



OECD Reviews of Regulatory Reform

Regulatory Policy in Korea

TOWARDS BETTER REGULATION

역량강화

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Information

- The OECD Regulatory Policy Committee assesses regulatory policies of OECD member states every three years and drafts reports of their findings. The Committee assessed Korea's regulatory policies from 2016 to 2017 and published the OECD Reviews of Regulatory Reform – Regulatory Policy in Korea for 2017.
- The review report analyzes overall regulatory policies adopted and operated in Korea including the Regulatory Reform Sinmungo, regulatory impact analysis, and “cost-in, cost-out” system in light of background, content, institutional infrastructure, and process.
- The Committee has, in particular, provided a highly positive evaluation of the Regulatory Reform Sinmungo, an online people-centric communication system, as a forward-looking and strategic reform system in terms of stakeholder engagement and transparency.

Please note that this page has been added and edited by the Prime Minister's Office of the Republic of Korea to provide a better understanding of the aforementioned report with respect to submission of the application for the UNPSA.

Foreword

Regulatory reform has been a top priority in Korea for several successive administrations. Reforms have included the *Sinmungo*, which alerts the government to unnecessary burdens on business and citizens, and a “Cost-in, Cost-out” system that restricts the cost increase of new or amended regulations by abolishing or relaxing regulations that produce equal or greater costs. Korea also created a Regulatory Reform Committee, composed of government and public sector representatives, to scrutinise laws and regulations. Maintaining momentum for reform in Korea will be essential for producing tangible results and supporting sustainable inclusive growth, raise productivity and encourage innovation.

This *Regulatory Reform Review of Korea* applies a methodology developed over two decades of peer learning, and builds on two previous Regulatory Reform Reviews of Korea completed in 2000 and 2007. It identifies critical factors that can strengthen the impact of regulatory reform and enhance the government’s capacity to improve the design and delivery of regulations. The review finds that, since the late 1990s, the necessary institutions, processes and tools to support good regulatory practices have been well established. The time has come to consolidate these considerable reform efforts and take them to the next level, making regulatory processes more proactive and strategic.

The review identifies a number of areas where improvements could help Korea reap the full benefits of the reforms introduced so far. In particular, the review stresses the need for a clear strategy for the regulatory policy in order to make better use of the resources deployed. The review also recommends better targeting reforms toward simplifying and improving the regulations and policies that are most burdensome for business and citizens. To support this effort, the regulatory system should promote a more proactive attitude to identifying and implementing regulatory improvements across the central administration. In a similar way, the private sector should share ownership of regulatory improvements and shift from focusing on complaints to finding solutions. The review also highlights the importance of a more inclusive regulatory system, which can be achieved by opening up all institutions and processes, including the National Assembly, to public scrutiny and including a wider range of stakeholders.

This review is carried out as part of the OECD work programme on regulatory policy led by the OECD Regulatory Policy Committee (RPC), drawing on the RPC’s legal instruments including: the 1995 *Recommendation of the Council of the OECD on Improving the Quality of Government Regulation*; the 2005 *Guiding Principles for Regulatory Quality and Performance*; and the 2012 *Recommendation of the Council on Regulatory Policy and Governance*. The RPC is supported by the Regulatory Policy Division of the OECD Public Governance Directorate. The Directorate’s mission is to help government at all levels design and implement strategic, evidence-based and innovative policies. The goal is to support countries in building better government systems and implementing policies at both national and regional level that lead to sustainable economic and social development.

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The team included three peer reviewers from the members of the OECD Regulatory Policy Committee (RPC), who participated in the policy peer mission to Korea and provided extensive inputs and feedback throughout the development of the review: Mr. Juan Cristóbal Marshall Silva, Chief Economist of the Ministry of Economy, Development and Tourism, Chile; Mr. Stephan Naundorf, Advisor to Minister of State Helge Braun and Representative of the Better Regulation Unit, Federal Chancellery, Germany; Mr. Ken Warwick, member of the UK Regulatory Policy Committee, United Kingdom.

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Acronyms and abbreviations

BAI	Board of Audit and Inspection of Korea
CICO	Cost-in, Cost-Out
CRIA	Centre for Regulatory Impact Assessment
e-RIA	e-Regulatory Impact Analysis
EPRS	European Parliament Research Service
FTC	Fair Trade Commission
IoT	Internet of Things
iREG	OECD Indicators of Regulatory Policy and Governance
KATS	Korea Agency for Technology and Standards
KIPA	Korea Institute for Public Administration
KBIZ	Korea Federation of SMEs
KCCI	Korea Chamber of Commerce and Industry
KDI	Korea Development Institute
KICOX	Korea Industrial Complex Corporation
KOSBI	Korea Small Business Institute
KOTRA	Korea Trade Investment Promotion Agency
KRW	Korean Won
MOE	Ministry of the Environment
MoHW	Ministry of Health and Welfare
MoI	Ministry of the Interior
MoLIT	Ministry of Land, Infrastructure and Transport
MoSF	Ministry of Strategy and Finance
MoTIE	Ministry of Trade, Industry, and Energy
NHI	National Human Resources Development Institute
OPC	Office for Government Policy Coordination
PCNC	Presidential Council on National Competitiveness
PMR	Product Market Regulation
PPJRAI	Public-Private Joint Regulation Advancement Initiative
RIA	Regulatory Impact Assessment/Analysis
RIAS	Regulatory Impact Analysis Statements
RIS	Regulatory Information System

RRC	Regulatory Reform Committee
RRO	Regulatory Reform Office
RTUF	Removal of the Thorn-Under-the-Fingernail
SBC	Small and Medium Business Corporation
SCM	Standard Cost Model
SEMAS	Small Enterprise and Market Service
SMBA	Small and Medium Business Administration
SME	Small and Medium-Sized Enterprises
TRR	Temporary Regulatory Relief

Executive summary

Korea has established institutions, processes and tools to support good regulatory practices since the late 1990s. The 2015 OECD Indicators of Regulatory Policy and Governance (iREG) show that Korea has performed slightly above the OECD average on regulatory impact assessment (RIA), stakeholder engagement and *ex post* evaluation. There is still room for improvement including on the quality of these practices and by extending these practices to the entire regulatory system. The percentage of primary laws initiated by the National Assembly, Korea's unicameral parliament, increased from 38.5% in 2000 to 75% in 2007, and reached 86% in 2016. Most of these bills lack regulatory quality scrutiny or review. The improvements recommended in this review would allow Korea to reap the full benefits of the reforms implemented so far and make the regulatory system more strategic, targeted, proactive and inclusive.

