

Concept of a “one in, one out” rule

Preliminary note:

On 11 December 2014 the Federal Government decided on key points for further reducing the bureaucratic burden on SMEs. One of these key points is the introduction of the “one in, one out” rule in Germany. What this approach basically means is that for every additional burden created by new regulatory proposals, an equivalent portion of the existing burden is removed. The aim is to restrict the proliferation of red tape in the long term without hindering political projects. In particular, measures outlined in the coalition agreement must not be obstructed or delayed.

I Area of application of the “one in, one out” rule

The “one in, one out”-rule will generally apply to all regulatory proposals from the Federal Government which impact on the business community’s annually recurrent compliance costs.

Exemptions apply to proposals which:

- constitute an exact (1:1) implementation of EU legislation, international agreements or rulings by the Federal Constitutional Court and Court of Justice of the European Union
- serve to combat substantial security threats, or
- have impacts that are time-limited (up to one year).

II Substance of the “one in, one out” rule

Application of the “one in, one out” rule will be based on the existing procedure for identifying and disclosing compliance costs in Federal Government regulatory proposals. Thus, if a regulatory proposal would result in a specific and direct reduction in the bureaucratic burden on businesses, this is deducted from the total. If the net recurrent compliance costs for businesses rise, that increase is compensated for by an equivalent reduction elsewhere. One-off changeover costs are not taken into account.

III Factors governing compensation

- **Compensation specific to the target sector**

Any increase in recurrent compliance costs for businesses can only be compensated for by a reduction in recurrent compliance costs for businesses.

- **Ministry-specific compensation**

The lead ministry for the respective individual provision is responsible for the compensation. If that department cannot identify any possible way of balancing out the increase or demonstrate that it has achieved a suitably significant reduction with previous proposals, then it may – either bilaterally or in the State Secretaries Committee on Bureaucracy Reduction – ask other government departments to take on the task (interdepartmental compensation).

- **Temporal dimension**

Where a proposal increasing the bureaucratic burden cannot be balanced out with immediate effect, the plan or prospects for compensation will be explained either in the explanatory or covering note or by some other suitable means. The usual time limit for compensatory measures to be presented is one year. The aim is to limit the rise in compliance costs within the legislative term.

- **Quantitative compensation options**

Any increase in the bureaucratic burden must trigger a decrease of the same amount elsewhere.

The State Secretaries Committee on Bureaucracy Reduction may cap the amount of compensation required if the new increase in compliance costs demonstrably exceeds the capacity of the relevant ministry to offset the burden or if the compliance costs as presented do not adequately reflect direct cost reductions that could be expected, or if or the regulatory proposal will otherwise benefit the business community.

Before the State Secretaries Committee takes a decision on any plan to cap compensation, the National Regulatory Control Council is to be consulted as to whether the planned compensation, particularly the compliance costs, has been presented reasonably and plausibly.

IV Monitoring

Alongside the established monitoring of changes in compliance costs, the Federal Statistical Office will collate data on planned compensatory measures for each government department, detailing how the regulatory proposals covered by the “one in, one out” rule affect the accumulation and reduction of compliance costs. The government departments will report to the State Secretaries Committee on Bureaucracy Reduction every six months on progress made and difficulties encountered with regard to the planned reduction measures and any imminent failure to meet targets.

V Reporting

The Federal Government’s obligation to report annually to the German Bundestag, as provided for in Section 7 of the Act on the Establishment of a National Regulatory Control Council, will also cover implementation of the “one in, one out” rule.

VI Review/revision of procedure

In liaison with the National Regulatory Control Council, the Federal Government will review and if necessary revise the procedure for identifying and expressing compliance costs.

VII Effective date

The “one in, one out” rule will apply to all proposals adopted by the Federal Government from 1 July 2015 onwards. The relevant date will be that of the Cabinet decision. Compliance-cost reductions generated earlier will be included in the Federal Government’s reporting on the “one in, one out” rule.