

Pakistan Regulatory Modernisation Initiative (PRMI)

# Principle-Based Regulatory Framework

PAKISTAN REGULATORS'  
PRINCIPLES AND CODE OF PRACTICE

February 2023



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# Regulatory Principles

Businesses in Pakistan have to obtain several registrations, licences, certificates, and other kinds of permits (RLCOs) to operate lawfully in the market. The situation becomes increasingly complicated when the country bases its regulatory regime on a three-tiered compliance structure administered on federal, provincial, and municipal levels.

The Federal Government has approved Regulatory Principles and Code of Practice to be followed by all Ministries / Divisions / Regulators performing any regulatory functions for businesses. All Ministries / Divisions / Regulators to follow the Regulatory Principles and Code of Practice while formulating new regulations. For existing regulations, time period of six (06) months have been given by Federal Government for self-assessment to eliminate redundant and needless regulations and also simplify / modernize the cumbersome procedures. After the initial period of six (06) months, regulatory assessment / audit based on principle-based framework will be conducted by BOI through independent third parties and outcomes / recommendations will be placed before Federal Cabinet for consideration. The whole process will be carried out under supervision of Pakistan Regulatory Modernization Initiative (PRMI) Steering Committee with executive oversight by Prime Minister's Office.

The Board of Investment is the lead agency for Pakistan Regulatory Modernisation Initiative (PRMI) and is continuously working on improving the country's business climate. The Regulatory Principles will provide a flexible, principle-based framework for regulatory delivery to promote transparency and proportionality in business regulation and enable regulators to design their services and enforcement policies in a way that delivers the best outcomes and facilitates compliance.

PRMI aims to modernise business regulations in Pakistan through a structured approach for stocktaking, eliminating, simplifying, and automating compliance with all business regulations (RLCOs) across federal, provincial, and local jurisdictions.

PRMI follows six general principles of good regulation, which are the cornerstone for the Code of Conduct for regulators:

1. **Regulatory Delivery:** When possible, prefer instruments to ensure regulatory compliance after a business is operational (ex-post supervision)<sup>1</sup> over instruments that require approval before a business starts operating (ex-ante)<sup>2</sup>. Ex-post supervision reduces the regulatory hurdles faced when starting up. Ex-ante regulation identifies problems beforehand and shapes stakeholder behaviour and responses through regulatory intervention.
2. **Transparency:** Ensure full transparency by disseminating both operative rules and relevant procedures in the public domain.
3. **Risk Management:** Identify and mitigate risks associated with an activity instead of an umbrella approach covering all business activities. Regulation of each activity should be linked to the risk level associated with the actions and predefined risk parameters.
4. **Efficiency and Effectiveness:** Systematically assess impacts and review regulations to ensure that they meet their desired objectives in a changing and complex socio-economic environment without limiting competition.
5. **Simplification:** Eliminate unnecessary regulatory barriers to business, trade and investment by continuous review of regulatory requirements and conditions.
6. **Proportionality:** Regulations should be used only when necessary and with remedies for non-compliance that are appropriate to the risks posed and minimal costs for businesses.

<sup>1</sup> Ex-post regulations aim to “rectify” problems and behaviour through regulatory intervention after a business activity has started.

<sup>2</sup> Ex-ante regulations broadly aim to shape stakeholder behaviour and responses through regulatory intervention before a company starts operations. Ex-ante regulations standardise certain practices and policies that solve sector-specific problems by specific predetermined outcomes. In short: ex-ante regimes guide businesses precisely how to behave or “what to do.”

# Regulators' Code

While working on the business reforms-related initiatives, it was observed that in Pakistan, regulators regulate businesses, but there is a lack of checks on regulators. Therefore, in the absence of standardised principles for regulators, businesses face cumbersome compliance structure.

All regulators must follow the Regulators' Code when developing or reviewing existing legislature, rules, regulations, policies and operational procedures that require businesses to interact and guide their regulatory activities. If a regulator concludes, based on material evidence, that a specific provision of the Code is either not applicable or is outweighed by another relevant consideration, the regulator is not bound to follow that provision, but should record that decision and the reasons for it.

