 40% of public authorities, a third of legal practitioners, a quarter of companies and of business registers saw increased legal certainty as the main benefit from the measures making it possible to use company information in cross-border administrative or court procedures (which in the survey also included introducing the ex-ante checks). Commission expert group consisting of company law professors (ICLEG) recommended the extension of the current EU minimum standards for verification and checking of company data. Increased legal certainty will be beneficial for companies, legal practitioners, public authorities, creditors and all other stakeholders. It will reduce transaction costs. Having data available is the pre-requisite, but to create the necessary trust, the data has to be accurate and up-to-date.
<b>Ease of doing business and access to the market</b>	Score 1-5	2	3	Having more reliable company data in business registers, as a result of these measures, would make such data easier to use cross-border (as also mentioned by ICLEG, see point above on trust). Defining common minimum rules for ex-ante check was the 2 <sup>nd</sup> most important means to facilitate the use of company data on a

				cross-border basis according to 43% of respondents to the public consultation. Ensuring that the company data in business registers and in BRIS is reliable creates legal certainty and will further facilitate companies access to finance and result in enhanced investment opportunities. Companies can also rely on the information when searching business partners in another Member States and other opportunities to expand cross-border. PO3b creates more legal certainty through enhanced harmonised checks and procedures.
<b>Administrative burden reduction</b>	Score 1-5	-	-	N/A. On its own, this measure would not result in tangible administrative burden reduction for companies. It will help companies vis-à-vis third parties, such as creditors and shareholders who can rely on the information.  Companies replying to the surveys for the supporting study held mixed views, although more companies still expected rather a decrease in administrative costs (35%) than an increase (28%).
<b>COSTS FOR BUSINESSES</b>				
<b>Administrative burden increase</b>		-	-	N/A. In principle, there should not be increase in costs for companies.
<b>BENEFITS FOR BUSINESS REGISTERS/PUBLIC AUTHORITIES</b>				
<b>Operational cost savings for business registers</b>	Score 1-5	1	2	These measures should result in business registers receiving/being able to access more reliable data from other registers and therefore needing to ask less additional documents, in principle resulting in less operational costs (higher with more reliable company data under option 3b).  In the surveys for the supporting study, 27% of the responding registers expected a small (and 14% a significant) increase in administrative costs for introducing minimum common standards; in the workshop, 10 registers anticipated a slight rise in administrative costs but participants said that benefits will outweigh the

				administrative costs.
<b>Operational cost savings for public authorities</b>		3	4	These measures should result in public authorities receiving/being able to access more reliable data from registers from other Member States and therefore needing to ask less additional documents, in principle resulting in less operational costs (higher with more reliable company data under option 3b). PO3 will also ensure that all Member States implement the FATF recommendation 24 (as revised in March 2022) which requires that basic company data in the business registers is adequate, accurate and up-to-date.
<b>COSTS FOR BUSINESS REGISTERS/PUBLIC AUTHORITIES</b>				
<b>Adjustment costs for business registers</b>	Score 1-5	2 2 FTEs per MS – 54 FTE altogether per year. EUR 4,050,000	2 2 FTEs per MS – 54 FTE altogether per year. EUR 4,050,000	50% of business registers responding to the surveys for the supporting study indicate that introducing common ex-ante checks would lead to a significant or small increase in adjustment costs, with 10% expecting significant or small decreases, and 18% - no impact. According to 10 business registers taking part in the workshop, adjustment costs were projected to rise only slightly as many registers considered there were already ex-ante checks in place. There will be higher adjustment costs for option 3b as there will be more common requirements. Business register in this context is understood to include any other authority or person who is involved in ex-ante verification depending on the Member State.
<b>Enforcement costs for business registers</b>	Score 1-5	1	2	Option 3b (and to a lesser extent option 3a) could create some limited enforcement costs for business registers which would need to ensure that e.g. their registers are kept updated, and that filing deadlines are complied with (but e.g. no need for on-site inspections).
<b>Adjustment costs for other public authorities</b>				N/A.

**BENEFITS FOR SOCIETY AT LARGE (i.e. CONSUMERS)**

<b>Fight against fraud and abuse</b>	Score 1-5	3	4	Enhanced ex-ante controls of company data would ensure more accuracy and correctness of information in business registers, which would contribute to making it easier to identify companies which are used for fraudulent or abusive purposes or persons under the sanctions. As explained above, option 3b would also ensure that all Member States implement the revised FATF recommendation 24.
<b>Digital economy</b>	Score 1-5	1	1	Having more reliable company data would contribute to making it easier to interconnect administrations cross-border but it would not have a decisive impact.
<b>Functioning of the internal market</b>				The objective of these policy options is to ensure reliability of company data in business registers and thus enhance trust between Member States. Enhanced trust will facilitate cross-border business and access to other Member States' markets. These measures will also contribute creating more reliable legal framework that provides legal certainty for companies and other stakeholders while contributing to the fight against abuse. More reliable data will also help consumers to trust companies from other Member States. Overall, these measures contribute to the creation of a more integrated and digitalised Single Market. However, given that there is an overlap with other impacts in this table, the scoring is not counted twice.

**Policy options to enable direct use of company data from business registers in cross-border situations**

- Policy Option 4a - Requirement to apply once-only principle (no resubmission of company information) when a company from a Member State sets up subsidiaries or branches in other Member States
- Policy Option 4b – Option 4a + harmonised company extract containing a common set of company data and mutual recognition principle for certain company data
- Policy Option 4c - Option 4b + abolition of formalities e.g. apostille

	Unit measurement	PO 4a	PO 4b	PO 4c	Comments
<b>BENEFITS FOR BUSINESSES</b>					
<b>Trust and transparency in the market</b>	Score 1-5	2	3	3	These policy options build on in particular the policy options 3 which will make company data more reliable. When Member States (including business registers) trust each other and that the company data in other Member States is correct, there is no need for double submission of documents when cross-border subsidiaries and branches. The policy option 4b and 4c will score higher than 4a because they will bring direct benefits to the businesses thanks to the increased trust between Member States and in particular their business registers.
<b>Ease of doing business and access to the market</b>	Score 1-5	3	4	5	These policy options will remove an important administrative burden and thus facilitate the expansion of companies to other Member States' markets by setting up cross-border subsidiaries (new company) and branches (new fixed establishment). Every year, this would concern around 4,000 new cross-border subsidiaries and 4,500 new cross-border branches. In addition, the PO4b and PO4c will also remove an important administrative burden by abolishing costly formalities (see below) on cross-border activities and operations and thus easing the doing of business cross-border. This will help in particular SMEs to set up subsidiaries and branches but also reduce



					formalities in all their cross-border activities (be it cross-border trade, services, cross-border sub-contracting etc. As to the SMEs which represent 98-99% of limited liability companies in the EU, around 40% of SMEs are engaged in cross-border activities. For companies replying to the supporting study surveys, the first benefit of the application of the once-only-principle would be an easier cross-border expansion of SMEs (22% of replying companies).
					The policy option 4c will have the highest impact.
<b>Administrative burden reduction</b> (annual savings for companies)	Score 1-5 Standard Cost Model calculation (euro's)	1 €7.535.315 (recurrent/annual)	4 €329.382.526 (recurrent/annual)	5 €437.262.073 (recurrent/annual)	These measures would bring substantial annual (recurrent) savings in administrative burden for companies. Companies would already save substantially by the introduction of once-only-principle for setting up of cross-border subsidiaries and branches as they would not have to submit any documents about a parent company and therefore would not need to translate and legalise/apostille those. Benefits would be even higher with introduction of a free multilingual common company extract under PO4b which would also remove need for certified translations and which companies can use in cross-border activities be it in the context of cross-border trade, services, public procurement. And the benefits would be highest under 4c as then also the apostille needed in cross-border situations (e.g. on company extracts) would also not be needed.
					The obligation on authorities and courts to recognise certain company data (beyond that included in the common extract) publically disclosed in other Member States' registers under PO4b would mean that national registers, authorities or courts would be obliged to accept information from another Member State's register as an equivalent of what is required domestically. In practice, this option would mean that authorities and courts could consult company information directly in business register and BRIS, and the company would not be required to resubmit the existing information again (so application of <i>de-facto</i> once-only principle) which would in turn result in

					<p>burden reduction on companies;</p> <p>In the surveys and workshop for the supporting study and in interviews with stakeholders, companies particularly welcomed the abolishing of formalities such as an apostille especially in the context of setting up of cross-border subsidiaries and branches, cross-border procedures with tax authorities and cross-border public procurement.</p> <p>Moreover, to overcome difficulties related to obtaining the extracts including apostille, companies may rely on private service providers. The cost of such services varies but, generally, ranges between €180 and €350.</p>
<b>COSTS FOR BUSINESSES</b>					
<b>Administrative burden increase</b>		-	-	-	N/A
<b>BENEFITS FOR BUSINESS REGISTERS/PUBLIC AUTHORITIES</b>					
<b>Operational cost savings for business registers</b>	Score 1-5	2	2	2	<p>The use of the once-only principle for setting up cross-border subsidiaries/branches between business registers under option 1a, which are part of BRIS (cross-border operation function of BRIS), would mean that business registers would receive the necessary documents directly from other registers and would not have to ask for and examine additional documents from companies, which, in turn, should result in cost savings in particular in time and handling of company information.</p> <p>In the supporting study survey, the responding business registers considered that the implementation of the once-only principle would increase administrative costs (36%) but a significant share also expected a decline in costs (28%); and views were mixed for common company extract, with 36% expecting a small cost increase, 14% a significant one, and 19% - a cost reduction. There was an overall expectation among business registers</p>

					participating in the supporting study workshop of a small increase in administrative costs for both measures but the benefits were generally assumed to be much greater than the costs.
<b>Operational cost savings for public authorities</b>	Score 1-5	-	2	3	<p>Introducing the use of the once-only principle for setting up cross-border subsidiaries/branches would apply between business registers which are part of BRIS (cross-border operation function of BRIS). However, other authorities would benefit from the mutual recognition of company data and they can thus accept information from another Member State's register as an equivalent of what is required domestically and they could consult company information directly in business register and BRIS. This would result in cost savings in particular in time and resources of handling company information. There would also be savings from the common company extract as public authorities would not have to ask for and examine additional documents. Similar to the costs of reducing formalities, nearly all stakeholder groups are mainly anticipating a decline in costs to some extent (41% overall). This view is mostly prevalent amongst business/financial organisations (100%), public authorities (72%) and legal practitioners (60%).</p> <p>The majority of business/financial organisations (100%), public authorities (66%) and legal practitioners (60%) anticipate that this measure would diminish their administrative costs.</p> <p>Finally, public administrations also face difficulties when applying the requirements of legalisation/apostille. This further increases the disproportionate costs and time caused by the related procedures. Although there are some Member States that issue apostilles immediately, the majority of Member States need one working week. Therefore although public authorities in charge of issuing apostille will face loss of revenue due to abolishing the apostille (fees), the overall savings should be positive. For example, in another context, it has been estimated that by abolishing the apostille, the administrative burdens for the public authorities would be</p>

				reduced by € 5-7 million annually <sup>164</sup> .
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#### **COSTS FOR BUSINESS REGISTERS/PUBLIC AUTHORITIES**

<b>Adjustment costs for business registers</b>	<b>Score 1-5</b>	<b>1</b>	<b>2</b>	<b>2</b>	
IT development costs for BRIS		2.7 million IT development cost (100.00 0 per MS) (one-off costs)	2.7 million IT development cost (100.00 0 per MS) (one-off costs)	2.7 million IT development cost (100.00 0 per MS) (one-off costs)	Concerning the costs that will incur on business registers due to implementation of measures under these options, business registers' views were varied. Business registers surveyed mostly answered that reducing formalities would have no impact at all on the adjustment costs (23%) or had no opinion at all (23%). At the same time, 32% indicated that the costs will increase to a certain extent, whereas 23% expect either a small or significant decrease. These results are also consistent with the responses from the workshop: adjustment costs were projected to have no impact compared to the current situation (median of 0 on a scale of -5 to +5).
		Loss of revenue of EUR 40,930 per year	Loss of revenue of EUR 7,924,183 per year	Loss of revenue of EUR 7,924,183 per year	However, it is to be assumed that the option 4a which introduces the implementation of the once-only principle in BRIS (i.e. between business registers and BRIS) will amount to similar costs as those related to the implementation earlier exchanges between business registers through BRIS. This also confirmed by participant business registers in the workshop: overall expectation of a small increase in adjustment costs, which is mostly thought to originate from investments in software rather than the costs of staff training. Therefore, on that basis, it is estimated that option 4a will incur average cost of 2.7 million euros to business registers. The IT costs are considered the same for all options because the difference is considered to be minor. However, this is one-off cost due to the implementation of the option 4a. In addition, option 4a will imply that companies setting up cross-border subsidiaries and branches (in 8186 cases) do not need an extract. Therefore, under option 4a, the business registers will have a loss of revenue of 40,930 EUR per year.

