

## THE UNITED KINGDOM: RETHINKING REGULATION

The United Kingdom has consistently performed well on the *Doing Business* indicators—and this year again stands high in the ranking on the overall ease of doing business, at 7. But the new government believes that more can be done to relieve business from burdensome regulation. Because of the effects of the global financial crisis, the public sector has limited scope to use spending to enable economic growth. While the government has made the difficult decisions necessary to reduce the deficit and stabilize debt levels to create the conditions for sustainable growth,<sup>1</sup> it has also adopted a complementary strategy based on the idea that by simplifying the regulatory system, it can free up the private sector's capacity to innovate, diversify and expand.<sup>2</sup>

Regulation has a role in the modern economy. A framework of rules is necessary to promote competition and stability and to ensure transparency in market interactions. Well-targeted and sensibly designed regulations can deal with market failures, promote a level playing field for businesses and support government objectives. The challenge is to do so in a way that does not impair the ability of businesses to operate, to create jobs and to grow.

Striking the right balance between these objectives can also create a better balance of responsibility between the state, the business community and civil society. Where regulation is needed, the U.K. government intends to more closely scrutinize how regulations are designed and enforced.

### Reducing the stock and flow of regulations

The new government has taken a number of steps aimed at reducing the burden of regulation since taking office in early 2010. These have included abolishing regulations that are seen as impeding growth, introducing new regulations only where there are no sensible alternatives and as a last resort, reducing the volume of new regulations and reducing regulatory costs for business.

### *One in, one out*

The government's strategy for easing the burden of regulation is aimed at the flow of new regulations as well as the existing stock. The "one in, one out" system requires government departments to assess the net cost to business of complying with any new regulation that is proposed (an "in"). These calculations are validated by the independent Regulatory Policy Committee.<sup>3</sup> If a new regulation means a cost to business, a de-regulatory measure (an "out") must be found that reduces the net cost by at least the same amount.<sup>4</sup> One such "out" is a measure permitting credit unions to communicate with their members electronically. This is estimated to reduce the net cost to business by about £10.4 million, a calculation validated by the Regulatory Policy Committee.<sup>5</sup>

Other initiatives support the one-in, one-out system. For example, the government has introduced review and sunset clauses for new regulations. This means that policy makers must review the relevance of new regulations after a maximum of 7 years and justify their continuation rather than simply leaving them on the statute books.<sup>6</sup>

The one-in, one-out system focuses on domestic regulation. European Union regulations and directives as well as international agreements to which the United Kingdom is a party are managed through a different strand of work. The one-in, one-out system also excludes fiscal measures aimed at reducing the budget deficit, regulatory measures aimed at addressing systemic financial risk, civil emergency regulations or fees, and charges imposed by state bodies for cost recovery purposes only.

In another measure, on April 1, 2011, the government introduced a 3-year moratorium on new domestic regulation affecting micro-enterprises (businesses with fewer than 10 employees, which account for half of total employment in the economy) and start-ups. Any breaches of the moratorium—allowed only in exceptional circumstances and if supported by a compelling argument—will require cabinet-level approval and sign-off by the Economic Affairs Committee, which is chaired by the chancellor of the exchequer.

### *The Red Tape Challenge*

The government has also launched a first-time initiative to scrutinize the entire stock of inherited regulations. The country has more than 21,000 regulations and statutory instruments on the books, spanning virtually the entire spectrum of economic activity and imposing a huge cost on business.<sup>7</sup> Some of these have been on the books since World War II (those related to "trading with the enemy," for example). Many have become obsolete or are otherwise not binding and serve no useful public policy purpose. In areas such as consumer protection the law has become complicated and confusing.

The government estimates that in recent years an average of 6 regulations have been introduced every working day, with a particularly heavy burden in employment law, tax administration, and health and safety. According to a recent government review, "evidence also suggests that Government does not do all it can to support business when introducing new regulations. Often guidance is poorly designed, not provided, or provided late (i.e., after the regulation has come into force)."<sup>8</sup> The same government review reports that a typical small enterprise spends 34 hours a month dealing with red tape and complying with regulations. When businesses need to hire consultants for expert advice on regulatory compliance, this adds to an already heavy cost burden.

The government has begun to tackle the stock of regulation through the Red Tape Challenge. This comprehensive review is aimed at identifying regulations that could be removed, simplified or approached in a different way. Using a public website, the government is gathering the views of the business community and the public and inviting practical suggestions for alternatives. The feedback from those affected by regulation will inform government decision making. This exercise presumes that burdensome regulations will be removed if there are no good reasons for retaining them.

### *A watchful eye on EU legislation*

The government is also taking steps to reduce the cost to U.K. business from EU legislation and continues to work with European partners to ensure that there is appropriate

downward pressure on the volume and impact of EU regulations. For example, although the Red Tape Challenge focuses on domestic regulation, the public is also being encouraged to comment on how EU regulations and directives are implemented in the United Kingdom. The government will review any previous instances of “gold plating”—where U.K. regulation has gone beyond the minimum required by the EU legislation, imposing an unnecessary burden on U.K. businesses.