Leadership and oversight of regulatory reform

There is high-level commitment to regulatory reform; for example, bi-annual ministerial meetings on regulatory reform focus on reducing regulatory burdens and creating a more business-friendly environment. The Prime Minister's Office, through its Regulatory Reform Office (RRO), plays a strong oversight and steering role, backed up by a network of officials working on regulatory issues across central administrative agencies.

A Regulatory Reform Committee (RRC), co-chaired by the Prime Minister and a representative from the non-governmental sector, reviews all regulatory proposals from central administrative agencies. The RRC's make-up is mainly oriented toward the private sector; while it is essential to include the views of the regulated entities; its current composition limits the role of other relevant stakeholders.

Key recommendations

- Maintain regulatory reform as a priority for the incoming administration by ensuring the continuity of policies and tools that have worked.
- Review the role and scope of the RRC to make it more strategic and targeted, whilst strengthening the evidence base of its work.
- Secure wider representation within the RRC, including local administration experience, and enhance the secretariat function to guarantee that resources are dedicated to high-impact proposals.

Regulatory quality management and performance assessment

Regulatory impact analysis statements (RIAS), first introduced in 1998, are prepared by central administrative agencies and reviewed by the RRC. Since 2015, RIAs are drafted and processed through an online platform, which automatically compares

regulatory costs and benefits. Research institutions with some degree of autonomy from government also provide independent analysis on specific issues. Since 2016, a “Cost-in, Cost-out” (CICO) system restricts the cost increase of new or amended regulations by abolishing or relaxing regulations that produce equal or greater costs. Each central administrative agency must also draft a plan of regulatory *ex post* evaluation as part of each RIAS.

Over 3 500 proposals are received every year by the RRO from all central administrative agencies. However, with only around 20 staff to review the proposals, it is a challenge for the RRO to provide a complete review of every proposal. Among the reviewed proposals, around 1 000 proposals are sent to the RRC for further review. This is quite high compared to similar bodies in other countries. For example, during 2016, the UK Regulatory Policy Committee scrutinised 318 first-time submissions; between July 2015 and June 2016, the German *Normenkontrolrat* examined 362 regulatory proposals. There is no dedicated body that promotes regulatory quality within the National Assembly.

Key recommendations

- Use the RRC to review only the most burdensome regulations and introduce incentives for central administrative agencies to conduct “self-oversight” on low-burden regulations.
- Create a permanent legislative regulatory quality check mechanism for the National Assembly and ask the executive branch to submit all relevant scrutiny materials such as RIA statements and CICO analyses to the National Assembly so that the expected impacts of regulations are taken into consideration when reviewing or drafting bills.
- Introduce *ex post* evaluation for existing regulations in a strategic manner, and discuss and publish planned evaluations.
- Integrate quality control systems into regulatory reduction initiatives using clear and systematic criteria to guarantee that regulations are meeting the intended objectives in the perception of both the regulated entities and those who implement and enforce regulations; develop and use metrics that show the added value of the regulatory quality initiatives adopted by the executive and legislature.

Stakeholder engagement and transparency

Initiatives to increase the transparency of and public access to the regulatory process include the creation of government portals such as i-Ombudsman and the online Regulatory Reform *Sinmungo*, which also accepts feedback and suggestions in English. A Regulatory Information Portal, launched in 2014, serves as a central platform for public engagement.

Key recommendations

- Ensure that central administrative agencies engage relevant stakeholders and local administration early in the process of rule-making and support capacity within the public administration to engage with stakeholders.

- Define clear accountability rules and clarify who is responsible for what in order to manage stakeholders' expectations on the engagement process.
- Strengthen stakeholder engagement, including local administration, in the rule-making process of the National Assembly, particularly with regard to the laws initiated by members.

Compliance, inspection and enforcement

Some enforcement agencies, especially in relation to occupational safety, also lack sufficient staff and appropriate skills. Local governments play an important role as an enforcement agency. However, limited co-ordination across local governments and vertically between local administration and central government agencies creates confusion in terms of compliance, inspection and enforcement.

Key recommendations

- Further develop a risk-based approach to enforcement and inspections and create a shared information system that collects information on the probability and impact of risks, using data on compliance and inspection activities at the central and local government levels. Ensure that decisions and enforcement are always built on evidence and can be scrutinised against the defined rules at any time for any reason.
- Regularly discuss and co-ordinate across local governments (regional-regional and regional-sub-regional); sustain and improve efforts that link local policies and implementation with national policies. Support an upstream of experience from local governments to central agencies.
- Increase and build capacity in the human resources dedicated to enforcing regulations on occupational safety and health at the central level.

Small and medium-sized enterprises

Specific initiatives have been taken to reduce regulatory burdens and compliance costs for SMEs, which make up around 99% of the total number of enterprises and account for 88% of employment across all industries. Regulatory reform priorities for SMEs are set annually by the SMEs Ombudsman, the Small Business Administration and the RRC.

Key recommendations

- Reduce regulatory compliance costs for SMEs by making regulations more flexible. Make sure that SMEs understand their rights and obligations and that they easily can appeal in case they consider that their rights may not be appropriately respected.
- Provide SMEs with extra time or grace periods to comply with new regulations (refer to Recommendations 2.2 to 2.4 of the 2012 *OECD Recommendation of the Council on Regulatory Policy and Governance*).
- During the annual reporting of the RRC, provide an assessment of the impact of regulatory policies on SMEs.

Assessment and recommendations

Korea has established significant institutions, processes and tools to support good regulatory practices across successive administrations since the late 1990s. For example, within the executive, there is an independent oversight body – the Regulatory Reform Committee (RRC) – assessing the quality of all regulations. More recently a Cost-in, Cost-out system aims at managing the flow of regulation by off-setting regulatory costs of new regulatory proposals with the elimination of existing regulatory burdens. This also marks a shift in regulatory governance from “cutting” regulations to improving the quality of regulatory outcomes. Senior officials also invest considerable time and effort to improve regulations. A network of officials across central administrative agencies, led by the Prime Minister’s Office, is expected to ensure quality of regulation from the national to the local level. The Investment Committee on Emerging Industry provides a good example of a strategic and forward-looking view to new and future industries. A number of bodies and procedures have also been established to ease the burden of regulation on Small and Medium Enterprises (SMEs), which represent a key engine of growth in Korea.