<sup>164</sup> SWD(2013) 144 final

					In addition, options 4b and 4c introduce a common extract which is calculated to be free of charge for 10% of limited liability companies (i.e. 1.5 million companies) once per year and it will amount to loss of revenue of EUR 7,924, 183 per year. In the workshop, the participating business registers expected a small increase of adjustment costs with a median of +1. The advantages of introducing a common company extract will far outweigh the adjustment costs.
<b>Adjustment costs for other public authorities</b>	Score 1-5	1	2	2	Under option 4a, the authorities in charge of issuing apostille will have loss of revenue of 73,668(apostille in 6,139cases) per year, and the same under option 4c (as in 4a). Under option 4c, the loss of revenue will be EUR 9,533,571 for public authorities issuing the apostille (apostille in 788,325 cases in addition to option 4b) per year.
<b>BENEFITS FOR SOCIETY AT LARGE (i.e. CONSUMERS)</b>					
<b>Fight against fraud and abuse</b>	Score 1-5	2	3	3	Given that the formalities of legalisation/apostille, certified translations are considered outdated and not necessarily prevent fraud and forgery <sup>165</sup> , the measures under these options will take into account and use existing obligation under EU company law, in particular the use of trust services and use of certified electronic copies to ensure the safe use and transmission of data in order to fight against fraud and abuse. In addition, the co-operation mechanisms in BRIS ensures close co-operation between Member States and channels of communication in case of suspicion of fraud.
<b>Digital economy</b>	Score 1-5	3	4	4	These measures will have a strong impact on digitalisation as they will introduce once-only principle on a cross-border basis, in particular for setting up subsidiaries and branches cross-border. The digital common

<sup>165</sup> SWD (2013) 144final

					<p>company extract would further increase the benefits. The aim of the initiative is also to enhance cross-border cooperation in particular between business registers (more connected public authorities) in the Single Market and at the same time, to make it easier for SMEs to expand cross-border.</p> <p>Around one-quarter of all respondents to the surveys for the supporting study saw the more connected public services at EU level as the 2<sup>nd</sup> most important benefit of enabling cross-border use of company data in administrative procedures (27% of business registers, 26% of public authorities, 23% of legal practitioners and 20% of companies). (and 1/5 for court proceedings).</p>
<b>Functioning of the internal market</b>					<p>The aim of these options is to contribute to the creation of a more integrated and digitalised Single Market by building on the “first hand” information about companies in business registers and their interconnection at EU level. They will reduce legal uncertainty, costs and lengthy procedures caused by the burdensome and costly administrative formalities and thus facilitate the exercise of internal market freedoms by companies, in particular SMEs. These options will introduce once-only principle (no double submission of documents) for setting up subsidiaries and branches. In addition, the planned initiative would encourage more authorities (e.g. tax authorities) to use the company data directly from the business registers and BRIS and thus reduce the burden on companies by extending - de facto - the application of once-only principle (i.e. companies would not need to submit the information to authorities because authorities would access directly the information in the business registers). The initiative would also lay down the foundations for more connected public administrations cross-border in the Single Market by making it possible to connect other EU level systems/registers to BRIS. This would contribute to complementing the Single Market, in particular for digital as called by the European Council conclusions of 24-25 March 2022. However, given that there is an overlap with other impacts in this table, the scoring is not counted twice.</p>

## 2.4. COHERENCE OF THE POLICY OPTIONS

### **Policy options 1 to make more company information available in business registers and/or BRIS**

- Policy option 1a - Make information about partnerships and third country company branches available in BRIS
- Policy option 1b - Option 1a + make information about group structures and ownership available in national registers and BRIS
- Policy option 1c - Option 1b + make information about place of management and place of the main economic activity available in national registers and BRIS

Unit of measurement	PO1a	PO1b	PO1c	Motivation
Score 1-5	3	4	5	<p><b>Internal coherence:</b> Options 1a, 1b and 1 c are all coherent and mutually complementary with the other components (policy options) of the initiative. In particular, the more company data is made available (options1) and more reliable the data is (options 3), more the use of such data under options 4 can be facilitated and enhanced. Interconnection of relevant data through connection of different EU systems under options 2 will also provide an easier access to wider company data and thus complement the options under 1. Option 1c ensures the most coherence as it provides the most company data that can be consulted through interconnection with other systems under option 2 and used under option 4.</p> <p><b>External coherence:</b> The options all ensure coherence with relevant EU law and other EU initiatives. Option 1c ensures the most coherence.</p> <p>In particular, these options are all fully coherent with the EU rules and international standards in the area of the anti-money laundering/countering the financing of terrorism, respectively the AML Directive and the FATF standards (in particular with Recommendation 24 as amended in March 2022). More company data available (partnerships, information on groups, information on place of management and main economic activity) facilitates the implementation of anti-money laundering/ countering the financing of terrorism rules, correctness of beneficial ownership data as well as authorities' work to abuse of corporate entities. The options are also coherent with initiative on the <b>European single access point (ESAP)</b> for financial market information, as ESAP focuses mainly on entity</p>

				and product related information that is relevant mainly for investors, with the purpose of serving market needs. The Open Data Directive regulates the re-use of data held by Member States' public authorities for commercial or non-commercial purposes, which is not covered by the planned initiative. This initiative will contribute to objectives of the various recent initiatives on <b>taxation</b> , as transparency will help tax authorities' work when in need of reliable company data. In particular, information on groups and place of management and economic activity will be valuable data for taxation.
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### **Policy options 2 to interconnect BRIS with other systems and enable better searches**

- Policy option 2a – Interconnection of BRIS with beneficial ownership registers interconnection system (BORIS), use of EUID (European unique company identifier), new search functionalities in BRIS
- Policy option 2b - Option 2a + Interconnection with Insolvency Registers interconnection system (IRI)

Unit of measurement	PO2a	PO2b	Motivation
Score 1-5	4	5	<p><u>Internal coherence:</u> Options 2 are coherent and complementary to other policy options, in particular to options 1 (as explained above), but also with options 3 and 4. In particular, the use of EUID as company identifier enables the unequivocal identification of the company. It can connect the company information in different registers, but it also connects companies and their cross-border branches and can be used to connect parent companies and their subsidiaries. It thus helps to implement policy options 3 and also the use of company data in cross-border situations (when setting up subsidiaries and branches and for other administrative procedures).</p> <p><u>External coherence:</u> These policy options are fully coherent with the relevant anti-money laundering rules (beneficial owners' transparency and registers) and with insolvency rules.</p>

### **Policy options 3 to ensure an adequate verification of company data before it is entered into the business register**

- Policy Option 3a - obligation to check a harmonised list of elements
- Policy Option 3b – Option 3a + common basic procedural requirements for ensuring reliable and up-to-date data



Unit of measurement	PO3a	PO3b	Motivation
Score 1-5	4	4	<p><u>Internal coherence:</u> Options 3 are pre-requisite for making the available data under options 1 more reliable and facilitating its cross-border use without burdensome formalities under options 4. Having more reliable company data in business registers will bring more trust and more legal certainty in the market and between Member States which lays down the foundations for its cross-border use. The policy options are therefore fully coherent and complementary.</p> <p><u>External coherence:</u> These options, in particular Option 3b is coherent with the international standard in the anti-money laundering field, in particular with FATF recommendation 24, which requires registration of all companies in business registers and availability of basic information about companies. These options also ensure that the company data is adequate, accurate and up-to-date. Finally, in particular option 3b contributes to all initiatives on taxation, the current sanctions against Russia and Belorussia and, in general, to all areas (e.g. social policy, transportation) where trustworthy company data is needed.</p>

**Policy options to enable direct use of company data from business registers in cross-border situations**

- Policy Option 4a - Requirement to apply once-only principle (no resubmission of company information) when a company from a Member State sets up subsidiaries or branches in other Member States
- Policy Option 4b – Option 4a + harmonised company extract containing a common set of company data and mutual recognition principle for certain company data
- Policy Option 4c - Option 4b + abolition of formalities e.g. apostille

Unit of measurement	PO4a	PO4b	PO4c	Motivation
Score 1-5	3	4	5	<p><u>Internal coherence:</u> these options are in particular complementary to and dependent on options 3. The facilitation of cross-border use of company data will depend on the trust of such data and trust between Member States. These options are thus fully coherent with the other elements of the proposal.</p> <p><u>External coherence:</u> these options, in particular option 4c contribute to the objective of the Communication 2030 Digital Compass: the European way for the Digital Decade to provide online key public services online for European businesses. It also contributes to removing</p>

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				remaining unjustified barriers and administrative burdens in the Single Market as described in the European Council conclusions of 24-25 March 2022. The initiative pursues the objective of the Public Documents Regulation by removing unnecessary formalities (such as apostilles) for companies in cross-border situations, similarly to how it was achieved by that Regulation for citizens. Finally, there is no coherence issue with the Single Digital Gateway Regulation which provides for online cross-border administrative procedures but excludes from its scope company law procedures.
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## 2.5. OVERVIEW OF THE ASSESSMENT OF THE OPTIONS

### 2.5.1 Multi-criteria Analysis

To compare the policy options in their relative impacts, we have performed a Multi-Criteria Analysis (MCA). As it is an integrative framework, the MCA allows us to include all retained policy options and assess them against the identified impacts. To build up the analysis we have relied on the following two components:

- 1) The scores assigned to each Policy Option against the impacts. The scoring system is represented on a scale 0-5 and it is based on the in-depth analysis of the available evidence of the impacts
- 2) The weights assigned to each impact represent the relative importance assigned to them. As, for example, a score of 3 for the administrative burden imposed on businesses (which is a one-off cost) is not equal to a score of 3 for the adjustment for the business registers (which is a recurring cost), these can be set-off by the weight assigned to each impact. So the weights are impacted by the stakeholders that they are related to the nature of the impact (one-off or recurrent) and the link to the policy objectives. To ensure robustness, we have taken two approaches in the distribution of weights:
  - a. Approach 1: A weight of 30% for Effectiveness, 60% for Efficiency and 10% for Coherence. Under this approach we assume efficiency gains are the ultimate goal of the initiative and a higher weight ensures these constitute the focal point in our analysis.
    - i. From the 60% of efficiency, 25% is assigned to the costs. The three groups of stakeholders that will support the costs are assigned proportional weights: a higher weight for the costs supported by the Business registers as these costs will be recurring, the burden being higher than for the businesses, which will only incur one-off administrative burdens. Moreover, the costs imposed on the businesses are likely to be offset in a few years by the recurring benefits, that will continue to flow even after the off-set time, and thus, the significance of the impact is slightly lower. The burden imposed on the public

- 
- authorities is assigned the lowest importance, as the impact on the public authorities is not likely to be very significant
- ii. The remainder of the 35% is assigned to the benefits. As mentioned above, efficiency gains are the ultimate goal of the initiative, the cost at which they are achieved being of slightly less relevance. As the efficiency gains are enjoyed by the businesses (and less by the Business registers and the society), the highest weight (25%) is assigned to the reduced Administrative Burden for them, as well as the trust and transparency they will benefit from, and the ease of doing business that they will experience as a consequence of the initiative
- b. Approach 2: An alternative approach for the distribution of weights is to assign equal weights to Effectiveness and Efficiency (45% for each) and the remaining 10% for coherence.
- i. The logic behind the specific distribution of weights among the stakeholder and impacts is identical to the first approach. What we notice is that the results of the MCA hold even after these weights have been changed to ensure equal significance for the effectiveness and efficiency.
- 3) The total weighed score for each policy option are calculated as the scores of each policy options against the identified impacts, multiplied by the weight assigned to each specific impact. The weighted performance of the costs is subtracted from the benefits. All policy options lead to a net benefit, indicating that the benefits outweigh the costs.
- a. Under the first scenario (30-60-10), we observe that from the first package of Policy Options, it is option 1c that scores highest in the MCA. From the second package it is Option 2b, from the third package it is option 3b and from the fourth package, it is option 4c.
  - b. Zooming in and looking at the individual weighed scores, positive scores can be observed in terms of effectiveness, coherence, and efficiency for the businesses and the society, and a slight efficiency loss for the Business registers. In other words, the sizeable efficiency gains experienced by the businesses come at a small cost for the Business registers.
  - c. When we look at the results per stakeholder (businesses, business registers and society as a whole) we can see that businesses and society always experience a net benefit, and that business registers have a mixed result. In other words, there will be a trade-off between businesses and society on the one hand and the business registers on the other hand.
  - d. Under the second scenario (45-45-10), the results hold. The same policy options (as under the first scenario) are the preferred options in each scenario, this time with even higher scores. The main change observed is a reduction in the losses of the BR, as compared to the first scenario. This means that the benefits enjoyed by the business and the society come at a slightly lower cost than under the first scenario.

