

Annual report

2020

Regel|rådet







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Annual Report **2020**

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# Foreword

Like everyone, the Swedish Better Regulation Council has experienced an unusual year. Legislation with a major impact on businesses has passed in a short period of time, and one might ask why not all proposals have been responded to with opinions. Unfortunately, the Better Regulation Council has only had the opportunity to examine certain proposals. Partly because the Better Regulation Council loaned staff to manage support for short-term work during the spring, and partly because many major proposals were never sent to the Better Regulation Council. During the autumn, the Swedish Better Regulation Council was able to start working more normally again and introduced extra meetings to handle matters with a week's notice.

In day-to-day operations, we can see that the proportion of impact assessments that meet the requirements this year is only just over half, which is a decrease from the previous year when the proportion of approved ones was two-thirds. In addition, the aspects of the impact assessment that are regularly most deficient are Competition Impact, Administrative and Other Costs and Special Consideration for Small Enterprises. In other words, aspects that are directly related to the impact on companies.

As a result of the low proportion of impact assessments that meet the requirements and the many important aspects that fail, decisions are taken with insufficient knowledge of the effects they actually have on the economy in the long term. It is important to remember that the purpose of the Swedish Better Regulation Council is to make it as transparent as possible to the legislator how a proposal affects everything from sole proprietorships to large companies. Sometimes I am asked how the Swedish Better Regulation Council can approve proposals that will significantly burden companies, perhaps in both time and money. The answer is that an impact assessment that has clear descriptions allows the person who is responsible for the proposal or is for deciding on it to see and take this into account in further work on regulatory design and decision-making.

In its annual report for 2019, the Swedish Better Regulation Council presented seven proposals to improve impact assessments in regulatory work both in Sweden and at EU level. The qualitative evaluation suggests that only the somewhat more transparent design of the investigated directives has, in some cases, come a few steps along the way. Obviously, the Swedish Better Regulation Council is aware that the COVID-19 pandemic has affected the circumstances of Swedish regulators during the year. However, our recommendations also continue to stand and in this year's report we make another recommendation, namely that the Government must design a mission to renew the work on cost estimates to be reported in the impact assessments. Cost estimates need to reflect the reality of companies resulting from regulatory changes.

I would also like to extend warm thanks to Yvonne von Friedrichs, who left the Council's work during the year and a warm welcome to Hans Peter Larsson, who has been appointed as a full member by the Government.



Elisabeth Thand Ringqvist  
*Chair*

# Summary

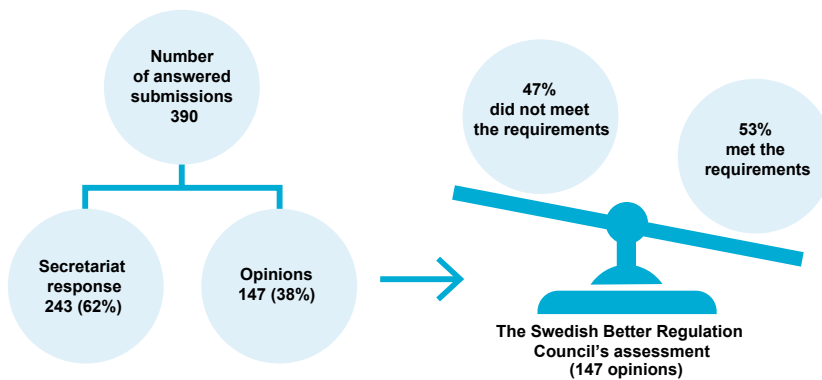
## The Swedish Better Regulation Council

**Who?** The Swedish Better Regulation Council is a designated decision-making body whose members are appointed by the Government.

**What?** The task of the Swedish Better Regulation Council is to review the quality of impact assessments for proposed statutes that may have an impact on business. The assessment is based on the requirements set out in sections 6 and 7 of the Ordinance on Regulatory Impact Assessment (Swedish Code of Statutes 2007:1244).

**How?** When a proposal is deemed to have a significant impact on business, the Swedish Better Regulation Council issues an opinion on the quality of the impact assessment. The Swedish Better Regulation Council may also refrain from giving its opinion and instead provide a secretariat response, for example if the proposal is not deemed to have a significant impact on business.

## Answered submissions



## Distribution of opinions 2020

### Government Offices of Sweden

55 submissions

- 45 % met the requirements
- 55 % did not meet the requirements

### Official government reports (SOU)

24 submissions

- 42 % met the requirements
- 58 % did not meet the requirements

### Government authority reports

7 submissions

- 57 % met the requirements
- 43 % did not meet the requirements

### Administrative authorities

61 submissions

- 64 % met the requirements
- 36 % did not meet the requirements



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# Introduction

## The Swedish Better Regulation Council's mandate

The Swedish Better Regulation Council is a specific decision-making body whose task is to review impact assessments into new and amended regulations that have an impact on business. If the regulator determines that a proposed statute may have such effects, the proposal and the associated impact assessment shall be referred to the Swedish Better Regulation Council. The Swedish Better Regulation Council examines the referred impact assessments and assesses whether they meet the requirements set out in sections 6 and 7 of the Ordinance on Regulatory Impact Assessment (Swedish Code of Statutes 2007:1244), abbreviated below to KUF. The Swedish Better Regulation Council also reviews impact assessments created at EU level, at the request of the relevant Swedish government ministry or agency.<sup>1</sup>

The Swedish Better Regulation Council was established in 2008 as part of the government's work on regulatory simplification for business. During the period 2009–2014, the Swedish Better Regulation Council was organised as a committee. In 2015, the activities of the Swedish Better Regulation Council became permanent and have since been organised as a specific decision-making body within the activities of the Swedish Agency for Economic and Regional Growth.

## The composition and organisation of the Swedish Better Regulation Council

The Swedish Better Regulation Council consists of a chair, a vice chair and three ordinary members. Elisabeth Thand Ringqvist is chairman. Claes Norberg is vice chairman and Hanna Björknäs, Hans Peter Larsson and Lennart Renbjær are the ordinary members<sup>2</sup>. The deputies are Annika Bergman, Cecilia Gunne, Lars Silver and Marie-Louise Strömgren.

The Swedish Better Regulation Council is assisted by the Swedish Agency for Economic and Regional Growth's staff at the Better Rules unit in carrying out its tasks, such as preparing matters for the meetings of the Swedish Better Regulation Council. The work is coordinated by a director at the Swedish Agency for Economic and Regional Growth with special powers delegated by the Swedish Better Regulation Council.

## Contents of the report

This is the 12th annual report of the Swedish Better Regulation Council, which summarises the statistics on matters submitted to the Swedish Better Regulation Council as well as the other activities of the Swedish Better Regulation Council in 2020.

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<sup>1</sup> The mandate and composition of the Swedish Better Regulation Council is set out in sections 17-19 of the Ordinance (2009:145) with instructions for the Swedish Agency for Economic and Regional Growth.

<sup>2</sup> Until 14 October 2020, Yvonne von Friedrich was an ordinary member and was replaced on 15 October 2020 by Hans Peter Larsson as an ordinary member.



# Swedish Better Regulation Council



**Elisabeth Thand Ringqvist** | *chairman*



**Claes Norberg** | *vice chairman*



**Hanna Björknäs** | *member*



**Yvonne von Friedrich** | *member*  
*Member until 14 October 2020.*



**Hans Peter Larsson** | *member*  
*Member as of 15 October 2020.*



**Lennart Renbjer** | *member*



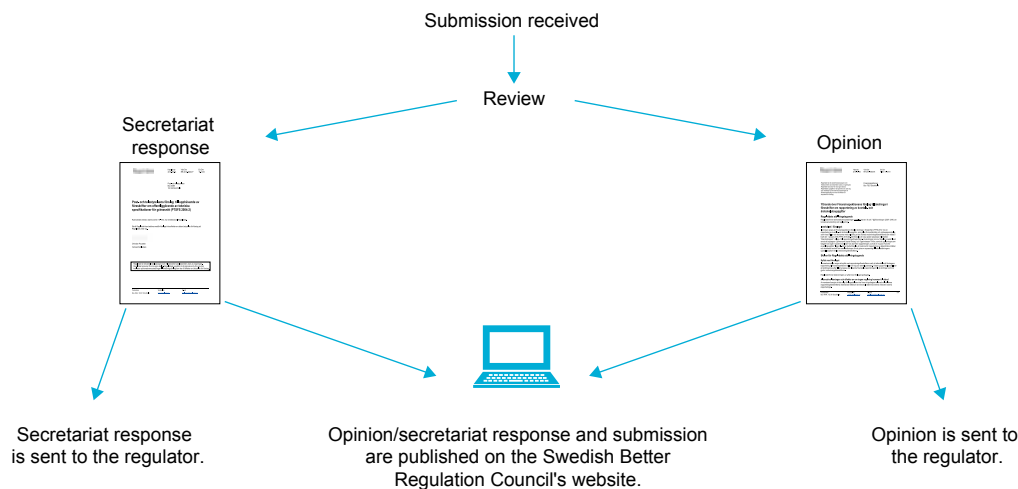
**Christian Pousette** | *director*

## 1

## Reviews in practice

Government ministries and agencies shall refer proposals for new and amended regulations that may have a significant impact on business to the Swedish Better Regulation Council. For government agencies, this is governed by the Ordinance (2011:118) on the authorities' obtaining of opinions from the Swedish Better Regulation Council, and for government ministries, by Guidelines for the Government Offices of Sweden's submission of documents to the Swedish Better Regulation Council.

When a submission is received by the Swedish Better Regulation Council, the first assessment is whether the submission shall be answered with an opinion or a secretariat response. A secretariat response means that the Swedish Better Regulation Council does not give an opinion on the submitted proposal. The secretariat response sets out the reason for this. See also section *Secretariat responses*. The decisive factor for the assessment is whether the proposal could have effects of such importance for business that the Swedish Better Regulation Council should issue an opinion. Effects of importance for business include both economic and other effects. If the proposal is deemed to have effects of importance for business, or if the effects of the proposal cannot be assessed, the Swedish Better Regulation Council responds to the submission with an opinion.



### Opinion

The Swedish Better Regulation Council has been working for a number of years to draw up opinions with as clear assessments as possible, since the opinions of the Swedish Better Regulation Council are the main channel for reaching out to regulators. The elements of the impact assessment that have improvement potential therefore need to be clearly identified. The purpose of this is to improve the quality of future impact assessments, which will hopefully have the effect of making the effects of the rules coming into force better researched and known than they would have been with a poorer quality impact assessment.