Regulatory quality management is demand-driven and guided by a complaint-driven process. Korea has established several advisory groups and institutions and has used a wide range of management platforms and approaches to broaden the participation of the general public and stakeholders in the regulatory reform process. One example includes the Regulatory Reform *Sinmungo* that aims to encourage the public to convey their opinions on existing regulations to the government.¹ Consequently, the process is largely complaint-driven. There are significant opportunities to improve regulatory management through improving the quality of regulations (*ex ante*) during the initial stages of the regulatory process. This would represent a maturing of the regulatory processes in Korea into a more proactive and strategic reform system.

Approximately 90% of laws approved in Korea originate from the National Assembly, where the good regulatory practice agenda has made limited or no in-roads so far.² Commitment across all governing bodies at the highest political level is important. Therefore demonstrating that all regulatory processes adhere to the same levels of rigour and quality is critical for the integrity of the governing system. The lack of legislative quality processes in the National Assembly is counter to the many good regulatory practice initiatives established under the executive and risks undermining “whole-of-government” reform efforts. Establishing a capacity for socio-economic analysis by strengthening the internal capacity of institutions within the National Assembly or encouraging the use of automatic review procedures or post-implementation evaluation to support evidence-based legislation can help improve regulatory practices within the National Assembly and the regulatory system as a whole given the high share of laws originating from the National Assembly. Integrating good regulatory practices in the work of the National Assembly would also contribute to an integrated and seamless approach to better regulation, with strong attention for good regulatory practices in the executive and the legislature as a whole.

The institutional infrastructure is an opportunity that needs to be fine-tuned to ensure that results and improvements are felt by businesses and citizens. The central steering role of the Regulatory Reform Committee (RRC) can be enhanced and could be focused more on co-ordinating regulatory policy rather than on checking the quality of all impact assessments. This function should be played primarily by the RRC, focusing on significant regulations and mainly, supported by a capable secretariat that is focused on improving the quality of significant regulatory proposals while reporting on the advancement and compliance of regulatory policy across government. Central administrative agencies should be given the responsibility for ensuring that less burdensome regulation can be fast-tracked and receive less stringent controls by the RRC, and have their own internal procedures and earn “regulatory autonomy” through reporting on their good processes and outcomes.

There is potential for local governments to play an important role in the regulatory process. Local governments serve as important actors in the interpretation of regulations true to the intention of the law, and carry out compliance, inspection and enforcement activities in the field. Creating channels for more involvement from the local government to bridge this gap in the regulatory process, particularly during the drafting stage, can strengthen the quality of regulations vis-à-vis local ordinances and rules by ensuring that they are relevant, commensurate to the capacity of the local government, respond to emerging challenges, and reflect the needs of the general and local public. There can also be some initiatives to provide consistency in the regulatory activities at the local government level, such as common standards for enforcement and inspection.

Overall, there is room for significant improvements to reap the full benefits of the efforts put in place so far. The Korean regulatory system should become more:

- **Strategic:** there is a need for a clearer strategy and vision on the direction of regulatory policy to make a smarter and better use of the capability and resources deployed.
- **Targeted:** regulatory reform efforts need to target what is likely to bring the highest impact. Regulatory improvements should address regulation and policies that are most burdensome and create the greatest drag for the economy and the country as a whole.
- **Proactive:** the regulatory system should shift responsibilities to central administrative agencies to foster a proactive attitude to identify and implement regulatory improvements. In a similar way the private sector share ownership of regulatory improvements and shift the dialogue from “complaint-driven” to “solution-finding”.
- **Inclusive:** there is a need to open up the institutions and processes aimed at improving regulation to a wider range of stakeholders that contribute to Korea’s development to make the system more transparent and identify the issues at stake that can contribute to a balanced and inclusive growth.

The sections below provide a more granular analysis of these challenges and opportunities and identify policy recommendations focused on:

- Leadership and oversight of regulatory reform
- Regulatory quality management
- Stakeholder engagement and transparency

- Compliance, inspection and enforcement
- Regulatory performance assessment
- Small and medium-sized enterprises.

Leadership and oversight of regulatory reform

The Park administration has made regulatory reform a key government priority with the aim of boosting investment, productivity, job creation and ultimately the well-being of Korea. This commitment has translated into enhancing and supporting the work of the regulatory institutions that had already been put in place under previous administrations plus adding new initiatives like the Regulatory Reform *Sinmungo*, a petition system to alert the government of unnecessary burdens for business and citizens, and the Cost-in, Cost-out system, described below, to improve the quality of regulation. Several special purpose institutions e.g. advisory groups and independent bodies have also been established with the co-operation of different central administrative agencies to address specific issues and have, to date, produced satisfactory results. The Park administration has also kept the momentum for reform and the commitment to improving the regulatory environment. The President chairs a Ministerial Meeting on Regulatory Reform which is held bi-annually. In May 2016 a Ministerial Meeting on Regulatory Reform announced new initiatives to reduce burdens for emerging or future industries. The meeting in December 2016 focused on creating a more business-friendly environment for SMEs, micro enterprises, and start-ups.

Regulatory oversight is found at the Centre of Government, with the Prime Minister’s Office performing a strong oversight and steering role. The RRC, co-chaired by the Prime Minister himself and a Chairman from the non-governmental sector, serves as the central oversight body, which is responsible for managing the regulatory management system, reviewing all regulatory proposals from central administrative agencies, performing regulatory quality management, and carrying out regulatory innovations. Under the RRC, two subcommittees, the Economic Subcommittee and the Social and Administrative Subcommittee, separately govern their respective regulations.

