Accreditation is a voluntary registration or licence. Accreditation also refers to formal process by which an authorized body assesses and recognizes an organization, a program, or an individual as conforming with requirements, such as standards or criteria. Active consultation is a regulatory tool to improve regulatory effectiveness. It is a crucial, albeit relatively low-cost, way to consult with affected parties and engage affected parties. The consultation procedure can be used at all stages of the regulatory process. Some proposals may be accepted directly, and then may have to be supplemented by new consultation. The consultation could be conducted in a systematic, structured, and routine manner. Some consultation is generally informal, while regulatory authorities may also accept oral statements, and may provide some basis in law.
GLOSSARY
OF
REGULATORY REVIEW
In line with the national economic agenda to transform Malaysia into a high-income and developed economy status by the year 2020, the Malaysia Productivity Corporation (MPC) has re-aligned its functions to meet the objectives of the Tenth Malaysia Plan and New Economic Model. One of the new functions entrusted to MPC is regulatory review which is crucial for attaining economic and government transformation towards enhancing our country’s international competitiveness and economic prosperity amid an increasingly competitive and globalised economy.

Towards this end, MPC has so far undertaken various programmes and activities geared towards assisting the government in formulating a new regulatory policy for the nation. This has culminated in the National Policy for the Development and Implementation of Regulations. Essentially, the policy which emphasises on Regulatory Impact Analysis (RIA) is aimed at enhancing transparency and predictability of regulatory actions. Invariably, this will help to create a more business-friendly environment to attract investments, generate employment and increase national wealth and hence improving quality of life.

However, it must be recognised that the successful implementation of the new regulatory policy requires the active participation and commitment of various ministries, agencies and stakeholders which include businesses, interest groups, society and the public at large. In addition, the capacity and capability of the government institutions or authorities involved in regulatory review activities need to be further upgraded to ensure effective implementation of the new regulatory policy. Needless to say, the publication of the Glossary of Regulatory Review as reference on key terminologies is very apt and timely to enable government officers to enrich their understanding and knowledge in the field of regulatory review. Moreover, the Glossary will also enable them to keep abreast with the latest development in regulatory review at the global perspective.

Finally, it is hoped that the Glossary provides invaluable assistance to government officers in discharging their responsibilities as regulatory officers. I would like to take this opportunity to wish you happy reading and success in your job.

Dato’ Mohd Razali Hussain
Director-General
Malaysia Productivity Corporation (MPC)
Regulation is a key instrument used by the Government to achieve various socio-economic policy objectives and ensure the well-being of citizens. It is an important tool for protecting health and safety, the environment as well as for ensuring a balanced and continuous development of the economy. However, regulatory review is relatively a new phenomenon in the Malaysian economy that not many people are familiar with its process or activity.

This Glossary of Regulatory Review consisting of two main parts, i.e., Part I: Regulatory Concepts and Practices and Part II: Regulatory Agencies and Bodies provides basic information about key words in regulatory review activities. It is aimed at enhancing understanding in the key terminologies in regulatory review. The Glossary covers key terminologies used in regulatory review processes especially in the Organisation for Economic Co-operation and Development (OECD) countries.

The target audience of this Glossary is ministries and regulating agencies. It is intended for use by those government officers involved in undertaking review activities. However, it should be noted that this Glossary is not a complete document that cover all key terminologies in regulatory review. In any case, officers who need to seek detailed or more comprehensive guidance on key terminologies in regulatory review should refer to relevant books, articles or any other forms of publications.

The Glossary is intended to be the first or incipient reference document to guide officers undertaking a regulatory review. It aims to explain concepts clearly without making any assumption on prior knowledge of economics among its users. However, readers who have particular interest or background in economic principles are likely to relate to the material more readily than others.

Further information about this Glossary and regulatory review activities in MPC can be inquired via email: regulatoryreview@mpc.gov.my. The following address, contact numbers, webpage and email address may also be useful:

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MALAYSIA PRODUCTIVITY CORPORATION

**MPC**

Malaysia Productivity Corporation (MPC) was established to assume an important role in the enhancement of productivity and quality of the country towards achieving a higher national economic growth.

**VISION**
The leading organisation in productivity enhancement for global competitiveness and innovation

**MISSION**
To deliver high impact services towards achieving performance excellence through innovation for the betterment of life

**OBJECTIVES**
Our corporate objectives are:

- Providing value-added information on productivity, quality, competitiveness and best practices through research activities and databases;
- Developing human capital and organisational excellence for building a knowledge-based society through training, systems development and best practices; and
- Nurturing innovative and creative culture for productivity and competitiveness through partnership programmes.

**THE ROLE OF MPC IN MODERNISING BUSINESS REGULATION INITIATIVE**

The Government will begin with a comprehensive review of business regulations, starting with regulations that impact the NKEAs. Regulations that contribute to improved national outcomes will be retained, while redundant and outdated regulations will be eliminated. This review will be led by the Malaysia Productivity Corporation (MPC), which will be rebranded and restructured to ensure it has strong capabilities and resources.

*(Chapter 3; pages 73-74)*

MPC will provide support to NKEAs by reviewing and recommending changes to existing regulations and policy with a view to remove unnecessary rules and compliance costs and improve the speed and ease of delivery.

*(Executive Summary; page 25)*
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PART 1

REGULATORY CONCEPTS
AND
PRACTICES
1. **ACCREDITATION**

There are various definitions of accreditation. Firstly, it is defined as a formal process whereby an authorised body or agency assesses and recognises an organisation, a programme, a group or an individual as complying with requirements such as standards or criteria. Secondly, accreditation also means validation i.e., the granting of approval or recognition to a particular programme such as training course or educational programme which has been tested to produce results of an acceptable standard against a set of criteria. Lastly, it can also be referred to as a conformity assessment process whereby an organisation or agency uses experts in a particular field of interest or discipline to define standards of acceptable operation or performance for organisations and measure compliance with the standards set.

However, accreditation is a voluntary act of registration or obtaining license and hence it is not mandatory or compulsory.

2. **ADEQUACY CRITERIA**

Adequacy criteria is one of the foundations for an effective process of Regulatory Impact Analysis (RIA). The adequacy criteria is used by the assessors to determine whether the analysis contained in the Regulatory Impact Statement (RIS) is adequate. The adequacy criteria for RIS include:

- Whether the fundamental problem being addressed is clearly stated;
- Whether there is a clear articulation of the objectives, outcomes, goals or targets sought by government action;
- Whether there is a range of viable options assessed including, as appropriate, non-regulatory options;
- Whether the groups in the community likely to be affected as well as the impacts on them are identified. Where appropriate, there must also be explicit assessment of the impact on small and medium-size businesses. Both costs and benefits for each viable option must be set out, making use of quantitative information where possible;
- To examine the types of consultation. This is to ensure that the views of those consulted been articulated, including substantial disagreements;
- Whether there is a clear statement as to which option is preferred; and
- Whether information is provided on how the preferred option would be implemented, and on the review arrangements after it has been in place for some time.

The other main foundations for an effective process of RIA are gatekeeper role and transparency.

3. **ADJUDICATION**

Adjudication is a judgment or legal process undertaken by a court or authorised body or agency to decide on a controversy substantiated by evidence. It also means the resolutions of an issue or a dispute via the legal process by a court or authorised body or agency.
4. **ADMINISTRATIVE AGENCY**

An administrative agency is essentially a government entity or an entity created by statute or law that administers a legal institutional framework which governs or oversees the implementation and delivery of a public or government programme.

5. **ADMINISTRATIVE BURDENS**

Administrative burdens are the regulatory costs incurred by businesses when applying for licenses, filling up forms as well as when reporting and meeting notification requirements for the government. It also includes the payment of certain fees or investment in specific equipment as well as the administrative compliance costs encompassing time and money spent on formalities and paperwork necessary for compliance with regulations. In other words, administrative burdens are the costs incurred by businesses when complying with obligatory information arising from government regulation.

6. **ADMINISTRATIVE COSTS**

Generally, administrative costs are also referred to as administrative burdens.

See also Administrative Burdens.
7. **ADMINISTRATIVE LAW**

Administrative law comprises the statutes, rules, regulations, orders and decisions that determine how regulatory bodies or agencies operate in accordance with procedures besides demarcating the scope or limit of their authority.

8. **ADMINISTRATIVE RULE**

Administrative rule or regulation is a statement issued by an administrative agency or a specific body within the agency which prescribes or sets standard and directs conduct or behavior within the enforcement of law.

9. **ADMINISTRATIVE SIMPLIFICATION**

Administrative simplification is an approach that focuses on improving procedures and processes within the government machinery rather than the simplification of government policies. Generally, in administrative simplification, there is no attempt to change the substantive aspects or contents of a particular regulation.

Administrative simplification reforms focus on the following aspects:

- Reducing response times by the public services, and/or the amount of information required to obtain official approvals including minimising duplication of information requirements; and
- Improving public accessibility to regulatory and administrative procedures.

Usually, administrative simplification reforms involve the total quality improvement and reengineering of processes of "back offices" or backroom activities of the government machinery. However, they are being increasingly emphasised beyond the bureaucratic “front office” or activities that require face-to-face interactions with the customers or consumers into the realm of interrelated government structures that manifest regulatory complexity.

See also Simplification.

10. **ADVERSE IMPACT**

Adverse impact or adverse effect refers to the undesirable negative results of a law, process or policy that affect a specific group(s) of individuals that share common traits or characteristics or discerning features, such as race, culture and gender.
11. ADVISORY GROUP

An advisory group consists of selected experts and/or interested parties (e.g., social or environmental groups) to form a consultative body, either on an ad-hoc or permanent basis.

12. ADVOCACY

Advocacy means a continuous and adaptive process of gathering, organising, and formulating information into arguments which are then communicated to decision-makers through various interpersonal and media channels. This is to influence their decision to raise resources or political and social leadership, support as well as commitment for a particular reform programme, thus ensuring the acceptance of the reform by society.

13. ALLEGATION

Allegation also refers as complaint is the assertion, claim or declaration that an act, event or result has or has not occurred.
14. APPEAL

Appeal is an act to request a review of the order or decision made by a lower court or administrative body or agency.

15. APPLICANT

Applicant is a person applying for licensure or registration or certification for the right to practice a specific profession or occupation. It also refers to a candidate applying for taking an examination.

16. APPRAISAL

Appraisal is considered as “before the fact” or “ex-ante” assessment of a project or a programme. In other words, it focuses on evaluating a project or programme prior to its implementation. The appraisal process entails defining objectives, examining options as well as weighing the costs and benefits.

17. ASSURANCE

Assurance is a formal written, binding commitment which is submitted to a federal agency whereby an institution promises to comply with pertinent regulations governing research with human subjects and stipulates the procedures for achieving compliance.

18. AUTONOMY

Autonomy refers to a person’s capacity to consider alternatives or options, make choices or decisions and act or take actions without undue influence or interference of other people.
19. **BASE CASE**

Base case simply refers to a statement of what would have happened in the absence of a project or programme.

20. **BASELINE**

Baseline means a common starting point for each of the project being reviewed. It also demarcates the scope of the project.

21. **BENCHMARKING EXERCISE**

Benchmarking exercise is one of the techniques for determining the impact of regulatory review. It solves some of the subjective and opinion-based problems encountered with business surveys. Moreover, it avoids collecting data directly from businesses but relies on hired experts to investigate and corroborate the data prior to disseminating their findings or results. Through a periodic or regular application of the expert evaluations, it is therefore possible to rank countries or economies and establish trends among the indicators identified.

The World Bank has invested a substantial amount of time and effort in benchmarking exercise and has developed important sets of indicators. Its Doing Business report provides measures of business regulations and their enforcement. Its annual reports act as a catalyst of government reforms in many countries. In 2004, the Doing Business report compares indicators across 175 economies in terms of regulatory costs of doing business. Ten sets of indicators were selected and analyzed in the report and they measured the regulatory impacts on businesses especially small and medium-size domestic firms.

More importantly, The World Bank ranks or benchmarks all the economies according to the individual indicators relative to a composite indicator. However, this type of objective indicators as compared to survey-based indicators has an inherent difficulty in capturing the impact of regulatory enforcement of informal regulations such as litigation procedures. Like other similar approaches, benchmarking exercise will mostly emphasise on costs rather than benefits of regulations.

22. **BENEFIT**

Benefit simply means a valued or desired outcome or result and it can also mean advantage.
23. **BEST PRACTICES**

Essentially, a best practice is a method or technique that has consistently produced results that are superior to other similar methods used to establish a benchmark. Besides, a best practice can evolve to become better as improvements take place. It is, however, considered by certain people as a fashionable or popular business word referring to the process of developing and adhering to a standard way of doing things for the purpose of various types of organisations to use or adopt it.

As an alternative to mandatory legislated standards, best practices can be used to maintain quality based on self-assessment or benchmarking. Best practice is a typical feature of accredited management standards such as ISO 9000 and ISO 14001.

As best practices require documenting and charting procedures and practices which can be cumbersome and time-consuming processes and often avoided by companies, even though they may practice the proper processes consistently, some consulting firms began to specialise in the area of best practices by offering pre-made “templates” to standardise business process documentation. Sometimes, a “best practice” is not applicable or appropriate for a particular organisation’s needs. A key strategic talent essential for organisations to implement best practices lies in the ability to balance the unique qualities of an organisation with the common practices in other organisations.

Good operating practice is a strategic management term. More specific uses of the term encompass good agricultural practices, good manufacturing practice, good laboratory practice, good clinical practice as well as good distribution practice.

In the context of regulatory review, best practices can be considered as a set of standards for achieving regulatory quality.

24. **BETTER LAWMAKING**

Better Lawmaking is another denomination for better regulation. In the context of the European Council, Better Lawmaking details the measures taken by the Community to improve its legislation. These measures include correctly applying the principles of subsidiarity and proportionality, improving the quality of drafting, as well as employing practices such as simplification and formal and informal consolidation and opening up access to information.

25. **BETTER REGULATION**

Generally, better regulation refers to an explicit, dynamic and consistent “whole-of-government” or holistic policy to promote continuous improvements in the quality of rule-making. It is used interchangeable with the term regulatory policy. The OECD’s Guiding Principles for Regulatory Quality and Performance encourage countries to adopt at the highest political level broad programmes of regulatory reform that formulate principles of “good regulation”. In the European Union (EU) context, the Lisbon Strategy for growth and employment, which was renewed in 2005
incorporates National Reform Programmes to be undertaken by member states. An important aspect of the programmes is to address the need for better regulation. Specifically, the term “better regulation” is associated with the EU Commission’s 2006 Strategic Review of Better Regulation and related working documents.

In the United Kingdom, “Better Regulation” has been a theme of the government pledge that it is committed to implementing its recommendations. Five principles were identified as the basic tests of whether any regulation is fit for its purpose, namely:

i. Proportionality: Regulators should intervene only when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised;

ii. Accountability: Regulators should be able to justify decisions and be subject to public scrutiny;

iii. Consistency: Government rules and standards must be consistent and implemented fairly;

iv. Transparency: Regulators should be open, and keep regulations simple and user-friendly; and

v. Targeting: Regulation should be focused on the problem and minimise side effects.

See also Regulatory Reform.