The opinion of the Swedish Better Regulation Council first shows the position regarding the impact assessment in its entirety – whether the Swedish Better Regulation Council finds that the impact assessment meets or does not meet the requirements of sections 6 and 7 of the KUF.



This aims to ensure that the reader directly sees how the Swedish Better Regulation Council has assessed the impact assessment. The contents of the submission are then described followed by all paragraphs in sections 6 and 7 divided into the different aspects. For each such heading, one or more partial assessments are made of a particular section of the impact assessment. The partial assessment indicates whether the point can be considered acceptable or deficient.

After all the headings comes the Swedish Better Regulation Council's overall assessment. Under this heading, the outcome of all the points of the proposer's impact assessment is put together into a final assessment. The final assessment is that the impact assessment meets or does not meet the requirements of sections 6 and 7 of the KUF.

The aspects based on which the Swedish Better Regulation Council reviews the impact assessments are described below.

### **Aspects of the impact assessment that the Swedish Better Regulation Council reviews**

**The Swedish Better Regulation Council assesses an impact assessment based on how well the proposer has presented the following aspects:**

- 1. The purpose of the proposal**
- 2. Alternative solutions**
- 3. Effects if no regulation is issued**
- 4. Consistency of the proposal with EU law**
- 5. Particular attention to the date of entry into force**
- 6. Need for provision of special information**
- 7–9. Companies affected by number, size and industry**
- 10. Administrative costs resulting from the proposal**
- 11. Other costs resulting from the proposal**
- 12. Impact on companies' operations**
- 13. Effect on competitive conditions**
- 14. Effect on business in other respects**
- 15. Need for special attention for small businesses**

## Secretariat responses

There are a number of reasons why a submission is answered with a secretariat response from the Swedish Better Regulation Council.

### Reasons for secretariat responses

**Limited effects for companies:** The proposal is not deemed to have effects of such importance for business that the Swedish Better Regulation Council should issue an opinion. This is the most common reason for secretariat responses.

**Resource reasons:** It may be that there are many cases in relation to available human resources. The Swedish Better Regulation Council therefore needs to prioritise commenting on the submissions with the greatest significance for companies.

**Time reasons:** According to the Ordinance (2011:118) on the authorities' obtaining of opinions from the Swedish Better Regulation Council and Guidelines for the Government Offices of Sweden's transmission of documents to the Swedish Better Regulation Council, the Swedish Better Regulation Council shall be given a response time of at least two weeks to answer a submission. If the proposer leaves a shorter time, the Swedish Better Regulation Council requests an extended response time. If this is not possible for the proposer, the submission is answered with a secretariat response.<sup>3</sup>

**Other reasons for secretariat responses:** For example, no statute text has been referred to the Swedish Better Regulation Council. This category also includes submissions covered by Section 7 of the Fee Regulation (1992:191), which means that KUF does not apply, as well as submissions where decisions on regulations have been taken before the submission to the Swedish Better Regulation Council.

## Review of impact assessments created at EU level

Since 2011, the Swedish Better Regulation Council has been responsible for giving its opinion on impact assessments on draft regulations drawn up at EU level, which are deemed to have a major impact on business in Sweden. The mandate of the Swedish Better Regulation Council in these cases differs from the mandate when it comes to the review of impact assessments drawn up by a Swedish proposer. Opinions on EU impact assessments do not give judgments on whether or not the impact assessment meets the requirements. Instead, reasoning is made about the elements included in the EU impact assessment and whether a supplementary impact assessment needs to be drawn up in order to highlight the impact of the proposal on business in Sweden and which aspects need to be specifically reviewed in this. So far, the Swedish Better Regulation Council has recommended in all opinions that a supplementary impact assessment should be drawn up by the Swedish regulator. The review of impact assessments created at EU level is more time-consuming and extensive than the review of impact assessments drawn up by a Swedish proposer.

## Communication

The Swedish Better Regulation Council has a website<sup>4</sup> where there is information about the opinions and secretariat responses of the Swedish Better Regulation Council and about the activities in general. There is also a statistics page where you can compare the results between different regulators. The number of visitors to the Swedish Better Regulation Council's website has increased to more than 13,000 in 2020. The Swedish Better Regulation Council's newsletter Regelrätt is published six times a year. Regelrätt contains information about some of the Swedish Better Regulation Council's opinions, as well as an interview with a person who is currently topical in the field of impact assessment. The number of subscribers is about 800, which has remained unchanged for a number of years. Subscribers may be persons working in government agencies or ministries, organisations or others interested in the activities of the Swedish Better Regulation Council.

<sup>3</sup> There are some exceptions to this, see Chapter 4 The impact of the COVID-19 pandemic on the work of the Swedish Better Regulation Council.

<sup>4</sup> [www.regelradet.se](http://www.regelradet.se)



## 2

## International collaboration

The Swedish Better Regulation Council is a member of RegWatchEurope (RWE), a network of independent review bodies. The overall objective of the network is to promote regulatory improvement at national and global level through exchange of experience and advocacy. The focus is on impact assessment and evaluation.

In 2020, the network received an eighth member, the Danish Business Regulation Forum. Previous members, in addition to the Swedish Better Regulation Council, include review bodies in Finland<sup>5</sup>, the Netherlands<sup>6</sup>, Norway<sup>7</sup>, the United Kingdom<sup>8</sup>, the Czech Republic<sup>9</sup> and Germany<sup>10</sup>. The different review bodies have different mandates and resources, which means that their function vary to some extent, but all of them review regulatory consequences and are advisory. For example, some councils have the task of reviewing the quality of evaluations of the impact of existing rules, the majority have dialogues with regulators for supporting purposes before completion of impact assessments and several have a broader role in each country's rule simplification work.

The new European Commission's work programme for 2020 contains several policy commitments for better legislation, perhaps the most central of which is the introduction of the 'one-in-one-out'.<sup>11</sup> This issue was also the focus of meetings held by representatives from RWE, including the Swedish Better Regulation Council, with the new EU Commissioner for Regulatory Simplification and the Regulatory Control Board<sup>12</sup> back in January to discuss current issues and future cooperation.

During the year, RWE prepared and published recommendations on how to improve regulatory simplification at EU level. RWE notes that a large proportion of regulatory costs for businesses, citizens and authorities originates from EU legislation. Against this background, it can be noted that almost 40% of the European Commission's legislative proposals are not accompanied by an impact assessment, but only a brief summary of the background and purpose and, at most, only a rough estimate of overall costs<sup>13</sup>. These do not provide the detailed and in-depth information necessary to fully understand the implications of a proposal. It is the General Secretariat of the European Commission that decides whether to carry out an impact assessment.

RWE proposes an extended mandate for the Regulatory Control Board. This should, inter alia, be mandated to review the General Secretariat's decisions on the need for an impact assessment and to issue such a recommendation publicly. If the General Secretariat still does not decide to carry out an impact assessment, the Commission must publicly justify this, in accordance with the 'follow or explain' principle<sup>14</sup>. RWE also proposes the introduction of a simplified impact assessment, which is more detailed than the existing concise summary and at least includes a quantification of direct costs.

RWE proposes that the Legislative Control Board should also be mandated to provide support to other EU institutions, preferably the European Parliament and the Council of Ministers. Although

<sup>5</sup> Finnish Council of Regulatory Impact Analysis (FCRIA).

<sup>6</sup> Advisory Board on Regulatory Burden (ATR).

<sup>7</sup> Norwegian Better Regulation Council (NBRC/Regulatory Council).

<sup>8</sup> Regulatory Policy Committee (RPC).

<sup>9</sup> Regulatory Impact Assessment Board (RIA).

<sup>10</sup> Nationaler Normenkontrollrat (NKR).

<sup>11</sup> English term: One-In-One-Out (OIOO).

<sup>12</sup> Regulatory Scrutiny Board (RSB).

<sup>13</sup> English term: Explanatory Memorandum.

<sup>14</sup> English term: Comply or Explain.



the European Commission has come quite a long way in its rule improvement work, the same cannot be said of the Parliament and the Council. These institutions have undertaken, in an interinstitutional agreement, to carry out impact assessments when they table significant amendments in negotiations, but so far only the Parliament has carried out a few such assessments. RWE calls on both institutions to live up to their commitments, to introduce a common methodology and to adopt their own regulatory improvement strategies.

The Swedish Better Regulation Council participated in a seminar organised by the Regulatory Control Board on the role of review in better legislation and in two workshops on proportionality and the consultation process, organised by RWE. The workshops involved a wider range of actors than the members of RWE. RWE usually participates in seminars organised by the OECD Regulatory Committee<sup>15</sup>, which provides a forum for exchanging experiences and ideas on regulation and regulatory simplification. The emphasis is on impact assessments, consultations and evaluations. This year's webinar focused on how to ensure a high quality in the process of crisis legislation.

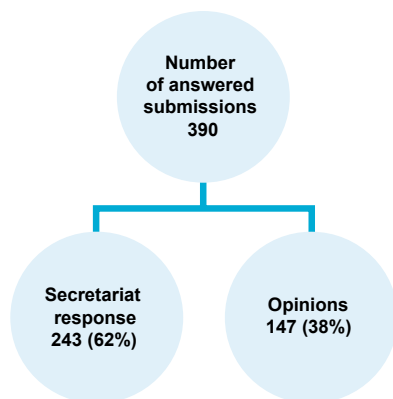
The contacts and exchange of experience contribute valuable insights for the Swedish Better Regulation Council about the challenges and possible solutions that exist for describing and reviewing the consequences of regulations. In 2020, the work was particularly important in exchanging experiences on legislative processes and measures related to the COVID-19 pandemic. In view of the fact that many rules were decided under strong time pressure, an important common conclusion is that retroactive evaluation of these is particularly important.

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<sup>15</sup> Regulatory Policy Committee.