First scenario 30-60-10

	Weight	PO1a	PO1b	PO1c	PO2a	PO2b	PO3a	PO3b	PO4a	PO4b	PO4c
<b>EFFECTIVENESS (30)</b>											
SO1: More reliable company data available in BR and/or BRIS	15%	2	3	5	3	4	3	4	1	2	2
SO2: Enabling cross-border use of company information in BR	15%	1	2	3	2	2	2	4	3	4	5
<b>EFFICIENCY (60)</b>											
<b>Benefits for businesses</b>											
Trust and transparency in the market	7,50%	2	3	4	3	4	3	4	2	3	3
Ease of doing business and access to the market	7,50%	1	2	2	1	1	2	3	3	4	5
Administrative burden reduction	10,00%	0	0	0	1	1	0	0	1	4	5
<b>Costs for businesses</b>											
Administrative burden increase(one-off cost)	8,33%	0	2	4	0	0	0	0	0	0	0
<b>Benefits for Business Registers</b>											
Savings related to operational costs	2,50%	2	2	2	2	3	1	2	2	2	2
<b>Benefits for other public authorities</b>											
Savings related to operational cost for other public authorities	2,50%	2	3	3	2	3	3	4	0	2	3
<b>Costs for business registers/public authorities</b>											
Adjustment costs for business	5,56%	2	2	2	0	0	2	2	1	2	2



Efficiency												
60%												
Costs						Benefits						
25%						35%						
Businesses	BR		PA		Businesses			BR/PA		Society		
8,3%	11,11%		5,56%		25%			5,00%		5,00%		
AB	Adjustment costs BR	Enforcement costs BR	Adjustment costs PA	Trust & transp.	Ease of doing business	AB reduction	Op. Savings BR	Op. Savings PA	Fight against fraud	Digital econ.	Functioning int. Market	
8,33%	5,56%	5,56%	5,56%	7,50%	7,50%	10,00%	2,50%	2,50%	1,67%	1,67%	1,67%	
Effectiveness				Coherence								
30%				10%								
SO1	SO2											
15%	15%											

Second scenario 45-45-10

	Weight	PO1a	PO1b	PO1c	PO2a	PO2b	PO3a	PO3b	PO4a	PO4b	PO4c
EFFECTIVENESS (45)											
SO1: More reliable company data available in BR and/or BRIS	22,50%	2	3	5	3	4	3	4	1	2	2
SO2: Enabling cross-border use of company information in BR	22,50%	1	2	3	2	2	2	4	3	4	5
EFFICIENCY (45)											
Benefits for businesses											

Trust and transparency in the market	5,00%	2	3	4	3	4	3	4	2	3	3
Ease of doing business and access to the market	5,00%	1	2	2	1	2	2	3	3	4	5
Administrative burden reduction	10,00%	0	0	0	1	1	0	0	1	4	5
6,67%											
Administrative burden increase(one-off cost)	6,67%	0	2	4	0	0	0	0	0	0	0
Benefits for Business Registers											
Savings related to operational costs	1,25%	2	2	2	2	3	1	2	2	2	2
Benefits for other public authorities											
Savings related to operational cost for other public authorities	1,25%	2	3	3	2	3	3	4	0	2	3
Costs for business registers/public authorities											
Adjustment costs for business registers	4,44%	2	2	2	0	0	2	2	1	2	2
Enforcement costs for business registers	4,44%	0	0	0	0	0	1	2	0	0	0
Adjustment costs for other public authorities	4,44%	0	0	0	0	0	0	0	1	2	2
Benefits for society at large (i.e. consumers)											
Fight against fraud and abuse	0,83%	2	3	4	2	3	3	4	2	3	3
Digital economy	0,83%	1	2	2	3	3	1	1	3	4	4

Functioning of the internal market	0,83%	0	0	0	0	0	0	0	0	0	0
<b>COHERENCE (10)</b>											
Coherence	10%	3	4	5	4	5	4	4	3	4	5
<b>TOTAL</b>	<b>100,00%</b>	<b>1,111</b>	<b>1,657</b>	<b>2,357</b>	<b>1,917</b>	<b>2,375</b>	<b>1,725</b>	<b>2,489</b>	<b>1,528</b>	<b>2,431</b>	<b>2,918</b>

Effectiveness	45%	0,68	1,13	1,80	1,13	1,35	1,13	1,80	0,90	1,35	1,58
Efficiency	45%	0,14	0,13	0,06	0,39	0,53	0,20	0,29	0,33	0,68	0,84
Coherence	10%	0,30	0,40	0,50	0,40	0,50	0,40	0,40	0,30	0,40	0,50
<b>Total</b>	<b>100%</b>	<b>1,11</b>	<b>1,66</b>	<b>2,36</b>	<b>1,92</b>	<b>2,38</b>	<b>1,73</b>	<b>2,49</b>	<b>1,53</b>	<b>2,43</b>	<b>2,92</b>

Effectiveness	45%	0,68	1,13	1,80	1,13	1,35	1,13	1,80	0,90	1,35	1,58
Efficiency businesses	27%	0,15	0,12	0,03	0,30	0,40	0,25	0,35	0,35	0,75	0,90
Efficiency BR	10,14%	-0,06	-0,06	-0,06	0,03	0,04	-0,12	-0,15	-0,02	-0,06	-0,06
Efficiency PA	5,69%	0,03	0,04	0,04	0,03	0,04	0,04	0,05	-0,04	-0,06	-0,05
Efficiency Society	2,50%	0,03	0,04	0,05	0,04	0,05	0,03	0,04	0,04	0,06	0,06
Coherence	10%	0,30	0,40	0,50	0,40	0,50	0,40	0,40	0,30	0,40	0,50
<b>Total</b>	<b>100%</b>	<b>1,11</b>	<b>1,66</b>	<b>2,36</b>	<b>1,92</b>	<b>2,38</b>	<b>1,73</b>	<b>2,49</b>	<b>1,53</b>	<b>2,43</b>	<b>2,92</b>

<b>Efficiency</b>											
45%											
<b>Costs</b>					<b>Benefits</b>						
20,0%					25,0%						
<b>Businesses</b>	<b>BR</b>		<b>PA</b>		<b>Businesses</b>			<b>BR/PA</b>		<b>Society</b>	
6,67%	8,89%		4,44%		20,00%			2,50%		2,50%	
<b>AB</b>	<b>Adjustment costs BR</b>	<b>Enforcement costs BR</b>	<b>Adjustment costs PA</b>	<b>Trust &amp;</b>	<b>Ease of doing</b>	<b>AB reduction</b>	<b>Op. Savings</b>	<b>Op. Savings</b>	<b>Fight against</b>	<b>Digital econ.</b>	<b>Functioning int. Market</b>





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### 2.5.2 Sensitivity analysis

The administrative burdens imposed or reduced by the various policy option are calculated by applying the Standard Cost Model. In order to verify the robustness of our initial SCM results, we have performed **12 partial sensitivities** in which we varied the following parameters:

1. The cost of making the information on the structure of group, parent company, place of management and place of economic activity
  - a. If the out-of-pocket costs is **€10 instead of €20**, the administrative burden for the policy options under Package 4 does not change. The administrative burden for options 1b and 1c **decreases by approximately 45%**
  - b. If the cost is **€30 instead of €20**, only the administrative burden for policy options 1b and 1c **increases by approximately 45%**
2. The number of LLCs:
  - a. If the number of LLCs **decreases by 10%**, the burden imposed by policy option 1c and 4b and 4c will decrease by approximately 10%
  - b. Conversely, if the number of LLCs **increases by 10%** the burden imposed by policy options 1c, 4b and 4c will increase by approximately 10%
3. Number of branches:
  - a. If the number of branches **decreases by 10%**, the administrative burden imposed by option 4a decreases by approximately **5.5%**, that of option 4b by approximately **0.1%** and that of option 4c by less than **0.1%**
  - b. In a similar fashion, if the number of branches **increases by 10%**, the administrative burden imposed by option 4a increases by approximately **5.5%**, that of option 4b by approximately **9.7%** and that of option 4c by less than **0.1%**
4. Tariff lawyer:
  - a. If the tariff of a lawyer for setting up a subsidiary decreases from **€350** to €150, the burden imposed by option 4a decreases by **21.7%**, that of option 4b by approximately **0.5%** and that of option 4c by **0.37%**
  - b. If the tariff increases from €350 to €500, the burden under option 4a decreases by 16%, under 4b by **0.37%** and under 4c by **0.28%**
  - c. If the tariff of a lawyer for assisting in filing an extract changes from €150 to €300, the burden imposed by option 4b will increase by approximately **36%**, and that imposed by 4c will increase by **40%**
5. The number of companies that request extracts annually:
  - a. If the number decreases from **10% to 5%**, the burden under 4a decreases by **31%** and under 4c by approximately **37%**
  - b. If the number increases from **10% to 20%** the burden imposed by 4a increases by **62%** and that imposed by 4c increases by a staggering **71%**
6. Number of pages that need to be translated
  - a. If the number of extract pages that need to be translated increases from **3 to 5**, the burden imposed by option 4a increases by **5.3%**, that imposed by option 4b increases by **23.8%** and that imposed by option 4c increases by approximately **18%**.

We observe thus, that options 1b and 1c are significantly sensitive if the filing cost for an extract would change and option 1c is moderately sensitive to changes in the number of LLCs. However, even with the higher filing costs, the option c is still a net positive to society and the preferred option.

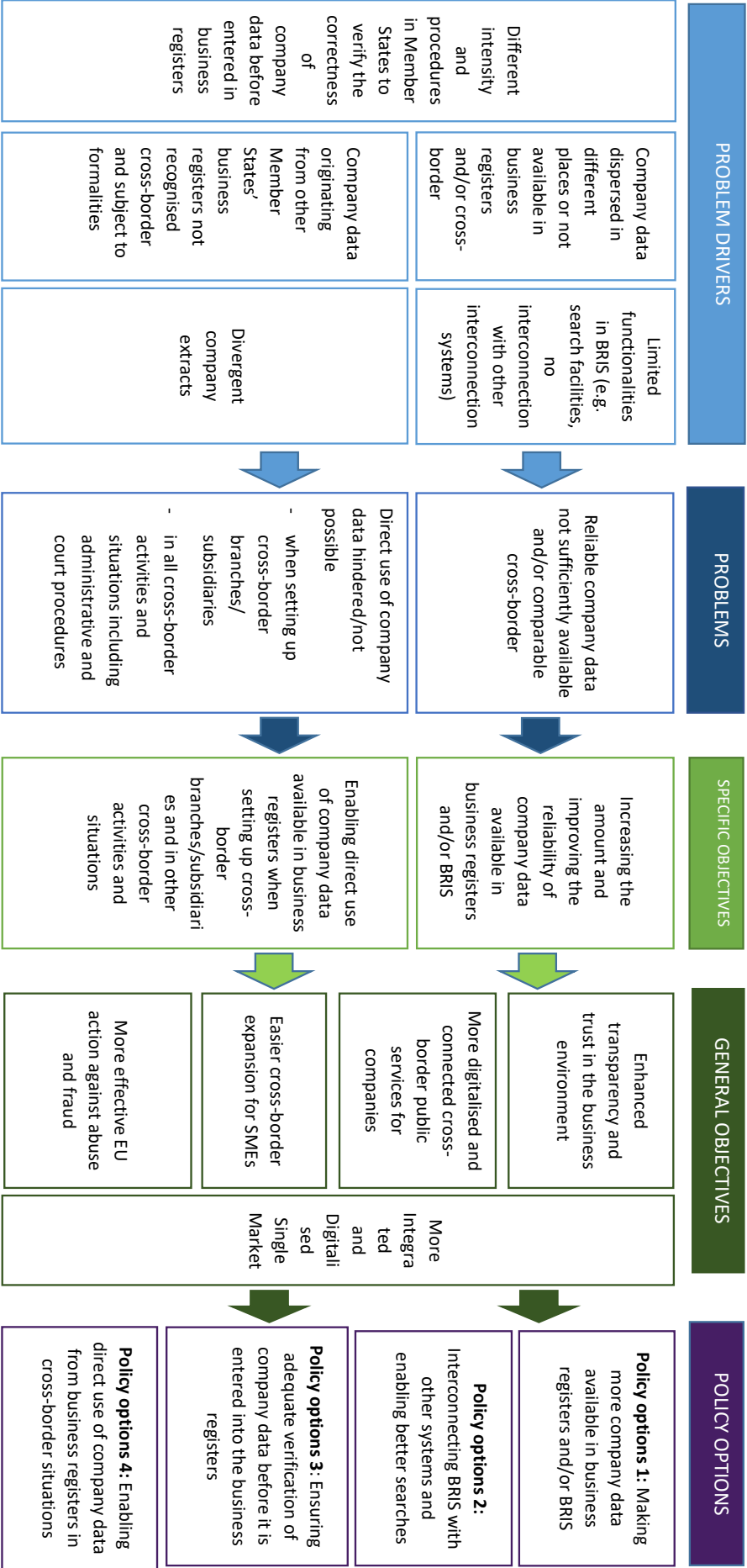
The policy options under package 4, especially options 4b and 4c show limited sensitivity if the number of branches or the tariff for a lawyer for setting up a subsidiary would change, but quite a significant sensitivity if the tariff for a lawyer for assisting in filing an extract, or if the number of companies that request extracts annually would change. A more limited impact would be generated by a change in the number of pages that need to be translated for an extract. Irrespective of the changes in the basic assumptions, option 4c still remains a net positive to society and the preferred option. This shows robustness of the results and that even though the assumptions (which are carefully deliberated) can change significantly and not impacting the outcome.