26. BETTER REGULATION FOR GROWTH

Better Regulation for Growth (BRG) is a joint initiative between the Foreign Investment Advisory Service (FIAS) and Department for International Development (DFID) of The World Bank Group, and the Netherlands. The objective of the initiative is to strengthen regulatory frameworks to promote investment, growth and poverty reduction. The outputs of the initiative include:

- Operational guidance on managing national regulatory reform programmes;
- Improved institutional design for effective regulatory governance;
- Tools to improve both existing and new regulations; and
- Dissemination of guidance to support project implementation.

27. BLACK LETTER LAW

See Explicit Government Regulation.

28. BLESS

BLESS is an acronym for Business Licensing Electronic Support System. BLESS is a portal that provides information and facilitates companies to apply licences or permits to start operating business in Malaysia. It is a virtual One-Stop Service Centre that assists companies to obtain business licences on a timely and organised manner. BLESS also facilitates company representatives to select or identify relevant licences, fill up the application forms and submit online and then monitor the progress of the application until the notification of approval or
otherwise. Simultaneously, BLESS provides an online communication platform for the licensing bodies or agencies to communicate directly with the company concerned for any clarification and justification with regard to the license application to save time and resources for both parties.

BLESS is developed and administered by the Implementation Coordination Unit (ICU), Prime Minister’s Department, Malaysia.

See also ICU.

29. **BUREAUCRACY**

Bureaucracy is an administrative decision-making group which is tasked to adhere to rules and procedures. It may exert a red tape because specialisation of functions, adherence to fixed rules and a hierarchy of authority may delay decision-making process.

See also Red Tape.

30. **BUSINESS COST CALCULATOR**

The Business Cost Calculator (BCC) developed by the Australian Government is primarily aimed at calculating the compliance costs of regulatory proposals emphasising on compliance costs on businesses using an activity-based costing methodology. The BCC is basically an IT-based tool designed to assist policy makers or government in estimating the business compliance costs of various policy options. It provides an automated and standardised process for quantifying compliance costs of regulation on business using an activity-based costing methodology.

Compliance costs refer to the direct costs to businesses in performing the various tasks associated with complying with government regulation. The BCC incorporated nine categories of compliance tasks for which compliance costs are incurred by business.

The first step in using BCC is to ask users to provide a description of the problem and the potential policy options for addressing the identified problem.

Next, the ‘Quickscan’ function of BCC is then used to indicate whether or not any of the proposed options will incur compliance costs in any of the nine cost categories.

Whenever the users indicate that at least some options will incur compliance costs, the calculator will then assists in quantifying the costs involved. The users are asked to provide the following details in the process of quantifying the costs:

- The number of businesses affected by each option;
- The tasks that businesses will have to complete to be compliant with the regulation;
- Whether the task is an internal cost or an outsourced cost;
- Whether the task is a start-up or ongoing cost;
- How long each task will take to complete;
- How often each task will need to be undertaken;
31. BUSINESS ENABLING ENVIRONMENT

Business Enabling Environment (BEE) refers to projects designed to improve institutional legal and regulatory conditions in which businesses operate including changes to government policies, laws, regulatory frameworks and administrative practices by government bodies or agencies.

Based on the above information, the BCC will derive an estimate of the compliance costs associated with each option.

Finally, the BCC data can be displayed, printed and downloaded to other applications for compiling a range of reports. A key report is the “BCC Report”, which should be submitted to the Office of Best Practice Regulation (OBPR) to confirm that the best practice regulation requirements have been met. Subsequently, the report is then given to the decision maker and disseminated to the general public.

32. BUSINESS LICENSING

Business licensing is a term that is normally used to describe an ex-ante process of approval for a firm’s core business activity. In the context of regulatory review, business licensing is a process of approving a firm’s core business activity prior to the official granting of a business licence to commence operation.

Good and well-functioning business licensing regimes are based on the following principles:

- Licence should fulfill legitimate regulatory purposes, i.e., safeguarding the public safety, environmental protection, national security and limited resources;
- Licence should be granted on the ex-ante fulfillment of qualifications;
- For activities that require multiple licences and/or permits, the sequence of procedures should be clearly articulated; and
- Governments should minimise the number of permissions that must be acquired prior to start-up.

33. BUSINESS PROCESS RE-ENGINEERING

Business process re-engineering (BPR) refers to the analysis and design of workflows and processes within an organisation. A business process is usually defined as a set of logically related tasks performed to achieve a stated business outcome. As a matter of fact, re-engineering is the basis for many recent developments in the field of management. For instance, cross-functional team has become popular because of the need to re-engineer or integrate separate functional tasks into complete cross-functional processes. Besides, many recent management systems developments are aimed at integrating a wide number of business functions which include, among others, enterprise resource planning, supply chain management, knowledge management systems,
groupware and collaborative systems, human resource management systems, and customer relationship management.

BPR is also referred to as business process redesign, business transformation or business process change management.

### 34. BUSINESS SURVEY

Business survey is one of the techniques for determining the impact of regulatory review. It is a type of evaluation method which uses questionnaires sent to a random or representative sample of firms or companies chosen from a targeted population of firms or companies. Estimated figures provided by respondents are then extrapolated to provide aggregate estimates of the cost of administrative compliance for a particular business sector. The goal of business survey as an evaluation technique is to understand how firms or companies behave in response to regulatory burdens or to regulatory reforms.

To ascertain how firms or companies respond to regulatory reforms coupled with the need to obtain statistically valid and reliable results, the firms or companies involved are randomly separated into a “treatment or experimental group” consisting of firms or companies affected by the legislation change or reform as well as a “comparison or control group” comprising firms or companies not affected by the legislation change or reform.

### 35. CERTIFICATION

Certification is the procedure and action undertaken by a duly authorised body or agency to evaluate, recognise or certify an individual, institution or educational programme as meeting pre-determined requirements, such as standards.

Unlike licensure which is authorised by government statute or law, certification is a voluntary process whereby a profession or occupation sets its own standards. Certification is helpful in protecting the general public especially in cases when the government legislatures have opted not to regulate the profession or occupation through licensure. However, there are extreme variations in the voluntary process. Certain certification organisations require the compliance of rigorous education, experience, and examination criteria, whilst others, unfortunately, do not require the compliance with the rigorous criteria.

The private sector has even established or appointed organisations to review and verify, i.e., accredit the integrity of certification programmes. In any case, certification organisations need not submit their programmes to such accreditation bodies or agencies. Moreover, unlike licensing authorities, certification organisations are not being authorised to limit or ban incompetent or illegal practices.
36. **CITIZEN**

In the context of regulatory review, the concept of a citizen is generic in nature. It refers to the relationship between individuals and the government but not in the strict sense to nationality. In some cases, the government is a producer or supplier of a particular good or service to citizens. Hence, citizens can be regarded as consumers of the government.

37. **CODIFICATION**

Codification means consolidating all the amendments made over time to a particular law. According to the European Union (EU) Institutions, codification is specifically defined as repealing a set of Acts or laws in one area, and replacing them with a single Act or law with no substantive change to the Acts, thus producing a text with legal effect.

See also Consolidation and Recasting.

38. **CODE OF PRACTICE**

Code of practice is simply a set of rules specifying appropriate conduct or behavior for certain aspects of a business. Generally, the set of rules are not mandatory or compulsory. However, in certain countries (e.g., United Kingdom), code of practice refers to a set of formally binding rules issued by a body or agency and they are known as mandatory codes of conduct.

39. **COHORT**

Cohort is a group of subjects or persons initially identified as possessing one or more characteristics in common, who are being tracked or monitored over time. In social science research, cohort means any group of persons who are born at about the same time and share common historical or cultural experiences.
40. COMMON COMMENCEMENT DATES

Common Commencement Dates (CCDs) is an initiative undertaken by an authority for the purpose of commencing or launching a new regulation. In the United Kingdom, under the CCDs initiative, regulations that affect businesses will commence only on either 6th April or 1st October. Departments and agencies are required to send the necessary information on new and amended regulations to the Better Regulation Executive for the preparation of the Government’s Forward Regulatory Programme issued each January, indicating regulations expected to be commenced or launched on the following 6th April and 1st October.

The purpose of CCDs and particularly the Forward Regulatory Programme is to enable businesses to plan or prepare for compliance with new regulation and at the same time to increase awareness of the introduction of new or amended requirements. It also enables Ministers to take a strategic overview of its regulatory programme. By having only two dates, i.e., 6th April and 1st October, hopefully, the increased awareness by businesses towards new or obligatory amendments will result in improved compliance levels.

However, delivering or implementing regulation in accordance with a timetable or timeline can be demanding or difficult. Therefore, good planning is essential.

41. COMMON PROPERTY RESOURCES

Common property resources refer to goods or services that are non-excludable and rivalrous, i.e., anyone can simultaneously have accessibility to goods or services once the goods or services are being provided and the use by one person affects or reduces the availability of the goods or services to other people. There is a tendency for such goods and services to be over used resulting in congestion. Congestion can arise for instance, if there are no restrictions on the use of the resource or if it is free of charge. In the absence of property rights, individual users will not have incentives to manage or conserve the resource for subsequent use. Examples of common property resources may include the stock of fish in an ocean, a public beach or a congested road.

42. COMPETENCE

Competence is the ability of a person to apply knowledge or skills and whenever relevant, possesses personal attributes in line with certification requirements. Technically, competence is a legal term which means the mental capacity to act on one’s own behalf, the ability to understand information as well as to be aware of the consequences of acting or not acting on the information and make a choice or decision.

See also Incompetence.
43. **COMPETITION POLICY**

Competition policy is meant to promote economic growth and efficiency by eliminating or minimising the detrimental impact on competition of laws, regulations and administrative policies, practices and procedures as well as by preventing and deterring private anti-competitive practices through effective enforcement of competition laws.

44. **COMPETITIVENESS**

Competitiveness is a comparative concept of the ability and performance of a firm, sub-sector or country to sell and supply goods and/or services in a given market. The concept is widely used in economics and business management but is difficult to define accurately due to the fact that stakeholders often have completely different ideas or notions about competitiveness.

At international level, the Institute for Management Development (IMD) has interpreted the term “world competitiveness” as a field of economic theory which analyses the facts and policies that shape the ability of a nation to create and maintain an environment that sustains more value creation for its enterprises and more prosperity for its people. The IMD approach to world competitiveness is to analyse how nations and enterprises manage the totality of their competencies to achieve increased prosperity. The methodology of the IMD’s approach thus divides the national environment for competitiveness into four main factors comprising:

i. Economic Performance: Macroeconomic evaluation of the domestic economy;
ii. Government Efficiency: Extent to which government policies are conducive for competitiveness;
iii. Business Efficiency: Extent to which the national environment encourages enterprises to perform in an innovative, profitable and responsible manner; and
iv. Infrastructure: Extent to which basic, technological, scientific and human resources meet the needs of business.

45. **COMPLIANCE**

Compliance means acting in accordance with enacted regulation or conforming to guidelines for accreditation purpose. To achieve its stated objective, a regulation must not only be implemented, but more importantly, there must also be compliance with it by those to whom it is being targeted, namely, businesses, citizens, etc.

See also Enforcement.
46. COMPLIANCE COSTS

Compliance costs are basically the direct additional costs to businesses for undertaking the various tasks associated to complying with government regulation. They are not just merely the direct charges or fees imposed by the government but also include any costs arising from the necessity of having to comply with the regulations concerned, e.g., facilitating inspection.

Examples of compliance costs can be categorised as follows:

One-off Costs
- Information costs for identifying and understanding the new regulatory requirement;
- Upgrading production processes, equipment, buildings, software, etc.; and
- Buying in of specialist services (e.g., accounting, information technology (IT), legal, etc.).

On-going Costs
- Individual or staff costs or time;
- Inspection fees / enforcement;
- Licence application process (application form, letter writing, putting up advertisements, etc.); and
- Form filling, administration and paperwork (compiling necessary information, time taken, etc.).

Tips for gathering information on compliance costs include:

- Use existing databases or ask business representative groups to help to identify a representative sample of businesses that can provide information;
- Prepare a brief survey targeted at the representative sample of businesses asking them to specify the compliance burdens they would anticipate. It is important to provide sufficient information on the regulatory proposal to accompany the survey;
- If necessary, form a small focus group to discuss the survey findings or results in greater detail; and
- Use any existing groups or platforms involving businesses to discuss the impact of the regulatory proposals.

47. COMPLIANCE COST ASSESSMENT

Compliance cost assessment is a systematic evaluation of policy proposals that are likely to affect businesses culminating in an estimate of the probable costs to businesses in complying with new or amended regulations.
48. **COMPOSITE LICENCE**

Composite licence is a licence which consolidates and replaces the requirements of an existing set of licences.

49. **COMPULSORY CONTRACT**

Compulsory contract is a contract whereby a business must enter or sign up with a number of potential parties for the supply of goods or services.

50. **CONFLICT OF INTEREST**

Conflict of interest is a situation whereby someone in a position of trust such as an employee has competing professional or personal interests. These competing interests can hinder the individual from fulfilling his/her duties impartially or objectively.

51. **CONFORMANCE ASSESSMENT**

Conformance assessment is the process of determining whether or not a product or system meets a required standard.

52. **CONSENSUS**

Consensus refers to an agreement without dissent or objection.

53. **CONSENT ORDER**

A consent order is a formal agreement between parties made under the sanction of the court or regulatory authority that certain actions such as ceasing an activity, correcting a practice, or paying a fine will be taken to resolve a complaint.
54. CONSOLIDATION

Consolidation is an act of bringing together or integrating numerous texts that regulate a particular area into a single text, with or without making changes to the substance or content thus producing a text without legal effect but of practical value.

See also Codification and Recasting.

55. CONSULTATION

Consultation is the process of soliciting or obtaining feedback, i.e., views or opinions of experts or parties as well as stakeholders or interest groups, whom would be affected by the regulation.

In the context of Regulatory Impact Analysis (RIA), consultation also means to identify the need for regulatory intervention and the expected costs and benefits arising from different regulatory options.

One important and relatively low cost way to consult with interested groups or stakeholders is to send regulatory proposals directly to selected affected parties to solicit their comments. This procedure is generally considered to be systematic, flexible, and routine having some basis in law, policy statements or instructions. In this regard, affected groups that are on an official circulation
list receive drafts of important regulations. Hence, the flexible procedure can be used at all stages of the regulatory process. Responses received are usually in written form and oral statements are also accepted by regulators. To supplement the responses interested groups are also invited to hearings. Certain countries like Denmark have established ad hoc test panels comprising business people who are representatives of the private sector as well as volunteers to answer or respond to specific questionnaires on draft or existing regulations.

Consultation on regulatory options can further improve the quality of the solutions adopted by:

- Ensuring that both, i.e., those who are affected by regulation and the regulatory agency have a good understanding of what the problem is;
- Providing different perspectives and suggestions on alternative options to address the problem for those parties that will be affected by the government action;
- Helping regulators assess competing interests;
- Providing a check on the regulator’s assessment of costs (including compliance costs) and benefits and whether or how the proposed option will work in real life situation, thus reducing the risk of undesirable consequences if a particular option is being adopted;
- Identifying interactions or duplications between different types of regulations; and
- Enhancing voluntary compliance through greater understanding and acceptance of a proposal, thereby reducing reliance on enforcement and sanctions.

See also Public Consultation.

56. CONSUMER

The term consumer is meant to refer to individuals who participate in the marketplace by consuming particular goods and services. It can also refer to businesses which are often the initial customers in a particular sector.

Alternatively, consumer can mean a member of a public on a regulatory body or agency, who represents the interests of those who are actual or possible purchasers, lessees or recipients of consumer goods, services, realty and credit. Lastly, a consumer is also an individual who may seek assistance or benefit from the profession being regulated.