# 3 Reviews in figures

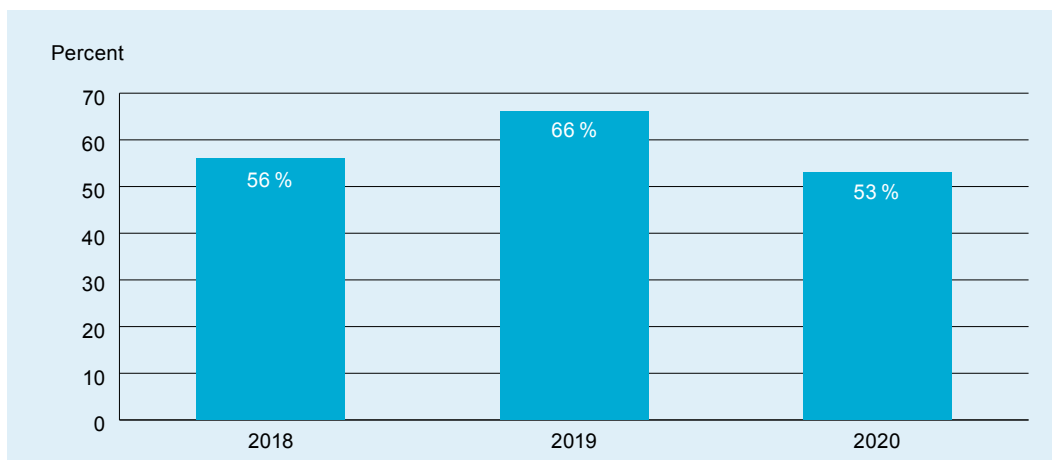
In 2020, the Swedish Better Regulation Council dealt with 390 cases. Of these, 147 resulted in opinions (representing 38 %) and 243 resulted in secretariat responses (representing 62 %).



**Figure 1:** Answered submissions in 2020.

## Opinions

Of the 147 cases on which the Swedish Better Regulation Council rendered opinions, 78 have contained an impact assessment which has been deemed overall to meet the requirements of sections 6 and 7 of the KUF, which represents 53 %. The result is a deterioration compared to 2019, when 66 % of impact assessments were considered to meet the requirements.



**Figure 2:** The Swedish Better Regulation Council's evaluation of impact assessments in 2018, 2019 and 2020, proportion that met the requirements.



## Results per aspect

Figure 3 shows the Swedish Better Regulation Council's assessment per aspect in opinions.

Results per aspect	2020		
	Number		Proportion acceptable (%)
	Acceptable	Deficient	
Purpose	146	1	99 %
Effects if no regulation is issued	137	10	92 %
Affected companies by industry	129	18	88 %
Consistency with EU law	130	17	88 %
Particular attention to the effective date	127	20	86 %
Alternative solutions	121	26	82 %
Provision of special information	102	45	71 %
Number of companies affected	102	45	69 %
Effects in other respects	101	46	69 %
Changes in business activities	96	51	65 %
Other costs	78	69	53 %
Special attention for small businesses	77	70	52 %
Administrative costs	74	73	50 %
Competitive impact	69	78	47 %
Size of the companies affected	68	79	47 %

**Figure 3:** The Swedish Better Regulation Council's assessment per aspect 2020, ranked by the highest percentage of acceptable.

The points in sections 6 and 7 of the KUF with the highest percentage of acceptable descriptions are:

- The proposer's description of the purpose and what it wants to achieve with regulation (99 %),
- Effects if no regulation is issued (92 %),
- Consistency with EU law (88 %),
- Affected companies by industry (88 %),
- Particular attention to the date of entry into force (86 %),
- Alternative solutions (82 %) and
- Provision of special information (71 %).

The points in sections 6 and 7 of the KUF with the lowest percentage of acceptable descriptions are:

- Size of the companies affected (47 %),
- Consequences for competition between companies (47 %),
- Impact of the proposal on the administrative costs of the affected companies (50 %),
- If special attention is necessary for small businesses in the design of the rules (52 %),
- Impact on companies' other costs (53 %),
- Need for changes in companies' business activities (65 %),
- Number of companies affected (69 %) and
- Effects in other respects (69 %).

The Swedish Better Regulation Council makes a proportionality assessment of both each individual aspect and the overall assessment. What is sufficient to reach an acceptable assessment may therefore differ between cases, given the nature of the cases. The existence of descriptions of aspects of major importance to companies may therefore have a bearing on the whole case and whether the overall assessment becomes acceptable or deficient.

## Apportionment of opinions – sender

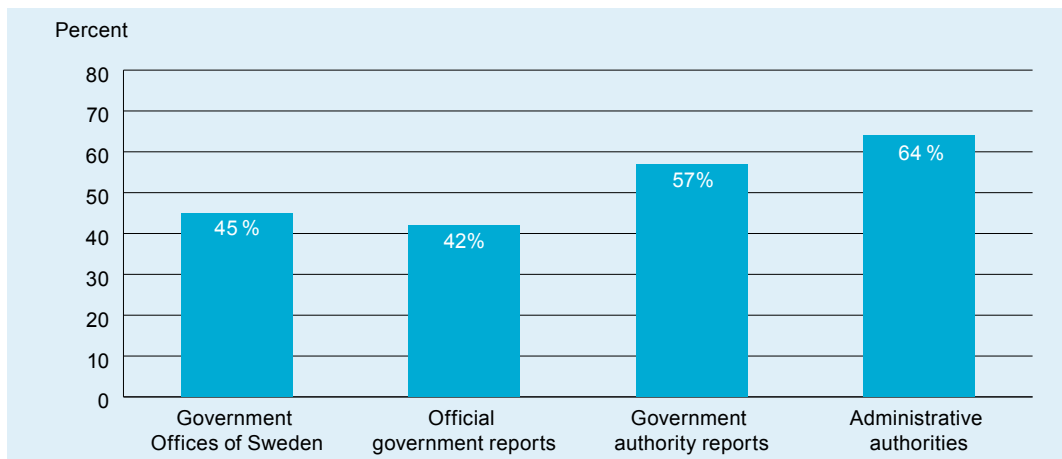
The Swedish Better Regulation Council receives submissions from administrative authorities and the various government ministries of the Government Offices of Sweden. The results are presented as follows:

1. Memoranda and other internally produced submissions, referred by the Government Offices of Sweden.
2. Official government reports (SOU) produced by committees of inquiry and referred by the Government Offices of Sweden.
3. Government authority reports produced by administrative authorities. These may be referred by the Government Offices of Sweden or by administrative authorities. Government authority reports contain proposals for new or amended legislation drawn up by administrative authorities. Most often it is the result of a government commission, but they can also be created on their own initiative by the administrative authority, through a so-called request to the responsible government ministry.
4. Submissions prepared and referred by administrative authorities, containing proposals for regulations.

The 147 submissions leading to opinions in 2020 were distributed as follows:

- 55 submissions produced internally within the Government Offices of Sweden
- 24 official government reports (SOU)
- 7 Government authority reports
- 61 submissions from administrative authorities.

Referring body and type of submission	Total	Share of all submissions received (%)	Meets requirements	Does not meet requirements	Proportion that meet requirements (%)
Government Offices of Sweden	55	37.4 %	25	30	45 %
Official government reports	24	16.3 %	10	14	42 %
Government authority reports	7	4.8 %	4	3	57 %
Administrative authorities	61	41.5 %	39	22	64 %



**Figure 4:** Distribution of opinions and proportion that met the requirements, 2020.

- Of the Government Offices of Sweden’s internally developed impact assessments, 25 out of 55 were deemed to meet the requirements (45 %). This compares with 2019, when 24 out of 40 (60 %) and 2018, when 11 out of 31 (35 %) respectively, were deemed to meet the requirements.
- Of the impact assessments related to official government reports, 10 out of 24 were deemed to meet the requirements (42 %). This compares with 2019, when 9 out of 22 (41 %) and 2018, when 13 out of 20 (65 %) respectively, were deemed to meet the requirements.
- Of the impact assessments related to government authority reports, 4 out of 7 were deemed to meet the requirements (57 %). This compares with 2019, when 3 out of 6 (50 %) and 2018, when 9 out of 11 (82 %) respectively, were deemed to meet the requirements.
- Of the impact assessments related to submissions from government agencies, 39 out of 61 were deemed to meet the requirements (64 %). This compares with 2019, when 66 out of 86 (77 %) and 2018, when 50 out of 81 (62 %) respectively, were deemed to meet the requirements.

## Government Offices of Sweden

The Swedish Better Regulation Council gave its opinion on the impact assessments in 55 submissions produced internally at the Government Offices of Sweden. Of these, 25, representing 45 %, were deemed to meet the KUF requirements. This compares with 2019, when 24 out of 40 (60 %) and 2018, when 11 out of 31 (35 %) respectively, were deemed to meet the requirements.

Government Offices of Sweden	Number		
	Meets requirements	Does not meet requirements	Total
Ministry of Employment	0	1	1
Ministry of Finance	21	17	38
Ministry of Infrastructure	0	1	1
Ministry of Justice	1	3	4
Ministry of the Environment	2	3	5
Ministry of Enterprise and Innovation	1	4	5
Ministry for Foreign Affairs	0	1	1
<b>Total</b>	<b>25</b>	<b>30</b>	<b>55</b>

**Figure 5:** Opinions of the Swedish Better Regulation Council on the internally prepared submissions of the Government Offices of Sweden, 2020.

## Official government reports (SOU)

The Swedish Better Regulation Council gave its opinion of the impact assessments in 24 official government reports. Of these, 10, representing 42 %, were deemed to meet the KUF requirements. This compares with 2019, when 9 out of 22 (41 %) and 2018, when 13 out of 20 (65 %) respectively, were deemed to meet the requirements.

Official Government Reports	Number		
	Meets requirements	Does not meet requirements	Total
Ministry of Employment	2	0	2
Ministry of Finance	5	6	11
Ministry of Infrastructure	1	1	2
Ministry of Justice	0	1	1
Ministry of the Environment	1	1	2
Ministry of Health and Social Affairs	0	2	2
Ministry of Education and Research	1	2	3
Ministry for Foreign Affairs	0	1	1
<b>Total</b>	<b>10</b>	<b>14</b>	<b>24</b>

**Figure 6:** Opinions of the Swedish Better Regulation Council on official government reports by referring government ministries, 2020.

### Government authority reports

The Swedish Better Regulation Council gave its opinion of the impact assessments in 7 government authority reports. Of these, 4, representing 57 %, were deemed to meet the KUF requirements. This compares with 2019, when 3 out of 6 (50 %) and 2018, when 9 out of 11 (82 %) respectively, were deemed to meet the requirements.