Policy Option		1a	1b	1c	4a	4b	4c
<b>Sensitivity analysis</b>	<b>Basis scenario</b>	/	€ 643.10 5	€ 311.413.15 7	€ 7.535.31 5	€ 329.849.29 0	€ 437.885.29 1
<b>1</b>	<b>Filing cost = 10 euro</b>	/	€ 351.88 8	€ 170.339.62 2	€ 7.535.31 5	€ 329.849.29 0	€ 437.885.29 1
<b>2</b>	<b>Filing cost = 30 euro</b>	/	€ 934.32 3	€ 452.281.06 5	€ 7.535.31 5	€ 329.849.29 0	€ 437.885.29 1
<b>3</b>	<b>LLC -10%</b>	/	€ 643.10 5	€ 279.974.41 3	€ 7.535.31 5	€ 297.522.74 8	€ 394.723.25 7
<b>4</b>	<b>LLC +10%</b>	/	€ 643.10 5	€ 342.646.27 4	€ 7.535.31 5	€ 361.964.39 9	€ 480.765.02 2
<b>5</b>	<b>#branches -10%</b>	/	€ 643.10 5	€ 311.413.15 7	€ 7.121.08 5	€ 329.329.34 3	€ 437.329.90 9
<b>6</b>	<b>#branches +10%</b>	/	€ 643.10 5	€ 311.413.15 7	€ 7.949.54 6	€ 330.157.80 4	€ 438.158.37 0
<b>7</b>	<b>Lawyer cost setting up = 150 euro/hour</b>	/	€ 643.10 5	€ 311.413.15 7	€ 5.898.11 5	€ 328.106.37 4	€ 436.106.94 0
<b>8</b>	<b>Lawyer cost setting up = 500euro/hour</b>	/	€ 643.10 5	€ 311.413.15 7	€ 8.763.21 5	€ 330.971.47 4	€ 438.972.04 0
<b>9</b>	<b>Lawyer cost for extract = 300</b>	/	€ 643.10 5	€ 311.413.15 7	€ 7.535.31 5	€ 447.992.36 9	€ 615.117.33 2
<b>10</b>	<b>5% of companies request annually extract</b>	/	€ 643.10 5	€ 311.413.15 7	€ 7.535.31 5	€ 227.261.28 5	€ 281.261.56 8
<b>11</b>	<b>20% of companies request annually extract</b>	/	€ 643.10 5	€ 311.413.15 7	€ 7.535.31 5	€ 534.708.15 2	€ 750.709.28 4
<b>12</b>	<b>5 pages translation</b>	/	€ 643.10 5	€ 311.413.15 7	€ 7.941.13 6	€ 408.311.84 8	€ 516.312.41 4

brighter colours = values change

# ANNEX 5: INTERVENTION LOGIC

Policy options are addressing the drivers (i.e. causes of the problems) in order to meet the specific objectives and the general objectives:



## ANNEX 6: NUMBER OF COMPANIES, BRANCHES AND SUBSIDIARIES

The calculations are based on three different sources:

- Business register's data (2022)
- Figures from Mutual evaluation reports of FATF and MONEYVAL (2014-2022) for those Member States where those reports/figures exist
- ORBIS database (2022)

Where it was available, the number is based on the business register's data. In other cases, the data is based either on the FATF/MONEYVAL data or on ORBIS data. The various sources were compared to verify if the data is plausible. To be noted that the numbers are dynamic as every day new companies are created and cease to exist. Therefore, it is never possible to give a precise figure, this data is an estimation based on available information.

The Eurostat calculates the number of enterprises (i.e. groups calculated as one entity), thus, the lower numbers. The Business Demography Statistics define enterprise as *'the smallest combination of legal units that is an organisational unit producing goods or services, which benefits from a certain degree of autonomy in decision-making, especially for the allocation of its current resources. An enterprise carries out one or more activities at one or more locations'*<sup>1</sup>. An enterprise may thus be a sole legal unit but also a combination of legal units.

For partnerships the main types were considered (general and limited). Non-commercial or sector-specific partnerships are not included. In certain cases, only the active partnerships were calculated, where this information was available.

## 1. Number of limited liability companies in the European Union

Public limited companies				Private limited companies				TOTAL (public + private)				Total used for this IA	Eurostat
Member State	ORBIS	Business Register	FATF/ MONEYV AL <sup>166</sup>	ORBIS	Business Register	FATF/ MONEYV AL	ORBIS	Business Register	FATF/ MONEYV AL				
										Most accurate figure considered, mainly the business registers' data			
EU-27	448,989			15,707,214			16,353,232			15,771,679	9 432 410		
AT	1,830	1,261	1,591	201,430	179,978	137,840	203,260	181,239	139,431	181,239	105 253		
BE	80,254	99,703	116,437	470,483	514,875	352,330	550,737	614,578	468,767	614,578	416 485		
BG	11,626	286	12,800	769,147	776,108	765,609	780,773	776,394	778,409	776,394	285 113		
HR	663	726	-	154 071	116,198	-	154,734	116,924	133,596	116,924	108 636		
CY	428	565	562	194,990	179,990	215,346	195,418	180,555	215,908	180,555	37 822		
CZ	26,422	27,099	26,368	451,550	517,558	442,110	477,972	544,657	468,478	544,657	279 705		
DK	34,179	34,865	37,620	314,877	317,384	214,168	349,056	352,249	251,788	352,249	133 122		
EE	2,285	2,769	-	243,897	241,181	-	246,182	243,950	-	243,950	85 026		
FI	333	292	-	268,312	262,380	-	268,645	262,672	275,006	262,672	175 768		
FR	24,660	-	32,604	2,624,440		2,745,031	2,649,100	-	2,777,635	2,777,635	2 344 125		
DE	20,077	13,413	13,689	1,836,582	1,466,828	1,419,590	1,856,659	1,480,241	1,433,279	1,480,241	624 689		
EL	36,151	49,662	36,327	42 958	107,716	51,222	79,109	157,378	87,549	157,378	83 658		
HU	67	8,284	49	362,677	402,439	400,794	362,744	410,723	400,843	410,723	244 028		

<sup>166</sup> The numbers for all Member States are not yet available. Some Member States are still undergoing their evaluations

IE	1.195	917	1.716	240.957	254.526	218.220	242.152	255.443	219.936	255.443	123 691
IT	34.651	27.830	46.824	1.199.540	1.282.101	1.545.718	1.234.191	1.309.931	1.592.542	1.309.931	91 5 602
LV	935	966	1.015	120 877	131.858	163.847	121.812	132.824	164.862	132.824	82 432
LT	33	5	372	38	5.846	124.122	71	5.851	124.494	124.494	75 918
LU	30.699	32.392	41.384	77.797	74.461	51.026	108.496	106.853	92.410	106.853	29 469
MT	235	597	555	52.144	49.493	48.129	52.379	50.090	48.684	50.090	12 765
NL	3.262	4.440	4.935	1.064.310	1.140.033	1.121.871	1.067.572	1.144.473	1.126.806	1.144.473	295 787
PL	8.511	-	9.546	449.754	-	446.732	458.265	-	456.278	456.278	184 941
PT	27.183	29.927	32.654	560.019	616.550	365.590	587.202	646.477	398.244	646.477	370 978
RO	7.004	10.308	-	1.221.277	1.307.886	-	1.228.281	1.318.194	-	1.318.194	513 921
SK	7.011	50	7.367	309.474	315.803	262.218	316.485	315.853	269.585	315.853	197 370
SI	564	464	705	78.785	72.258	70.245	79.349	72.722	70.950	72.722	58 047
ES	86.112	56.902	185.125	1.890.991	977.711	2.298.912	1.977.103	1.034.613	2.484.037	1.034.613	1 191 693
SE	2.619	2.068	-	702.866	702.171	-	705.485	704.239	548.854	704.239	456 366

2. Number of partnerships in the European Union

MS	ORBIS	Business register	FATE/ MONEYVAL <sup>167</sup>	Total used for this IA	Eurostat
EU-27	4.202.916			<b>1.743.628</b>	1 938 372
AT	73.940	66.585	61.723	66.585	46 867
BE	111.883	22.902	41.584	22.902	64 081
BG	10.066	6.115	6.272	6.115	8593
HR	1.352	257	231	257	845
CY	6.659	6.149	6.568	6.149	99
CZ	10.529	11.877	7.137	11.877	5354
DK	26.264	2.278	25.865	26.264	13010
EE	7.641	7.940	-	7.940	627
FI	37.357	30.812	37.892	30.812	24238
FR	2.244.589	-	64.570	64.570	35254
DE	95.594	22.695	251.690	251.690	388477
EL	68.921	162.488	52.796	162.488	122456
HU	106.348	110.165	144.000	110.165	85446
IE	215	-	1.416	1.416	9941
IT	520.753	639.306	154.315	639.306	612274
LV	2.014	2.499	727	2.499	2210
LT	46.353	13	152	152	986
LU	18.103	10.382	992	10.382	1088

<sup>167</sup> The numbers for all Member States are not yet available. Some Member States are still undergoing their evaluations



MT	49	1.469	1.284	1.469	1753
NL	234.621	200.466	205.364	200.466	169213
PL	203.612	-	43.292	43.292	60326
PT	4.754	1.103	1.195	1.103	5921
RO	6.458	2.411	-	2.411	2 845
SK	3.047	2.542	2.420	2.542	1909
SI	2.043	399	1.116	399	1885
ES	252.668	2.000	17.491	2.000	216639
SE	107.083	50.054	68.377	68.377	216639

### 3. Number of newly created EU subsidiaries in 2021

<b>EU-27</b>	<b>3 686</b>
AT	208
BE	188
BG	23
CY	89
CZ	93
DE	707
DK	164
EE	32
EL	12
ES	142
FI	58
FR	460
HR	3
HU	11
IE	72
IT	207
LT	14
LU	525
LV	3
MT	63
NL	215
PL	35
PT	31
RO	14
SE	269
SI	10
SK	38

Source: Supporting study

### 4. Number of new cross-border branches created in one year in selected countries (2008)

BG	239
CZ	297
DK	171
EE	33
IE	196
CY	95
LT	42
LU	103
HU	147
MT	36
AT	371
PL	232
RO	164
SI	18
SL	194
FI	121
SE	534

Source: Impact Assessment on BRIS 2012

## ANNEX 7: ESTIMATED COSTS - FOR ELECTRONIC COMPANY EXTRACTS ACROSS THE EU

Member State	Fees for an electronic company extracts in 2022, in EUR
AT	3.76
BE	13.5
BG	2.56 for the first page, 1.02 for the following pages. With certificate: 1.28 for the first page, 0.77 for the following pages
CY	20.0-40.0 (depending on the pace of the procedure)
CZ	Free of charge
DE	Free of charge
DK	Free of charge
EE	Free of charge
EL	5 for certified documents
ES	Cost depends on the information provided. The average price is 8€
FI	Free of charge since 1 August 2022 (no certificate available for pdf)
FR	3.4
HR	0.7
HU	4.2 (for 3 pages) (for a private company)
IE	2.50 per extract in pdf for non-certified 12.50 per extract in pdf for certified
IT	5.0 - 15.0 (depending on the document/information)
LT	40.0 (for a private company)
LU	10.4 (electronic form) – 15.4 (electronic form with qualified signature)
LV	Non-certified electronic extract is available for free. Only non-certified document available.
MT	No electronic company extract. 0.0-20.0 (depending on the document/information, the information does not seem to be contained in one document).
NL	2.4 (uncertified) – 7.8 (certified)
PL	Free of charge
PT	5 Euros for certified online document. Non-certified document is not being provided.
RO	0.4 euros for non-certified document, 0.8 euros for certified document
SE	11.6
SI	Free of charge
SK	Free of charge

*Note:* For non-euro countries, costs are converted in euro; all costs rounded to the nearest ten. *Source:* Study on the disclosure and cross-border use of company data, and digital developments related to company law, Milieu Consulting SRL, 2022, supplemented by results of the survey with business registers, 2022, DG JUST.

## ANNEX 8: ESTIMATED COSTS FOR APOSTILLES AND CERTIFIED TRANSLATION ACROSS THE EU MEMBER STATES

MS	Apostille fee, in 2022, in EUR	Estimated costs for certified/sworn translation per page, in 2022, in EUR
AT	14.4 13.7/15.5 17.50 /35.00	55.0
BE	20.0	31.5
BG	2.6	24.3
CY	5.0	25.0
CZ	14.9	20.2
DE	12.0/40.0 25.0 for documents issued by federal authorities For documents issued by state authorities it varies depending on the Land.	56.0
DK	28.2	55.0
EE	26.8	38.5
EL	Free of charge	18.6
ES	0 – 7.5	45.0
FI	30.0	35.0
FR	Free of charge	52.0
HR	4.0 – 8.0	19.6
HU	13.5	25.0
IE	10.0 - 100.0	24.0
IT	16.0	50.0
LT	10.0 - 20.0	25.0
LU	20.0	37.0
LV	15.0 - 30.0	18.5
MT	15.0 - 20.0	24.0
NL	22.0	52.2
PL	13.00	12.0
PT	10.2	42.0
RO	0.0 – 7.1 Free of charge- 10.0	17.5
SE	16.9	44.5
SI	2.50/5.00	30.0
SK	10.00	15.0

*Note:* For non-euro countries, costs are converted in euro. All costs are rounded to the nearest ten.

*Source:* Study on the disclosure and cross-border use of company data, and digital developments related to company law, Milieu Consulting SRL, 2022

## ANNEX 9: EU RULES IN OTHER POLICY AREAS RELATED TO THIS INITIATIVE

A number of other recent EU initiatives are relevant for the initiative on Upgrading digital company law and will be complemented by it.

As regards transparency about companies, the **Anti-Money Laundering Directive** obliges Member States to ensure that corporate and other legal entities incorporated within their territory obtain and hold adequate, accurate and current information on their beneficial ownership, including the details of the beneficial interest held. In addition, the AML Directive requires Member States to ensure that the beneficial ownership information is held in a central register in each Member State, for example a commercial register, companies register or a public register, and is made available to the public. On 20 July 2021, the European Commission presented a package of legislative proposals to strengthen the EU's anti-money laundering and countering the financing of terrorism (AML/CFT) rules, in which the Commission proposed further harmonisation of beneficial ownership information as part of a new draft AML Regulation. The links between the company law initiative subject to this IA and the AML/CFT rules include the planned interconnection of BRIS with the EU interconnection of beneficial ownership registers and that both initiatives contribute to providing more transparency about ownership of EU companies.