57. CONSTRUCTED RESPONSE

Constructed response is a type of item whereby a candidate produces a response rather than just selecting a response from a set of multiple-choice options.
Co-regulation refers to direct regulation by an industry association combined with government oversight or ratification. This means that the regulatory role is shared between government and the particular industry or sector being regulated. In some cases, the industry or a large proportion of industry players formulate a code of practice in consultation with government, whereby breaches of the code is usually enforceable via sanctions imposed by industry or professional organisations rather than the government directly. In other cases, the government can retain control of certain aspects of policy and devolve other elements to the industry.

A typical example of co-regulation is the delegation of the regulation of the medical and legal professions to the Malaysian Medical Association (MMA) and the Bar Council respectively.

The advantages of co-regulation include:

- Reduces cost to the government since the costs are usually borne by the profession or industry;
- Encourages greater responsibility within sector or industry for enhancing performance;
- Harnesses the expertise and knowledge of an industry or professional association; and
- Can increase compliance levels since the industry or profession is involved in monitoring behaviour.

However, the disadvantages of co-regulation are as follows:

- Encourages anti-competitive behaviour and barriers to entry;
- Higher risk of regulatory capture due to the close relationship between the government and the industry or profession;
- Enforcement may be weaker due to lack of accountability and self-interest on the part of the profession or industry; and
- Co-regulation needs to be carefully designed based on principles of transparency and accountability to avoid barriers to competition.

Co-regulation also refers to the situation where industry develops and administers its own arrangements with government providing legislative backing to enable the arrangements to be enforced. This is known as “underpinning” of codes, etc. Sometimes, legislation sets mandatory government standards that compliance with an industry code can be deemed to comply with the standards set. Legislation may also provide for government-imposed arrangements in the event that industry does not meet its own arrangements.
60. COST-BENEFIT ANALYSIS

Cost-Benefit Analysis (CBA) is a very appropriate technique for determining the impact of regulatory review. It attempts to appraise all costs and benefits associated with a regulation in monetary terms. Normally, CBA is used in deciding whether an existing regulation or regulatory regime should be maintained or modified. Analysts using CBA methodology evaluate as accurately as possible the economic effects of regulation, i.e., costs and benefits in both static or dynamic sense. How the analyst conducts the CBA will give rise to many different cost-benefit scenarios depending on the extent to which they use qualitative or quantitative estimates. Moreover, the calculation of social and welfare costs and benefits in monetary terms always pose special challenges. For instance, how does one measure the loss of a species or the damage of a landscape or even the gain or loss of human in monetary terms?

Furthermore, market prices may not be a good or valid measure of the “opportunity costs” and “externalities”. However, the CBA becomes more complicated when analysts take into account dynamic effects such as estimating the impacts across the economy, across many jurisdictions or projecting into the future. In most cases, uncertainty will necessitate assessment of risks instead of actual costs and benefits. Undoubtedly, the complexities have created a hardcore group of skeptics.

The advantage of CBA is that all costs and benefits are monetised and hence a policy proposal can be deemed to be worthwhile if benefits exceed costs. Likewise, choices between policy options can be objectively made by comparing their costs and benefits using a decision criterion known as the net present value. In any case, it is not always easy to attach monetary values to all costs and benefits in such manner.

59. CORRELATION COEFFICIENT

Correlation coefficient is a statistical index measuring the extent or degree of relationship between two variables. The correlation coefficient can have value ranging from -1.00 to +1.00. A correlation coefficient of 0.00 indicates no correlation between the two variables, whilst a plus sign (+) show positive correlation and a minus sign (-) indicates negative correlation between the variables.

Correlations approaching -1.00 or +1.00 show strong relationships between the variables. However, the correlation coefficients do not indicate any casual inferences about the relationship between two variables, regardless of how strong is the relationship.

Correlation coefficient is also a measurement of performance on a particular test item (individual item score) as compared to performance on the test as a whole (total test score). A strong positive correlation implies the high ability candidates are getting the item right. Whereas, a strong negative correlation implies the high ability candidates are getting the item wrong. A near zero correlation means the item is not discriminating or differentiating between high and low ability candidates. The common correlation coefficients used in item testing or analysis are biserial correlation coefficient and point-biserial correlation coefficient.
CBA is imperative in the case of the most critical regulatory proposals. This means that whenever there are significant impacts, then a comprehensive CBA should be undertaken.

61. COST-EFFECTIVENESS ANALYSIS

Cost-effectiveness analysis (CEA) is another analytical technique that can be used as the basis for conducting regulatory impact analysis (RIA). It compares the costs of alternative or competing ways of providing similar kinds of outputs by examining the ratio of costs and effectiveness. It is expected that the cost-effectiveness analysis technique would be seldom used for RIA. However, if it is appropriate for a specific proposal, there is a need to obtain more detail on this technique from the relevant authority.

CEA is often used as the basis for conducting RIA whenever it is not feasible to use CBA. It is a more limited methodology as compared to CBA and it requires less resources and expertise in its usage. In essence, it focuses on the benefits of regulation as given and asks the question:

"Which of the possible ways of achieving the regulatory objective has the lowest cost?"

Therefore, the lowest cost option is said to be the most “cost-effective” and can be considered to be the most efficient option as well. The main advantage of CEA for officials undertaking RIA is that there is no necessity to quantify benefits or to value them in monetary terms. Instead, only costs must be quantified. In most cases, it is easier to value or quantify costs than valuing or quantifying benefits.

It must be noted that CEA does not provide answer to the basic question of whether regulation should be implemented at all. Rather, it only answers the question:

"If regulation or policy action is to be implemented, which option is preferable?"

This implies that CEA can only be used after a clear decision has been made, i.e., it is appropriate to regulate or undertake certain policy actions. The CEA methodology does not provide assistance in making this basic decision.

62. CREDENTIALING

Credentialing is a generic term for licensure, certification and registration. It can also be used as a term for a voluntary process under the auspices of private sector associations.

63. DECENTRALISATION

Decentralisation refers to the transfer of administrative or regulatory powers from the central government to a local government. It may also be known as devolution but it must not to be confused with deconcentration.

See also Deconcentration.
64. **DECONCENTRATION**

Deconcentration means delegation of an administrative or regulatory power from the central government to a local office or agency of the central government. The delegated power is exercised by central government representatives at the local level or it can be exercised by the local office which assumes the administrative tasks of the central government or both.

See also Decentralisation.

65. **DELAY**

Delay is an act to postpone or defer until a later time. In other words, delay is to act slowly or put off an action or a decision. Inefficient implementation of regulations in terms of red tape, bureaucracy and over-regulation tend to delay the execution of business operations thus contributing to business-unfriendly environment.

66. **DEREGULATION**

Deregulation refers to partial or complete repeal of regulations governing a particular sector with the objective of improving economic performance. For instance, the introduction of competition in formerly closed sectors of the economy necessitates the repeal of regulations that prevent market entry.

In any case, deregulation is a misleading term since in practical sense, it often involves the enactment of new regulations for the management of the particular sector under conditions of competition.

67. **DIRECT REGULATIONS**

Direct regulations refer to the regulatory methods which do not rely on voluntary mechanisms or fiscal instruments. They encompass standards, compulsory contracts, co-regulation, prohibitions on the manufacture or use of products, price controls as well as licences.

68. **DISCIPLINARY PROCEEDINGS**

“Disciplinary proceedings” is a form of legal process whereby the regulatory body or agency and the respondent present evidence and legal arguments to a panel of adjudicators to enable the panel to make a ruling and/or judgment on the issues submitted to them.
69. DISCLOSURE

Disclosure refers to the divulging of information obtained or gathered in an investigation to the licensee to assist him/her defense for a contested case.

70. DOING BUSINESS

The Doing Business is a joint-project by The World Bank and the International Finance Corporation (IFC) which is initiated in 2002 and it focuses on domestic small and medium-size companies. It measures the regulations applicable to small and medium-size companies throughout their lifecycle or existence. Doing Business and the Standard Cost Model (SCM) initially developed and used in the Netherlands are currently the only standard tools applied across a broad range of jurisdictions to measure the impact of government rule-making on the cost of doing business.

The first or incipient Doing Business report which was published in 2003 presents five sets of indicators and covers 133 economies. However, the recent report presents 11 sets of indicators and covers 183 economies. There are altogether nine topics which are included in the aggregate ranking on the ease of doing business. The project has benefited from feedback from governments, academics, practitioners and reviewers. The initial goal still remains, i.e., to provide an objective basis for understanding and improving the regulatory environment for business.

Doing Business provides a quantitative measure of regulations for starting a business, dealing with construction permits, registering of property, obtaining credit, protection of investors, paying taxes, trading across borders, enforcement of contracts and closure of a business, all of which are applicable to domestic small and medium-size enterprises. Besides, it also focuses on regulations on employing workers as well as developing a new measure on electricity supply. A fundamental premise of Doing Business is that economic activity requires good rules which include rules that establish and clarify property rights and reduce the cost of resolving disputes, rules that increase the predictability of economic interactions as well as rules that provide contractual partners with core protections against abuse.
The main objective is that regulations must be designed to be effective in their implementation, to be accessible to all who need to use them as well as to be simple in their implementation. Accordingly, certain Doing Business indicators give a higher score for more regulation such as stricter disclosure requirements in related-party transactions. Whereas, other indicators give a higher score for a simplified way of implementing existing regulation such as completing business start-up formalities in a one-stop-shop or centre.

The Doing Business project incorporates two types of data. The first are derived from readings of laws and regulations. The second are time and motion indicators that measure the efficiency and complexity in achieving a regulatory goal, i.e., granting the legal identity to a business. For the time and motion indicators, cost estimates are recorded from official fee schedules wherever relevant. In this case, Doing Business builds upon Hernando de Soto’s pioneering work in applying the time and motion approach which was first utilised by Frederick Taylor to revolutionise the production of the Model T Ford automobile. De Soto used the approach in the 1980s to demonstrate the obstacles to setting up a garment factory on the outskirts of Lima, Peru.

71. **EFFECTIVENESS**

Effectiveness means the extent or degree to which the objectives of a project or programme are substantively achieved.

72. **EFFICIENCY**

Efficiency means the extent or degree to which a project or programme inputs are minimised for a given level of outputs. Or, it refers to the maximisation of outputs for a given level of inputs. This concept of efficiency can also mean “productive” or “technical” efficiency but it should be differentiated from “allocative” efficiency which deals with whether the most highly valued set of outputs is generated or not. The general term “economic efficiency” is sometimes used to refer to productive and allocative efficiency.

73. **ENACTMENT**

Enactment is the act of passing a law by a legislative body.

74. **ENDORSEMENT**

Endorsement is the recognition by a jurisdiction of an individual’s licence from another jurisdiction in the event that the qualifications and standards required by the original licensing jurisdiction are equivalent to or higher than that of the new jurisdiction. The licensee is relieved of the full burden of obtaining a licence in the new jurisdiction.
75. ENFORCEMENT

Enforcement is the act of enforcing or ensuring observance to the laws and regulations.

See also Compliance.

76. ENVIRONMENTAL IMPACT ASSESSMENT

An environmental impact assessment (EIA) is the assessment of the probable positive or negative impact that a proposed project may have on the environment, incorporating the environmental, social and economic perspectives. The purpose of the assessment is to ensure that decision-makers take into account the future environmental impacts when deciding whether to proceed with a project.

According to The International Association for Impact Assessment (IAIA), an environmental impact assessment is “the process of identifying, predicting, evaluating and mitigating the biophysical, social, and other relevant effects of development proposals prior to major decisions being taken and commitments made.” EIAs are unique in the sense that they do not require adherence to a predetermined environmental outcome, but instead they require decision-makers to account for environmental values in their decisions as well as to justify the decisions made based on detailed environmental studies and general public comments on the potential environmental impacts of the proposal.
77. EVALUATION

Evaluation is basically an assessment of an individual’s fulfillment of minimum requirements for certification, licensure or registration. There is a need to differentiate between ex-post evaluation and ex-ante evaluation.

On one hand, ex-post evaluation refers to the assessment of existing regulatory policies, tools and processes in terms of their efficiency and/or effectiveness in delivering better regulation. It can be applied for instance to specific tools and processes such as administrative simplification, impact assessment, a regulation, body of regulations or even institutions.

On the other hand, ex-ante evaluation means the evaluation of a proposed regulation before it is being formulated and incorporates the use of tools such as regulatory impact assessment.

Another type of ex-post evaluation refers to the assessment of regulatory policies, tools and processes in terms of whether they assist in enhancing economic performance in relation to more efficient product or labour markets.

78. EVIDENCE

Evidence is an information that is being used in a proceeding to establish or disprove any contested factual matter.

79. EX-ANTE MEASUREMENT

An ex-ante measurement of the administrative costs is primarily a measurement of the administrative consequences of a regulation prior to its implementation. The results of an ex-ante measurement can, for instance, constitute part of the overall impact assessment of a regulation’s economic and administrative effects on the private sector.

See also Evaluation.

80. EXPLICIT GOVERNMENT REGULATION

Explicit government regulation comprises primary and secondary or subordinate legislation. It is the most commonly used type of regulation and sometimes referred to as black letter law.

Although it has numerous advantages as compared to other type of regulations, it also suffers from several important disadvantages associated with its use. The main advantages relate to its certainty and effectiveness because of the availability of legal sanctions. However, the potential disadvantages lie in its standardisation and inflexibility; time-consuming to formulate or amend; unsuitable for influencing the quality of complex services; perceived to be difficult to understand and affecting compliance; incur higher government budgetary and compliance costs; and poor
EXTERNALLY

Externalities refers to a cost or benefit from a transaction that is borne or received by people not directly involved in the transaction. For example, a factory may pollute a river and adversely affect other users of the river. Alternatively, the discovery of a new technology will unavoidably be copied by other businesses that developed competing products.

Hence, an externality occurs when a party imposes on other parties benefits that are not being paid for or costs that are not compensated through market prices. For instance, individuals may choose to drive on already congested roads, thus increasing the congestion and incurring costs on other road users.

As most activities generate certain externalities either positive or negative, the existence of an externality does not on its own justify government intervention. The determining factors are the size and nature of the externality and as well as the likelihood that government intervention will be successful in addressing it at relatively low cost.
83. **FISCAL INSTRUMENTS**

Fiscal instruments are taxes, subsidies and tax concessions or incentives on output, production, use of resources and emissions. These fiscal instruments are employed by the authority as a tool or mechanism to promote or restrict the activities.

84. **FORWARD REGULATORY PLANNING**

Forward regulatory planning is a regulatory tool to improve regulatory consultation. It is aimed at raising awareness among stakeholders affected by the proposed new regulation which has the potential for soliciting more public’s view and opinions.

It provides advanced notice to all parties and therefore allows them ample time to organise and formulate their feedback and submissions. Normally, forward regulatory planning incorporates the publication of the overall legislative agenda proposed by a government.

85. **GATEKEEPER**

Gatekeeper is one of the three foundations for an effective process of Regulatory Impact Analysis (RIA). Generally, the gatekeeper is an independent body that oversees the implementation of RIA and assesses the Regulatory Impact Statements (RISs). The typical roles and functions of a gatekeeper are to:

- Advise regulating agencies whether a RIS is required;
- Examine the adequacy of RISs;
- Provide training and advice on RIS process; and
- Report on periodical basis on RIS compliance.