Government Authority Reports Referring ministry and responsible administrative authority	Number		
	Meets requirements	Does not meet requirements	Total
Ministry of Finance/Swedish Tax Agency	2	0	2
Ministry of Infrastructure/Swedish Energy Markets Inspectorate	1	1	2
Ministry of the Environment/Swedish Agency for Marine and Water Management	1	0	1
Ministry of the Environment/Swedish Environmental Protection Agency	0	1	1
Ministry of Enterprise and Innovation / Swedish Environmental Protection Agency	0	1	1
<b>Total</b>	<b>4</b>	<b>3</b>	<b>7</b>

**Figure 7:** Opinions from the Swedish Better Regulation Council on government authority reports by referring ministry and responsible authority, 2020.

## Administrative authorities

The Swedish Better Regulation Council gave its opinion on the impact assessments in 61 submissions from administrative authorities. Of these, 39, representing 64 %, were deemed to meet the KUF requirements. This compares with 2019, when 66 out of 86 (77 %) and 2018, when 50 out of 81 (62 %) respectively, were deemed to meet the requirements.

Administrative Authority	Number		
	Meets requirements	Does not meet requirements	Total
Swedish Work Environment Authority	2	1	3
National Board of Housing, Building and Planning	2	1	3
Energy Markets Inspectorate	2	0	2
Swedish Energy Agency	0	1	1
Swedish Financial Supervisory Authority	5	0	5
Swedish Agency for Marine and Water Management	2	1	3
Swedish Board of Agriculture	5	1	6
Swedish Chemicals Agency	2	1	3
Swedish Food Agency	1	1	2
Swedish Civil Contingencies Agency	0	1	1
Swedish Environmental Protection Agency	0	2	2
Swedish Post and Telecom Authority	3	1	4
Swedish National Debt Office	0	2	2
Swedish Maritime Administration	0	1	1
Swedish Tax Agency	1	0	1
National Board of Health and Welfare	1	0	1
Swedish Gambling Authority	2	0	2
Statistics Sweden	2	1	3
National grid	1	0	1
SWEDAC	0	1	1
Dental and Pharmaceutical Benefits Agency	1	2	3
Swedish Transport Administration	7	0	7
Swedish Transport Agency	0	3	3
Swedish Customs	0	1	1
<b>Total</b>	<b>39</b>	<b>22</b>	<b>61</b>

**Figure 8:** Opinions from the Swedish Better Regulation Council on submissions from administrative authorities, 2020.

## Results per aspect - broken down by sender and type of submission

### Results by aspect - Government Offices of Sweden internally

A review of the Swedish Better Regulation Council's assessments per aspect among the impact assessments related to the Government Offices of Sweden's internally produced submissions reveals the following, for example:

- As the Swedish Better Regulation Council has also noted in previous years, the aspects of Section 6 of the KUF are described relatively well by the Government Offices of Sweden. The acceptable proportions are between 64 % (need for provision of special information) and 98 % (description of the background and purpose of the proposal).
- Also this year, the descriptions of the aspects relating to Section 7 KUF have a lower proportion of acceptable sub-assessments. The description of the impact on the companies' administrative costs has the lowest proportion of acceptable partial descriptions at 38 %, while in other respects the description of affected companies by industry has the highest proportion of acceptable descriptions at 87 %.
- When comparing with the 2019 results, it can be noted that the main improvement concerns the description of the effects if no regulation is issued (+12 %). Other improvements only represent a few percentage points. Notwithstanding the above on the impact of the proposal in other respects, the descriptions in this respect have deteriorated since last year (-25 %), as well as the description of the impact of the proposal on the administrative costs of companies (-17 %) and the impact on competition (-16 %).

Government Offices of Sweden (produced internally)	Number		Percentage acceptable (%)
	Acceptable	Deficient	
Results per aspect and regulator			
Purpose	54	1	98 %
Effects if no regulation is issued	52	3	95 %
Particular attention to the effective date	49	6	89 %
Affected companies by industry	48	7	87 %
Consistency with EU law	46	9	84 %
Alternative solutions	42	13	76 %
Number of companies affected	36	19	65 %
Effects in other respects	36	19	65 %
Provision of special information	35	20	64 %
Changes in business activities	34	21	62 %
Other costs	28	27	51 %
Special attention for small businesses	23	32	42 %
Size of the companies affected	23	32	42 %
Impact on competition	23	32	42 %
Administrative costs	21	34	38 %

**Figure 9:** Assessment of the Swedish Better Regulation Council by aspect, internally prepared submissions of the Government Offices of Sweden, 2020.

## Results per aspect - official government reports

A review of the Swedish Better Regulation Council's assessments per aspect among the impact assessments related to the official government reports reveals the following, for example:

- The Swedish Better Regulation Council has also previously noted for official government reports that the aspects of section 6 of the KUF are described relatively well. That trend continues. The acceptable proportions are between 54 % (need for special information measures) and 100 % (description of the background and purpose of the proposal).
- The lowest proportion of acceptable sub-descriptions of administrative costs is for the aspects of Section 7 of the KUF, with a share of 38 %. The highest proportion of acceptable descriptions is for the description of affected companies' by industry, with 96 %.
- When comparing with the 2019 results, it can be noted that the main improvements in descriptions of individual aspects are in terms of the number of companies affected (+20 %) and, despite the above, the administrative costs (+24 %). There are deteriorations in descriptions of the need for provision of special information (-28 %), compliance with EU law (-12 %) and impact in other respects and operational impact (both -10 %).

Official Government Reports (SOU)	Number		Percentage acceptable (%)
	Acceptable	Deficient	
Purpose	24	0	100 %
Affected companies by industry	23	1	96 %
Effects if no regulation is issued	21	3	88 %
Particular attention to the effective date	21	3	88 %
Consistency with EU law	20	4	83 %
Alternative solutions	19	5	79 %
Number of companies affected	18	6	75 %
Effects in other respects	14	10	58 %
Size of the companies affected	13	11	54 %
Changes in business activities	13	11	54 %
Special attention for small businesses	13	11	54 %
Provision of special information	13	11	54 %
Other costs	12	12	50 %
Impact on competition	9	15	38 %
Administrative costs	9	15	38 %

**Figure 10:** The Swedish Better Regulation Council's assessment by aspect, official government reports, 2020.



### Results per aspect - government authority reports

A review of the Swedish Better Regulation Council's assessments per aspect among the impact assessments related to government authority reports reveals the following, for example:

- For this consultation group as well, the aspects of Section 6 KUF are also described better than the company aspects in Section 7 of the KUF. The acceptable proportions range from 57 % (special consideration for the date of entry into force) and 100 % (the purpose of the proposal and compliance with EU law).
- For descriptions of aspects of Section 7 of the KUF, the acceptable proportions range from 43 % (description of other costs) to 86 % (affected companies by industry).
- When comparing with the 2019 results, it can be noted that there are improvements in descriptions of compliance with EU law (+50 %), the size of the affected companies (+40 %) and the need for provision of special information (+38 %). There are major deteriorations in relation to the description of particular consideration for the date of entry into force as well as the description of administrative costs (-26 %) and the description of other costs (-24 %).

Government Authority Reports	Number		Number acceptable (%)
	Acceptable	Deficient	
Results per aspect and regulator			
Consistency with EU law	7	0	100 %
Purpose	7	0	100 %
Alternative solutions	6	1	86 %
Effects if no regulation is issued	6	1	86 %
Affected companies by industry	6	1	86 %
Provision of special information	5	2	71 %
Number of companies affected	5	2	71 %
Impact on competition	5	2	71 %
Particular attention to the effective date	4	3	57 %
Changes in business activities	4	3	57 %
Effects in other respects	4	3	57 %
Administrative costs	4	3	57 %
Special attention for small businesses	4	3	57 %
Size of the companies affected	4	3	57 %
Other costs	3	4	43 %

**Figure 11:** The Swedish Better Regulation Council's assessment by aspect, government authority reports, 2020.

## Results per aspect – administrative authorities

A review of the Swedish Better Regulation Council's assessments per aspect among the impact assessments related to administrative authorities reveals the following, for example:

- The acceptable proportions regarding the descriptions of aspects in Section 6 of the KUF are between 85 % (need for provision of special information) and 100 % (description of purpose).
- As regards descriptions of aspects relating to Section 7 of the KUF, these are between 46 % (affected companies by size) and 85 % (affected companies by industry).
- When comparing with the 2019 results, it can be noted that there are improvements in descriptions of compliance with EU law (+12 %) and affected companies by size (+11 %). The main deteriorations can be found in the descriptions of other costs (-12 %), if special consideration needs to be given to small businesses (-11 %) and the size of the affected companies (-10 %).

Administrative Authorities	Number		Number acceptable (%)
	Acceptable	Deficient	
Results per aspect and regulator			
Purpose	61	0	100 %
Effects if no regulation is issued	58	3	95 %
Consistency with EU law	57	4	93 %
Alternative solutions	54	7	89 %
Particular attention to the effective date	53	8	87 %
Affected companies by industry	52	9	85 %
Provision of special information	52	9	85 %
Effects in other respects	47	14	77 %
Changes in business activities	45	16	74 %
Number of companies affected	43	18	70 %
Administrative costs	40	21	66 %
Special attention for small businesses	37	24	61 %
Other costs	35	26	57 %
Impact on competition	32	29	52 %
Size of the companies affected	28	33	46 %

**Figure 12:** The Swedish Better Regulation Council's assessment by aspect, administrative authorities, 2020.



## Secretariat response

If a proposal is not deemed to have effects of importance for companies, the Swedish Better Regulation Council does not comment on the matter, but instead responds to the submission with a so-called secretariat response. In addition to the impact of the proposal on companies, there are also a number of other reasons why a submission is answered with a secretariat response and the reason is always clear from the response. See p. 10 for more information on the different reasons for answering a submission with a secretariat response.

In 2020, the Swedish Better Regulation Council answered 243 submissions with secretariat responses.

- In 115 of the secretariat responses, corresponding to 47 %, the reason was limited effects for companies.
- In 73 of the secretariat responses, corresponding to 30 %, the reason was resources.
- In 12 of the secretariat responses, corresponding to 5 %, the reason was time.
- 43 of the secretariat responses, corresponding to 18 %, belonged to the category other<sup>16</sup>.