The **Regulation on Public Documents** (Regulation (EU) 2016/1191) ensures the free circulation of public documents within the Union and, thereby, promoting the free movement of Union citizens, simplifying the existing administrative requirements relating to the presentation in a Member State of certain public documents issued by the authorities of another Member State. The objective of the Regulations is to cut red tape and costs for citizens in such situations. Amongst others, the Regulation stipulates that public documents (for example, a birth certificate, a marriage notarial act, a judgment) and their certified copies issued by the authorities of an EU country must be accepted as authentic by the authorities of another EU country without the need of an authenticity stamp (i.e. the apostille). However, this Regulation does not cover company documents from the business registers.

The **Unshell initiative**<sup>168</sup>, which lays down rules to prevent the misuse of entities for tax purposes, is a proposal in the field of taxation, under negotiation by the co-legislator. The main objective of this initiative is to ensure that undertakings lacking a minimal substance for tax purposes are not used as instruments for tax evasion or tax avoidance. To achieve this objective, it introduces reporting requirements for all undertakings that do not meet the criteria set by this initiative combined with a presumption of minimal substance and a possibility of rebuttal. It also provides for tax consequences, for an automatic exchange of information between national tax authorities by making data available on a Central Directory as well as potential request for the performance of a tax audit. Although the scope and the objectives of both initiatives are different, they both

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<sup>168</sup> Proposal for a COUNCIL DIRECTIVE laying down rules to prevent the misuse of shell entities for tax purposes and amending Directive 2011/16/EU (COM/2021/565 final).

aim to contribute to prevention of abuse and fraud, including by letterbox companies. The initiative subject to this IA may do this – and would complement the Unshell initiative in this context - by making more company data available in business registers and in BRIS and therefore, contributing to a more effective assessment of the criteria for the minimal substance of companies.

As regards facilitating cross-border information or procedures, the **Single Digital Gateway** facilitates online access to information, administrative procedures and assistance services in another EU country. There is a clear distinction between the scope of the **Single Digital Gateway Regulation (SDG)**<sup>169</sup> and EU company law and the current initiative. SDG explicitly excludes from its scope company law procedures (such as formation of a company and filing) by companies or firms within the meaning of Article 54 TFEU. Furthermore, the SDG is *lex generalis* covering general principles and a wide range of administrative procedures while company law is *lex specialis* covering company law procedures and company data in the business registers. Furthermore, the proposal for the **European single access point (ESAP)**<sup>170</sup> for financial market information (currently under negotiation by the co-legislator), focuses mainly on entity and product related information that is relevant mainly for investors, with the purpose of serving market needs. BRIS and ESAP have different intended users, accessing and using different information in a different way. In addition, there are different collection bodies with limited overlap on the data collected. The current initiative is complementary with both, SDG and ESAP, as underlined in the CMU Action Plan specifically for ESAP and BRIS.

As regards access to data, the **Open Data Directive**<sup>171</sup> requires Member States' public authorities to provide access to data to the public for re-use. Annex I of the Directive includes "Companies and company ownership" data among the high-value data sets that Member States have to make available free of charge, provided as a bulk download and in machine-readable format. The Implementing Regulation is being prepared to specify which specific data has to be provided as high-value dataset. However, the scope and the objective of the Open Data Directive is different than this initiative. The Open Data Directive regulates the re-use of data held by Member States' public authorities for commercial or non-commercial purposes. This initiative (and EU company law in general) harmonises disclosure requirements and makes company data (which has legal value) publically available in business registers and in BRIS (transparency) and aims to enable the use of such data in cross-border situations. In addition, BRIS is out of the scope of the Open Data Directive as it is a European level inter-connection.

As regards digital means used for cross-border company law procedures, **the eIDAS Regulation**<sup>172</sup> **and its revision**<sup>173</sup> is very relevant as it provides a regulatory environment to enable secure and seamless electronic interactions between businesses, citizens and

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<sup>169</sup> Regulation (EU) 2018/1724

<sup>170</sup> Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a European single access point providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability (COM/2021/723 final)

<sup>171</sup> Directive (EU) 2019/1024

<sup>172</sup> Regulation (EU) 910/2014

<sup>173</sup> COM(2021) 281 final

public authorities, in particular by electronic identification schemes (eIDs) to access public services in other EU countries and creating a European internal market for electronic trust services. The Regulation and its revision are closely linked with the current initiative as they provide the rules on technical means for electronic identification in company law (as to many other procedures as well). Already the 2019 Digitalisation Directive refers to the eIDAS Regulation using e-identification and trust services in company law procedures. The new initiative will have to be aligned with the new digital means (e.g. the European Digital Identity Wallet) introduced as part of the ongoing revision of the eIDAS framework. The enhanced digital means in the eIDAS revision will extend the possibilities also in company law procedures.

Finally, the work has been ongoing and will continue to be developed at EU level as regards interoperability within the public sector in general. The Commission has been running interoperability support programmes since 1995, now part of the Digital Europe Programme. The European Interoperability Framework (EIF) and the Interoperability Solutions for European Public Administrations (ISA) programme were evaluated recently in 2020-2021<sup>174</sup> and the Commission put forward the Interoperable Europe Act proposal and its accompanying Communication to strengthen cross-border interoperability and cooperation in the public sector across the EU in November 2022<sup>175</sup>.

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<sup>174</sup> See ISA<sup>2</sup> programme final evaluation, COM/2021/965, SWD/2021/965. EIF final evaluation is to be published in Q4 2022.

<sup>175</sup> [New Interoperable Europe Act \(europa.eu\)](https://european-council.europa.eu/media/en/press-summaries/default/14200?link=internal)

## ANNEX 10: OPTIONS DISCARDED AT AN EARLY STAGE

The following policy options were considered but discarded at an early stage:

### a) Making information about co-operatives available via BRIS

In general, from the consultative activities it appeared that there was interest from stakeholders to have information about cooperatives available at EU level. 45% of those replying to the public consultation were in favour of having more information about cooperatives available at EU level; similarly, over 50% of respondents to the supporting study survey thought that this would be beneficial to a very large or large extent. However, although a number of Member States have information about cooperatives in their national companies register<sup>176</sup>, this is not the case for all. For instance, in Spain only insurance and credit cooperatives are entered into the companies register while others are kept in a special register for cooperatives (Registro de sociedades cooperativas) or even in regional registers only. While companies' registers are all connected to BRIS, there would be difficulties and costs in practice to connect the information about all cooperatives to BRIS. This could lead to a situation whereby stakeholders might not be able to access information about same cooperatives in different Member States, and it could be difficult or impossible to provide such information through comparable, multilingual format in BRIS or provide for the cross-border co-operation i.e. cross-border exchanges.

Furthermore, there can be agricultural, consumers, workers, housing or banking cooperatives, which may be differently regulated and thus add to the complexity<sup>177</sup>. In addition, although cooperatives can play an important role in the economy, in particular in some countries such as Nordic countries<sup>178</sup>, they are less numerous than partnerships and often of local relevance. Therefore, it appears appropriate to exclude cooperatives from this initiative and consider them, and possibly other entities, in the future.

### b) Interconnecting BRIS with the Land Registers Interconnection (LRI)

This option relates to creating an interconnection between BRIS and the Land Registers Interconnection (LRI) so that information about real estate assets owned by a particular company could be also available, as provided by national land or cadastre registers. However, this interconnection system is still being developed. It is an ongoing project funded by the European Union's Justice Programme, which Member States can join on a voluntary basis<sup>179</sup>. So far, Austria, Estonia and Latvia have joined the platform and the prospective service is available as a demo, and the objective is for all Member State

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<sup>176</sup> e.g. AT, DK, FR, LT, LU, NL, NO or PL

<sup>177</sup> Study carried out for the EESC "Recent evolutions of the Social Economy in the European Union; [Microsoft Word - 17\\_393\\_FINAL STUDY \(europa.eu\)](#)

<sup>178</sup> For example, Arla Foods is the fifth-largest dairy company in the world and a cooperative owned by more than 12500 dairy farmers.

<sup>179</sup> <https://lri-ms.eu/>



registers to join by 2024<sup>180</sup>. In addition, there was much lower support among respondents in the consultation activities for this interconnection as compared to interconnecting BRIS with interconnection of beneficial ownership registers (BORIS) or of insolvency registers (IRI). For instance, 35% of those replying to the public consultation thought it would be useful to connect BRIS with the EU interconnection of land registers as compared to 70% and 61% in favour of connecting with BORIS and IRI, respectively<sup>181</sup>; some also expressed doubts about the interconnection due to different subject matter of both systems.

Taking into account the views of stakeholders and that this interconnection is still being developed, the option was discarded as premature. It appears appropriate to first focus on interconnecting BRIS with the EU level interconnections that are more developed and to possibly consider a connection with LRI in the future.

c) Introducing harmonised rules for fully online formation for partnerships

Another discarded option relates to introducing new harmonised rules allowing in particular for fully online registration of partnerships. In the consultative activities, stakeholders' views were mixed. While 42 out of 58 respondents to the public consultation were in favour, some others raised doubts. In particular, some national authorities and notaries argued that no new fully online procedures should be introduced before the fully online registration and filing for limited liability companies, introduced by the Digitalisation Directive was transposed by Member States and evaluated. Similarly, in the surveys carried out during the supporting study, responding legal practitioners and business registers expressed mixed opinions on the extent to which being able to form a partnership online in all Member States would bring benefits at EU level<sup>182</sup>.

Taking into account that there was no clear call from stakeholders on this, the option was eventually discarded as premature – as the existing EU law does not have any harmonised rules on partnerships (not even on disclosure/information), it appears appropriate to first focus on harmonising disclosure requirements about those entities in business registers before any rules on on-line procedures for partnerships would be introduced. Also, it appears useful to first gain experience from the application of the rules on fully on-line procedures for limited liability companies under the Digitalisation Directive.

d) Introducing measures for virtual registered offices at EU level

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<sup>180</sup> As set out in the Communication on “Digitalisation of justice in the European Union. A toolbox of opportunities”; Commission report assessing the necessity and proportionality of harmonising the information included in the real estate registers and assessing the need for the interconnection of those registers, COM(2022) 87 final.

<sup>181</sup> Similarly, less respondents responding to the surveys for the supporting study were in favour, e.g. 35% business registers thought that interconnection with the land registers would be to some or large extent useful as compared to 65% for BORIS and 61% for IRI.

<sup>182</sup> [more detailed information to be added from the next report by the contractor]

Another discarded option relates to introducing certain safeguards in relation to the so called “virtual registered office”.

Overall, in the consultative activities, views of stakeholders about virtual registered offices varied. For instance, 45% (17 out of 38) of stakeholders responding to this question in the public consultation considered the overall impact of companies using virtual registered offices as negative. Use of virtual registered office to facilitate fraudulent/abusive behaviour and money laundering were mentioned. On the other hand, 34% (13 out of 38) saw it as a positive and examples such as some reducing overheads for small companies and start-ups were mentioned. Some doubts about the latter were also raised by some national authorities.

This option was discarded as premature. The concept of virtual registered office is complex, and the consultations show that stakeholders understand it in different ways. The research carried out in the preparatory work for this impact assessment, and in particular in the supporting study, shows that from a legal perspective, all Member State business registers require a physical location for a registered office<sup>183</sup> and that therefore, there are no legal frameworks in place in the EU yet that allow a company to have a fully virtual registered office. Even under Estonia’s e-residency programme, Estonian law requires a legal address, a bank account and a contact person residing in Estonia not allowing in practice the creation of a virtual registered office despite all procedures for the creation of the company being online. Therefore, it is considered that further research and consultations are required to fully assess the phenomenon from all different perspectives before proposing any intervention at EU level.

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<sup>183</sup> Supporting study

## ANNEX 11: BUSINESS REGISTERS INTERCONNECTION SYSTEM (BRIS)

### 1. WHAT IS BRIS

BRIS is the mandatory interconnection of all EU Member States' business registers.

Activated in 2017, BRIS currently covers approximately 16 million limited liability companies and their branches in the EU. In addition, EEA countries are also connected to BRIS<sup>184</sup>.