The current RRC has a private-oriented composition, which is essential to include the views of the regulated entities when making regulatory decisions within the government. The RRC operates on a part-time basis and is composed of the prime minister, six ministers, the chairman of the Fair Trade Commission, and 17 non-government members mostly from academia. Consequently, this current arrangement limits the potential role of other relevant stakeholders that may be vital to the regulatory-making process. Annually, around 1 000 regulatory proposals are reviewed by the RRC mostly online. Among them, around 100 significant proposals (around 8 per month) are reviewed in the in-person meetings of the RRC which are held twice a month on Friday. This is quite high compared to similar bodies in other countries. For example, during 2016, the UK Regulatory Policy Committee scrutinised 318 first-time submissions (Regulatory Policy Committee, 2017); between July 2015 and June 2016, the German *Normenkontrollrat* examined 362 regulatory proposals (Nationaler Normenkontrollrat, 2016). The Regulatory Reform Office (RRO) under the Office for Government Policy Co-ordination (OPC) provides all necessary support to the RRC for making concrete, final decisions on the proposals. The agenda and summary of proceedings of the meetings are published in the regulatory information portal.

Furthermore, the RRC takes on the role of assessing both the quality and legitimacy of a proposal, with greater emphasis on evaluating its validity. From the selected significant regulatory proposals, the RRC deliberates on the quality of the impact assessment as well as its merits. Correspondingly, the deliberation process emphasises on the acceptability of the proposal to the general public and has less focus on the technical and quality issues, such as the robustness of the calculations used for the CICO system or the overall quality of RIA, with the indication that technical calculations have already been reviewed by the RRO and regulatory research centres prior to RRC consideration.

There is a network of officials working on regulatory issues across central administrative agencies and through committees. At the national level, around 90 members from the RRO and the Public-Private Joint Regulation Advancement Initiative (PPJRAI) work to co-ordinate and manage regulatory policies. At the same time, depending on the size of the division, around 10 people are assigned to work full-time on regulatory tasks in each central administrative agency, which amounts to around 400 officials in Korea. Drawing from a 2016 report by the Local Regulatory Reform Initiative, a total of 613 officials at the local level are recorded to be engaged in regulatory reform affairs. This network is important to ensure quality of regulation and embed a culture of good regulatory practice across the government. This network is also supported by the Investment Committee on Emerging Industry. The committee is composed of 80 civilian experts and examines regulations that pose regulatory obstacles on emerging industries. Since its inception in 2016, the committee has already reviewed 271 petitions on new or existing regulations that have the potential to hinder or promote emerging industries, and among which, around 255 (94%) petitions have been resolved.

Capacity building comes in the form of training and consulting sessions that are organised on a regular basis or delivered online. The national government partners with the local offices and regulatory research centres to deliver courses, trainings, and sessions on regulatory policy, both through organised sessions or through an online platform. A number of these are geared towards understanding government regulatory reform efforts and major reform measures that have been introduced. Other collective training sessions are also offered to government officials on an annual basis.

Keeping track of the stock and flow of regulation remains a challenge, as previous efforts to improve the regulatory registry have been met with limited results. All regulations that fall under the Framework Act on Administrative Regulations must be registered in the regulatory registry system. Since the introduction of the regulatory registry system in 1998, significant changes have been made in 2007, 2009, and 2015. Each time the systematic change was made, the number of registered regulations has fluctuated significantly due to uncertainty in defining the unit of measurement for regulations. In other words, depending on the registry system, one unit of registered regulation used to be in a form of single primary or secondary law, single provision, or even multiple provisions across different laws. To address such challenge, the system was completely overhauled in 2015, strictly requiring all regulations to be registered by each regulatory provision. Since this change of registry system, however, the government has found that the fluctuating number of registered regulations does not reflect the actual changing size of regulations, and that the mere focus on reducing the number of regulations does not correspond with the nationwide effort towards the better quality of regulation. Therefore, the government has stopped keeping track of the number of regulations.

Recommendations:

- **Maintain regulatory reform as a key priority in the incoming administration.** Maintaining the momentum for reform and ensuring the continuity of policies and tools that work can help build a strong and consistent regulatory environment.
- **Review the role and scope of the RRC, to make it strategic and targeted with its short-term goals and long-term vision.** RRC’s regulatory role would need some re-orienting, through clarifying its goals and priorities, strengthening internal capacities, and placing greater focus on the high impact outcomes, such as safeguarding regulatory quality for all regulations, with more focus on the involvement of the RRC on CICO and RIA. A strong independent full-time leadership within the RRC can play a role in identifying and communicating priorities related to high-impact reform.
- **Secure wider representation and more involvement within the RRC.** The RRC can benefit from a wider range of interests such as labour groups, civil society, consumers, local authorities where necessary and other relevant entities that would help reinforce the quality of regulations, without foregoing the overall quality of the review process, with fewer members in total and full-time involvement.
- **Enhance the secretariat function to the RRC to guarantee that resources and attention are dedicated to significant impact regulatory proposals.** This can be achieved by focusing the roles and functions of the RRO, which already serves as the secretariat to the RRC, on proposals with a high impact on society, the environment and economy. The possibility of a dedicated secretariat separate from the OPC or within the OPC but separate from the other operations could also be considered to lend greater independence and integrity to the decisions of the RRC. However, care should be given to balance the traction and co-ordinating role of being housed in the OPC, as opposed to being external to the OPC. In addition, with the focused attention to a smaller number of regulatory proposals, the RRO staff need to further develop the capacity and regulatory expertise to support the RRC in conducting more in-depth reviews of high-impact regulation.
- **Strengthen capacity building activities that support evidence-based decision making.** Capacity building should focus on data and evidence gathering and cost analysis activities, which are key elements that support evidence-based decision making. This may include the use of certain sciences and experimentation such as behavioural economics to obtain evidence. In addition, tools for management and administrative implementation and interpretation of regulations must be used to increase quality and speed up process.
- **Capacity building can also move beyond the generic regulatory training by introducing platforms that bring together various regulatory experiences.** In order to advance the understanding of regulatory reforms, platforms that encourage regular exchanges among regulators on particular sectors, topics, or applications may help advance their understanding on its applications and on how to respond to specific issues that cut across ministerial “stovepipes”.

- **Follow-up on amendments for the improvement of the registry system**, geared towards improving the ease-of-use and harmonisation of the various databases and registry systems related to the regulatory process at both the local and national level.