This complements a wider government effort to end the gold plating of EU legislation, under the “Guiding Principles for EU Legislation.”<sup>9</sup> Government departments responsible for implementing an EU law must satisfy the cabinet that they have identified the aims of the law and the relevant government policies and will harmonize them in a way that does not cause unintended consequences in the United Kingdom and that minimizes the cost to business. The government is also working with businesses to identify good practices for implementing EU rules and ways to make EU laws friendlier to economic growth.

### Transforming regulatory enforcement

The U.K. government believes that reforming the implementation and enforcement of regulations is as important as reducing their stock and flow—and has promised to end the culture of unthinking “tick box” regulation, adopted purely to satisfy convention rather than to ensure the right outcomes. Its aim is to find new ways of achieving compliance that contribute to economic growth and remove unnecessary burdens on businesses and individuals.

The government has already started to reform some of the most disproportionate enforcement systems and has commissioned independent external reviews to examine specific areas in detail. For example, it is adopting Lord Young’s proposals to reform the implementation of health and safety law and is reviewing the enforcement of employment law. And the government recently received the recommendations of the Farming Regulation Task Force on ways to ease heavy-handed enforcement of regulation in agriculture and food processing.

The United Kingdom’s Primary Authority scheme plays a key part in changing how businesses experience regulatory inspections and enforcement. Businesses operating multiple sites in different local authority jurisdictions can find themselves subject to varying—and at times contradictory—regulatory advice or judgments. To help resolve problems with inconsistent enforcement, the Primary Authority scheme allows businesses to partner with a single local authority that will operate as their sole point of advice and assured guidance. The aim is to support both business compliance and economic growth.

In the first 2 years of the scheme’s operation, businesses initiated more than 1,000 Primary Authority partnerships, far exceeding original projections. Building on this success and the initial experience, the government proposes to extend the scheme to allow more businesses access to assured regulatory advice. The emphasis will be on extending the benefits to micro, small and medium-size enterprises.

### Thinking more creatively about regulation

Underpinning all these government measures is the idea that policy makers need to think more creatively about whether the traditional “command and control” approach to regulation—with its many unintended consequences—is the most effective way to achieve desired policy outcomes. Against the backdrop of a rapidly changing global economy, the policy papers supporting these initiatives ask whether a combination of non-regulatory policy instruments can achieve policy objectives more effectively, at lower cost and with less coercion.

There are a range of alternatives. One is to use industry codes of conduct or other negotiated codes as mechanisms of self-regulation or (if some level of government involvement is seen to be necessary) coregulation. Another is to make more active use of information and education—supported by rating systems, better labeling and greater disclosure—to enable consumers to make informed decisions. And governments have sometimes used taxes, subsidies, quotas, auctions and other such instruments to

align incentives in ways that support public policy objectives. This approach relies on a consideration of costs and benefits—rather than the coercive power of rigid, sometimes difficult-to-enforce regulation—to shape decisions by individuals and businesses.

As the U.K. authorities implement their strategy, one challenge they will face is to allay public concerns about whether adequate regulations remain in place to ensure stability in the financial system, whose shortcomings are seen by many as a precipitating factor in the 2008–09 financial crisis. Another need is to meet the challenges of climate change.

### Conclusion

The government sees this new approach to business regulation as part of a broader effort to boost the competitiveness of the United Kingdom. This has been prompted by concerns about the rapidly rising levels of public debt brought about by the financial crisis,<sup>10</sup> the declining performance of British students in international rankings of excellence in science and mathematics, the erosion of manufacturing output and employment and the economy’s declining share of world exports.<sup>11</sup>

Public policies in the medium term are geared to reversing some of these trends. A comprehensive rethinking of the role of business regulation in empowering the private sector to boost productivity, innovation and growth is a key part of this effort.

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**NOTES**

1. See IMF (2011a).
2. U.K. Department for Business, Innovation and Skills 2110b.
3. Regulatory Policy Committee website, <http://regulatorypolicycommittee.independent.gov.uk/>.
4. U.K. Department for Business, Innovation and Skills 2011a.
5. U.K. Department for Business, Innovation and Skills 2011a, annex D, p. 18.
6. U.K. Department for Business, Innovation and Skills 2010a.
7. U.K. Department for Business, Innovation and Skills 2011b, p. 20.
8. U.K. Department for Business, Innovation and Skills 2011b, p. 51.
9. U.K. Department for Business, Innovation and Skills, "Guiding Principles for EU Legislation," <http://www.bis.gov.uk/>.
10. According to the IMF (2011b), public debt levels rose from 42.1% of GDP in 2005 to an estimated 77.2% in 2010 and are projected to rise to 83% in 2011.
11. U.K. Department for Business, Innovation and Skills 2011b, p. 3.