The other two foundations for an effective process of RIA are Adequacy Criteria and Transparency.

86. **GAZETTE**

The word “gazette” usually refers to a newspaper. Among the governments of Commonwealth countries, a gazette is an official journal that publishes the texts of the new laws and government decisions. It originates from gazzetta, a Venetian coin used to buy early Italian newspapers in the early days. Subsequently, the coin became a name for the newspapers concerned. The word was borrowed by the English to describe a newspaper. “Gazette” was used for an official government newspaper with the creation of the London Gazette which was first published in 1665 under the title of The Oxford Gazette. This represents one of the first or incipient publications in the world that could be termed a “newspaper”. The Edinburgh Gazette was then published in 1699, followed by the Belfast Gazette appeared in 1921.
In certain countries, publication in the official gazette is a pre-requisite for official documentation to take place and be released to the general public. “Gazette”, by extension, has been used as the name of mainstream newspapers in the print media such as the Montreal Gazette.

Finally, the word “gazette” is also used as a verb, meaning to announce or publish in a gazette: “Lake Nakuru was gazetted as a bird sanctuary in 1960, then was upgraded to National Park status in 1968.”

### 87. GOOD REGULATORY PRACTICES

Good Regulatory Practices (GRP) can be defined as a set of principles which is intended to provide guidelines to regulatory management. Generally, it is intended to assist regulators in the adoption of efficient regulatory arrangements which should improve the consistency and transparency of regulations that will be introduced or reviewed. Therefore, the main goal of GRP is to ensure quality regulation whereby it meets the desired objectives as well as minimises costs and market distortions.

In the context of regulatory review in Malaysia, the government will introduce the National Policy on the Development and Implementation of Regulations which is meant to address the gaps in the management system for regulations to put the country in a position to meet international good regulatory practices.

See also National Policy on the Development and Implementation of Regulations.

### 88. GOVERNANCE

Governance is defined as rules, processes and behaviour that affect the way in which authority is exercised especially with regard to openness, participation, accountability, effectiveness and coherence.

The term is used in this Glossary to refer to governance at all levels of government, i.e., national, state, local and occasionally, at the level of specific economic sectors.
89. **GUILLOTINE APPROACH**

The principle of Guillotine Approach specifies that any regulation required for future policy needs for market-led development, which is not successfully justified as legal will be eliminated. Besides, it also specifies that any regulation that is needed but not business-friendly will be simplified as far as possible.

The Guillotine Approach was pioneered by Sweden in the 1980s and was subsequently used in various forms by Hungary, South Korea, and Mexico in the 1990s in their successful and historic regulatory reforms aimed at sustainable economy-wide transformation. Their experiences have been reviewed and favourably assessed by the OECD.

See also Regulatory Guillotine.

90. **HARMONISATION**

Harmonisation refers to the convergence of legislation towards regulations which, if not identical, are at least neutral, i.e., eliminating discrimination or anti-competitive effects on the functioning of markets.

91. **HEARING**

Hearing is a legal proceeding whereby the parties to a dispute present evidence and forward legal submissions to the adjudicator(s) to enable them to analyse the facts or findings and then make a judgment with regard to the issues submitted for court’s decision.

92. **IMPACT**

An impact is either a positive or negative effect and includes items that can be readily quantified in monetary terms (e.g., service charges, subsidies, compliance costs, etc.) However, it also includes items that cannot be readily quantified in monetary terms (e.g., restrictions on competition).
93. **INCOMPETENCE**

Incompetence is basically a legal term which means an inability to manage one’s own affairs. It is often used interchangeably with the term “incapacity”.

See also Competence.

94. **INFORMAL CONSULTATION**

Informal consultation means ad hoc meetings with selected interested parties convened at the discretion of regulatory authorities.

95. **INFORMATION ASYMMETRY**

Information asymmetry is a situation whereby one party in a transaction has more information than another and this information has an important bearing on the price or terms of the transaction. For instance, the seller of a house may have more information than the buyer about the quality or state of repair of the house.

Markets may not allocate resources efficiently if one party in a transaction has significantly more information about a good or service than another. Sellers and buyers may have an incentive to conceal information about a good or service in order to obtain a more favourable price or conditions in a transaction.

It should be noted that, in the long run, markets can develop responses to issues of imperfect information about goods and services. Buyers may share their experiences with other potential buyers. Sellers may provide guarantees or warranties. Third parties such as government may offer certification services or insurance, or may collect and publish information about a range of goods and services.
96. **INFORMED CONSENT**

Informed consent is a person’s voluntary agreement based upon adequate knowledge and understanding of relevant information to participate in research or to undergo a diagnostic, therapeutic, or preventive procedure. In granting informed consent, subjects or participants may not waive or appear to waive any of their legal rights, or release or appear to release the investigator, the sponsor, the institution or agents from liability for negligence.

97. **INTERIM CERTIFICATE**

Interim certificate is a licence for an initial period of time pending completion of additional requirement, for instance, successfully sitting an examination. Professional practice under an interim certificate or licence may be subject to certain conditions.

98. **JURISDICTION**

Jurisdiction is the legal right whereby an adjudicative body exercises its authority to receive evidence, apply the law, control its processes, make decisions and declare judgments. Jurisdiction also applies to the geographic area covered by the adjudicative body.

99. **LEGISLATIVE OVERSIGHT**

Legislative oversight is the periodic review of government agencies by a legislative committee or a division in charge of the agency.

100. **LIBERALISING ECONOMIC ACTIVITIES**

“Liberalising economic activities” is a tool for deregulation. An important mechanism to reduce the burden of business is to exempt some or majority of the businesses from the compliance with regulatory requirements. This liberalisation equivalent to reducing the scope of the regulatory intervention may be subject to size of the firm (i.e., only large firms need to comply), location of the firm (i.e., only firms with present risks of externalities in neighborhoods) or processes (i.e., only firms that use specific risky process need to comply).
101. LICENCE

A licence is a notification which requires prior approval as a condition for conducting prescribed business activities and compliance with specified minimum standards whereby the breaches of the minimum standards may result in the suspension or revocation of permission by specified agency. It can also mean recognition of competence to practise a particular occupation or profession conveyed to an individual or entity by a regulatory body or agency. Individuals must complete various requirements prior to registration to be eligible to receive a licence and are held accountable for practising in accordance with established standards of safety and effectiveness.

Licence is also known as Registration.

102. LICENSURE

Licensure is the process whereby a government authority, in accordance with statute or law, determines the competency of individuals seeking to perform certain services. Through licensure, governments grant individuals the authority to engage in an area of practice, generally to the exclusion of others, based on proven education, experience, and examination.

Licensees are required by law and code of ethics to faithfully discharge their responsibilities impartially and honestly. As a general rule, governments possess the authority to discipline licensees who fail to comply with statutes and regulations and to take action against unlicensed individuals who practise within the scope of a licensed profession or occupation.

103. MARKET ENTRY

Market entry means the ability of competing businesses to enter a market. The government may place restrictions on market entry by imposing licensing conditions or directly restricting the number of suppliers.

104. MARKET FAILURE

Market failure is a situation whereby the free market fails to generate an efficient outcome or maximise net benefits. Examples of market failure include information asymmetries, externalities and natural monopolies. When markets are functioning well, they tend to allocate resources to their most efficient uses. Market failure also refers to certain situations in which markets may fail to allocate resources efficiently. Market failure, by itself, does not necessarily warrant government intervention, as the costs may outweigh the benefits. Moreover, there are legitimate justifications for government intervention that do not depend on market failure, for instance, equity. Government intervention can only be justified if it leads to an overall improvement in community welfare.
36 MARKET OPENNESS POLICIES

Market openness policies are aimed at ensuring that a country can reap the benefits of globalisation and international competition by eliminating or minimising the distorting effects of border as well as behind-the-border regulations and practices. These policies influence the range of opportunities open to suppliers of goods and services to compete in a particular national market (e.g., through trade and investment), regardless of whether they are domestic or foreign suppliers.

106. MARKET POWER

Market power is held by a single supplier or business to set a higher price of a good and maintain its market share. A necessary precondition for such power is some constraints on market entry such as regulation patents, brand or technology advantage, which makes it difficult for competing companies to respond to a price rise.

107. MASTER LICENCE

Master licence is an integrated licence approval system allowing many licence approvals to be obtained through a single application.
108. MINIMUM REQUIREMENTS

Minimum requirements are the thresholds that must be met to be eligible to sit for an examination, to pass the examination, or to be qualified for a credential.

109. MONOPOLY

Monopoly refers to a market situation whereby a single seller controls the entire output of a particular good or service.

110. MULTI-CRITERIA ANALYSIS

Multi-criteria analysis (MCA) is a decision-making technique which allows several different criteria to be considered concurrently. This is because for most regulatory impact analysis (RIAs), not all of the benefits to be derived from different options are monetisable. Under these circumstances, multi-criteria analysis is the appropriate analytical tool. The regulatory objectives are listed (e.g., cost efficiency may be one of the objectives) and used to create a set of weighted criteria. This creates a context to determine preferences amongst alternative options. The performance of each alternative is identified and then evaluated against the listed criteria. The contribution to the criteria is typically assessed through use of a scoring factor. The combined weights and scores for each of the alternatives are then aggregated to derive an overall value, thus providing a ranking of different options.

Multi-criteria analysis allows for monetisation whenever there are certain costs and benefits and quantification of others within a single analytical framework. Quantification is used in situations that might be possible to estimate the number of consumers likely to benefit from a regulation without putting a financial value on the benefit that each consumer would receive. However, it is important to use monetisation as far as possible.

111. MULTI-LEVEL REGULATORY GOVERNANCE

Multi-level regulatory governance covers the rule-making and rule-enforcement activities of all the different levels of government, not just the national level. It takes into account the following aspects:

- How regulatory responsibilities are shared at the different levels of government, i.e., primary rule-making, secondary rule-making based on primary legislation, the transposition of government directives, responsibilities for supervision or enforcement of national or subnational regulations and responsibilities for service delivery;
- The capacities of the different levels of government to produce quality regulation; and
- The coordination mechanisms between the different levels of government.
The issue of multi-level regulatory governance is becoming a priority in many OECD countries. This is primarily because high quality regulation at a certain level of government can be compromised by poor regulatory policies and practices at other levels, impacting negatively on the performance of economies and on business and citizens’ activities. The most common problems that affect the relationship between the public and the private sectors are duplication, overlapping responsibility and low quality. These affect public service delivery, citizen’s perception, business services and activities, as well as investment and trade. Therefore, coordination among regulatory institutions is vital to improve the efficiency and effectiveness of multi-level regulatory governance.

112. MUTUAL RECOGNITION

Mutual recognition is the recognition by different jurisdictions of equivalent licensing standards in order to facilitate the movement of goods and services between complying jurisdictions. It requires a close degree of mutual confidence between regulatory institutions or authorities.

113. NATIONAL POLICY ON THE DEVELOPMENT AND IMPLEMENTATION OF REGULATIONS

The National Policy on the Development and Implementation of Regulations is meant to address the gaps in the management system for regulations to put Malaysia in a position to meet international best practices in regulations or Good Regulatory Practices (GRP). Therefore, the objective of the Policy is to ensure that the Malaysia’s regulatory regime effectively supports the country’s aspirations to be a high-income and progressive nation whose economy is competitive and subscribes to sustainable development and inclusive growth. The Policy is developed through a consultative process which involves a range of stakeholders within the government.

114. NATURAL MONOPOLY

Natural monopoly is a situation whereby a single supplier can more efficiently serve a particular market than two or more suppliers. Good examples of natural monopoly are utilities with large supply of infrastructures that are costly to duplicate such as water and electricity providers.
115. **NEGOTIATED RULE-MAKING**

Negotiated rule-making is a proposed system of regulation whereby firms write their own legally enforceable rules which are ratified by a regulatory agency and enforced by the firm through an independent inspectorate. It is claimed that negotiated rule-making would produce simpler rules, more quickly adaptable to new circumstances and able to secure more commitment from businesses.

116. **NET BENEFIT**

A net benefit is a situation where a proposal shows the aggregate community-wide benefits exceed the costs. Whenever some stakeholders lose from a proposal, others have to gain more for net benefit to materialise. One example would be the introduction of seat belts whereby the benefits derived from lives saved and injuries avoided exceed the costs incurred by seat belts manufacturers. Whenever several options are available, the one showing benefits exceed the costs by the greatest margin would be the one with the greatest net benefit.

117. **NON-EXCLUDABLE GOODS**

Non-excludable goods are goods once provided, people cannot be excluded from consuming them. For example, it is difficult to exclude individuals from receiving a public television broadcast or visiting a national park. Virtually all goods or services are technically excludable but, it is the cost of this exclusion that may make it prohibitive or costly. For instance, it may be possible to exclude individuals from a national park by posting sentries around the border, but this would be very costly. It is important to note that developments in technology may reduce the costs associated with exclusion.

118. **NON-RIVALROUS GOODS**

Non-rivalrous goods constitute a special case whereby the good or service, once provided by an individual or government can be consumed by more than one person simultaneously without loss of benefits. Examples include national defence, fireworks displays and lighthouses. In essence, non-rivalrous goods provided by one party result in positive externalities for many people.
119. NOTICE AND COMMENTS

“Notice and comments” is a regulatory tool to improve regulatory consultation. A “publication for comment” procedure provides an opportunity and even a legal right for all citizens to participate in rule-making activities. The procedure needs to include at least the following steps:

- The government publishes the proposed regulation in the official gazette or official website. The notice must specify the text and the substance of the proposed rule, the legal authority for the rulemaking proceeding as well as appropriate times and places for general public participation. Published proposals may also include information on contacts with regulatory agencies;

- During a statutory time, i.e., between four and 12 weeks all the interested persons (nationals and non-nationals alike) have an opportunity to comment through writing their views or arguments on a proposed rule. More often than not, the business community challenges the factual assumptions made by the regulator and hence this is very useful in improving the regulation; and

- After the statutory consultation period is over, the government publishes the final regulation which includes a statement of the basis and purpose of the rule and responds to all substantive comments received.

120. NOTIFICATION

Notification is an instrument created by government authority requiring all businesses with specified characteristics to provide information about their attributes to a specified agency.

121. ONE-STOP-SHOPS

“One-Stop-Shops” is a tool to improve regulatory accessibility. Through this tool, government authorities provide easy access to many regulatory services in a single physical location. One-stop-shops are especially cost-effective for small and medium-size enterprises (SMEs) whereby their transition costs related to regulation are relatively high. A one-stop-shop can offer in a single place regulatory information and advice as well as the possibility to submit formalities and receive official answers. In some cases, a one-stop-shop can adjudicate licences. For many countries, a one-stop-shop has been also a way to accelerate devolution from central government to regional and lower level administrations in many fields on the subsidiarity principle. E-government tools have expanded the concept into a single site open to any firm with internet access.
122. **ONLINE BUSINESS LICENSING SERVICE**

Online Business Licensing Service (OBLS) is a one-stop portal for businessmen to apply for all the required Singapore government licences in a single online transaction. The system routes all applications to various government agencies for processing.

OBLS was first conceived by the Pro-Enterprise Panel, a high level joint public-private sector panel chaired by the Head of Civil Service, Singapore. The panel received a lot of business feedback to cut red-tape in making it easy to start businesses in Singapore. Small and medium enterprises were the main target of the OBLS project due to their large number. This group was generally unhappy with the costs and complexities of the licensing process.