Regulatory quality management

Regulatory Impact Assessment Statements (RIAS) are prepared by the central administrative agency, and reviewed by the RRC. Introduced in 1998, regulatory impact analysis (RIA) is used to extensively compare and review multiple alternatives (at least three). RIA is a multi-layered process of revision and improvement, which is mainly carried out by the head of a central administrative agency, supported by such agencies as Small and Medium Business Administration, Fair Trade Commission and Korea Agency for Technology and Standards (KATS), and strengthened by the participation of two regulatory research centres at the Korea Development Institute (KDI) and the Korea Institute of Public Administration (KIPA). All drafted RIAS are made public during the advance notice period of proposed legislation (approximately 40 days). These are subsequently reviewed by the internal regulatory reform committee of the concerned central administrative agency, then fully reviewed by the RRC.

In order to ease the process and improve the quality of the RIAS, the e-Regulatory Impact Analysis (e-RIA) was introduced in July 2015. To help ease the RIA process, an online platform called e-RIA was launched by the government. This allows the RIAS to be drafted and processed online. The system compares regulatory costs and benefits associated with each alternative through an automatic and data accumulation function. The system also helps enhance the quantification of the cost-benefit analysis. Around six training sessions have been organised by RRO, KDI and KIPA to improve the capacity of the central administrative agencies when drafting RIAS using the system. Central administrative agencies are also encouraged to contact relevant research institutes for expert support or additional consultations.

The Cost-in, Cost-out (CICO) system is an important initiative that aims to improve regulatory quality and reduce regulatory burden. CICO was launched as a pilot project in 15 central administrative agencies in July 2014, and entered into full force in July 2016 covering 27 agencies in total. CICO is a mechanism to restrict the increase of the costs of newly introduced or reinforced regulations by abolishing or relaxing regulations that carry an equal or greater amount of costs. The system is also used to help improve existing regulations that create unnecessary burdens. The process involves the central administrative agencies proposing a cost that will be reviewed and verified by the regulatory research centres. This cost is estimated based on the direct cost imposed on business or the public. As opposed to RIA which compares both direct and indirect costs and benefits, the current CICO system is focused on the “net direct costs” of the proposed regulations. As a result, certain regulations that may be abolished or softened with the introduction of new regulations may result in the reduction of “indirect” public benefits gained from the previous regulation.

A periodical examination of a regulation is conducted through the regulatory sunset clause. Several variations of the sunset clause have been applied since its introduction in 1998. The overall aim of the sunset clause is to periodically review regulations in order to determine whether it will be retained or abolished. The sunset clause focused on regulations that were approaching the suggested deadline, originally set by the central administrative agency for a period of no more than 5 years.

The roles and responsibilities of regulatory initiators – central administrative agencies – are vital to effectively manage regulatory quality and there is a strong interest in both effective regulation and meaningful consultation. Throughout the last two decades, each central administrative agency has tried its best to improve the regulatory capacity within its agency to help enhance regulatory quality management. Central administrative agencies take the helm in drafting the RIAS. These RIAS are constantly refined with the help of feedback received from stakeholders and the Regulatory Reform Committee. Efforts have also been made to enhance the capacity of the central administrative agencies to provide quality review through trainings and consultations provided by research institutions, notably KDI and KIPA.

There is significant value gained from the involvement of the research institutions in the regulatory reform process. Research institutions also take part in the review process of the Regulatory Impact Assessments submitted by central administrative agencies. Consequently, this results in the predisposition to rely on research institutions for consultations several times during the process, especially when there is a need for further consultation. Nevertheless, the involvement of these research institutes in conducting the RIA and CICO are of significant value, notably in relation to i) providing high technical support that is not feasible to build internally in some central administrative agencies and ii) serving as independent and neutral institutions, built on trust and public confidence, to support analysis on specific issues, especially on more controversial policies and regulations.

Over 3 500 proposals are received every year by the Regulatory Reform Office (RRO) from all central administrative regulations. However, only around 20 staffs of the RRO are tasked to provide a complete review of the proposals to assess whether or not they contain regulations. Among the reviewed proposals, around 1 000 proposals (proposals that contain regulations) are transferred to the RRC. Performing a complete review for over 1 000 proposals may serve as a daunting task for the RRC. Consequently, the sheer size of adopted legal proposals makes it difficult to follow the flow of legislation, in addition to those that are produced by the National Assembly.

While the National Assembly has the potential to improve the quality of legislation through public hearings and the review of bills, there is no entity within the National Assembly that systematically oversees legislative improvements. With the increasing number of parliamentary bills, there is a need to strengthen quality check mechanisms, specifically in the National Assembly. Accordingly, the percentage of primary laws initiated by parliament has increased from 38.5% in 2000 to 75% in 2007, and ultimately approximately 90% and 86% in 2015 and 2016 respectively. At present, most of the bills initiated by parliament lack the needed regulatory quality scrutiny or review. The legislature consolidates and processes stakeholder opinions through public hearings and strengthens the drafting process through reviewing reports on bills and asking for technical support from the National Assembly Budget Office and National Assembly Research Service. When the executive body initiates a bill, this is submitted to the RRC and is subject to a review in any case that it restricts rights or imposes duty. On the contrary, there is no requirement to submit an impact assessment nor is there an existing independent body that supports the parliament in safeguarding regulatory quality.

Recommendations:

- **Enhance a “whole-of-government” approach** to strengthening regulatory quality. Within the executive, there should be a strategic vision for regulatory quality; all the implementation or progress information from the central administrative agencies is reported to the central oversight body and accessible to the public. Attention for improving regulatory quality should also extend to the National Assembly by co-ordinating improvements to regulatory quality with the executive to ensure that good regulatory practices inform the approval of legislation once it reaches the National Assembly as well as laws originated from the National Assembly.
- **Propose a more targeted system that retains the RRC’s role in reviewing only the most burdensome regulations and encourages earned “Regulatory Autonomy” of regulators.** Reduce the number of regulatory proposals reviewed by the RRC by focusing on only significant regulations and delegating other less-burdensome regulations to respective central administrative agencies to be responsible for quality checking and reporting their progress to the RRC. There should be some form of sanctioning or penalty system for central administrative agencies that do not meet their responsibilities or targets in the “whole-of-government” regulatory policy.
- **Introduce incentives and guidance to maintain “self-regulatory oversight” of regulatory reforms by central administrative agencies and on low-burden regulations through monitoring and reporting via the RRO.** Providing strong incentives that support “self-regulatory oversight” of central administrative agencies by providing them with the autonomy to perform their regulatory responsibility can reduce the burden faced by the RRO. Monitoring and evaluation can be carried out by allowing central administrative agencies to report on their activities and allowing the RRO to conduct regular “regulatory auditing” of agencies and imposing sanctions, when and where necessary.
- **Continue to build the capacity of the central administrative agencies to conduct and support evaluations.** Continue to guide central administrative agencies in terms of coming up with more straightforward methods and techniques to provide analysis, well-defined procedures for data collection and consolidation through a framework or standard set of analytical tools. This can be further facilitated by simplified documentation requirements in the evaluations that are specific on costs and benefits to be calculated as compulsory.

