



Institute of Directors
116 Pall Mall
London
SW1Y 5ED

31/09/2021

THE RT HON KWASI KWARTENG MP
Secretary of State for Business, Energy, & Industrial Strategy
Department for Business, Energy, and Industrial Strategy
1 Victoria Street
London
SW1H 0ET

Dear Mr Kwarteng,

Reforming the Framework for Better Regulation

About the IoD

The IoD was founded in 1903 and obtained a Royal Charter in 1906. It is an independent, non-party political organisation of approximately 21,000 individual members. Its aim is to promote good governance and ensure high levels of skills and integrity among directors of organisations. The membership is drawn from right across the business spectrum, as well as the public and third sector. 49% of FTSE100 companies and 45% of FTSE250 companies have IoD members on their boards, but the majority of members, some 70%, comprises directors of small and medium-sized enterprises (SMEs), ranging from long-established businesses to start-up companies. IoD members' organisations are entrepreneurial and growth-orientated, and more than half (61%) export goods and services internationally.

The IoD welcomes the opportunity to participate in this consultation on better regulation. Issues of this nature are of considerable interest to the IoD and its membership, and we are therefore pleased to present our views in respect of your proposals.

The IoD perspective

The impact of regulation on business can be observed in the following table which reports the results of a survey of IoD members from the second half of September 2021.

Which of the following factors, if any, are having a negative impact on your organisation?

Total: 635 responses, September 2021

	Total
Total	635
New trading relationship with the EU	37%
Compliance with Government regulation	40%
Business taxes	34%
Employment taxes	41%
Broadband cost/speed/reliability	22%
Cost of energy	28%
Global economic conditions	38%
Difficulty or delays obtaining payment from customers	17%
Skills shortages/employee skills gaps	39%
UK economic conditions	40%
Coronavirus outbreak	53%
Transport cost/speed/reliability	31%
Other (please specify)	7%
None of the above	3%
Don't know/Not applicable	0%

According to these results, **the negative impact of government regulation is one of the key impediments to business success at the current time** – and only exceeded as a negative factor by the impact of the Coronavirus pandemic and employment taxes.

In order for business to play a meaningful role in building back better, it is essential for the Government to do a better job in shaping a more business-friendly regulatory framework. New business regulation must be more critically scrutinized in order to ensure that that it is effective, proportionate and free from unintended consequences.

We agree that the Better Regulation Framework (BRF) can, in principle, play an important role in making more effective regulation a reality. It provides an opportunity to ensure that policy decisions are supported by robust and unbiased evidence and analysis, and that this assessment is timely, transparent and open to challenge in Parliament and by stakeholders, including the IoD.

However, our perception is that the BRF has yet to achieve its full potential. Impact assessments of new regulatory initiatives are too often undertaken as compliance exercises, with limited impact on the policy development process. Furthermore, independent scrutiny of these assessments often takes place too late, and with limited visibility to external stakeholders.

Our view is that the process would be more robust if it incorporated a more central role for an independent scrutiny body, like the Regulatory Policy Committee (RPC) - at an earlier stage of the policy making process. This would provide expert, unbiased insight for Ministers and external stakeholders, like the IoD, and would increase our confidence that policy proposals and decisions are based on solid and transparent foundations.

Similarly, we would like to see **the government's own impact assessments of proposed regulatory changes always published at the consultation stage** so that they can be taken into account before the legislation is introduced into Parliament. Impact assessment should also **always include a quantification of the effect on businesses of different sizes**. We were disappointed, for example, that the impact assessment of the effect of the new Health and Social Care Levy on smaller businesses contained no such quantification.

We are supportive of the consultation's proposal that government departments should place greater emphasis on identifying non-regulatory options as a means of achieving policy objectives. Early independent scrutiny of the impacts of a range of alternative approaches would help ensure that regulation is introduced only when appropriate.

We would also support a more robust post-implementation review process, which Ministers should take seriously and act upon. Policy proposals should describe from the outset how the business impact of regulations will be tracked over time, their key milestones and how an evaluation of their success or failure will be undertaken. **The Government should then be prepared to demonstrate agility in its response to regulations that are clearly not working as intended.**

In the current context, **there is a growing need to broaden impact assessments** so that they assess the wider societal impact of new regulation – on issues such as innovation, trade and investment, competition and the achievement of Net Zero.

As well as assessing individual regulatory proposals, a broader view of the cumulative impact of regulation is also required. This broader perspective should be developed in the context of an overarching objective to reduce unnecessary regulatory burdens on business. It should also be aligned with societal expectations around the achievement Net Zero and the business decarbonization process.

In our opinion, the previously employed offsetting approach of "One In, Two Out" has not been particularly effective in controlling the aggregate regulatory burden on business. **It is not the number of regulations that matters to business, but rather their effectiveness and impact on business activity.**

A more insightful approach to monitoring the regulatory burden is through metrics such as the 'equivalent annual net direct cost to business' attributable to each regulatory initiative. Although any simplified measure should be viewed with some caution, such a metric at least provides policy makers and stakeholders with a more relevant barometer of trends in the regulatory burden than the number of regulations.

We look forward to hearing the Government's views on these issues and to working with Ministers and others to address them as soon as possible.

We hope you have found our comments helpful. If you require further information about our views, please do not hesitate to contact us.

With kind regards,

Dr. Roger Barker
Director of Policy and Corporate Governance
Email: roger.barker@iod.com