## 1. Regulatory Delivery

- 1.1 Regulators should carry out their activities in a way that supports businesses to comply and grow.
- 1.2 Regulators should support the self-declaration process, and precise methods should be published online for the self-declaration.
- 1.3 Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities<sup>1</sup> and assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means.
- 1.4 Regulators should avoid overlapping and inconsistent regulations at federal/provincial/regional and local government level.
- 1.5 Regulators should provide an impartial and clearly explained route to appeal against a regulatory decision or a failure to act in accordance with this code. Individual officers of the regulator who took the decision or action against which the appeal is

<sup>1</sup> The term 'regulatory activities' refers to the whole range of regulatory options and interventions available to regulators

- being made should not be involved in considering the appeal.  
This route to appeal should be publicised to businesses.
- 1.6 Regulators should cooperate with each other to clarify their roles to fully implement their mandate and functions.
  - 1.7 Regulators should publish a record of repeating offenders in high-risk sectors.
  - 1.8 Regulators should create an environment where Government agencies may seek advice and have confidence in the direction they receive.
  - 1.9 Regulators should ensure that their officers understand the principles of good regulation and how the regulators deliver its activities under these guidelines.
  - 1.10 Regulators must document their regulatory policies and processes like description of problems, alternative solutions, the risks involved, the reasons for regulating, the consultation methods, outcome of the consultations, the cost benefit analysis, and recommended option(s).

## 2. Transparency

Regulators should provide/publish all advice/guidance in English and Urdu.

- 2.1 Ensure full transparency by disseminating both operative rules, regulations and relevant procedures in the public domain.
- 2.2 Regulators should provide advice and guidance that is focused on assisting businesses to understand and meet their responsibilities. Regulators should publish guidance, and information in a clear, accessible, concise format, using media appropriate to the target audience and written in plain language for the audience.
- 2.3 Regulators' published service standards should include clear information on:
  - a) how they communicate with businesses and how they can be contacted;
  - b) their approach to providing information, guidance and advice;
  - c) their approach to checks on compliance<sup>2</sup>; including

<sup>2</sup>Including inspections, audit, monitoring and sampling visits, and test purchases.



- details of the risk assessment framework used to target those checks and protocols for their conduct, clearly setting out what those they regulate should expect;
- d) how to comment or complain about the service provided and routes to appeal.
- 2.4 Regulators should have mechanisms to ensure that their officers act in accordance with their published service standards, including their enforcement policies.
- 2.5 Regulators should publish their schedule of fees, charges and penalties for non/late payment. This information should clearly explain the basis on which these fees, charges and penalties are calculated.
- 2.6 Regulators should have mechanisms to enable and invite, receive and take on board customer feedback, including, for example, through customer satisfaction surveys from businesses.
- 2.7 Regulators should publish regularly, details of their performance against their service standards, including feedback received from businesses they regulate, such as customer satisfaction surveys, and data relating to complaints about them and appeals against their decisions.
- 2.8 Regulators should promote technology use and ensure online system for applying of Registration, Licences, Certificates and Other Permits (RLCOs), payments, information/ guidelines, flowcharts, lifecycle, checklists and timelines.
- 2.9 Regulators should promote an open government approach while creating new regulations or changing existing regulations and should consult stakeholders, including businesses about the proposal in simple, clear, complete and concise manner that the general public can easily understand.
- 2.10 Regulators should have mechanisms to consult businesses concerning the guidance/ regulation they produce to ensure that it meets their needs.
- 2.11 Regulators should publish clearly explained complaint procedures, allowing businesses to easily complain about the regulators conduct, when required.
- 2.12 Regulators should provide a timely explanation in writing of any right to representation or right to appeal. This explanation should be in plain language and include practical information on the process involved.

### 3. Risk Management

- 3.1 Regulators should base their regulatory activities on pre-defined risk parameters.
- 3.2 Regulators should take an evidence-based approach to determine priority risks in their area of responsibility and allocate resources where they would be most effective in addressing those priority risks.
- 3.3 An assessment of the impact (costs, benefits and where relevant, levels of risk) of a range of feasible options for consumers, business, government and the community must be carried out to assess potential effects. Wherever risks are involved, regulators must ensure that risks are of sufficient significance to justify intervention and new regulations will accrue more benefits than costs to society.
- 3.4 Regulators should consider risk at every stage of their decision-making processes, including choosing the most appropriate type of intervention or way of working with businesses, targeting checks on compliance, and when taking enforcement actions.
- 3.5 Regulators should design a risk assessment framework<sup>3</sup> for their use. Regulators should have mechanisms to consult on the design with businesses and to review it regularly.
- 3.6 Frequency of inspection visits should be based according to risk potential of each enterprise.