More than 80% of start-up businesses in Singapore are served by OBLS without having to visit government counters. The system also offers Update, Renewal and Termination services for licences and its main features include:

- Search for the licences that they may need;
- Apply for multiple licences at once using the integrated form;
- Update particulars on existing licence;
- Renew existing licences that are expiring soon;
- Terminate licences that are no longer required; and
- Pay for multiple licences via one consolidated transaction

Moreover, the system is effective in terms of:

- Reduction in the average licence processing time for all new applications including those not handled by OBLS as a result of the reengineering exercise and OBLS implementation; and
- Reduction in compliance costs which were derived from the reduction in the amount of license fees, reduction in the processing time of licences and the time-savings by businessmen who now do not need to travel and queue up physically and complete multiple application forms that require similar information.
123. OVER-REGULATION

Over-regulation refers to excessive regulation or the imposition of excessive rules and regulations. While reasonable imposition of regulations are needed to ensure efficient allocation of resources, over-regulations may exert upward costs to the business community in various ways including:

- Documentation of compliance with regulations often requires substantial paperwork;
- Regulations in one area may conflict with regulatory requirements in another, resulting in confusion and duplication of effort;
- Directives that micromanage processes of regulations are unnecessary; and
- Over-regulations may profoundly affect costs by stifling innovation in service delivery and quality improvement.

See also Red Tape.

124. PERFECT COMPETITION

Perfect competition is a widely used economic model based on the assumption that there is a large number of buyers and sellers for any good and each buyer or seller has no effect on market prices.

125. PERFORMANCE-BASED REGULATION

Performance-based regulation involves the specification of required outcomes or objectives, rather than the means by which these outcomes or objectives must be achieved. The focus of regulation is on results or outputs, rather than inputs. It can be enforced through self-regulation or co-regulation and therefore the degree of government intervention is reduced. Firms and individuals are able to choose the process by which they will comply with the law.

The use of performance-based regulation is very prevalent in OECD countries. Its use has been increasing significantly in relation to health, safety, consumer protection and particularly environmental regulation. For instance in Canada, the Ontario Ministry for the Environment as well as Environment Canada (which is legally incorporated as the Department of the Environment) both negotiated an agreement with a major steel company to advance the prevention and abatement of releases from their steel manufacturing. Targets were set and the company itself could decide how these targets were met. An evaluation of this programme revealed that costs were kept low and the targets were met.

The advantages of performance-based regulation include:

- Firms and individuals can identify efficient and lower cost processes to achieve a particular outcome;
- Encourages innovation and the more widespread use of technology; and
• Regulations can be simpler and clearer since they involve only the specification of objectives and outputs instead of prescriptive detail and processes.

However, the disadvantages of performance-based regulation are as follows:

• Can be difficult to develop since it requires precise and unambiguous specification of objectives and outcomes; and
• Requires operational guidelines to support firms and individuals with compliance. These can then become de-facto or generally accepted but illegal prescriptive regulations.

Hence, performance-based regulation which specifies the objectives or “output standards” by which regulatory compliance will be assessed, and leaves the means of compliance to be determined by the regulated entity will promote efficient compliance strategies.

126. PERMIT

Permit is a regulatory tool that authorises actions related to the core business activities. An authorisation to complete a single instance of an activity, e.g., to build a warehouse.

127. PRIMARY REGULATION

Primary regulation is enacted by the legislature, i.e., parliament or congress. At the European level, the treaties constitute the EU’s “primary legislation.”

See also Secondary Regulation.

128. PROCESS REENGINEERING

Process reengineering means documenting and streamlining business-government interactions and internal government procedures affecting businesses. It focuses on detailed review of transactions and processes within and among institutions to streamline processes to achieve faster response time.

129. PRODUCT MARKET REGULATION INDICATORS

Product Market Regulation (PMR) indicators are a comprehensive and internationally-comparable set of indicators that measure the degree to which policies promote or inhibit competition in areas of the product market where competition is viable. The indicators measure the economy-wide regulatory and market environments in the Organisation for Economic Co-operation and Development (OECD) countries (e.g., Australia, Canada, France, Mexico and United States) and other countries (e.g., Brazil, China, India, Indonesia, Russia and South Africa).
These indicators have been used extensively over the past decade to benchmark regulatory frameworks in those countries and have helped spur structural reforms that enhance economic performance.

The indicators cover formal regulations in the following areas:

- State control of business enterprises;
- Legal and administrative barriers to entrepreneurship; and
- Barriers to international trade and investment.

The main sources of information used to construct the PMR indicators are the responses to the Regulatory Indicators Questionnaire provided by national governments and data published by the OECD and other international organisations. All these data have been extensively checked by OECD and government experts.

130. PRODUCTIVITY

Productivity is simply a measure of the efficiency of production. It is a ratio of production output to what is required to produce it, i.e., inputs.

The benefits of high productivity are manifold. At the national level, productivity growth raises living standards because more real income improves people’s ability to purchase goods and services, enjoy leisure, improves housing and education and contributes to social and environmental programs. Productivity growth is also important to a firm because it means that it can meet its obligations to customers, suppliers, workers, shareholders, and governments (e.g., taxes and regulation), and still remain competitive in the market place.

However, the preceding description is meant to provide a basic understanding of the concept of productivity.

131. PUBLIC COMMENT

Public comments are comments concerning an issue that are gathered by holding hearings and/or inviting written public response.
132. PUBLIC CONSULTATION

Public consultation is a systematic public engagement which involves seeking, receiving, analysing and responding to feedback from stakeholders or affected parties including the general public. Public consultation gives citizens and businesses the opportunity to provide an active input in regulatory decisions.

See also Consultation.

133. PUBLIC GOODS

Public goods are goods or services that are both non-excludable and non-rivalrous. This means anyone can simultaneously have access once the goods or services are provided and the use by one person does not reduce availability to others. Consequently, so long as people believe that others also desire the good and that it is likely to be made available, then each individual is unlikely to contribute voluntarily to its provision or supply. Therefore, free markets may provide fewer public goods and services than the community as a whole would be willing to pay for. As such, government intervention may be required to ensure such goods and services are provided.

Certain goods and services, by their very nature, are unlikely to be provided to a socially optimal level by the private market. Goods or services which have the following characteristics may be undersupplied without government intervention:

- Non-rivalrous: When one person’s consumption of that good or service does not affect the ability of others to also consume the good or service; and
- Non-excludable: When it is difficult to exclude people from consuming the good or service and difficult to charge consumers a price for non-excludable goods or services.

Examples of public goods include national defence, lighthouses, street lighting and general police protection.

Goods or services that are non-excludable but rivalrous are known as common property resources. Such goods or services are likely to be over-used resulting in congestion. Examples of common property resources may include the stock of fish in an ocean, a public beach or a congested road.
134. **PUBLIC GOVERNANCE**

Public governance is the optimisation of the management of government institutional capacities and public decision-making as well as the establishment and strengthening of administrative structures to become effective, efficient, transparent and accountable to citizens.

135. **PUBLIC NOTICE AND COMMENT**

Public notice is the publicising or disseminating of the intention to regulate and comments are solicited or obtained from all interested parties before the regulation is approved.

See also Notice and Comments.

136. **QUASI-REGULATION**

Quasi-regulation includes a wide range of rules or arrangements used by governments to influence businesses to comply, but it does not form part of explicit government regulation. Some examples of quasi-regulation include industry codes of practice that are developed with government involvement, guidance notes, industry-government agreements as well as accreditation schemes.

Quasi-regulation should be considered under the following conditions:

- There is a public interest in some government involvement in addressing a community concern and the issue is unlikely to be addressed by self-regulation;
- There is a need for an urgent, interim response to a problem in the short term pending the formulation of a long-term regulatory solution;
- Government is not convinced of the need to develop or mandate a code for the whole industry;
- There are cost advantages from flexible, tailor-made solutions and less formal mechanisms; and
- There are advantages for the government engaging in a collaborative approach with industry having substantial ownership of the scheme. For this to be successful, there is a need for:
  - A specific industry solution rather than regulation of general application;
  - A cohesive industry with like-minded participants motivated to achieve the goals;
  - A viable industry association with the resources necessary to develop and/or enforce the scheme;
  - Effective sanctions or incentives to achieve the required level of compliance with low scope for benefits being shared by non-participants; and
  - Effective external pressure from industry itself in terms of survival factors or threat of consumer or government action.

Like self-regulation, the above-mentioned proposals for achieving collaborative approval should not restrict competition.
137. RECASTING

Recasting refers to a legislative technique whereby a legislative proposal or act is a mix of substantial amendment and codification. This technique uses the opportunity provided by a substantial amendment to the basic legislative act to codify the original act and all its subsequent amendments. Unlike codification, recasting changes the substance or content of the law. Recasting is one form of simplification and a recasting proposal follows a normal legislative procedure according to its legal base.

In other words, recasting is the repealing of a set of acts in one area and replacing them with a single act containing substantive changes to those acts. However, it is not wholesale repeal or a major review of regulation.

See also Consolidation and Codification.

138. RECERTIFICATION

Recertification or revalidation refers to the requirement for periodic re-evaluation or reporting of activities designed to provide assurance that the knowledge and skills of the practitioner are current or up-to-date. It is generally more stringent than renewal requirements.

139. RED TAPE

Red tape is excessive regulation or rigid conformity to rules and regulations that is considered redundant or bureaucratic and hinders or prevents swift action or decision-making. It is usually applied to government departments and agencies as well as corporations.

Red tape generally includes excessive paperwork, duplication of licences, having multiple people or committees approve a decision and various low-level rules that make conducting one’s affairs slower and/or more difficult. Red tape can also include filing and certification requirements, reporting, investigation, inspection and enforcement practices, and procedures.

See also Over-regulation.
140. **RED TAPE ASSESSMENT**

Red Tape Assessment (RTA) is an approach that analyses and compares administrative burdens on business across OECD countries. This study is the first of its kind incorporating the following main objectives:

- To develop a methodology to measure and compare administrative burdens across OECD countries;
- To establish benchmarks of selected administrative burdens in OECD countries; and
- To analyse reasons for cross-country differences in administrative burdens, with a view to providing policy advice and identifying best practices on burden reduction strategies.

The main analytical questions that the RTA attempts to address in relation to the needs of governments are as follows:

- What is the national level of administrative burdens on specific indicators?;
- Where do countries differ?; and
- What can be learnt from other countries in order to simplify or why do countries differ?

The RTA methodology is based on a marginally adapted version of the Standard Cost Model (SCM). A key element of the RTA method is that it adopts a meticulous approach in measuring the administrative burdens, especially at the level of individual activities. The method focuses on the identification and quantification of the administrative burdens encountered by business due to government legislation.

141. **RE-ENGINEERING ADMINISTRATIVE PROCESSES**

“Re-engineering administrative processes” is a tool for administrative simplification. Process re-engineering is the analysis and redesign of workflow within and among organisations, both private and public. The redesign and reorganisation of the processes and procedures within a public authority can lower costs and increase quality of service. Re-engineering can also enable the use of Information and Communication Technologies (ICTs) to support and facilitate a drastic change in how a bureaucracy operates.

The initiatives that are linked to re-engineering administrative processes include improving the start-up phase for obtaining business registration numbers and opening licences as well as improving location regulation (e.g., access to premises, construction permits and utilities) and operating procedures and reporting requirements (e.g., taxes and inspections).

142. **REGISTRATION**

Registration is the process whereby an individual is listed as eligible to provide a regulated service. However, not all registration processes require the demonstration of competency for a particular service.
143. REGULATION

Regulation is a form of law that has binding legal effect. It is one of the many instruments that government uses to achieve policy objectives and ensure the well-being of Malaysians.

A regulation sets out principles, rules, or conditions that govern the behaviour of citizens and organisations. Governments use regulations in combination with other instruments to achieve public policy objectives. Regulations are a form of law that dictate general rules and penalties rather than specific ones that are directed toward persons or situations.

Regulations include constitutions, laws, formal and informal orders and subordinate rules issued by all levels of government as well as rules issued by non-governmental or self-regulatory bodies to whom governments have delegated regulatory powers. They also include “soft regulations” such as joint opinions, declarations, resolutions, recommendations, proposals, guidelines, codes of conduct, agreement protocols and “agreements proper”.

In general, regulations fall into three categories:

i. Economic regulations that intervene the market directly affecting pricing, competition, market entry, or exit decisions. Reforms in this area are aimed at increasing economic efficiency by reducing barriers to competition and innovation, often through deregulation, the use of efficiency-promoting regulation and as well as by improving regulatory frameworks for market functioning and prudent oversight;

ii. Social regulations that protect public interests such as health, safety, the environment and social cohesion. Although the economic effects of social regulations may be secondary concerns or even unexpected, yet they can be substantial. Reforms in this area are aimed at verifying that regulation is needed and how regulations can be designed to be more flexible, simpler and more effective at lower costs including such possibilities as market incentives and goal-based approaches; and

iii. Administrative regulations which are the paperwork and other administrative procedures and formalities as well as the so-called “red tape” through which governments collect information and intervene in individual economic decisions. They can have substantial impacts on private sector performance. Reforms in this area are aimed at eliminating requirements no longer needed, streamlining and simplifying those that are needed, and improving the transparency of application.

The main models of regulation are the traditional command-and-control regulation, self-regulation, performance-based regulation and co-regulation.

However, the specific forms of regulation are as follows:

- Self-regulation;
- Quasi-regulation;
- Co-regulation; and
- Explicit government regulation (black letter law).

For further explanations, please refer to the above terminologies in the Glossary.
**144. REGULATION INSIDE GOVERNMENT**

Regulation inside government (RIG) refers to the regulations imposed by the government on its own administrators and public service providers (e.g., government agencies or local government service providers). The changing role of the government in recent years is often characterised as a shift to the “regulatory state” which means that tasks that used to be performed within government have been progressively decentralised and delegated. At the same time, the expectations of society in matters such as health and safety, environmental protection as well as efficient public service delivery have tended to rise. As such, regulatory frameworks are now in place to regulate the government’s decentralised activities as well as the liberalised and privatised companies which used to be an integral part of the governments as a form of mirror image.

**145. REGULATORY ALTERNATIVES**

Regulatory alternatives refer to policy instruments apart from “command and control” regulation used to obtain policy goals. They encompass instruments such as performance-based regulation; process regulation; waiver or variance provisions; delegated, self- and co-regulation; contractual arrangements; voluntary commitments; tradable permits, taxes and subsidies; insurance schemes; and information campaigns.

See also Self-regulation and Performance-based Regulation.

**146. REGULATORY AUTHORITIES**

Regulatory authorities are government authorities responsible for enacting and enforcing regulations. The responsibility generally comes from provisions in the constitution and/or primary legislation.

Regulatory authorities are also responsible for the registration or licensure or recognition of persons permitted to offer professional services such as an architect.

**147. REGULATORY CYCLE**

Regulatory cycle involves the developing, introducing, reviewing and possibly amending regulation to ensure it is achieving its objectives and maximising net benefits.
148. REGULATORY GOVERNANCE

Regulatory governance is a term that encompasses a number of regulatory policies. The concept involves developing and implementing government-wide relationships and procedures that frame the ways for authorities and governments to use their regulatory powers. Regulatory governance goes beyond the government’s executive branch and involves the participation of parliament, the judiciary and subnational authorities among other stakeholders to ensure that the rule of law is enforced properly.