Reason for secretariat response	2020	
	Number	Proportion (%)
Limited effects	115	47%
Resource reasons	73	30 %
Time reasons	12	5 %
Other	43	18 %
<b>Total</b>	<b>243</b>	<b>100 %</b>

**Figure 13:** Reason for secretariat response, 2020.

<sup>16</sup> This category includes submissions where no statute text has been referred to the Swedish Better Regulation Council. There may also be submissions where Section 7 of the Fee Regulation (1992:191) applies, which means that KUF does not apply, as well as submissions where the decisions on the regulations have been taken before the referral to the Swedish Better Regulation Council, which means that the Swedish Better Regulation Council does not comment on the quality of the impact assessment.

## Review of impact assessments created at EU level

In 2020, a submission with a draft impact assessment prepared at EU level was received. As evidenced by previous annual reports, the Swedish Better Regulation Council has in the years 2017–2018 followed up on the task of reviewing impact assessments prepared at EU level<sup>17</sup>. The follow-up led to a request<sup>18</sup>, which was prepared jointly with the Swedish Agency for Economic and Regional Growth, where proposals were made on what each body should do or contribute and when in the process this should be done. The request was submitted to the Ministry of Enterprise and Innovation in November 2019.

Therefore, on the basis that the mandate is not designed in a way that brings benefits to the regulatory authorities and in the light of the special circumstances of the past year, the Swedish Better Regulation Council replied to the only submission that has been received in this area this year with a secretariat response due to limited resources<sup>19</sup>. It is worth noting in this part that the Swedish Better Regulation Council has started to comment on submissions with, for example, proposals for Swedish legislation supplementing EU legislation – although the Swedish regulator has had no room for manoeuvre in shaping the content of the regulation. In line with the request, the Swedish Better Regulation Council also considers that the Swedish regulator is responsible for investigating the effects that arise for Swedish companies as a result of EU legislation. See more detailed information about this in Chapter 5, Reflections on the 2020 financial year.

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<sup>17</sup> See the Annual Report of the Swedish Better Regulation Council for 2018, Chapter 4 Follow-up, p 28 for more information on the follow-up.

<sup>18</sup> Consequences of EU legislation Request following completed review and evaluation of the Swedish Better Regulation Council's assignment with regard to impact assessments created at EU level <https://www.regclradet.se/wp-content/uploads/2019/12/hemstallan-konsekvenscr-av-eu-lagstiftning.pdf>

<sup>19</sup> Commission proposal for a directive amending Directive 2011/16/EU on administrative cooperation in the field of taxation, Swedish Better Regulation Council reference number RR 2020-255.



## 4

## Impact of the COVID-19 pandemic on the work of the Swedish Better Regulation Council

COVID-19 has affected almost the whole year and affected people's lives and health, businesses, employment and the economy at large – everyone's everyday life. COVID-19 also affected the Swedish Better Regulation Council's review. In the first months of the pandemic until the summer, the Swedish Better Regulation Council had to severely limit the review to what was possible to carry out. The staff assisting the Swedish Better Regulation Council are employees of the Swedish Agency for Economic and Regional Growth. In March 2020, the Swedish Agency for Economic and Regional Growth was commissioned to organise management of applications for short-term layoffs, also called short-term work. As a result, the ordinary assignments and tasks of the Swedish Agency for Economic and Regional Growth had to be largely put aside, as a large number of administrators were urgently needed for short-term work. The Swedish Better Regulation Council's review was no exception. For all the cases received that needed to be answered in the spring, therefore, priority was given to the referrals based on possible impact on the affected companies, so that the referrals with the greatest importance for companies could be answered with an opinion. Notwithstanding this prioritisation, a large number of cases were answered for each meeting during this period with secretariat responses – cases which, under normal circumstances, would in most cases be answered with an opinion.

The Swedish Better Regulation Council notes that the majority of submissions received could not be examined in substance. The Swedish Better Regulation Council has handled submissions to the best of its ability and subject to available resources, but considers it unfortunate in a broader perspective that it has not been possible to comment on more cases during the year. According to the Swedish Better Regulation Council, it is likely that several of the cases that have been answered with a secretariat response for resource reasons had impact assessments that do not meet the requirements of KUF. In turn, this means that the overall statistics for the year would have been even worse if the Swedish Better Regulation Council had the opportunity to comment on all cases with a significant impact on companies.

After the summer, the Swedish Better Regulation Council then decided, to the extent possible, to handle submissions with considerably shorter response time than customary by introducing extraordinary meetings and providing staff to prepare audit dossiers. This applied to proposed statute issued in connection with COVID-19 and in some cases aimed to assist or support companies. All these opinions are listed below. Many companies have been severely affected by the current pandemic, and any proposed statute with corporate influence in any direction can have a particularly significant impact due to the current circumstances. To be granted various aid measures can make a difference for a company's chances of survival through the crisis. Regardless of whether the effects are positive or negative for companies, the Swedish Better Regulation Council sees a great benefit in commenting on these submissions, which have often been produced under great time pressure and where the Swedish Better Regulation Council can help the decision-maker to identify shortcomings in the underlying material before decisions are made.

During the year, the Swedish Better Regulation Council received a relatively large number of submissions compared to previous years. The number of secretariat responses, even excluding resource reasons, is higher than last year<sup>20</sup>. One explanation for this is that a number of regulators have submitted regulations and related impact assessments linked to COVID-19 after the regulations were adopted. The Swedish Better Regulation Council is responsible for examining the quality of impact assessments which form the basis of proposed statute. However, the Swedish Better Regulation Council has deemed that audits of impact assessments for regulations that have already been adopted are not included in its assignment.

In 2020, 62 submissions which relate directly to the COVID-19 pandemic have been received by the Swedish Better Regulation Council. Of these, 48 have been answered with secretariat responses and 14 with an opinion. The submissions answered with secretariat responses were distributed as follows:

- In 2 of the secretariat responses, corresponding to 4 %, the reason was limited impact for companies.
- In 4 of the secretariat responses, corresponding to 8 %, the reason was resources.
- In 11 of the secretariat responses, corresponding to 23 %, the reason was time.
- 31 of the secretariat responses, corresponding to 65 %, belonged to the category “other”<sup>21</sup>.

The number of submissions answered with an opinion was 14. Of these, the Government Offices sent 11 submissions, of which 5 were deemed to meet the requirements, corresponding to a proportion of acceptable impact assessments of 50 %. Administrative authorities sent 3 submissions, of which 2 were deemed to meet the requirements, corresponding to a proportion of acceptable impact assessments of 66 %.

In terms of the distribution over the year, 18 submissions that directly related to the COVID-19 pandemic were received during the period March to June. Of these, 15 were answered during the spring semester, up to and including the meeting on 24 June 2020, with a secretariat response. Three of the submissions were replied to in August, for the meeting of 19 August 2020, of which 1 with an opinion. Thereafter, 44 submissions that directly related to the COVID-19 pandemic were received during the period August to December. Of these, 31 were answered with secretariat responses and 13 with an opinion.

<sup>20</sup> Number of secretariat responses, excluding those made for resource reasons, in 2020: 170. Number of secretariat responses, all causes, in 2019: 157.

<sup>21</sup> All these secretariat responses refer to submissions where decisions on the statute were already adopted before the submissions.

The following cases were answered with an opinion:

- Ministry of Finance, Adapted permit requirements for occupational pension funds<sup>22</sup>.
- Ministry of Finance, Conversion aid to companies for the period May-July 2020<sup>23</sup>.
- National Board of Health and Welfare, Proposal for new regulations on visits to special housing arrangements for the elderly during the COVID-19 pandemic<sup>24</sup>.
- Ministry of Finance, Relief on support through reduced energy tax due to the COVID-19 pandemic<sup>25</sup>.
- Ministry of Enterprise and Innovation, Turnover support for sole traders<sup>26</sup>.
- Swedish Work Environment Authority, Special provisions on personal protective equipment due to the COVID-19 pandemic<sup>27</sup>.
- Ministry of Finance, Exceptions to confidentiality of certain decisions relating to support for short-term work<sup>28</sup>.
- Ministry of Enterprise and Innovation, Council of State referral Exploration permit<sup>29</sup>.
- Ministry of Finance, Temporary reduction of employer's contributions for up to two employees<sup>30</sup>.
- Swedish Chemicals Agency, Regulations for the continued validity of the temporary regulation KIFS 2020:3 on exceptions to language requirements for certain disinfectants<sup>31</sup>.
- Ministry of Finance, Extended validity of the Regulation on temporary responsible gaming measures in response to the spread of the disease COVID-19<sup>32</sup>.
- Ministry of Finance, Extension of temporary deferrals.<sup>33</sup>
- Ministry of Finance, Conversion aid to companies for the period August-December 2020<sup>34</sup>.
- Ministry of Infrastructure, Extended period of validity of Certificates of Professional Competence<sup>35</sup>.

The Swedish Better Regulation Council also notes that not all submissions with an impact on business have been referred to the Swedish Better Regulation Council. This is not a new problem, but it has become particularly clear in relation to a number of submissions made in response to COVID-19, where it is obvious that there will be an impact on companies. For example, the following memorandums have not been referred to the Swedish Better Regulation Council:

- Extension of the Act on Temporary Infection Control Measures at serving places<sup>36</sup>,
- Proposal for a regulation on a temporary ban on the serving of alcohol<sup>37</sup>,
- Ban on holding public gatherings and public functions with more than eight participants<sup>38</sup>,
- Support for short-term work in some cases<sup>39</sup> and
- COVID-19 Act<sup>40</sup>.

Even though there is no constitutional obligation<sup>41</sup> for the Government Offices to make submissions to the Swedish Better Regulation Council, the Council believes it is very valuable to do so in relation to proposals with an impact on business.