### 4. Efficiency and Effectiveness

- 4.1 Systematically assess impacts and review regulations to ensure that they meet their desired objectives in a changing and complex socio-economic environment without limiting competition.
- 4.2 A range of options (regulatory and non-regulatory) that may constitute feasible means for achieving the desired objectives must be analysed to ensure the most effective and efficient option is chosen. It must be demonstrated that new regulations will help solve the problem.

<sup>3</sup> The term 'risk assessment framework' encompasses any model, scheme, methodology or risk rating approach that is used to inform risk-based targeting of regulatory activities in relation to businesses.

- 4.3 The impact of additional regulatory burden on small and medium businesses in particular must be considered, and the least burdensome but effective alternative for their circumstances should be chosen.
- 4.4 Regulations should be reviewed periodically at least once in three years with statistical information and business survey for feedback.
- 4.5 Regulations should keep pace with emerging technologies and design "fit-for-purpose" regulatory frameworks.
- 4.6 Regulators should collectively follow the principle of "collect once, use many times" when requesting information from the businesses.
- 4.7 Where the law allows, regulators should agree to secure mechanisms to share information with each other about businesses and other bodies they regulate, to help target resources and activities and minimise duplication.
- 4.8 Regulators should review the effectiveness of their chosen regulatory activities in delivering the desired outcomes and make any necessary adjustments accordingly.
- 4.9 Regulators should interact with businesses in a time-bound manner supported by a tracking system.
- 4.10 Regulators should ensure timely completion of all RLCO processes.

## 5. Simplification

- 5.1 Eliminate unnecessary regulatory barriers to businesses, trade and investment by continuously reviewing regulatory requirements and conditions.
- 5.2 Regulators should practice bi-annual review and evaluation to eliminate repetitive and outdated regulations and simplification and modernisation of cumbersome and burdensome regulations.
- 5.3 Policy reviews should consider successes achieved, constraints encountered in implementation bi-annually, the changes in national priorities, in international business environment and impact of other national policies and whether they are consistent, aligned and supportive of the country's overall socio-economic development objectives.
- 5.4 When designing and reviewing rules, regulations, policies, operational procedures and practices, regulators should

consider how they might support or enable economic growth for compliant businesses, for example, by considering how they can best:

- a) understand and minimise negative economic impacts of their regulatory activities;
  - b) minimising the costs of compliance for businesses;
  - c) improve confidence in compliance for businesses by providing greater certainty; and
  - d) encourage and promote compliance.
- 5.5 While designing new regulations, nothing is to be left ambiguous. Regulators should allocate timeline against each process of RLCO and publish end to end time consumed against completion of each RLCO.
- 5.6 Regulators should regularly review each RLCO against simple filters in a checklist format. After review, a decision be made against each RLCO i.e. to maintain, simplify, or eliminate.
- a) Is it legal? Otherwise eliminate
  - b) Is it needed? Otherwise eliminate
  - c) Is it business-friendly? Otherwise simplify and modernise

## 6. Proportionality

- 6.1 Regulations should be used only when necessary with remedies for non-compliance that are appropriate to the risks posed and minimal costs for businesses.
- 6.2 Penalties may be designed to commensurate offense and size of business.
- 6.3 Regulators should choose proportionate approaches for the businesses, based on relevant factors, including, for example, business size and capacity.
- 6.4 Regulators should ensure that their officers understand the following principles of good regulation, businesses and of this Code, and how the regulator delivers its activities in accordance with them:
- a) regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent;
  - b) regulatory activities should be targeted only at cases

where action is needed.

- 6.5 Business regulation fees should be based on cost recovery model only to administer regulations and not to generate any revenue.
- 6.6 All mechanisms to share information, including integration of online systems between regulators and with government agencies/ departments should be free of any cost to promote whole of government approach and there should not be any underlying revenue generation objective.





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