149. REGULATORY GUILLOTINE

The Regulatory Guillotine is a technique of rapidly reviewing a large number of old regulations and eliminating those that are no longer needed without the need for lengthy and costly legal action on each regulation. It is clear, decisive, and fast. It can be used to create a comprehensive and central regulatory registry with positive security, i.e., going beyond the formalities the registry have recommended to include all regulations affecting businesses.

The core principle of Regulatory Guillotine is that only regulation required for future policy needs for market-led development that is not successfully justified as legal will be eliminated and any regulation that is needed but not business-friendly will be simplified as far as possible.

See also Guillotine Approach.

150. REGULATORY IMPACT ANALYSIS

Regulatory Impact Analysis (RIA) is a process or technique in determining the impact of regulatory review. It looks at relative impacts rather than absolute impacts and therefore is considered as a normative evaluation. This implies that RIA’s main goal is to assist decision makers to design a better regulation with a lower negative impacts and/or higher positive impacts on firms and citizens. RIA is used to examine selectively the potential impacts arising from government action or non-action as well as to disseminate the information to decision-makers and the public. In essence, it attempts to widen and clarify the relevant factors for decision-making as well as implicitly broadens the mission of regulators from highly-focused problem-solving to one of balanced decision-making that trade off problems against wider economic and distributional goals.

RIA has several internal and external objectives such as:

- To improve the understanding of real-world impacts of government action including both benefits and costs;
- To integrate multiple policy objectives;
- To improve transparency and consultation; and
- To enhance government accountability and reduce corruption.
RIA is also a key tool for strengthening inter-ministerial cohesion as well as reducing duplicative and contradictory policies. From an external perspective, it enhances regulatory transparency and accountability of public administration, i.e., “no regulation without representation”. It contributes to reducing the danger of regulatory capture by powerful vested interests. As RIA involves a thorough consultation process, it helps to increase compliance with the rules that are being implemented. In dynamic terms, RIA is an essential instrument to improve decision-making and it has been successful in changing the administrative culture in many countries from a legalistic and passive stance to an evidence-based, proactive and citizens’ friendly attitude. As RIA becomes more widely used, it also helps to define government interventions and indeed contributes to defining a more positive role for the government.

The benefits of RIA can be categorised under three headings:

i. Performance of the economy and consumer welfare – RIA can contribute to economic efficiency by highlighting aspects of regulation which limit consumer choice and the level of competition in an economy. It helps to identify potential burdens on business and ensure that they are kept to a minimum. RIA can also identify potentially anti-competitive or protectionist regulations before they are being enacted. Since it includes consultation with a wide range of stakeholders, it also provides an opportunity for those potentially affected by regulations to highlight any unforeseen consequences that may not previously have been considered;

ii. Quality of governance – RIA is also a means of improving the quality of governance by increasing the transparency and legitimacy of the regulatory process. The inclusion of consultation ensures that the interests of citizens are more systematically being considered within the regulatory process and the focus on enforcement and review encourages a more strategic approach to the monitoring and enforcement of regulations. This, in turn, increases the accountability of the regulatory process; and

iii. Efficiency and effectiveness of the public service – RIA is designed to increase the efficiency and effectiveness of the public service. It will improve the quality of policy advice given to ministers through promoting increased use of evidence in policy-making and providing more information on the likely implications of regulatory proposals. It also contributes to achieving value for money and efficiency by generating more detailed information in relation to cost and allowing more extensive analysis of alternative options for achieving policy objectives.

Based on the implementation of RIA in Ireland, this technique should contribute to achieving the six principles of Better Regulation as identified in the Government White Paper entitled Regulating Better. The six principles of Better Regulation are:

i. Necessity;
ii. Proportionality;
iii. Consistency;
iv. Effectiveness;
v. Transparency; and
vi. Accountability.
These principles should always be taken into account when evaluating different options and deciding whether a particular regulatory option should be implemented.

RIA is also known as Regulatory Impact Assessment.

151. REGULATORY IMPACT ASSESSMENT

Regulatory Impact Assessment is also known as Regulatory Impact Analysis (RIA).

See also Regulatory Impact Analysis.

152. REGULATORY IMPACT STATEMENT

Regulation Impact Statement (RIS) is vital to the Regulatory Impact Analysis (RIA) process. The RIS is a government agency document which is different from a Cabinet paper that represents a minister’s document. It provides a summary of the agency’s best advice to its minister and Cabinet on the problem definition, objectives, identification and analysis of the full range of practical options, as well as information on implementation arrangements. Whereas, the Cabinet paper presents the minister’s advice or recommendations to Cabinet.

The goals of the RIS are to:

- Provide the basis for consultation with stakeholders and with other government agencies;
- Provide the basis for engagement with ministers and therefore helping to inform and influence the policy discussion and ministers’ decisions;
- Inform Cabinet about the range of feasible options and the benefits, costs and risks of the preferred option(s); and
- Enhance transparency and accountability for decision-making through public disclosure once decisions are being taken.
The RIS should provide an objective, balanced presentation of the analysis of impacts and any conclusions made by the agency should be explained and justified. Besides, it should be prepared prior to the Cabinet paper, so that it can provide information on the development of the preferred option and hence the Ministerial recommendations in the Cabinet paper. Moreover, it should provide a reference point for the Cabinet paper to be developed, thus avoiding the need for a lengthy Cabinet paper and repetition between the two stated documents.

The RIS must contain the following information:

- Agency disclosure statement;
- Description of existing arrangements and the status quo;
- Problem definition;
- Objectives;
- Identification of the full range of feasible options as well as analysis of the costs, benefits and risks of each option;
- Consultation;
- Conclusions and recommendations;
- Implementation issues including risks; and
- Arrangements for monitoring, evaluation and review.

153. REGULATORY MANAGEMENT

Regulatory Management is a term being increasingly used to convey the concept of an ongoing commitment to improving the processes of policy formulation, legislative drafting and enhancing the overall effectiveness and coherence of regulation.

Regulatory Management is also known as Better Regulation or Smart Regulation.
154. REGULATORY MANAGEMENT CAPACITY

Regulatory Management Capacity refers to capacity inherent in government to promote better regulation. The key elements of the capacity include the existence of a clear regulatory policy or policies, an institutional framework which is capable of promoting the policy, the tools and processes deployed for the management of the stock of existing regulation as well as the development of new regulations (e.g., administrative simplification and impact assessment).

155. REGULATORY POLICY

Regulatory Policy is an explicit policy aimed at the continuous improvement of the regulatory environment via efficient use of the government’s regulatory powers.

The reasons or intentions of a Regulatory Policy include:
- Screening regulations and formalities to identify those that are outdated or ineffective;
- Streamlining and simplifying regulations and formalities that are needed;
- Using a wider range of market incentives and more flexible and international regulatory approaches; and
- Introducing greater discipline, coordination and transparency within regulatory process.

A Regulatory Policy can induce commitment to reform, sustain transparency as well as promote consistency and coordination among the various components of reform. A government chooses its regulatory policy approach(es) for strategic and tactical reasons. There are several policy approaches that fall under the regulatory policy term and they have strong complementarities because all of them address dysfunctions in the public service and pursue similar benefits. However, they involve different networks, instruments, and skills. Operationally, therefore, it is not easy to use them in combination.

The two main categories of regulatory policies are:
- Administrative simplification including e-Government; and
- Regulatory management and reform.

Regulatory policies are designed to maximise the efficiency, transparency and accountability of regulations based on an integrated rule-making approach and the application of regulatory tools and institutions.
A Regulatory Policy can induce commitment to reform, sustain transparency as well as promote consistency and coordination among the various components of reform. A government chooses its regulatory policy approach(es) for strategic and tactical reasons. There are several policy approaches that fall under the regulatory policy term and they have strong complementarities because all of them address dysfunctions in the public service and pursue similar benefits. However, they involve different networks, instruments, and skills. Operationally, therefore, it is not easy to use them in combination.

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   i. Administrative simplification including e-Government; and
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Regulatory policies are designed to maximise the efficiency, transparency and accountability of regulations based on an integrated rule-making approach and the application of regulatory tools and institutions.

156. REGULATORY POWERS

Regulatory powers are powers to enact and enforce regulations.

157. REGULATORY QUALITY

Regulatory quality refers to the optimisation of the performance, cost-effectiveness, or legal quality of regulation and administrative formalities.

158. REGULATORY REFORM

Regulatory reform is the term that has been generally used to describe, “changes that improve regulatory quality, i.e., enhance the performance, cost-effectiveness or legal quality of regulations and related government formalities”. The changes can be in the form of specific regulations governing markets and sectors such as telecommunications, energy or transport and/or changes to the way regulations are formulated, enacted and enforced.
Examples of changes to the process of regulation include:

- Impact analysis/assessment techniques;
- The use of alternatives to traditional regulation such as market mechanisms and economic incentives; and
- “Sunsetting” arrangements whereby regulations are formally reviewed at a future date to establish whether or not they are still valid or if they could be improved, reduced or even revoked.

Regulatory reform and management initiatives also focus on improving the ways the government, citizens and businesses interact. Essentially, regulatory reform addresses the instruments, institutions, processes, and policy content of laws and other rules. These reforms go beyond administrative procedures and tackle more than just information requirements (e.g., setting up an environmental filter hiring and firing restrictions, etc.). However, regulatory management initiatives attempt to review and improve the existing regulations and laws that support administrative processes and structures besides focusing on improving the rule-making processes with the help of techniques like regulatory impact analysis, public consultation, and alternatives to regulations.

Regulatory reform also means revision of a single regulation, the scrapping and rebuilding of an entire regulatory regime and its institutions, or improvement of processes for making regulations and managing reform.

Deregulation is a subset of regulatory reform and refers to complete or partial elimination of regulation in a sector to improve economic performance. Regulatory, competition and market openness policies are key factors for a successful and coherent regulatory reform.

**159. REGULATORY REGISTRIES AND INVENTORIES**

“Regulatory registries and inventories” is a tool to improve regulatory accessibility. Reforming regulations should be a high priority in any “business environment” programme to improve the interface between the public and private sectors. A first step in the use of the tool is to remove uncertainty about the “universe” or complete set of government obligations. The objective is to establish a centralised, comprehensive, and secure registry of all forms and formalities required by the government including all information requirements and background documents.

The inventory should provide legal security to businesses and therefore must include the full set of enforceable formalities. Setting up an inventory is itself a deregulation mechanism, as ministries “in cleaning up their houses” will voluntarily eliminate outdated and illegal formalities, rather than report them. It should also be a bridgehead or forerunner for using e-Government tools in the future. Once all formalities have been identified, the government can start reviewing all of them or just the most problematic ones.
Repeal is a legal act whereby the regulations, directives and decisions are formally repealed and their validity is terminated.

Revocation is the removal of a registration or licence so as to prohibit the practice of a profession or use of a designation or title.

Revocation is the removal of a registration or licence so as to prohibit the practice of a profession or use of a designation or title.

Risk is the probability of an undesirable event occurring. It is not the same as uncertainty whereby the probabilities of particular outcomes are unknown. Risk can be managed, but may not always be eliminated. In some cases, risks either cannot be eliminated, or the cost of doing so is prohibitive or too high. An appropriate goal is to manage risk, taking into account the costs and expected benefits of reducing that risk.
165. RISK ANALYSIS

Risk analysis is an important part of the government’s best practice regulation requirements. Whenever relevant, it must be incorporated into regulatory impact statements (RISs). The purpose of risk analysis in a RIS is to shed light on sources of uncertainty about the possible impacts of proposed regulation on economic outcomes. Risk analysis should not be seen as a distinct step in the RIS process but instead be considered throughout each step of the RIS process with particular emphasis on the problem and impact analysis sections.

166. RISK ASSESSMENT

In essence, risk assessment is the process of identifying and analyzing the risks and evaluating remedies associated with regulations including those already in place.

Risk assessment also refers to the task of identifying and exploring, preferably in quantified terms, the types, intensities and likelihood of the normally undesirable consequences related to a risk. Therefore, risk assessment comprises hazard identification and estimation, exposure and vulnerability assessment as well as risk estimation for the regulations which are being reviewed.

In short, risk assessment is a means of analysing the risk and consequences of an undesirable event. It is a useful tool for determining the significance of the risks associated with a particular problem, and for comparing the effectiveness of various options for addressing the problem. Risk assessment is commonly used in the areas of health and safety or environmental regulation focusing on assessing the relative impact of the available options on the level of risk and/or its consequences.

167. SECONDARY REGULATION

Secondary regulation can be enacted by a body authorised to do so by primary legislation, i.e., legislation enacted by the legislature. It may also be known as subordinate regulation. However, it must be noted that some secondary regulations are not permitted by the legislature, if they decide to do so.

See also Primary Regulation.
168. **SELF-REGULATION**

Self-regulation is a regulatory control exercised by individual businesses or industry associations without government involvement or interference. Some writers use this term to describe regulatory arrangements defined under co-regulation.

Self-regulation is also known as voluntary approaches which are arrangements initiated and undertaken by industry and firms, sometimes formally sanctioned or endorsed by government whereby self-imposed requirements are agreed and go beyond or complement the prevailing regulatory requirements. The voluntary approaches include voluntary initiatives, voluntary codes, voluntary agreements as well as self-regulation and they differ in terms of their enforceability and degree of voluntarism.

There are two motivations that can encourage firms to participate in voluntary approaches. Firstly, companies that take voluntary action to address a policy concern may prevent more stringent government regulation. Secondly, a threat by government of possible future regulation can encourage an industry to deal with the issue itself. Firms are also increasingly recognising that they can enhance their reputation and increase sales via participation in voluntary associations.

An Irish example of self-regulation is the Advertising Standards Authority of Ireland, which is an independent self-regulatory body set up and financed by the advertising industry to monitor and protect certain standards of advertising. This is achieved through the development of, and voluntary compliance with, a set of advertising standards.

The advantages of self-regulation include;

- Often cheaper than command-and-control with less direct costs to the government;
- More adaptable to societal and technical change;
- Excludes the Courts, i.e., cheaper and reduces the case load of the Courts;
- Promotes interaction in the public interest amongst competitors; and
- Reduces compliance costs because industry players design their own regulation.

However, the disadvantages of self-regulation are as follows:

- Can be ineffective since there may not be adequate enforcement;
- Little action may be taken to curb or change behaviour that can generate significant profit; and
- Can be anti-competitive resulting in barriers to entry.

Self-regulation should be considered whenever:

- There is no strong public interest concern, especially no major public health and safety concern;
- The problem is a low-risk event with minimal impact or insignificance; and
- The problem can be fixed by the market itself. For instance, there may be an incentive such as industry survival or market advantage for individuals and groups to develop and comply with self-regulatory arrangements.
The likelihood of self-regulatory industry schemes being successful is increased if the following conditions exist:

- Adequate achievable coverage of industry concerned;
- A viable industry association;
- A cohesive industry with like-minded or motivated participants committed to achieving the goals;
- Evidence that voluntary participation can work, i.e., effective sanctions and incentives can be applied, with low scope for the benefits being shared by non-participants; and
- A cost advantage from tailor-made solutions and less formal mechanisms, such as access to quick complaints-handling and redress mechanisms, or the need to make regulatory adjustments quickly to meet developing market circumstances.

However, care must be taken to ensure any proposed self-regulatory approaches are not anti-competitive, for instance, by restricting the entry of new market participants or discouraging the adoption of new technology.