22 RR 2020-213, decision at the Meeting of the Swedish Better Regulation Council on 19 August 2020.

23 RR 2020-265, decision at the Meeting of the Swedish Better Regulation Council on 16 September 2020.

24 RR 2020-274, decision at the Meeting of the Swedish Better Regulation Council on 23 September 2020.

25 RR 2020-285, decision at the Meeting of the Swedish Better Regulation Council on 28 October 2020.

26 RR 2020-289, decision at the Meeting of the Swedish Better Regulation Council on 7 October 2020.

27 RR 2020-203, decision at the Meeting of the Swedish Better Regulation Council on 23 October 2020.

28 RR 2020-307, decision at the Meeting of the Swedish Better Regulation Council on 9 December 2020.

29 RR 2020-311, decision at the Meeting of the Swedish Better Regulation Council on 28 October 2020.

30 RR 2020-314, decision at the Meeting of the Swedish Better Regulation Council on 18 December 2020.

31 RR 2020-319, decision at the Meeting of the Swedish Better Regulation Council on 11 November 2020.

32 RR 2020-330, decision at the Meeting of the Swedish Better Regulation Council on 20 November 2020.

33 RR 2020-378, decision at the Meeting of the Swedish Better Regulation Council on 18 December 2020.

34 RR 2020-380, decision at the Meeting of the Swedish Better Regulation Council on 18 December 2020.

35 RR 2020-382, decision at the Meeting of the Swedish Better Regulation Council on 18 December 2020.

36 Ministry of Health and Social Affairs' memorandum of 18 September 2020, ref. S2020/07039/FS.

37 Ministry of Health and Social Affairs' memorandum of 11 November 2020, ref. S2020/08228.

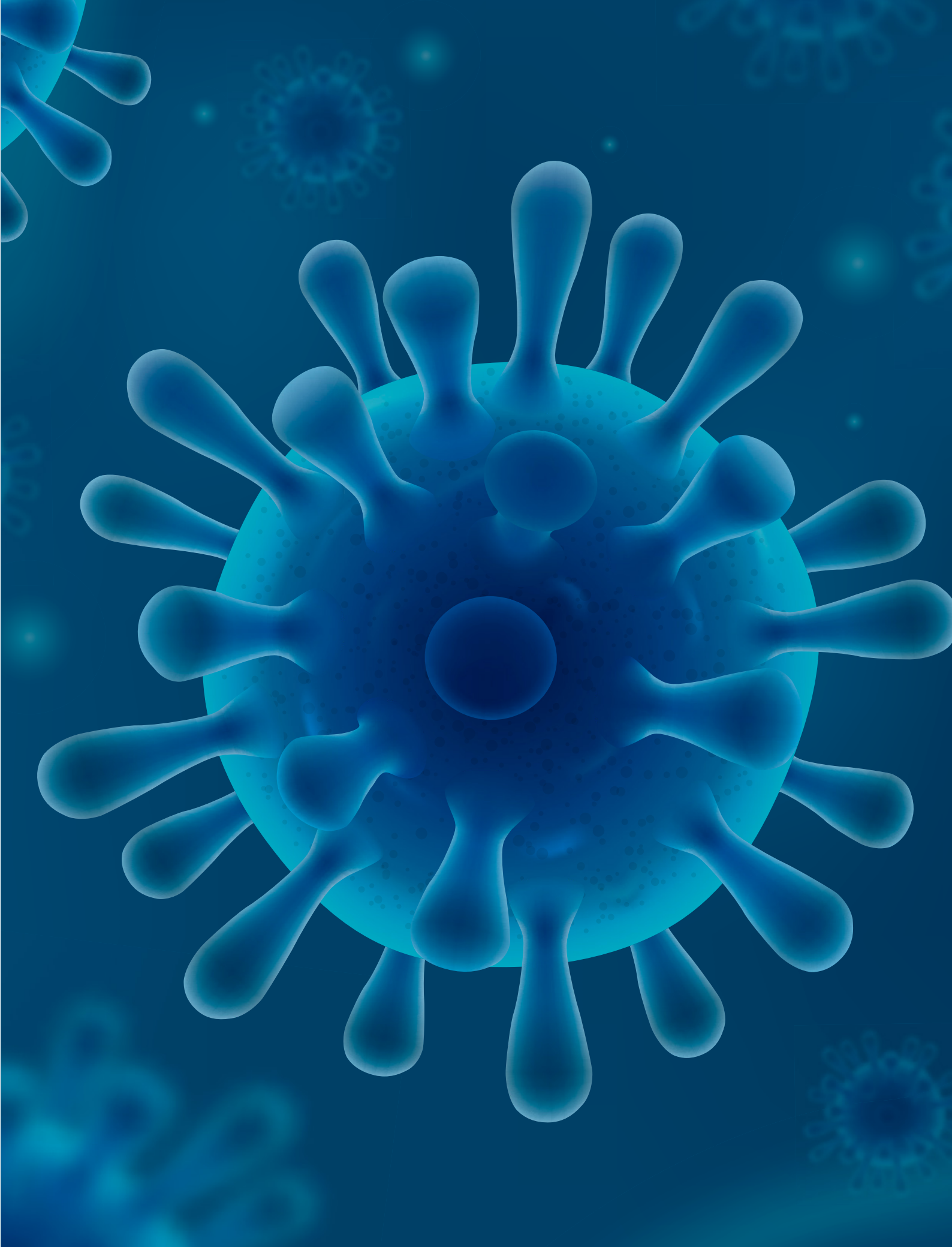
38 Ministry of Justice's memorandum of 16 November 2020, ref. Ju2020/04130.

39 Ministry of Finance's memorandum of 27 November 2020, ref. Fi2020/04742.

40 Ministry of Health and Social Affairs' memorandum of 9 December 2020, ref. S2020/09214.

41 According to guidelines for the Government Offices' submission of supporting documents to the Swedish Better Regulation Council adopted on 13 June 2008, the Swedish Better Regulation Council shall, as soon as possible, be given the opportunity to comment on the draft statute text and impact assessment, regarding proposals that have a significant impact on the companies' working conditions, competitiveness, or other conditions. In the case of proposals submitted from the Government Offices, the Swedish Better Regulation Council shall be a referral body.





## 5

## Reflections on the 2020 financial year

The Swedish Better Regulation Council notes that of the submissions received, the proportion of opinions is 38 % this year, which is lower than in the two previous years, but in terms of percentage on par with 2017<sup>42</sup>. The statistics show that the proportion of acceptable impact assessments is 53 %, which is a deterioration compared to 2019, but on par with the three preceding years<sup>43</sup>. As this report shows, the results vary between the referring regulators. It is only in the category of government reports that the result on the quality of impact assessments has improved<sup>44</sup>, but, as last year, there are so few such submissions (seven) that it is difficult to draw any far-reaching conclusions from the result. Internally, the Government Offices' performance has deteriorated compared to last year, while last year's result represented a relatively large variation compared to the usual result of the regulator and this year's result is more in line with what it was like two years ago and the years before that<sup>45</sup>. Official government reports show a result on par with its usual results<sup>46</sup>. The result of administrative authorities has also deteriorated<sup>47</sup> and, at the same time, they had significantly fewer opinions this year than last year<sup>48</sup>. The Swedish Better Regulation Council notes that, despite the systematic review of impact assessments of proposals with an impact on businesses, none of the different groups of regulators has an improved result that also persists over time.

In the review of impact assessments, KUF is the governing regulatory framework. Section 7, KUF provides for a balance of proportionality, stating that the proposer should also describe company aspects to the extent possible beyond Section 6. This principle of proportionality is also included in the review of the Swedish Better Regulation Council, which means that what is a sufficient description for purposes of an acceptable assessment varies according to the circumstances of different submissions. In addition to KUF, the Swedish Better Regulation Council also has its own practice, which develops over time.

42 In 2020, 390 submissions were answered, of which 147 with an opinion, corresponding to a 38% share. In 2019, 311 submissions were answered, of which 154 with an opinion, corresponding to a 50% share. In 2018, 307 submissions were answered, of which 151 were with an opinion, corresponding to a 49% share. In 2017, 355 submissions were answered, of which 134 were with an opinion, corresponding to a 38% share. In 2016, 371 submissions to the Swedish Better Regulation Council were answered, of which 162 were with an opinion, corresponding to a 44% share.

43 Proportion of acceptable impact assessments in 2020: 53%, 2019: 66%, 2018: 56%, 2017: 57%, 2016: 52%.

44 Government authority reports, proportion of acceptable impact assessments in 2020: 57%, 2019: 50%, 2018: 82%, 2017: 82%, 2016: 41%.

45 Government Offices of Sweden internally, proportion of acceptable impact assessments 2020: 45%, 2019: 60%, 2018: 35%, 2017: 31%, 2016: 19%.

46 Official government reports, proportion of acceptable impact assessments in 2020: 42%, 2019: 41%, 2018: 65%, 2017: 39%, 2016: 41%.

47 Administrative authorities, proportion of acceptable impact assessments in 2020: 64%, 2019: 77%, 2018: 62%, 2017: 79%, 2016: 77%.

48 Administrative authorities, number of opinions in 2020: 61. Administrative authorities, number of opinions in 2019: 86.

## Consequences of EU rules

The Swedish Better Regulation Council notes that a large part of the combined and new regulatory burden of companies consists of EU rules. It is therefore of the utmost importance that the effects of these proposals have been investigated and made clear to the decision-maker.

As stated earlier in this annual report, in 2019 the Swedish Better Regulation Council submitted a request to the Ministry of Enterprise and Innovation with proposals for a revised mandate regarding the review of EU impact assessments. No feedback on the request has been received by the Swedish Better Regulation Council. In 2020, an EU impact assessment was submitted for review, which the Swedish Better Regulation Council responded with a secretariat response for resource reasons. The Swedish Better Regulation Council intends, pending a decision on the amended mandate, to respond to all such submissions in this way.

Regarding the effects resulting from already adopted EU rules, the Swedish Better Regulation Council has during the year required that effects resulting from these be investigated by the Swedish regulator. This applies, for example, to the referral of supplementary Swedish statute as a result of EU rules. This also applies to EU regulations and even if the requirements proposed are a direct consequence of EU law. In the work, the Swedish regulator may have some guidance from the European Commission's impact assessments, but when these are not sufficiently detailed for specific Swedish circumstances, a more detailed account of companies operating in Sweden is expected. The European Commission's proposal is also often amended in negotiations between the legislative EU institutions, which means that the impact assessment drawn up by the European Commission may in some respects become out of date. The Swedish regulator therefore needs to investigate the effects of all parts of the referred proposal, including direct consequences of EU law, in order to become aware of the consequences of the decisions adopted. Pending a change in management and in line with what the Swedish Better Regulation Council proposed in the aforementioned request, the Swedish Better Regulation Council sees no alternative to promoting and demanding an account of consequences at the stage of the regulatory process permitted by the current Swedish system.

During the period from 2016 to 2019, the Swedish Better Regulation Council decided to issue secretariat responses due to the Swedish regulator's limited room for manoeuvre in relation to the above-mentioned submissions. Decisions regarding such secretariat responses are no longer made.