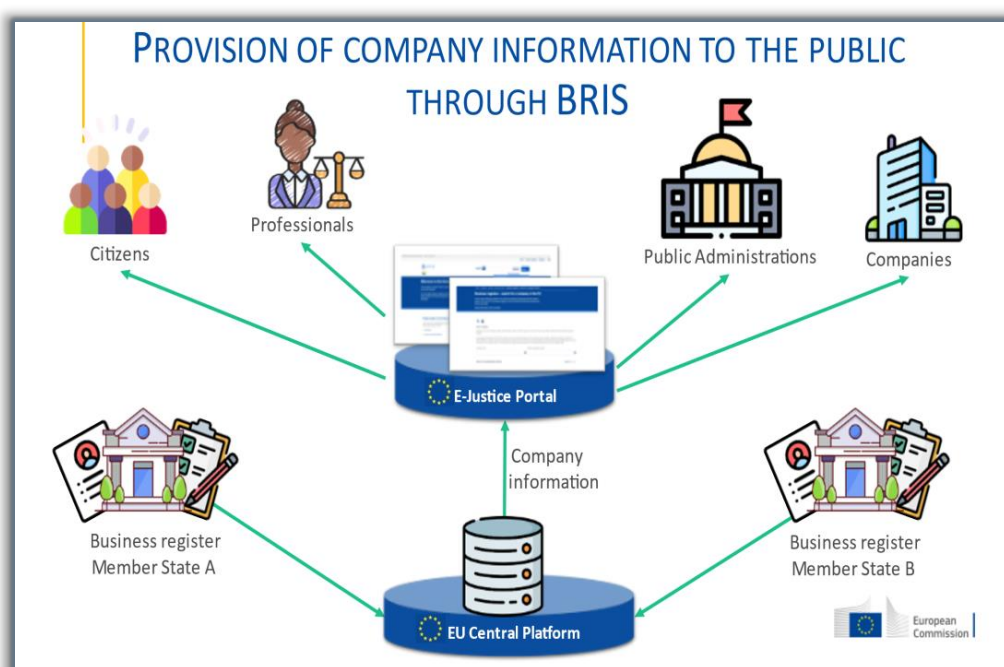
### 2. THE TWO PURPOSES OF BRIS

The system serves two purposes:

- BRIS provides a webpage on the European e-Justice Portal where anyone can access official company information in real time.
- BRIS is also a secure platform for the exchange of information between EU business registers.

These two purposes are briefly presented below.

### 3. PUBLIC ACCESS TO COMPANY INFORMATION ON THE EUROPEAN E-JUSTICE PORTAL



<sup>184</sup> Liechtenstein and Norway

The “Find a company” page of the European e-Justice Portal allows anyone (e.g. citizens, companies, lawyers, notaries, consumers, creditors, authorities) to search and obtain information on the EU limited liability companies they are interested in and branches of these companies in other Member States.

The “Find a company” page on the European e-Justice portal provides a user-friendly welcome page with a search interface that immediately allows users, without any mandatory registration, to consult company information on multiple countries at the same time.

After launching a search on a company name or registration number, the system shows a page displaying all companies that match the search criteria, providing information also on companies with similar names. When the user clicks on any of the company names in the search result, the system opens a new page which shows all the information available on that company, allowing also the user to download company documents made available by the national business register<sup>185</sup>. The user interface is provided in all EU languages, and company information and documents are accompanied by labels that provide additional information in the language of the user, and for example the title and a description of the company documents available.

**Find a company**

Welcome to the "Find a company" section of the European e-Justice Portal! This allows you to search for and access company information from the national business registers.

In accordance with Directive 2012/17/EU this service is to cover the business registers of all EU countries as well as Iceland, Lichtenstein and Norway. Not all of the Member States are currently connected, but more will be on board soon. If you are looking to access information and/or documents from those registers which are not yet part of the "Find a company" page, you can find links to the respective national registers on our "General information and terms and conditions" page.

Company name:

Carrefour

Company registration number:

Search in all participating countries [Select all](#) | [Clear all](#)

☒ Belgium ☐ Bulgaria ☐ Czech Republic ☐ Denmark

**Search results**

Below are all matching entries based on your search criteria.

44 results for search inquiries [Expand all](#) | [Collapse all](#)

- Belgium Carrefour - Belgium
- CARREFOUR BELGIUM - Belgium
- Carrefour Mercator - Belgium
- G.A. CARREFOUR - Belgium

**Belgium Carrefour (Belgium)**

This page presents the details of the selected company and lists the documents or pieces of information available in relation to the company.

**Company details**

**Registered office:** Rue Vanderstraeten 9-11, Vanderstraetenstraat 9-11, 1080 Molenbeek-Saint-Jean ; Sint-Jans-Molenbeek ; Molenbeek-Saint-Jean, Belgium

**Registration number:** 0416.897.981

**Company type:** Naamloze vennootschap / Société anonyme / Aktiengesellschaft

**Business Register:** Kruispuntbank van Ondernemingen (Dutch) Banque-Carrefour des Entreprises (French) Zentrale Unternehmensdatenbank (German)

**EUID:** BEKBOBCE.0416.897.981

<sup>185</sup> A payment solution for BRIS is planned for October 2023. Currently, users can download those documents that business registers make available free of charge on BRIS. For those documents for which business registers charge a fee, currently the EAP informs the users about the existence of such documents and provides a multilingual description of its contents.

Since the activation of BRIS in 2017, the company information available free of charge includes:

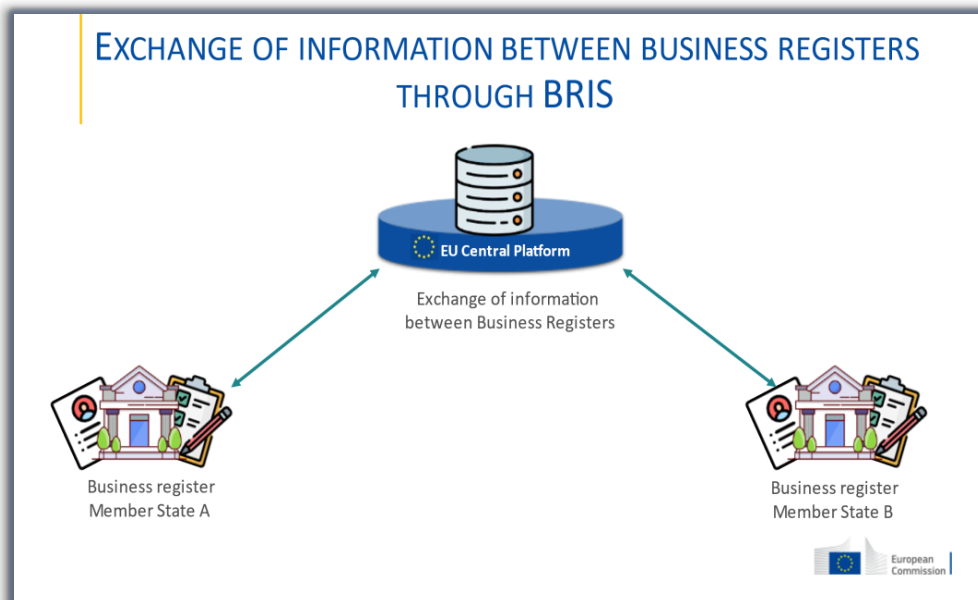
- the company (or cross-border branch) name,
- the registration number,
- the legal form,
- the registered office and
- the Member State of registration.

Most recently, the Digitalisation Directive and the Mobility Directive expanded the scope of the company information available on the “Find a company” page of European the e-Justice Portal (this is gradually being introduced by Member States):

- legal representatives,
- a list of the cross-border branches opened by a company,
- company status,
- company object,
- company website, and
- information on any cross-border merger, conversion or division procedure taking place.

#### 4. EXCHANGE OF INFORMATION BETWEEN BUSINESS REGISTERS

The second purpose of BRIS is to provide a platform where business registers exchange information.



Since the activation of BRIS in 2017, BRIS is the means for business registers to exchange the following information as structured data:

- A notification from the business register of the company to the business register of the branch in a different Member State, on the opening/termination of any winding-up/insolvency proceedings of the company, and on the striking-off of the company from the register. This way, the register of the branch is updated and can provide correct information to the public for transparency reasons (and delete the branch where applicable).
- A notification from the register of the company resulting from a merger to the cross-border register in which any other company involved in the merger were required to file documents, that the cross-border merger has taken effect. This way, the business registers of the companies taking part in the merger is updated and can provide correct information to the public for transparency reasons.

Most recently, the Digitalisation Directive and the Mobility Directive expanded also the scope of this co-operation and exchange of information to cover:

- cross-border conversions of companies registered in different Member States,
- cross-border divisions of companies registered in different Member States,
- disqualified directors, and
- cross-border branches opened and closed in different Member States (notification of opening or closing of a cross-border branch to the (parent) company in the other Member State).

## ANNEX 12: OVERVIEW OF NATIONAL RULES

### 1. PARTNERSHIPS

In nearly all Member States, there are, at least<sup>186</sup>, two types of partnerships, typically general (unlimited) and limited partnerships which have very similar features. In all of them, the General Partnership has at least two partners with unlimited liability and no minimum capital contribution is required. Limited Partnerships are usually defined as having two types of partners: general partners with unlimited liability who are generally responsible for the administration and representation of the company; and limited partners, whose liability is limited to their contributions to the company who are not usually responsible for the administration and representation of the company.

In the majority of Member States, the information disclosed in business registers on General and Limited Partnerships is very similar (e.g. registration number, name of the company, legal form, registered office, legal representatives/partners having the power to represent the company, etc.). All Member States disclose information about general partners. In more than a half of the Member States, partnerships are required to submit to the business register the instruments of constitution<sup>187</sup> and the accounting documents<sup>188</sup>.

### 2. GROUPS OF COMPANIES

In some Member States, the business registers provide information indicating whether the company is member of a group or a parent company<sup>189</sup>. In Italy, subsidiaries have a duty to disclose the existence of the parent company (not of the intermediate companies) in the business register<sup>190</sup>. In some Member States<sup>191</sup>, it is possible to access for a fee an overview of the complete group structure. In a few Member States<sup>192</sup>, the focus is on public limited liability companies and on groups based on contractual agreements between companies, even if usually, such agreements reinforce an already existing de facto control based on a majority shareholding. Sometimes Member States provide only indirect means of verifying the group structure, such as disclosure of information on the shareholders of the company<sup>193</sup>, or disclosure of data about direct or indirect ways of

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<sup>186</sup> E.g. in BE, DE, EL, ES, IT, HR, LU, NL, PL and RO, there are more types of partnerships than the general and the limited partnership while in IE there is only one; Supporting study.

<sup>187</sup> There are some Member States that do not have to file their instruments of constitution, e.g. in AT, CY, DE, EE, NL and SE; Supporting study.

<sup>188</sup> E.g. in AT, BE, CY, DE, EE, EL, FI, FR, HR, IT, MT and NL, partnerships do not have to fill accounting documents or they do but only in particular circumstances, such as where all members are LLCs (e.g. in EL, FR or HR); Supporting study.

<sup>189</sup> E.g. in AT, HU, IT, LV, NL and SI; Supporting study (country fiches).

<sup>190</sup> ICLEG report on transparency.

<sup>191</sup> E.g. in NL, HU, PT; ICLEG report on transparency and supporting study.

<sup>192</sup> E.g. in DE, HR and PT; ICLEG report on transparency and supporting study.

<sup>193</sup> E.g. in AT, BG, CY, CZ, DE, DK, LT, LU, MT, PT and RO; Supporting study (country fiches).

exercising control over the company<sup>194</sup>. Finally, some Member States do not disclose any kind of information on groups<sup>195</sup>.

### 3. EX-ANTE SCRUTINY

Regarding the content of such scrutiny for **limited liability companies**, Member States have divergent rules. Most frequent scrutiny checks carried out in more than half of the Member States cover the authenticity of signatures on the application<sup>196</sup>, the legal capacity of the applicants<sup>197</sup> and the authority of the applicant(s) to represent the company<sup>198</sup>. However, in some cases, the responsibility to submit accurate information lies with the company<sup>199</sup>. In more than a half of the Member States the legality of the company name is verified<sup>200</sup>, and in more than 10 Member States, the legality of the object and of the instruments of constitution is verified as well<sup>201</sup>.

In relation to the ex-ante scrutiny process applies to **partnerships**, the number and type of scrutiny checks is quite similar to that of LLCs, i.e. in terms of checking the authenticity of the application, the legal capacity and the authority to represent the company. However, the intensity of checks on these companies is significantly lower than that of limited liability companies in some Member States due to the absence of the instruments of incorporation<sup>202</sup> or the lack of notarial certification and that the consequent ex-ante scrutiny is performed by legal professionals<sup>203</sup>.

As to **actors responsible for verifying the company information**, in the vast majority of Member States that conducts ex-ante verifications, these are carried out by the business registers<sup>204</sup> or there is a double scrutiny process carried out by both the business registers and the notaries<sup>205</sup>. In HU, such double check is carried out by lawyers or notaries and the business register. In some Member States, the checks are carried out mainly by notaries<sup>206</sup>. In other Member States, other actors might also be involved. For example, in CY, the verification is carried out by lawyers and the company secretaries or authorised partners of the companies that submit the application, and it is considered as

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<sup>194</sup> E.g. in BE, BG, FI, HR, and SE; Supporting study (country fiches).

<sup>195</sup> E.g. in BG, DK, EE, FI, DE, FR, IE, LT, LU, MT, PL, RO, SK and SE; Supporting study.

<sup>196</sup> E.g. in AT, BG, CZ, DE, EE, ES, FI, FR, HR, HU, IT, LT, NL, PL, RO, SE, SI and SK; Supporting study.

<sup>197</sup> E.g. in AT, BE, BG, CY, CZ, DE, ES, FI, HR, HU, IT, NL, PL, RO, SE, and SI; Supporting study.

<sup>198</sup> E.g. in AT, BG, CZ, DE, EE, ES, FI, FR, HR, HU, IT, NL, PL, RO, SE, SI, and SK; Supporting study.

<sup>199</sup> E.g. in IE; ICLEG report on use of data.

<sup>200</sup> E.g. in AT, BG, CY, DE, EE, EL, ES, FI, HR, HU, IE, IT, NL, SE, and SI; Supporting study.