Box 1. Criteria-driven indicators for evaluation : the case of the United States

- Benefits justify costs
 - Now that the regulation has been in effect for some time, do the benefits of the regulation still justify its costs?
 - What is the value given to the benefits? That is, what is the political value placed on the quantitative value?*
- Least burden
 - Does the regulation impose requirements on entities that are also subject to requirements under EPA regulation? If so, what is the cumulative burden and cost of the requirements imposed on the regulated entities?

Box 1. **Criteria-driven indicators for evaluation** (*cont.*)

- Does the regulation impose paperwork activities (reporting, record-keeping, or third party notifications) that could benefit from online reporting or electronic recordkeeping?
- If this regulation has a large impact on small businesses, could it feasibly be changed to reduce the impact while maintaining environmental protection?
- Do feasible alternatives to this regulation exist that could reduce this regulation’s burden on state, local, and/or tribal governments without compromising environmental protection?
- Net benefits
 - Is it feasible to alter the regulation in such a way as to achieve greater cost effectiveness while still achieving the intended environmental results?
- Performance objectives
 - Does the regulation have complicated or time-consuming requirements, and are there feasible alternative compliance tools that could relieve burden while maintaining environmental protection?
 - Could this regulation be feasibly modified to better partner with other federal agencies, state, local, and/or tribal governments?
- Alternatives to direct regulation
 - Could this regulation feasibly be modified so as to invite public/private partnerships while ensuring that environmental objectives are still met?
 - Does a feasible non-regulatory alternative exist to replace some or all of this regulation’s requirements while ensuring that environmental objectives are still met?
- Quantified benefits and costs/qualitative values
 - Since being finalised, has this regulation lessened or exacerbated existing impacts or create new impacts on vulnerable populations such as low-income or minority populations, children, or the elderly?
 - Are there feasible changes that could be made to this regulation to better protect vulnerable populations?
- Open exchange of information
 - Could this regulation feasibly be modified to make data that is collected more accessible?
 - Did the regulatory review consider the perspectives of all stakeholders?
- Co-ordination, simplification, and harmonisation across agencies
 - If this regulation requires co-ordination with other EPA regulations, could it be better harmonised than it is now?
 - If this regulation requires co-ordination with the regulations of other federal or state agencies, could it be better harmonised with those regulations than it is now?

Box 1. Criteria-driven indicators for evaluation (cont.)

- Innovation
 - Are there feasible changes that could be made to the regulation to promote economic or job growth without compromising environmental protection?
 - Could a feasible alteration be made to the regulation to spur new markets, technologies, or jobs?
 - Have new or less costly methods, technologies, and/or innovative techniques emerged since this regulation was finalised that would allow regulated entities to achieve the intended environmental results more effectively and/or efficiently?
- Flexibility
 - Could this regulation include greater flexibilities for the regulated community to encourage innovative thinking and identify the least costly methods for compliance?
- Scientific and technological objectivity
 - Has the science of risk assessment advanced such that updated assessments of the regulation’s impacts on affected populations such as environmental justice communities, children or the elderly could be improved?
 - Has the underlying scientific data changed since this regulation was finalised such that the change supports revision to the regulation?

Note: *. Refers to Naundorf, S. and C. Radaelli (2017), “Regulatory Evaluation: *Ex Ante* and *Ex Post*: Best Practice, Guidance and Methods”, in Karpen and Xanthaki (eds.) *Legislation in Europe: A Comprehensive Guide for Scholars and Practitioners*, Hart Publishing, Oxford.

Source: U.S. Environmental Protection Agency (2011), “Criteria for Regulatory Review”, pp. 53-55; Coglianesi, C. (2012), “Measuring Regulatory Performance: Evaluating the Impact of Regulation and Regulatory Policy”, *OECD Expert Paper No. 1*, OECD, Paris, www.oecd.org/gov/regulatory-policy/1_coglianesi%20web.pdf (accessed 22 March 2017).

- **Request the executive branch to submit all relevant scrutiny materials such as RIAS and Cost-in, Cost-out (CICO) analyses to the National Assembly** in order for the parliament to take into consideration the impacts of regulations when reviewing or drafting bills. This could be implemented by streamlining the existing documentation to the National Assembly and providing essential information for discussion and debate in a more easy, succinct, salient and timely fashion.
- **Expand the CICO system to make it as all-encompassing as possible and establish targets when reducing regulations through the system.** The Korean government can expand the set of metrics used to compute CICO to include other measures such as public safety or other social costs. In addition, to make the system effective, set some targets (i.e. the costs of regulation on the overall budget) when deciding to cut regulations using the system.

Box 2. Measuring indirect costs: The case of Germany

In Germany, indirect costs, costs that are incidental to the main purpose of regulations, are measured such as in the case for the impact on prices and the general price level.

As a first step, the responsible ministry is asked to fill out a checklist for better regulations and determines if the proposal would have an impact on costs and prices. A guide, issued by the Federal Ministry of Economics, provides instruction on the criteria and parameters of measuring the impacts and contains practical examples and recommendations when conducting cost-benefit analysis and formulating clauses on the impacts of the proposed legislation on costs and prices.

Information on the costs is often collected from the Federal Statistical Office. If no data is available, businesses and associations are consulted early in the process through inquiries and consultations to assess resulting costs. The Manual of Regulatory Impact Assessment and the Guide to Regulatory Impact Assessment endorse the use of cost estimates, cost-effectiveness analysis or cost benefit analysis. In certain instances where costs cannot be quantified due to lack of empirical data, qualitative forecasts are made.