## Follow-up of last year's reflections

New to this annual report is that the Swedish Better Regulation Council will follow up on the recommendations of the previous year qualitatively. According to the Swedish Better Regulation Council, it is surprising, but given the circumstances not unexpected, that so little has happened in a year that has been entirely marked by the COVID-19 pandemic. However, the Swedish Better Regulation Council underlines the importance of the recommendations previously made and intends to continue the qualitative review in future annual reports.

### The quality of official government reports needs to be improved

The Swedish Better Regulation Council notes that the quality of impact assessments in official government reports has deteriorated slightly, but is broadly on the same level as last year and previous years. No improvement has therefore been noted. In order to improve the quality of impact assessments, the Swedish Better Regulation Council therefore maintains previous recommendations that a significant emphasis should be placed on the impact assessment work of committees of inquiry. Committees of inquiry are appointed early in the regulatory chain and often deal with major regulatory work with significant effects for those concerned, which is why the Swedish Better Regulation Council also continues to seek commitment and that time be set aside for the impact assessment work in official government reports.

### The investigation directives should have a more open design

The Swedish Better Regulation Council has noted that the investigation directives submitted to committees of inquiry and the investigations carried out by the ministries themselves or submitted to administrative authorities are often narrow and highly defined, as a result of which the solution is in practice already predetermined. The terms of reference and the assignments therefore need to be formulated in such a way that a certain direction or solution is not always determined in advance, without giving the committee or the authority the opportunity to investigate the matter without any preconceived views. The recommendation of the Swedish Better Regulation Council in this regard remains.

### Resources and competences are necessary for thorough impact assessments

The Swedish Better Regulation Council has long stressed that sufficient time and resources need to be allocated to the impact assessment work and also that the impact assessment work should begin in good time. The duration of the investigation of committees of inquiry also needs to be generous enough for the committees of inquiry to have time to investigate in detail. The Swedish Better Regulation Council maintains this recommendation.

In 2020, there has been no change in the support available to committees of inquiry. The Swedish Better Regulation Council stated last year that it is a major problem that there is no support for committees of inquiry in the form of statisticians and economists, who can carry out the necessary calculations. An optimal solution would be for there to be a secretariat of specialists associated with the committee to provide relevant support. The Swedish Better Regulation Council maintains the recommendation and the need for such increased support.

### Impact assessments must be carried out early for good effect in the regulatory process

The Swedish Better Regulation Council has been arguing for several years that there should be an opportunity to review the quality of impact assessments at an earlier stage. Such a system would provide the necessary conditions for the regulator to take into consideration the opinion of the Swedish Better Regulation Council and, if necessary, supplement the impact assessment before the normal consultation round. No such development of the regulatory process has taken place in 2020, and accordingly the Swedish Better Regulation Council maintains the recommendation.

### The EU impact assessment process needs to be renewed

In last year's annual report, the Swedish Better Regulation Council made recommendations in line with the aforementioned request – that the mandate of the Swedish Better Regulation Council regarding the examination of impact assessments drawn up at EU level does not fulfil its purpose and needs to be changed. The Swedish Better Regulation Council proposes that there should be requirements for additional Swedish impact assessments for EU proposals to be drawn up. These impact assessments should be examinable by the Swedish Better Regulation Council. It is also proposed that the Swedish Better Regulation Council enters the process earlier and is given the task of reviewing the European Commission's proposal, in order to identify parts of the proposal that may be particularly problematic for Swedish companies and which therefore need to be further analysed. As stated above, no feedback has been received on the request so far. The Swedish Better Regulation Council maintains the recommendations made.

### Digital tools for standardised information need to be developed

Last year's annual report stated that digital tools need to be developed in order for regulators to easily access relevant data needed in the impact assessment work, which would lead to more effective investigative work with better investigated proposals as a result. No progress in this respect has taken place in the past year. The Swedish Better Regulation Council maintains the recommendations made.

### The impact assessment work needs a review

In addition, the Swedish Better Regulation Council considers that there is a need for an objective review of impact assessment work in Sweden to ensure that this work is carried out effectively through the regulatory process. A new, similar review carried out by the OECD could therefore be expected to provide valuable insights for continued improvement work on the consequences of regulations in Sweden. No such review has been carried out in the past year. The Swedish Better Regulation Council maintains the recommendations made.



2020

2021

2022

2023

## Reflections of the year

### Cost descriptions

As can be seen from the statistics of the Swedish Better Regulation Council, in many cases there are shortcomings in the cost descriptions of the proposers. The possibilities and tools available to the proposers to describe costs present challenges. The effects of this are evident in particular in the government ministries and committees of inquiry, where this year's results mean that only just over one impact assessment out of three includes an acceptable description of the impact of the proposals on the administrative costs of companies. All groups of regulators also have consistent challenges with the descriptions of other costs.

The current regulations, KUF, do not include any information on how proposers should calculate costs. The Swedish Agency for Economic and Regional Growth provides methodological support for how direct regulatory costs can be calculated, which is positive, but not enough. The Swedish Better Regulation Council considers that there is a need to clarify how regulatory costs should be calculated in Sweden, in order to create a uniform system that allows equivalent comparison of costs arising as a result of regulations. There is also a substantial lack of input, which proposers should have easier access to in the impact assessment work. Not infrequently, the starting points of the proposers are based on outdated (MALIN database) or deficient data, due to the difficulties in obtaining accurate information in the descriptions. In order for proposers to make quantitative descriptions of sufficient quality, which can also be considered as consistent with real costs, proposers need access to relevant and up-to-date input. The Swedish Better Regulation Council also notes the problem of apparent precision – where overly precise data of the proposer can be called into question.

All in all, it can be noted that there are different and new circumstances than those prevailing when the MALIN database was developed 15 years ago. Today, there is both increased digitisation and increased professionalization of corporate administration. The cost area therefore needs to be overhauled.

According to the Swedish Better Regulation Council, a desirable scenario would be for the entire chain of costs to be described at all stages in a transparent manner, which entails identifying the elements that have a cost impact on companies. In addition to the time and cost required to carry out a direct measure as a result of a regulatory requirement, such as reporting data to authorities, the elements arising from the reporting also need to be highlighted. This may be to compile the information that needs to be reported and that what is to be reported first needs to be prepared and approved by the company's management and in some cases also the board of directors. After that, there usually follows the costs of collecting data from different parts of large organisations. It may also be a question of running costs for maintaining functions of IT systems in order to carry out the reporting. Costs resulting from such elements are rarely described in the impact assessment. The cost of meeting a certain regulatory requirement, such as reporting, stated by the proposer is therefore far from consistent with the real costs incurred by the companies as a result of the reporting.

The Swedish Better Regulation Council considers it essential that cost changes described in impact assessments reflect the realities of companies and that the descriptions do not become too theoretical. Proposers therefore need to be aware of the elements that will arise as a result of a regulatory requirement and to be able to describe and calculate resulting cost changes. Furthermore, sensitivity analyses of calculations should be carried out to a much greater extent than is currently done, i.e. calculations made on the basis that assumptions of variables and conditions can change, and that this is also made visible in the impact assessments to achieve greater transparency. It is also reasonable to attach importance to the scope of quantified costs in determining whether to introduce burdensome rules. According to the Swedish Better Regulation Council, resources need to be added to carry out a necessary review of companies' regulatory costs, linked to how such costs are to be described and calculated in impact assessments. This should include reviewing the methodology to be used for calculating regulatory costs, as well as the tools and support that proposers need to carry out calculations that reflect the real costs of companies.



# Table Appendix

Opinions of the Swedish Better Regulation Council in 2020 by referring body and type of submission (assessment of impact assessment as a whole and per aspect)

**Table 1 Government Offices of Sweden (produced internally)**

G=Acceptable, B=Deficient

Proposer	Overall assessment		Purpose		Alternative solutions		Effects if no regulation is issued		Consistency with EU law		Particular attention to the effective date		Need for provision of special information	
	Met the requirements	Did not meet the requirements	G	B	G	B	G	B	G	B	G	B	G	B
<i>Ministry</i>														
Ministry of Employment	0	1	1	0	0	1	1	0	1	0	1	0	0	1
Ministry of Finance	21	17	37	1	29	9	36	2	34	4	34	4	30	8
Ministry of Infrastructure	0	1	1	0	1	0	1	0	1	0	1	0	0	1
Ministry of Justice	1	3	4	0	4	0	4	0	1	3	3	1	1	3
Ministry of the Environment	2	3	5	0	4	1	4	1	4	1	5	0	3	2
Ministry of Enterprise and Innovation	1	4	5	0	3	2	5	0	4	1	4	1	1	4
Ministry for Foreign Affairs	0	1	1	0	1	0	1	0	1	0	1	0	0	1
<b>Total</b>	<b>25</b>	<b>30</b>	<b>54</b>	<b>1</b>	<b>42</b>	<b>13</b>	<b>52</b>	<b>3</b>	<b>46</b>	<b>9</b>	<b>49</b>	<b>6</b>	<b>35</b>	<b>20</b>

**Table 2 Official government reports**

G=Acceptable, B=Deficient

Proposer	Overall assessment		Purpose		Alternative solutions		Effects if no regulation is issued		Consistency with EU law		Particular attention to the effective date		Need for provision of special information	
	Met the requirements	Did not meet the requirements	G	B	G	B	G	B	G	B	G	B	G	B
<i>Ministry</i>														
Ministry of Employment	2	0	2	0	2	0	2	0	2	0	2	0	1	1
Ministry of Finance	5	6	11	0	7	4	9	2	8	3	11	0	9	2
Ministry of Infrastructure	1	1	2	0	2	0	2	0	2	0	2	0	0	2
Ministry of Justice	0	1	1	0	1	0	1	0	1	0	1	0	0	1
Ministry of the Environment	1	1	2	0	1	1	2	0	2	0	2	0	2	0
Ministry of Health and Social Affairs	0	2	2	0	2	0	2	0	2	0	2	0	1	1
Ministry of Education and Research	1	2	3	0	3	0	2	1	2	1	0	3	0	3
Ministry for Foreign Affairs	0	1	1	0	1	0	1	0	1	0	1	0	0	1
<b>Total</b>	<b>10</b>	<b>14</b>	<b>24</b>	<b>0</b>	<b>19</b>	<b>5</b>	<b>21</b>	<b>3</b>	<b>20</b>	<b>4</b>	<b>21</b>	<b>3</b>	<b>13</b>	<b>11</b>