<sup>201</sup> E.g. There is an ex ante check of the legality of the object in BG, CZ, ES, FI, HR, IT, NL, PL, RO, SE and SI; on the other hand, in BG, CY, DE, EE, ES, FI, FR, HR, HU, IT, LT, NL, SE, and SI, there is also an ex ante legality check of the instruments of constitution; Supporting study.

<sup>202</sup> E.g. in AT, CY, DE, EE, NL and SE; Supporting study.

<sup>203</sup> E.g. in BE, LT, LU and NL; Supporting study.

<sup>204</sup> E.g. in EL, FI, FR, IE, LV, MT, PT and SE; In Portugal, notaries or lawyers perform the scrutiny if they are the ones preparing the registration; Supporting study.

<sup>205</sup> E.g. in AT, DE, BE, BG, ES, HR, IT, NL, RO; In NL, notaries are involved where limited liability companies are registered and in case of notarised partnership contracts, but not otherwise as a matter of course; Supporting study.

<sup>206</sup> E.g. in LU and CZ; Supporting study.



their responsibility to ensure the correctness of the under scrutiny information<sup>207</sup>. For some Member States, third parties are involved, such as banks or auditors to verify certain information<sup>208</sup>. Yet, other approaches are also used. For example, in DK and IT, a system is used to carry out automatic checks during a mandatory self-registration, whereby a confirmation of registration is sent by email to the natural person allowing them to react in case the registration is unlawful or incorrect<sup>209</sup>.

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<sup>207</sup> Supporting study and ICLEG report on use of company information.

<sup>208</sup> E.g. in AT, DK and LU, this verification concerns the payment of cash contributions; Supporting study.

<sup>209</sup> ICLEG report on use of company information.

## ANNEX 13: THE SME TEST – SUMMARY OF RESULTS

<b>(1) Preliminary assessment of businesses likely to be affected</b>	
<p>The planned initiative, as the already existing EU company law acquis, does not make a distinction between SMEs and larger companies and all companies fall under its scope of application. Therefore, the needs of and impacts on SMEs are analysed throughout the impact assessment.</p> <p>The consultation activities showed that SMEs encountered difficulties when looking for information about companies in other Member States and confirmed obstacles faced when setting-up subsidiaries or branches, or in other cross-border situations (including the need to resubmit company data, legalisation/apostille, certified translation).</p> <p>As SMEs account for 98-99% of limited liability companies in the EU and it is estimated that around 40% of SMEs are engaged in cross-border activities, they will particularly benefit from the expected administrative burden reduction (of more than EUR 437 million per year). The measures, including the resulting increased legal certainty, will also positively impact SMEs, as they do not have the financial and administrative resources of large companies and are, thus, more affected by unclear and complex rules.</p> <p>The initiative will also benefit start-ups, as it responds to the calls to facilitate the expansion of start-ups in the EU Start-up Nations Standard.</p>	<p>(See section 2 (problems), 6 (impact and comparison of policy options) and 7 (preferred option), Annex 2 with a synopsis report on consultations and Annex 4 on methodology)</p>
<b>(2) Consultation with SMEs representatives</b>	
<p>SME representatives were widely consulted during the preparatory process for this impact assessment. A specific targeted consultation of SMEs was carried out through an SME panel survey. For details on the results please see Annex 14. In addition, companies, and in particular SMEs, were also contacted during other consultation activities, i.e. the public consultation, a specific survey for companies and a specific workshop with companies in the context of the study supporting the IA.</p>	<p>(See Annex 2 with a synopsis report on consultations; references to SMEs' views are also made throughout the IA, in particular when describing problems and when assessing policy options)</p>
<b>(3) Measurement of the impact on SMEs</b>	
<p>The planned initiative is of relevance to SMEs, as it will contribute to the objectives of the 2020 SME Strategy, which mentioned that the Commission would assess the need for additional company law measures to facilitate cross-border expansion and scale-up by SMEs.</p> <p>The specific objectives of this initiative (to increase the amount and improve the reliability of company data available in business registers and/or through the Business Registers Interconnection System (BRIS) and enable direct use of this data in cross-border situations) are both very relevant for SMEs as access to company data and its use has a strong impact on SMEs' cross-border activities. One of the overall objectives of this initiative is also to achieve easier cross-border expansion for SMEs.</p>	<p>(See sections 6 (impact and comparison of policy options) and 7 (preferred option), and Annex 4 on methodology)</p>

Therefore, the impacts on companies, and in particular SMEs, are measured in all policy options.	
<b>4) Assess alternative options and mitigating measures</b>	
According to the assessment, the benefits in terms of administrative burden reduction on companies, and in particular on SMEs, are expected to much outweigh the one-off adjustment costs and the initiative is expected to bring significant burden reduction for companies and in particular SMEs. Therefore, there is no need for specific measures to ease compliance for SMEs in line with the proportionality principle.	(See sections 6 (impact and comparison of policy options) and 7 (preferred option), and Annex 4 on methodology)

## **ANNEX 14: RESULTS OF THE SME PANEL CONSULTATION ON UPGRADING DIGITAL COMPANY LAW**

### **1. BACKGROUND**

This SME panel consultation is linked to the preparatory work on a new legislative initiative on “Upgrading digital company law”<sup>210</sup>, planned for adoption by the Commission in Q1 2023. This initiative will aim to: (i) enhance access at EU level to information about companies in the national business registers; (ii) facilitate the expansion to other Member States’ markets and reduce administrative burden by making it possible for companies to directly (without extra formalities) use company information from their national business registers when, for example, setting up subsidiaries or branches, or dealing with authorities or courts in other Member States; and (iii) further digitalise the existing EU company law procedures.

Companies, and in particular small and medium-sized companies (SMEs), are one of the main stakeholders of this initiative. That is why it was important for the Commission services to gather information about SMEs’ needs and about obstacles they encounter in the areas covered by this initiative. The questions focused on situations when SMEs:

- look for information about business partners in another Member State,
- want to open a branch or subsidiary in another Member State or
- need to provide information about their company to administrative authorities or courts in another Member State.

The questionnaire did not focus on specific sectors but was targeted at SMEs, which already have or plan to have cross-border experiences, such as e.g. business partners, an establishment/place of business, or contacts with authorities or courts in another Member State.

### **2. SHORT SUMMARY OF THE RESULTS OF THE SURVEY**

#### **2.1. OVERVIEW OF RESPONDENTS**

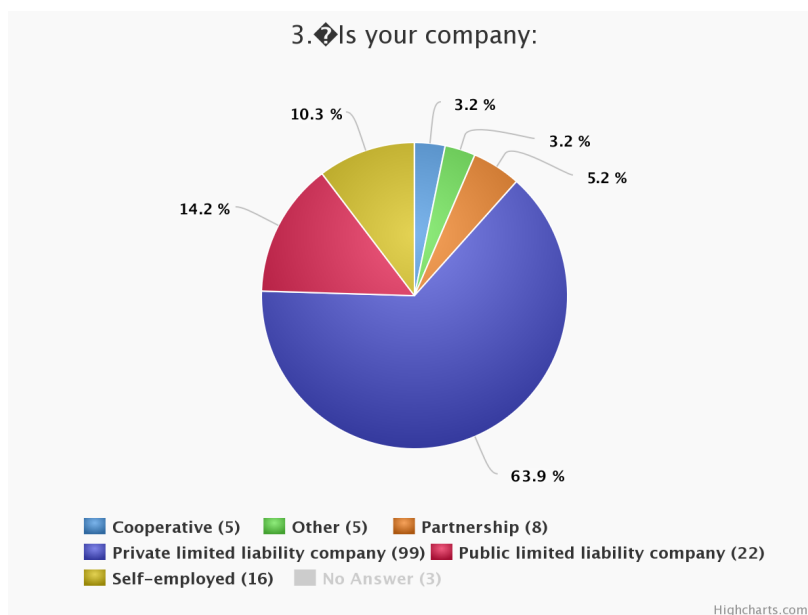
In total, 158 stakeholders replied to this public consultation in the EU Survey webpage.

Majority of responses were submitted by limited liability companies; 64% by private limited liability ones (99 out of 155<sup>211</sup>) and 14% by public (22 out of 155). 5% of replies came from partnerships (8) and 3% - from cooperatives (5). 10% of respondents were self-employed (16). The “other” category included, e.g. a business association or a technology centre.

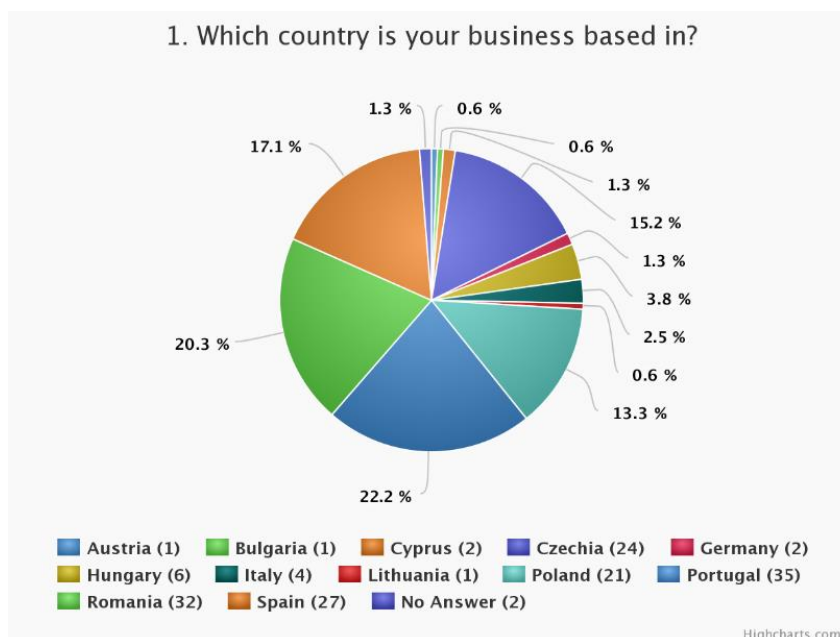
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<sup>210</sup> [Upgrading digital company law \(europa.eu\)](https://european-council.europa.eu/media/en/press-articles/detail/11700)

<sup>211</sup> 3 respondents did not provide information.



Most responses came from Portugal, followed by Romania, Spain, Czechia and Poland. There were a few replies from Hungary and Italy, and a couple or individual responses from some other Member States (Cyprus and Germany, and Austria, Bulgaria and Lithuania, respectively).



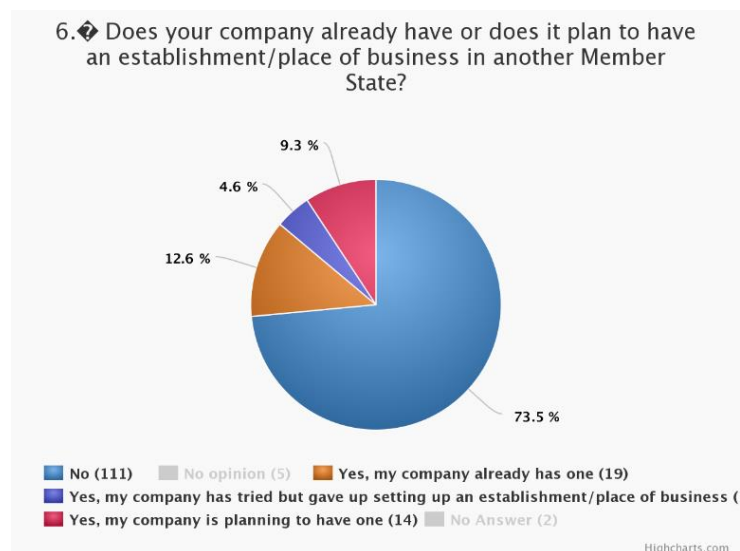
In terms of their **size**, 39%<sup>212</sup> were micro enterprises or self-employed (1 to 9 employees), 32% small (10 to 49 employees), 22% medium (50 to 249 employees), and 7% mid-cap and bigger companies (250 or more employees). 25% of respondents who answered this question were part of a group of companies (39 out of 153). In a few cases,

<sup>212</sup> As for the previous question, 3 respondents did not provide information.

their parent companies were located in another Member State (6) or in a non-EU country (8)<sup>213</sup> and otherwise, they were in the same Member State.

## 2.2. SETTING UP AN ESTABLISHMENT/PLACE OF BUSINESS AND CONTACTS WITH AUTHORITIES AND COURTS IN OTHER MEMBER STATES

13% of those who responded already have an **establishment/place of business in another Member State** (19 out of 151), 9% are planning to have one (14) whereas 5% tried but gave up (7) and a majority did not have or did not plan to have one such an establishment or place of business (73%, 111). Two respondents who tried to set up an establishment abroad mentioned administrative obstacles and burden as a reason for giving up. Establishments were set up abroad or planned mainly by the responding private and public limited liability companies. For instance, 11 private limited liability company respondents had cross-border establishments, 12 were planning to have one and 7 gave up trying to set one up, and 7 public limited liability companies already had establishments abroad, while no responding partnerships had/planned to have any establishments and only 2 cooperatives had/planned to have one.



In terms of **type of establishment/place of business in another Member State**, among those who replied in affirmative<sup>214</sup>, 50% mentioned a subsidiary (20 out of 40), 25% a branch (10) and 3 referred to other type of establishment/place of businesses<sup>215</sup>.