169. SENSITIVITY ANALYSIS

Sensitivity analysis is a tool that is often applied to assess the impact of changes in a key variable or parameter on the net benefit estimate. Sensitivity analysis can be used when there is considerable uncertainty about the values of key variables used in cost-benefit analysis (CBA). When used in combination with probabilistic modelling, sensitivity analysis can provide a powerful tool to gain useful insights into the basis of ‘worst’ and ‘best’ case outcomes.

In the context of regulatory review, sensitivity analysis can also be used to check the overall robustness of the CBA results for changes in globally sensitive assumptions (e.g., estimates of cost, benefit and risk).

170. SIMPLIFICATION

Simplification refers to measures that reduce administrative burdens in dealing with government regulations, i.e., paperwork and informational requirements imposed by governments on businesses, citizens and the civil service. They include various instruments such as drafting in simple layman language, physical one-stop-shops, simplification of licensing procedures, time limits established for decision-making as well as the use of information technology to simplify dealings with administrations such as e-government initiatives and web portals.

See also Administrative Simplification.
171. **SOFT LAWS**

The term “soft laws” refer to quasi-legal instruments which do not have any legally binding force, or whose binding force is somewhat “weaker” than the binding force of traditional law. Traditionally, the term “soft law” is associated with international law. However, more recently it has been transferred to other branches of domestic law as well.

With regard to domestic law, soft laws are administrative circulars and administrative discretion.

172. **SPEED OFFICIAL RESPONSES AND THE “SILENT IS CONSENT” RULE**

Speed official responses and the “silent is consent” rule is a tool for administrative simplification. Establishing an explicit deadline for the government authorities’ responses is a first and crucial step. Governments can further enhance the accountability of civil servants by setting up a ‘silent is consent’ rule. The “silence is consent” or tacit authorisation rule switches the burden of action entirely, e.g., if administrators fail to act within time limits (usually two weeks to 30 days), the business is automatically granted approval. The “silent is consent” rule assures the applicant will obtain a timely decision to his/her request. It puts the onus to act on the bureaucrat or civil servant. This means the agency that receives the request needs to act within the time limit and if necessary and possible, to ask for additional time to consider the application. In the case of denial, the applicant can immediately appeal instead of continuing to wait for a response, as would be the case if no time limit were established. By putting a stronger onus on the public authorities, tacit responses increase the accountability of the government administration. It helps to focus the attention and target efforts of the back office on the crucial applications. Hence, the tool has the potential to revolutionise the relationship between authorities and businesses.

173. **STANDARD**

Standard is a mandatory or voluntary requirement that:

- Imposes sanctions for certain harmful consequences from a product or service;
- Requires certain conditions of quality to be met at the point of supply; and
- Compels the supplier to use certain production methods or materials, or prohibits the use of certain production methods or materials.
174. STANDARD COST MODEL

Generally, Standard Cost Model (SCM) is one of the techniques for determining the impact of regulatory review and it originated from the Netherlands.

Specifically, SCM is a method for determining the administrative burdens on businesses arising from a law or regulation. It is a quantitative methodology which is applicable in all countries and at different levels of the economy. The method can be used to measure the impact of a single law or selected areas of legislation, or to perform a baseline measurement of all legislations in a country. Furthermore, the SCM is also appropriate for measuring simplification proposals as well as the administrative consequences of a new legislative proposal. The SCM initiative includes precise guidelines but the cost of undertaking a proper SCM can be substantially higher than other methods.

A key advantage of SCM is that it produces quick results. SCM is a particularly useful tool for identifying ways whereby costs can be reduced. Implicit in the model is its focus on information collection, i.e., it is particularly good at estimating the impact of administrative regulations.

SCM also enables comparability between regulations and authorities. The initial step of the analysis is that businesses must perform a sequence of activities if they are to meet the requirements imposed on them. The cost of meeting the requirements is the sum of the costs incurred on performing all the activities.

175. STAKEHOLDER CONSULTATION

Stakeholder consultation is a regulatory tool used to improve the transparency, efficiency and effectiveness of regulation. It is a systematic, two-way flow of information between government and affected parties. It can be undertaken at any stage of the regulatory development, from identification of the problem to design of the instrument mix to evaluation of existing regulation. Stakeholder consultation increases the quality of regulatory policies in different ways by:

- Bringing into the discussion the expertise and perspectives of affected parties;
- Helping regulators balance opposing interests and identify unintended effects and practical problems; and
- Fostering interactions between regulations from various parts of government.

However, stakeholder consultation, if constructive and well structured, improves the quality of rules and programmes, improves the legitimacy and credibility of government actions as well as improves compliance and reducing enforcement costs for both governments and citizens. When government announces in a timely manner changes to regulation, affected parties can also adjust to changes.
176. **STATUTORY AUTHORITY**

Statutory authority refers to the boundaries of a regulatory body’s or agency’s lawful responsibility as defined by the statute or law that created it.

177. **SUBSIDIARITY**

Subsidiarity is a term used in the European Union (EU) context. It is a principle aimed at ensuring that a task is performed at the appropriate level of government and that decisions are taken in consideration of the citizens. Specifically, a task should only be allocated to a higher level if the lower level is incapable of performing it. This means that the EU only takes action in cases where national level action cannot achieve the stated objective.

178. **SUNRISE**

Sunrise is a process by which an occupation or profession wishing to receive certification or licensure must propose the components of the legislation, accompanied by cost and benefit estimates of the proposed regulation. The profession must then convince legislators that consumers will be unduly harmed if the proposed legislation is not adopted.

179. **SUNSETTING CLAUSE**

Sunsetting clause or provision refers to the automatic repeal of a regulation within a defined time period after it has been implemented. This will usually trigger a review of the regulation just before repeal occurs.
180. **TABLE OF ELEVEN**

Table of Eleven is an assessment tool that is developed by the Netherlands for the purpose of promoting compliance to rules. It involves an ex-ante compliance assessment that helps to give a more accurate and well-founded estimate of the level of compliance of future legislation than just off the cuff. With the help of the Table of Eleven, it is possible to systematically analyse the enforcement efforts of any enforcement body. It is also possible to estimate the potential effects of compliance.

Eleven aspects of a proposed regulation are being considered and they can be categorised into the following two dimensions:

a. **Spontaneous Compliance:**

i. Knowledge of the regulations, i.e., familiarity and clarity of rules;  
ii. Costs/benefits of compliance or non-compliance; i.e., financial/economic and intangibles;  
iii. Extent of business acceptance of the regulation, i.e., acceptance of the policy objective and acceptance of the effects of a policy;  
iv. The target group’s respect for authority;  
v. Extent of informal monitoring, i.e., non-official or social control;

b. **Enforcement and Monitoring:**

vi. Probability of being reported;  
vii. Probability of inspection, i.e., records inspection and physical inspection;  
viii. Probability of detection, i.e., detection in a records inspection and detection in a physical inspection;  
ix. Selectivity, i.e., perceived risk of inspection and detection of a violation resulting from the selection of businesses, persons, actions or areas being inspected;  
x. Risk of sanction; and  
xi. Severity of sanction.

181. **TECHNICAL REGULATION**

A technical regulation is a type of regulation adopted by a regulatory authority which provides binding technical requirements, either directly or by referencing or incorporating the content of a standard, technical specification or code of practice. Technical regulations may specify the type of product that is not permissible, the type of product that is permissible or the outcome required. By their very nature, technical regulations have an effect on the type of products that can be manufactured. They are a stringent form of government control and should ideally be used in situations when the other options for the regulation of product do not ensure adequate protection of health, safety and the environment.
182. **TOLL GOODS**

Toll goods are goods or services that are jointly consumed or non-rivalrous but excludable. Examples of such goods include subscription TV and computer software. Although such goods can often be efficiently provided by the market, government intervention may be necessary in some cases depending on the cost of the good or service, the value placed on it by consumers as well as toll the market will support.

183. **TRADEABLE PERMITS**

Tradeable permits refer to permits that allow dischargers of pollutants to operate under some multi-source emission limit and trade is allowed in permits adding up to that limit. If a discharger releases less pollution than its limit allows, it can sell or trade the differences between its emission reduction credits to another discharger who then has the right to release more than its initial limit allows. Trades can take place within a plant, within a firm or among different firms.

184. **TRADITIONAL COMMAND-AND-CONTROL SYSTEMS OF REGULATION**

Traditional command-and-control systems of regulation are essentially “law and government-centred process(es) of legislation action combined with administrative enforcement.” Command-and-control regulations are the most pervasive policy tool and have been applied in a wide variety of areas, both economic and social. In Ireland, the practice has been for regulatory standard to be set by government departments through primary or secondary legislation and enforced by regulatory bureaucracies or agencies.

Although command-and-control systems have several advantages, they also have numerous drawbacks or disadvantages. Particularly, regulations can be costly to enact and enforce. The OECD estimates that, in many countries, regulations impose costs of 10% of the gross domestic product (GDP) or above.

The advantages of traditional command-and-control regulation include:

- Fixed standards are imposed quickly and actions or goods which do not confirm are instantly outlawed;
- Denotes forceful action by government and indicates it is taking a stand for or against specific activities;
- Outlaws behaviour which involves significant danger to public safety; and
- Certain people may only comply with regulations when they are strict and strongly enforced.
However, the disadvantages of traditional command-and-control regulation are as follows:

- Results in very complex and bureaucratic rules and procedures can be costly in terms of time and money;
- Enforcement is often expensive and evasion possible through creative compliance;
- Can increase risk of regulatory capture since it relies on industry for information on standards and limits;
- Can be difficult to determine most appropriate levels of performance;
- Can be extremely dogmatic and intrusive; and
- Can involve more policy risk.

185. **TRANSFORMING AUTHORISATIONS INTO NOTIFICATION**

“Transforming authorisations (e.g., permits, licences, concessions, etc) into notification” is a tool for deregulation. The key elements of this initiative is to shift from ex-ante to ex-post controls, allowing the firms to set up shop, learn their business and capitalise themselves before onerous or stringent controls are being applied. The ideal practice would be to replace ex-ante licences with a simple notification whilst general rules and standards need to be enforced by ex-post checking such as market audits. Such programmes reflect a change in the role of the government in controlling the market.

For more risky activities, the system can be complemented with out-sourced certification functions to the profit or non-profit private sector. This outsourcing occurs in certain countries via ex-ante insurance companies or via compliance with ISO standards which entitle the applicant firm to a fast track procedure to obtain certification.
186. **TRANSPARENCY**

Transparency is one of the three foundations for an effective process of Regulatory Impact Analysis (RIA). It sustains confidence in the legal environment, making regulations more secure and accessible, less influenced by special interests, and thus more open to competition, trade and investment. It involves a range of actions consisting of:

- Standardised processes for making and changing regulations;
- Consultation with stakeholders;
- Effective communication of regulations and simple language drafting, publication and codification to make them accessible;
- Controls on administrative discretion; and
- Effective implementation and appeals processes.

Regulatory agencies need to explain clearly the objectives of the consultation process and the regulation policy framework that enable consultations to take place as well as provide feedback on how they have taken consultation responses into consideration.

The other two foundations for effective process of RIA incorporate adequacy criteria and gatekeeper role.

187. **UNFUNDED MANDATE**

Unfunded mandate means when a higher or national level imposes a standard for compliance on a lower level which can only be met through expenditure that is not allocated in a budget or grant to the lower level.

188. **VALUATION**

Valuation is the practice of placing monetary values on costs, benefits, externalities, etc.

189. **VIOLATION**

Violation refers to an action to break a law, rule or regulation intentionally or unintentionally.

190. **VOLUNTARY**

Voluntary means free of coercion, duress, or undue inducement. It is used in the research context to refer to a subject’s decision to participate or to continue to participate in a research activity.
191. VOLUNTARY COMMITMENTS

Voluntary commitments are commitments by firms to reach certain targets or behave in certain ways not mandated by legislation. Firms agreed to voluntary commitments in exchange for certain other government benefits (e.g., reduced frequency of regulatory inspections).

See also Self-regulation.
PART 2

REGULATORY AGENCIES AND BODIES
1. ASIA-PACIFIC ECONOMIC COOPERATION

Asia-Pacific Economic Cooperation (APEC) is a forum for 21 Pacific Rim countries or “member economies”. It seeks to promote free trade and economic cooperation throughout the Asia-Pacific region. APEC was established in 1989 in response to the growing interdependence of Asia-Pacific economies and the advent of regional trade blocs in the other parts of the world. APEC is unique in the sense that it has no treaty obligations required among its “member economies” and it relies on consensus to make decisions and participants undertake the commitments voluntarily.

APEC’s “Bogor Goals” in terms of “free and open trade and investment in the Asia-Pacific by 2010 for industrialised economies and 2020 for developing economies” adopted by Leaders at their 1994 meeting in Bogor, Indonesia are critically important for attaining APEC’s vision, i.e., “to further enhance economic growth and prosperity for the region and to strengthen Asia-Pacific community”.

APEC works under its three main pillars of activity comprising:
  i. Trade and Investment Liberalisation
  ii. Business Facilitation; and
  iii. Economic and Technical Cooperation

These three pillars have helped to drive the economic growth and improve employment opportunities and standard of living for the citizens of the region.

APEC had successfully reduced tariffs as well as other trade barriers within the region resulting in more efficient domestic economies and tremendous increase in exports. Moreover, policy alignment as well as economic and technical cooperation has created a conducive regulatory environment for safe and efficient movement of goods, services and people within the region.

2. ATTORNEY GENERAL’S CHAMBERS OF MALAYSIA

The Attorney General’s Chambers (AGC) is the office of the Attorney General of Malaysia. It began with the appointment of Attorney General as the country’s chief law officer and subsequently AGC was recognised as a formal government institution. In 1948, the various functions of legal advice provided to then British Colonial government were consolidated as a federal department under the provisions of the Federation of Malaya Agreement, 1948. Subsequently in 1951, the AGC (then known as the Department of Law) was classified as a Ministry entrusted with all legal matters involving the government.
AGENCY/BODY

The main function of the AGC is to review Malaysian laws with the view of systematically
developing and reforming the laws in line with current circumstances to ensure that laws meet
the current needs of society. Towards this end, a committee comprising legal and judicial officers
as well as academicians has been established. Drafts of proposed laws prepared by AGC are
tabled to the Cabinet for endorsement and Parliament for approval.

3. AUSTRALIAN GOVERNMENT PRODUCTIVITY COMMISSION

The Australian Government Productivity Commission (AGPC) which was established in 1998
constitutes the Australian Government’s independent research and advisory body on a range
of economic, social and environmental issues affecting the welfare of Australian citizens. It
reviews existing regulations and undertakes comprehensive research on important policy issues,
for instance, identifying the drivers or factors influencing productivity and trade regulations.

The Commission is led by a chairperson and has between four and 11 commissioners who are
appointed by the Governor-General for a duration up to five years. It relies on processes that
are open and transparent to the general public and it is responsible for making decisions based
on overriding concerns for the community at large, rather than the interests of any particular
industry or specific group.

It has abundant resources with highly qualified personnel and is highly respected as an
authoritative voice on critical issues, thus contributing significantly to regulatory quality, policy
debate and ultimately economic outcomes or achievements. For these reasons, AGPC has
become a model for other countries. In March 2010, New Zealand announced the setting up
of a Productivity Commission which modelled closely on that of AGPC.

4. EPU

EPU is an acronym for the Economic Planning Unit. It is the principal government agency
responsible for the preparation of development plans for the nation.