	Number of companies		Size of company		Industry sector		Administrative costs		Other costs		Companies' business activities		Competition		Other respects		Special attention for small businesses	
	G	B	G	B	G	B	G	B	G	B	G	B	G	B	G	B	G	B
	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1
	26	12	18	20	35	3	19	19	23	15	26	12	21	17	29	9	19	19
	0	1	0	1	1	0	0	1	0	1	1	0	0	1	1	0	0	1
	2	2	1	3	4	0	1	3	1	3	1	3	1	3	2	2	1	3
	5	0	2	3	4	1	1	4	2	3	3	2	0	5	1	4	2	3
	2	3	2	3	4	1	0	5	2	3	3	2	1	4	3	2	1	4
	1	0	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1
	<b>36</b>	<b>19</b>	<b>23</b>	<b>32</b>	<b>48</b>	<b>7</b>	<b>21</b>	<b>34</b>	<b>28</b>	<b>27</b>	<b>34</b>	<b>21</b>	<b>23</b>	<b>32</b>	<b>36</b>	<b>19</b>	<b>23</b>	<b>32</b>

	Number of companies		Size of company		Industry sector		Administrative costs		Other costs		Companies' business activities		Competition		Other respects		Special attention for small businesses	
	G	B	G	B	G	B	G	B	G	B	G	B	G	B	G	B	G	B
	2	0	2	0	2	0	2	0	2	0	2	0	1	1	2	0	2	0
	7	4	6	5	11	0	6	5	6	5	5	6	5	6	6	5	7	4
	1	1	1	1	2	0	0	2	1	1	2	0	1	1	2	0	1	1
	0	1	0	1	0	1	0	1	0	1	1	0	0	1	1	0	0	1
	2	0	2	0	2	0	0	2	2	0	2	0	1	1	2	0	1	1
	2	0	0	2	2	0	0	2	0	2	0	2	0	2	0	2	1	1
	3	0	1	2	3	0	1	2	1	2	1	2	1	2	1	2	1	2
	1	0	1	0	1	0	0	1	0	1	0	1	0	1	0	1	0	1
	<b>18</b>	<b>6</b>	<b>13</b>	<b>11</b>	<b>23</b>	<b>1</b>	<b>9</b>	<b>15</b>	<b>12</b>	<b>12</b>	<b>13</b>	<b>11</b>	<b>9</b>	<b>15</b>	<b>14</b>	<b>10</b>	<b>13</b>	<b>11</b>

**Table 3 Government authority reports**

G=Acceptable, B=Deficient

Proposer	Overall assessment		Purpose		Alternative solutions		Effects if no regulation is issued		Consistency with EU law		Particular attention to the effective date		Need for provision of special information	
	Met the requirements	Did not meet the requirements	G	B	G	B	G	B	G	B	G	B	G	B
<i>Referring ministry and responsible administrative authority</i>														
Ministry of Finance/Swedish Tax Agency	2	0	2	0	2	0	2	0	2	0	1	1	2	0
Ministry of Infrastructure / Swedish Energy Markets Inspectorate	1	1	2	0	2	0	2	0	2	0	1	1	1	1
Ministry of the Environment / Swedish Agency for Marine and Water Management	1	0	1	0	1	0	1	0	1	0	1	0	0	1
Ministry of the Environment / Swedish Environmental Protection Agency	0	1	1	0	1	0	1	0	1	0	0	1	1	0
Ministry of Enterprise and Innovation / Swedish Environmental Protection Agency	0	1	1	0	0	1	0	1	1	0	1	0	1	0
<b>Total</b>	<b>4</b>	<b>3</b>	<b>7</b>	<b>0</b>	<b>6</b>	<b>1</b>	<b>6</b>	<b>1</b>	<b>7</b>	<b>0</b>	<b>4</b>	<b>3</b>	<b>5</b>	<b>2</b>

**Table 4 Administrative authorities**

G=Acceptable, B=Deficient

Proposer	Overall assessment		Purpose		Alternative solutions		Effects if no regulation is issued		Consistency with EU law		Particular attention to the effective date		Need for provision of special information	
	Met the requirements	Did not meet the requirements	G	B	G	B	G	B	G	B	G	B	G	B
<i>Administrative authority</i>														
Swedish Work Environment Authority	2	1	3	0	3	0	2	1	2	1	3	0	3	0
National Board of Housing, Building and Planning	2	1	3	0	3	0	3	0	3	0	2	1	3	0
Energy Markets Inspectorate	2	0	2	0	2	0	2	0	2	0	1	1	2	0
Swedish Energy Agency	0	1	1	0	1	0	1	0	1	0	1	0	1	0
Swedish Financial Supervisory Authority	5	0	5	0	3	2	5	0	4	1	4	1	2	3
Swedish Agency for Marine and Water Management	2	1	3	0	3	0	3	0	3	0	3	0	3	0
Swedish Board of Agriculture	5	1	6	0	6	0	6	0	6	0	5	1	4	2
Swedish Chemicals Agency	2	1	3	0	3	0	3	0	3	0	3	0	3	0
National Food Administration	1	1	2	0	1	1	2	0	2	0	2	0	2	0
Swedish Civil Contingencies Agency	0	1	1	0	0	1	0	1	1	0	1	0	1	0
Swedish Environmental Protection Agency	0	2	2	0	1	1	2	0	1	1	2	0	1	1
Swedish Post and Telecom Authority	3	1	4	0	4	0	4	0	3	1	3	1	4	0
Swedish National Debt Office	0	2	2	0	2	0	2	0	2	0	2	0	1	1
Swedish Maritime Administration	0	1	1	0	0	1	1	0	1	0	1	0	1	0
Swedish Tax Agency	1	0	1	0	1	0	1	0	1	0	0	1	1	0
National Board of Health and Welfare	1	0	1	0	1	0	1	0	1	0	1	0	1	0
Swedish Gambling Authority	2	0	2	0	2	0	2	0	2	0	2	0	2	0
Statistics Sweden	2	1	3	0	2	1	2	1	3	0	2	1	2	1
National grid	1	0	1	0	1	0	1	0	1	0	1	0	1	0
SWEDAC	0	1	1	0	1	0	1	0	1	0	1	0	1	0
Dental and Pharmaceutical Benefits Agency	1	2	3	0	3	0	3	0	3	0	3	0	3	0
Swedish Transport Administration	7	0	7	0	7	0	7	0	7	0	7	0	7	0
Swedish Transport Agency	0	3	3	0	3	0	3	0	3	0	2	1	2	1
Swedish Customs	0	1	1	0	1	0	1	0	1	0	1	0	1	0
<b>Total</b>	<b>39</b>	<b>22</b>	<b>61</b>	<b>0</b>	<b>54</b>	<b>7</b>	<b>58</b>	<b>3</b>	<b>57</b>	<b>4</b>	<b>53</b>	<b>8</b>	<b>52</b>	<b>9</b>

	Number of companies		Size of company		Industry sector		Administrative costs		Other costs		Companies' business activities		Competition		Other respects		Special attention for small businesses	
	G	B	G	B	G	B	G	B	G	B	G	B	G	B	G	B	G	B
	2	0	1	1	2	0	1	1	1	1	1	1	2	0	2	0	2	0
	2	0	2	0	2	0	1	1	1	1	2	0	2	0	2	0	2	0
	0	1	0	1	1	0	1	0	1	0	1	0	1	0	0	1	0	1
	1	0	1	0	1	0	1	0	0	1	0	1	0	1	0	1	0	1
	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1
	<b>5</b>	<b>2</b>	<b>4</b>	<b>3</b>	<b>6</b>	<b>1</b>	<b>4</b>	<b>3</b>	<b>3</b>	<b>4</b>	<b>4</b>	<b>3</b>	<b>5</b>	<b>2</b>	<b>4</b>	<b>3</b>	<b>4</b>	<b>3</b>

	Number of companies		Size of company		Industry sector		Administrative costs		Other costs		Companies' business activities		Competition		Other respects		Special attention for small businesses	
	G	B	G	B	G	B	G	B	G	B	G	B	G	B	G	B	G	B
	2	1	2	1	3	0	2	1	3	0	2	1	2	1	3	0	2	1
	3	0	3	0	3	0	2	1	0	3	2	1	3	0	2	1	3	0
	2	0	1	1	2	0	2	0	2	0	2	0	2	0	2	0	2	0
	0	1	0	1	1	0	0	1	0	1	1	0	1	0	1	0	0	1
	5	0	3	2	5	0	5	0	5	0	5	0	3	2	4	1	4	1
	3	0	3	0	3	0	3	0	2	1	2	1	1	2	2	1	2	1
	5	1	2	4	6	0	5	1	3	3	4	2	3	3	6	0	4	2
	3	0	2	1	3	0	2	1	2	1	3	0	2	1	2	1	2	1
	1	1	1	1	2	0	0	2	1	1	1	1	1	1	1	1	1	1
	1	0	1	0	1	0	0	1	0	1	0	1	0	1	0	1	0	1
	0	2	1	1	2	0	0	2	0	2	0	2	0	2	0	2	0	2
	3	1	3	1	3	1	3	1	3	1	4	0	3	1	4	0	3	1
	2	0	0	2	2	0	0	2	0	2	0	2	1	1	0	2	1	1
	1	0	1	0	1	0	1	0	0	1	1	0	1	0	0	1	0	1
	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0
	1	0	0	1	1	0	1	0	1	0	1	0	1	0	1	0	0	1
	2	0	2	0	2	0	1	1	2	0	2	0	1	1	2	0	1	1
	2	1	1	2	2	1	2	1	2	1	2	1	2	1	3	0	2	1
	1	0	0	1	1	0	1	0	1	0	1	0	0	1	1	0	0	1
	1	0	1	0	1	0	0	1	0	1	0	1	1	0	0	1	0	1
	2	1	0	3	3	0	1	2	0	3	2	1	1	2	2	1	1	2
	0	7	0	7	0	7	7	0	7	0	7	0	0	7	7	0	7	0
	1	2	0	3	3	0	1	2	0	3	2	1	1	2	2	1	1	2
	1	0	0	1	1	0	0	1	0	1	0	1	1	0	1	0	0	1
	<b>43</b>	<b>18</b>	<b>28</b>	<b>33</b>	<b>52</b>	<b>9</b>	<b>40</b>	<b>21</b>	<b>35</b>	<b>26</b>	<b>45</b>	<b>16</b>	<b>32</b>	<b>29</b>	<b>47</b>	<b>14</b>	<b>37</b>	<b>24</b>







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