When asked about types of **difficulties encountered when setting up an establishment/place of business in another Member State**, the respondents who replied in affirmative mentioned that company information/documents had to be legally certified to be valid in another Member State (apostille) (20 out of 40) and that certified/sworn translation of company documents/information was needed (19); 13 also mentioned that they could not use the information/documents from their company's

<sup>213</sup> As regards non-EU countries, examples of Switzerland, Moldova, Ukraine and Taiwan were mentioned.

<sup>214</sup> I.e. who already had an establishment abroad, planned to have one or tried but gave up.

<sup>215</sup> One respondent mentioned a franchise in that context.

business register (non-recognition). 13 mentioned other difficulties and 13 encountered none. 60% of those answering to this question faced administrative costs or time consuming procedures linked to such difficulties encountered (15 out of 25) and 40% did not. Costs for legal advice (e.g. from lawyers or notaries), translations, authentication and certification costs were mentioned by a few respondents in this context.

As regards **difficulties when dealing with other authorities (e.g. tax or labour authorities) in other Member States**, 33% of those who replied in affirmative mentioned the need for certified/sworn translations of company information/documents (9 out of 40), 22% referred to the need for legal certification of documents (6), 7% to other difficulties (2)<sup>216</sup> and 1 to non-recognition of documents from their company's business register. 33% replied that they did not face any difficulties (9 out of 40). 64% of those answering to this question faced administrative costs or time consuming procedures linked to such difficulties (14 out of 22) and 36% did not (8). Similarly as in case of setting-up a subsidiary or a branch, costs of legal advice, translations, administrative fees, authentication and certification costs were mentioned by a few respondents.

17% of respondents were involved in court proceedings in another Member State (18 out of 104) and 83% were not (86). As regards **difficulties faced in such cross-border court proceedings**, 53% of those who were involved in court proceedings and answered to this question, mentioned that certified/sworn translation of company information/documents was needed (9 out of 17), 18% that information/documents had to be legally certified to be valid and that it was not possible to use documents already available in the company's business register (3 each), and one respondent mentioned other difficulties. 1 respondent did not face any difficulties. 7 respondents faced administrative costs or time consuming procedures linked to such difficulties and 8 did not.

In general, many respondents did not reply to questions about cross-border difficulties, which reflects the fact that only some of the respondents had cross-border experiences with setting up branches/subsidiaries or with dealing with authorities/courts, as shown in replies to those questions above.

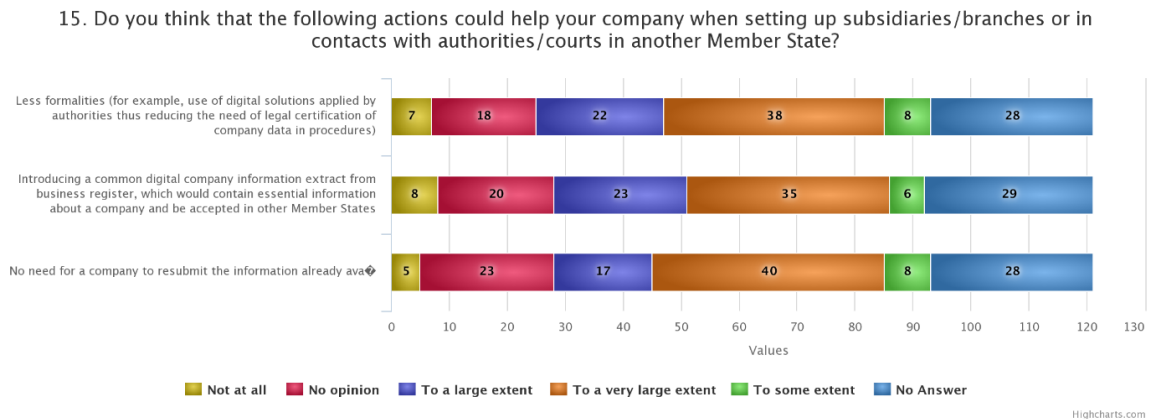
When asked whether certain **measures could help their company when setting up subsidiaries/branches or in contacts with authorities/courts in other Member States**, there was strong positive feedback from a majority of private and public limited liability companies<sup>217</sup> who expressed their opinion. 68 out of 75 of respondents thought that having **less formalities** (for example, through the use of digital solutions applied by authorities thus reducing the need of legal certification of company data in procedures) would help their company; and only 7 did not think this would be of help. Similarly, respondents thought that introducing a **common digital company information extract** and **not having to resubmit the information** already available in their company's business register would help their company (64 out of 72, and 65 out of 70,

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<sup>216</sup> One respondent mentioned the need for advice by a local expert and another one - administrative burden in that context.

<sup>217</sup> Focus on private and public limited liability companies for these two questions as respondents from those categories appeared to have most experience with setting up of subsidiaries/branches cross-border.

respectively)<sup>218</sup>. Only 8 and 5 respondents, respectively, thought that these measures would not help at all.



As to **impact that such possible measures could have on costs for their companies**, in general more private and public limited liability companies who shared their opinion thought that these would lead to a significant or small cost decrease than to a significant or small cost increase. For instance, as regards having less formalities, 49 out of 73 respondents expected a significant or small cost decrease as compared to 21 who expected a significant or small cost increase, and 3 who thought that this would not have an impact.



## 2.3. SEARCHING FOR INFORMATION ABOUT COMPANIES IN OTHER MEMBER STATES

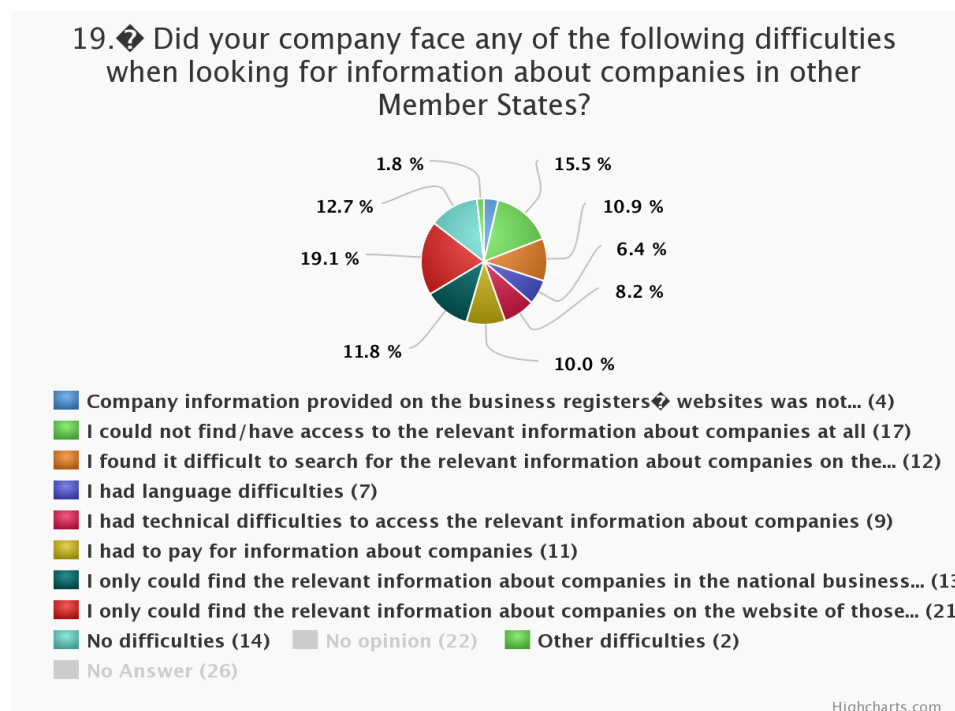
54% of respondents who answered this question already have **business partners in other Member States** (74 out of 138) as compared to 35% who do not (49). 11% mentioned that they tried but gave up finding business partners abroad (15). Some respondents mentioned difficulty in transferring or accessing information or formalities in that context.

<sup>218</sup> This includes views of respondents who thought that these measures would help their company to a very large, large or some extent.



As regards **sources of information about companies in other Member States**, 45% of those who replied search for information on companies' websites (58 out of 128), 16% in other Member State business registers (21), 4% on "find a company page" of e-Justice portal (5) and 17% use other sources (22), including national trade promotion agencies, Enterprise Europe Network, credit insurance companies, or their own networks and contacts, e.g. with other entrepreneurs, local partners, customers or suppliers, or fairs and events organised for the sector. 14% respondents did not know where to find information about companies in other Member States (18) and a small number 3% did not need such information at all (4).

In terms of **difficulties faced when looking for company information in other Member States**, most respondents who answered encountered some difficulties; only 13% did not (14 out of 110). 15% of respondents could not find or access the relevant company information at all (17); 19% could only find the relevant information on companies' websites (21) and 12% only in national business registers of those companies (13). A number of other problems were mentioned, including difficulty to search on registers' websites (11%; 12 out of 110); need to pay for company information (10%; 11); technical (8%; 9) and language (6%; 7) difficulties. 4 respondents mentioned that company information in registers was not sufficiently reliable.<sup>219</sup>

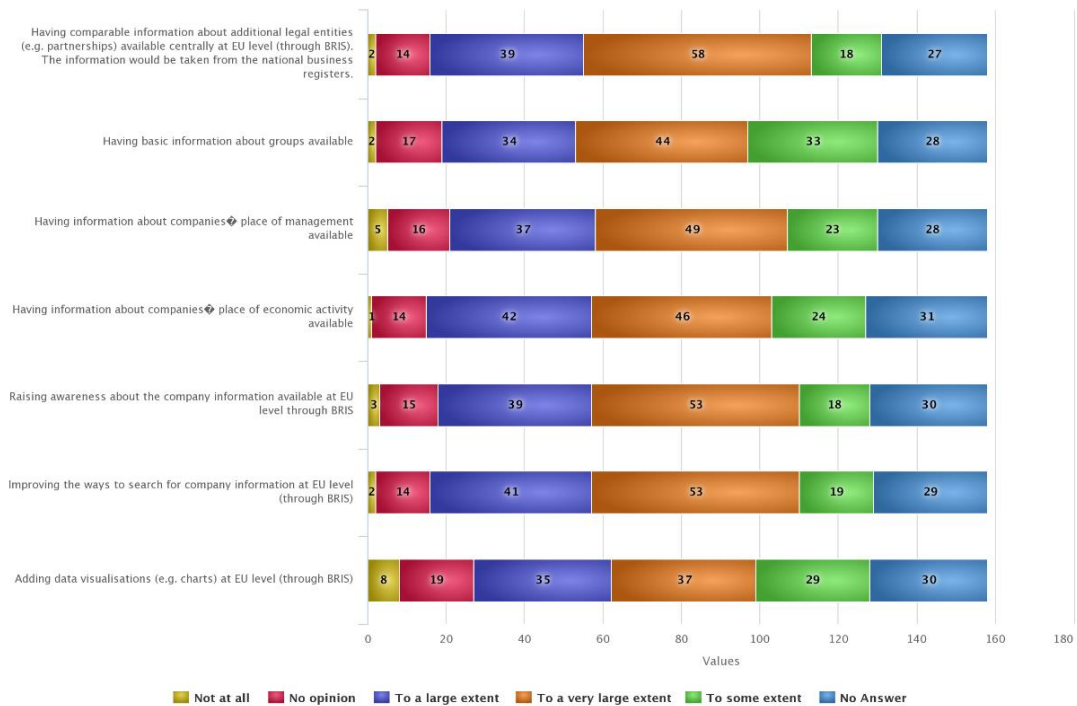


When asked whether certain **measures could help their company when looking for information about companies from other Member States**, there was strong positive feedback from a majority of respondents who expressed their opinion. The highest support was expressed for having **comparable information about additional legal**

<sup>219</sup> In the survey, respondents could only choose one reply and that is why numbers of replies per difficulty are low.

**entities** (e.g. partnerships) available at EU level (115 out of 117) and **improving the search for company information at EU level** through the Business Register Interconnection System, BRIS (113 out of 115). There were also majorities in favour of raising awareness about information at EU level through BRIS (110 out of 113), and having basic information about groups (111 out of 113), about companies' place of management (109 out of 114) and place of the main economic activity (112 out of 113) available<sup>220</sup>. In general, only very few respondents thought that such measures would not help in looking for company information cross-border.

20. Do you think that the following could help your company when looking for information about companies in other Member States?



<sup>220</sup> This includes views of respondents who thought that these measures would help their company to a very large, large or some extent.

## **ANNEX 15: LIST OF MEETINGS UNDER TARGETED CONSULTATIONS AND VIRTUAL MEETINGS**

- 24 June 2022 – Meeting of DG JUST with the European Trade Union Confederation (ETUC)
- 24 June 2022 – Meeting of DG JUST with BusinessEurope
- 4 July 2022 – Meeting of DG JUST with the Council of the Notariats of the European Union (CNUE)
- 7 July 2022 - Virtual meeting of DG JUST with a lawyer specialised in company law (Poland)
- 13 July 2022 - Virtual meeting of DG JUST with a lawyer specialised in company law (Spain)
- 18 August 2022- – Virtual meeting of DG JUST with a legal counsel of an important European manufacturer group (Belgium)
- 26 August 2022 - Virtual meeting of DG JUST with a legal counsel of a major European manufacturer group (Netherlands)
- 29 August 2022 - Virtual meeting of DG JUST with legal counsels of a major European group (services) (Belgium)