The Unit was established in 1961 as the Economic Secretariat of the Economic Committee
under the Executive Council of the then Federation of Malaysia. Its objective then was to “focus
on development planning, on major problems in plan execution and on all forms of foreign aid”.
In that year, the government also established the National Planning Development Committee
(NDPC) with the Economic Planning Unit as its secretariat. While the Cabinet continued to retain
the ultimate responsibility for planning in the country, the NDPC was assigned the responsibility
for the formulation, implementation, progress evaluation and revision of development plans.

The five main functions of the EPU are:
   i. Formulate policies and strategies for socioeconomic development – long and medium
term plans;
   ii. Evaluate and recommend development programmes and projects;
iii. Undertake economic research and advise Government on economic issues;
iv. Planning for regional and corridor development; and
v. Secretariat to the Economic Council.

5. EUROPEAN UNION

The European Union (EU) is an economic and political union or confederation of 27 member countries which are located primarily in Europe. The EU is originated from the European Coal and Steel Community (ECSC) and the European Economic Community (EEC) established by six countries in 1958. In the subsequent years the EU has expanded in size incorporating new members and in power by the addition of policy areas to its responsibility. The Maastricht Treaty established the EU under its current name in 1993. The latest amendment to the constitutional basis of the EU, i.e., the Treaty of Lisbon officially took effect in 2009.

The EU operates through a system of supranational independent institutions and intergovernmental negotiated decisions by the member countries. Important institutions of the EU encompass the European Commission, the Council of the European Union, the European Council, the Court of Justice of the European Union as well as the European Central Bank. The European Parliament is elected every five years by EU citizens.

The EU has developed a single market through a standardised system of laws which are applicable to all member nations. Within the Schengen Area which includes EU and non-EU nations, passport restrictions have been abolished. EU policies are aimed at ensuring the free movement of people, goods and services as well as capital, enact legislation in justice and home affairs, and maintain common policies on trade, agriculture, fisheries and regional development.

6. ICU

ICU is an acronym for the Implementation and Coordination Unit. It is an entity under the Prime Minister’s Department that is responsible for supervising the national development plans. The main task of ICU is to ensure that the delivery system of policy, programmes and projects were carried out effectively which emphasise on the output and impact of the projects so that the public can enjoy the benefits in order to achieve the objectives of national development. As a central agency, ICU is entrusted as the coordinator, monitor and controller on the government’s policy enforcement as well as the programme/project implementation by government agencies in each level, i.e., Federal, State and Statutory Bodies.
In the context of regulatory review activities, ICU is responsible for developing and administering the Business Licensing Electronic Support System (BLESS), i.e., a portal that provides information and facilitates companies to apply licences or permits to start operating business in Malaysia.

See also BLESS.

7. **INTAN**

INTAN is an acronym for the National Institute of Public Administration (Bahasa Malaysia: Institut Tadbiran Awam Negara) is the training arm in management and administration of the Public Service Department, Malaysia. It began as a modest training centre at Port Dickson in September 1959 and known then as the Staff Training Centre. This centre provided training to officers on land administration, financial administration, office management and local government administration.

The realisation to provide formal training to government officers has led to the official setting up of the National Institute of Public Administration (INTAN) at Jalan Elmu in June 1972. Rapid expansion of INTAN’s training in 1980s resulted in the establishment of several branch campuses in 1983 which include the Northern Regional Campus (INTURA) in Sungai Petani, Kedah; the Eastern Regional Campus (INTIM) in Kemaman, Terengganu; and the Southern Regional Campus (IKWAS) in Kluang, Johor.

INTAN’s main campus, located at Bukit Kiara Kuala Lumpur was officially opened in 1984 and INTAN Jalan Elmu then became the Central Regional Campus (INTENGAH) in 1998. Increasing demand for INTAN’s training programmes then necessitated the establishment of two other regional campuses. The Sarawak Campus in Kuching, Sarawak was established in 1999 while the Sabah Campus in Kota Kinabalu, Sabah was set up in 2001.

In the context of the activities of best practice regulation in Malaysia, INTAN is the lead agency for providing generic training on Good Regulatory Practices (GRP) and specific training on implementing the National Policy on the Development and Implementation of Regulations including the preparation of Regulatory Impact Statement (RIS).

8. **MALAYSIA LAW REFORM COMITTEE**

The Malaysia Law Reform Committee (MLRC) was set up in December 2009. Its primary purpose was to review all laws for their relevance and influence on the daily lives and activities of Malaysians with a view to making the necessary recommendations to the government for reform. The revision of the laws would be considered on such criteria as their relevance to everyday life and their benefits to the public and the communities in the country. Priority will be given to the updating of commercial laws, development laws and laws relating to trade and commerce.

The MLRC is chaired by the Deputy Minister of Law Parliamentary Affairs in the Prime Minister’s Department. The Legal Affairs Division in Prime Minister’s Department (BHEUU) is the secretariat for MLRC.
9. MAMPU

MAMPU is an acronym for Malaysia Administrative Modernisation and Management Planning Unit. It is a central agency under the Prime Minister’s Department for administrative modernization and transformation of public service delivery system. MAMPU implements the following four main roles:

i. The driving force for change in the administration and management of the public service
To introduce and promote new initiatives in the administration and management of the public service, as well as evaluate and award government agencies for their performance in the public service delivery system of the country, towards achieving an efficient, effective and responsive civil service;

ii. Planning and promoting the development of communication and information technology (ICT) in the public sector
To plan, device, coordinate and assess the implementation of ICT development in the public sector towards strengthening the service delivery of the government;

iii. Consulting in the organisational management of communication and information technology (ICT) for public sector
To provide consultation services to ensure the structure, system, work procedures and implementation of ICT development are in line with efforts to improve the government’s delivery system; and

iv. Facilitator for the transformation and modernisation of the public sector
To synergise knowledge, expertise and resources from public, private and non-governmental organisations (NGOs) towards enhancing the modernisation and transformation of the public sector.

In addition, MAMPU also plans and undertakes research on the policies, standards, guidelines and modernisation strategic plans for the public sector.

10. NATIONAL DEVELOPMENT PLANNING COMMITTEE

The National Development Planning Committee (NDPC) is the highest policy-making forum for development planning that deliberates economic and socio-economic matters in Malaysia. The NDPC is a committee of senior government officials, chaired by the Chief Secretary to the Government. Heads of all economic development ministries, including the Governor of the Central Bank (Bank Negara), are members of this committee. The NDPC is responsible for formulating and reviewing all plans for national development and making recommendations on the allocation of resources. It also oversees the implementation of the national development plans.

Upon its recommendation, the development proposals are submitted to the National Planning Council (NPC), which is the highest level of decision-making body in the economic and socio-economic matters. Members of the NPC comprise the ministers of key economic ministries, such as finance, international trade and industry, domestic trade, entrepreneur development, commodities and agriculture.
In the context of the activities of best practice regulation in Malaysia, the NDPC is responsible for:

- Overseeing the implementation of the policy, assessing its effectiveness and recommending improvements; and
- Examining and making appropriate recommendations on Regulatory Impact Statements (RISs).

11. OFFICE OF BEST PRACTICE REGULATION

The Office of Best Practice Regulation (OBPR) is vital in assisting Australian government departments and agencies to meet the Australian government’s requirements for best practice regulatory impact analysis as well as in monitoring and reporting on their performance.
The OBPR also assists the Council of Australian Governments (COAG) in relation to national regulatory proposals considered by ministerial councils, national standard setting bodies or COAG itself.

The OBPR assesses whether a Regulation Impact Statement (RIS) is required. Therefore, policy officers should contact the OBPR early during the policy development process to ensure that they meet the Australian government’s or COAG’s requirements for best practice regulation.

Essentially, the role of the OBPR is to promote the Australian government’s objective of effective and efficient legislation and regulations. Its functions are to:

- Advise government agencies on appropriate quality control mechanisms for the development of regulatory proposals and the review of existing regulations, including whether Regulation Impact Statements (RISs) are required;
- Examine RISs and advise decision makers whether they meet the government’s requirements and provide an adequate level of analysis, including cost-benefit and risk analysis of acceptable quality;
- Advise agencies on assessing business compliance costs and maintain the Business Cost Calculator (BCC) as a regulation costing tool;
- Manage other regulatory mechanisms, including Post-implementation Reviews and Annual Regulatory Plans;
- Promote the “whole-of-government” or holistic consultation principles and provide clear guidance on best practice consultation with stakeholders to be undertaken as part of the policy development process;
- Provide training and guidance to officials to assist them in meeting the assessment requirements to justify regulatory proposals;
- Provide technical assistance to officials on cost-benefit analysis and consultation processes;
- Report annually on compliance with the government’s requirements for Regulation Impact Statements (RISs) and consultation as well as on regulatory reform developments in general;
- Maintain a central online public register of all RISs;
- Provide advice to ministerial councils and national standard-setting bodies on Council of Australian Governments guidelines when such bodies make regulations; and
- Monitor regulatory reform developments in the states and territories as well as in other countries, in order to assess their relevance to Australia.
The Organisation for Economic Co-operation and Development (OECD) is an international economic organisation of 34 countries founded in 1961 to stimulate economic progress and world trade. It is a forum of countries committed to democracy and the market economy, providing a platform to compare policy experiences, seek answers to common problems, identify good practices as well as co-ordinate domestic and international policies of its members.

The OECD originated in 1948 as the Organisation for European Economic Co-operation (OEEC) led by Robert Marjolin of France to help administer the Marshall Plan for the reconstruction of Europe after World War II. Subsequently, its membership was extended to non-European states. In 1961, it was reformed into the Organisation for Economic Co-operation and Development by the Convention on the Organisation for Economic Co-operation and Development. Most OECD members are high-income economies with a “very high” Human Development Index (HDI) and are regarded as developed countries.

Its mandate covers economic, environmental, and social issues. It acts by peer pressure to improve policy and implement “soft laws” which are non-binding instruments that can occasionally lead to binding treaties. In relation to this, the OECD cooperates with businesses, trade unions and other representatives of civil society. Collaboration at the OECD regarding taxation, for instance, has fostered the growth of a global web of bilateral tax treaties.

Basically, the OECD promotes policies which are designed to:

- Achieve the highest sustainable economic growth and employment as well as a rising standard of living in member countries and at the same time maintaining financial stability, and thus contribute to the development of the world economy;
- Contribute to sound economic expansion in member as well as non-member countries in the process of economic development; and
• Facilitate the expansion of world trade on a multilateral, non-discriminatory basis in accordance with international obligations.

In the context of regulatory review, the works and activities by the OECD are coordinated by the team on regulatory reform and competition policy.

13. PEMANDU

PEMANDU is an acronym for Performance Management and Delivery Unit (Bahasa Malaysia: Unit Pengurusan Prestasi dan Pelaksanaan) was formally established on 16 September 2009 and is a unit under the purview of Prime Minister’s Department. PEMANDU’s main role and objective is to oversee implementation and assess progress of the government transformation programme, facilitate as well as support delivery of both the National Key Results Areas (NKRAs) and Ministerial Key Result Areas (MKRAs). Chairman of the PEMANDU board is YB Senator Tan Sri Dr. Koh Tsu Koon, Minister in the Prime Minister’s Department, who is in charge of National Unity and Performance Management. The post of Deputy Chairman and Chief Executive Officer of PEMANDU is held by Minister in the Prime Minister’s Department, YB Senator Dato’ Sri Idris Jala.

Whilst the responsibility for end-to-end delivery of NKRA and MKRA outcomes ultimately rests with the respective ministries, PEMANDU has been mandated to introduce drastic changes in public sector delivery, support the ministries in the delivery planning process and provide an independent view of performance and progress to the PM and ministers. To enable PEMANDU to discharge its responsibilities effectively, it combines the best talent from both the civil service and private sector.
PEMUDAH

PEMUDAH is an acronym for The Special Taskforce to Facilitate Business (Pasukan Petugas Khas Pemudahcara Perniagaan) was established in February 2007. PEMUDAH is a high-level task force to improve the way government regulates businesses. It is co-chaired by the Chief Secretary to the Government and the Immediate Past President of the Federation of Malaysian Manufacturers (FMM) and comprises eminent representatives from the public and private sectors, and reports directly to the Prime Minister.

It assumes advisory and advocacy roles as it cooperates with ministries and agencies as well as state and local governments in recommending and overseeing reform initiatives to enhance Malaysia’s business environment. It is an extension of the Malaysian Incorporated Policy and the fact that the Task Force is co-chaired by both public and private sectors is a reflection of the stance of the government to operationalise the close working relationship between the two sectors.

PEMUDAH formed two working groups, namely:

- Working Group on Efficiency Issues (WGEI) which focuses on processes and procedures; and
- Working Group on Policy Issues (WGPI) which focuses on policies and regulations that impact national competitiveness.

The Malaysian government’s objective as articulated in PEMUDAH’s vision is to achieve a globally benchmarked, customer-centric, innovative and proactive public service in support of a vibrant, resilient and competitive economy and society, driven by the following values:

- A sense of urgency;
- Proactive public-private sector collaboration;
- Facilitation, not hampering;
- No more regulation than necessary; and
- Zero tolerance for corruption.

The terms of reference of PEMUDAH are to:

- Review the status of the public services delivery system in terms of processes, procedures, legislation and human resource towards introducing improvements;
- Study best practices in the private sector that can be adopted by the public sector;
- Coordinate programmes across public sector agencies towards enhancing Malaysia’s competitiveness;
- Monitor the implementation of policies, strategies and procedures aimed towards improving the efficiency and effectiveness of the public delivery system; and
- Take appropriate actions in addressing issues regarding the public delivery system.
15. **THE LEGAL AFFAIRS DIVISION**

The Legal Affairs Division (Bahasa Malaysia: Bahagian Hal Ehwal Undang-Undang (BHEUU)) is an entity under the Prime Minister’s Department. BHEUU was established on 8 May 1995 with the following objectives:

- To plan and develop infrastructure according to the needs of the courts and agencies stakeholders and customer;
- To formulate effective polices and regulations; and
- To provide quality support services to agencies.

BHEUU consists of Chief Registrar’s Office of the Federal Court, the Legal Aid Bureau, the Official Assignee’s Department and the Department of Public Trustee and Official Administrator. On 1 July 1996, The Chief Registrar’s Office of the Federal Court ceased to be under BHEUU. Nevertheless, its Court Planning and Development Unit rejoined BHEUU on 16 April 2003.

However, the rest of the departments under BHEUU were renamed subsequently. The Department of Public Trustee and Official Administrator was corporatised on 1 August 1995 and henceforth is known as Amanah Raya Berhad. On 1 October 2003, the Official Assignee’s Department was renamed as Department of Insolvency Malaysia (JIM) which was later known as Malaysia Department of Insolvency (MDI) from October 2009 onwards. As for the Legal Aid Bureau, it was renamed as Legal Aid Department (JBG) on 16 January 2010.

16. **THE WORLD BANK**

The World Bank is an international financial institution that provides loans to developing countries for capital programmes. Its official goal is the reduction of poverty. According to The World Bank’s Articles of Agreement (as amended effective 16 February 1989) all of its decisions must be guided by a commitment to promote foreign investment, international trade and facilitate capital investment. The World Bank comprises two institutions, namely:

i. The International Bank for Reconstruction and Development (IBRD); and
ii. The International Development Association (IDA).

The World Bank is one of five institutions created at the Bretton Woods Conference in 1944. The International Monetary Fund (IMF), a related institution, is the second one created. Delegates from many countries attended the Bretton Woods Conference.


Various internet webpages.