Indirect costs are taken into account when measuring cost impacts to ensure that any newly-introduced or amended regulation do not hamper development or income opportunities.

Source: Survey results of the OECD (2015b), *OECD Regulatory Policy Outlook 2015*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264238770-en>.

- **Empower actors at all levels to ease the process and to support intrinsic motivation of responsible authorities.** Re-integrating and streamlining procedures, setting clear goals, introducing meaningful definitions of key performance indicators can be helpful in empowering actors and responsible authorities. More specifically, this can be achieved through, for example, establishing an independent think-tank or empowering an existing one to provide advice to the government on issues related to RIA.
- **Create a permanent legislative quality check mechanism for the National Assembly.** There are several options, including incentive-based mechanisms, that may be considered: i) establish a body similar to the RRC within the National Assembly that could provide independent technical advice on costs and benefits of legislation initiated by members of the National Assembly; the membership of this body could be a mix of technical experts (e.g. professional economists) and representatives of business and labour according to selection and appointment criteria established by the National Assembly; ii) strengthen the role and capacity of the institutions such as National Assembly Budget Office and National Assembly Research Service in supporting the members with impact assessments; iii) allow members to have access to a common budget to conduct analysis; iv) require any proposal from the parliament to be accompanied by an impact assessment and CBA through the CICO system; v) use an automatic sunset clause for any measure that is passed without any RIA; vi) require all legislations to be subjected to *ex post* evaluation after an allotted period by the central administrative agency that is responsible for its development/creation/implementation; vii) establish a permanent body in the National Assembly that will monitor regulatory quality outcomes, processes and procedures across the regulatory system; this function could be assigned to the National Assembly's RRC-like body recommended above.

Box 3. Types of programmed review mechanisms: The case of Australia

Programmed review mechanisms are part of a series of approaches to regulatory review and are focused on examining the performance of specific regulations at a specified time or in case of a well-defined situation:

- *Sunsetting* provides for an automatic annulment of a statutory act after a certain period (typically five to ten years), unless keeping the act in the books is explicitly justified. This can be applied to specific regulations or to all regulations that are not exempted. For sunseting to be effective exemptions and deferrals need to be contained and any regulations being re-made would need to be appropriately assessed beforehand. This requires systematic preparation and planning. For this reason, sunseting is often made equivalent to introducing regulatory clauses.
- “*Process failure*” *post implementation review (PIR)* is carried out in Australia and rests on the principle that *ex post* evaluation should be performed on any regulation that would have required *ex ante* impact assessment. The PIR was introduced with the intention of providing a “fail-safe” mechanism to ensure that regulations made in haste or without sufficient assessment – and therefore having greater potential for adverse effects or unintended consequences – can be re-assessed before they have been in place too long.
- Through *ex post review requirements in new regulation*, regulators outline how the regulation in question will be subsequently evaluated. Typically, this exercise should be made at the state of the preparation of the RIA. Such review requirements may not provide a full review of the regulation, but are particularly effective where there are significant uncertainties about certain potential impacts. They are also used where elements of regulations are transitional in nature, and can provide reassurance where regulatory changes have been controversial.

Source: Australian Productivity Commission (2011), “Identifying and Evaluating Regulatory Reform”, Research Report, Canberra; OECD (2015), *OECD Regulatory Policy Outlook*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264238770-en>.

Box 4. Legislative quality check mechanisms in Chile and the EU

Chile: The Law Evaluation Department (LED)

The Chamber of Deputies has set up a Law Evaluation Department (LED) that conducts *ex post* evaluations of selected laws. The LED has developed a three-stage methodology to evaluate the effectiveness of laws, consisting of a technical analysis of the law, citizens’ perception, and the preparation of a final report. The LED has also designed tools to collect information about citizen perception, such as online questionnaires, online chats, focus groups, and workshops. In addition, it built a database containing registries of civil organisations and experts that regularly participate in legislating, supervising, or representing stakeholders. Reports are published and used as input for discussions on law amendments. The Department is exploring the possibility to also conduct reviews on secondary regulations.

European Union: The European Parliament Research Service (EPRS)’s *ex ante* and *ex post* assessment services

In 2013, the European Parliamentary Research Service (EPRS) was created to serve as the European Parliament’s think tank and in-house research department. More specifically, its **Members’ Research Service** provides parliamentary members with assistance in coming up with tailored, independent, and objective analysis and research to specific policy issues related to the European Union.

Box 4. Legislative quality check mechanisms in Chile and the EU (cont.)

The EPRS aims to support the full policy cycle by assisting parliamentary committees and Members in: i) assessing the impact of proposed European legislation; ii) evaluating the results of existing European legislation; iii) identifying areas for future European action; iv) engaging in scientific foresight; and v) overseeing the European Council.

The EPRS's *ex ante* impact assessment service assists European Parliament committees by analysing the quality of impact assessments produced by the European Commission, as well as offering committees a comprehensive range of detailed follow-up services, including impact assessments of substantial amendments.

The EPRS's *ex post* evaluation service assists European Parliament committees, by producing detailed evidence-based evaluations of EU laws whenever committees do implementation reports. It also compiles detailed databases of EU legislation requiring follow-up and of all review work on European laws being undertaken by the EU institutions.

Source: OECD (2015), *OECD Regulatory Policy Outlook*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264238770-en>; European Parliament (n.d.), “European Parliamentary Research Service” website, www.europarl.europa.eu/atyourservice/en/20150201pvl00031/european-parliamentary-research-service (accessed 2 May 2017).

Stakeholder engagement and transparency

Stakeholder engagement is important to help improve transparency in the regulatory procedure, with a need for greater emphasis on representation and ease of access. Efforts have been made to increase transparency and public access in the regulatory process through the various government portals, notably the Regulatory Information Portal, i-Ombudsman, and the online Regulatory Reform *Sinmungo*, with the latter also open to foreign nationals to provide feedbacks and suggestions in English. The PPJRAI and the Investment Committee on Emerging Industry also serve as avenues for greater and more enhanced consultation. Consultations with stakeholders take place all throughout the process, but with limited involvement and representation from stakeholders like SMEs, start-ups, labour in the early phases of the design of regulation. Foreign enterprises also continue to face challenges in the regulatory process, as some of the systems and procedures continue to pose significant constraint on foreign entrepreneurs notably in relation to the ease of access, such as language and processes, as not all are easily translated and interpreted.

The Regulatory Reform *Sinmungo* is an innovative and efficient tool to receive feedback on regulations and regulatory administration. Any petition on regulatory inconveniences or burdens can be submitted through this platform. Once a petition is filed through the system, the responsible official at the relevant central administrative agency accepts or declines the petition within 14 days. If the rejected petitions are deemed reasonable by the RRO, the responsible agency would need to justify the grounds for refusal within 3 months' time. However, if the submitted petition is deemed urgent, the responsible agency is required to provide a feedback within one week. Also, if the agency decides to reject the urgent petition yet deemed reasonable by the RRO, the agency must provide proper justification within one month. The reviewer's information is revealed all throughout the process. If the rationale for refusal is not sufficiently justified, the RRC can also issue recommendations to the responsible agency for regulatory improvement. 41 574 petitions have been filed through the system as of December 2016. Around 26 877 (65%) of these petitions were classified as general civil complaints, and 14 636 (35%)

have received feedbacks, while the rest are still in the application and review stage. This shows that the system operates on a complaint-driven basis, which limits the focus of feedback and improvement to only prevailing issues or on a needs basis, rather than on a systematic analysis of the overall regulatory system.

The Regulatory Information Portal serves as a channel where people can participate in the regulatory reform process. The Regulatory Information Portal was launched in 2014 to serve as a platform for public engagement in the process of regulatory reform. In order to encourage participation, personal information is not collected from the online and mobile users. Upon receiving the suggestions from the public or businesses, the responsible agency is strongly encouraged to reflect their opinions in the regulatory proposals. At the same time, if stakeholder engagement is reckoned to be insufficient, notably in the RIA process, the responsible agency is requested to revise the statement. Aside from serving as a communication platform, the Regulatory Information Portal also provides and advertises information on regulations, including successful cases on regulatory reform.

In terms of regulatory implementation, transparency and accountability is addressed through various appeal processes. Appeal processes are categorised as either administrative or judicial. The administrative appeal process includes the Administrative Appeals System of the Central Administrative Appeals Commission and the Civil Petition for Grievance System of the Anti-Corruption and Civil Rights Commission. On the other hand, the judicial process includes Administrative Litigation System of the Administrative Court and the Constitutional Complaint System of the Constitutional Court of Korea.

Government-wide efforts have been made to encourage the public engagement in the regulatory reform process. In addition to the Regulatory Information Portal, the government, led by the RRC, has pursued several methods to increase participation in the regulatory reform processes. In particular, the government has raised public awareness on its regulatory reform efforts by running advertisements through convenience store windows, shopping carts, public transportation, and the media including the press and social media outlets, and by distributing books and leaflets. The government has also introduced a regulatory reform campaign bus, and discussed regulatory reform efforts and achievements in 18 different regions.

Recommendations:

- **Enhance existing methods of consultation to improve legislative drafts.** It is important to ensure that the relevant stakeholders, including local administration, are engaged early in the process and that they are adequately represented in consultations. Encouraging participation from a wider range of stakeholders to co-design legislations and provide their real-life expertise can help improve legislative drafts.
- **Support capacity within the public administration to engage with stakeholders.** The use of more modern engagement methods should be accompanied by appropriate training and support on engaging with stakeholder, including through the use of social media and making use of behavioural insights³, for public officials in the central administrative agencies responsible for engaging with stakeholders during the design and delivery of regulation. This capacity building should be supported by incentives for applying them in day-to-day activities, such as part of the performance appraisal system.

- **Ensure that central administrative agencies engage relevant stakeholders and local administration early in the process of rule-making, and that their opinions are adequately represented in consultations.** When a central administrative agency is to introduce a regulation, its regulatory bill must be well-communicated with the relevant stakeholders as part of RIA, even prior to the official advance notice period. However, there is no legal requirement for the regulating agencies to consult with stakeholders during the process of planning or drafting the bill. Engaging stakeholders and local administration in the very first stage of regulatory cycle is as important as regulatory review and *ex post* evaluation for increasing regulatory quality and enforcement.
- **Define clear accountability rules and explain to the extent possible to stakeholders who is responsible for what to manage expectations on the engagement process and avoid unfair criticism towards public officials. It is important to support confidence in both the public administration and stakeholders in the engagement process.** This confidence can be facilitated by clearly defining and communicating on responsibilities and expectations for the engagement process. The rules can begin with being principle based to ensure applicability and revised at a later date, such as a duty for officials to reasonably consider representations with a certain time frame and communicate, not individually, but general on the overall engagement.

Box 5. Consultation guidelines: The case of the United Kingdom

Increasing the level of transparency and increasing engagement with interest parties improves the quality of policy making by bringing to bear expertise and alternative perspectives, and identifying unintended effects and practical problems.

Prior to replacing it with the much shorter “Consultation Principles” in 2012 (updated in 2016), the United Kingdom had a detailed “Code of Practice on Consultation” (published in 2008), which aimed to “help improve the transparency, responsiveness and accessibility of consultations, and help in reducing the burden of engaging in government policy and development.”

Although not legally binding and only applying to formal, written consultations, the Code of Practice constitutes a good example of how a government can provide its civil servants with a powerful tool to improve the consultation process. The 2016 Consultation Principles highlight the need to pay specific attention to proportionality (adjusting the type and scale of consultation to the potential impacts of the proposal or decision being taken), consider the increasing use of digital methods in the consultation process, and reduce the risk of ‘consultation fatigue’.

The 16-page Code of Practice was divided into seven criteria, which were to be reproduced as shown below in every consultation:

- **Criterion 1:** When to consult. Formal consultations should take place at a stage when there is scope to influence the policy outcomes.
- **Criterion 2:** Duration of consultation exercises. Consultation should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
- **Criterion 3:** Clarity of scope and impact. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs of the proposals.

Box 5. Consultation guidelines: The case of the United Kingdom (cont.)

- **Criterion 4:** Accessibility and consultation exercises. Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
- **Criterion 5:** The burden of consultation. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
- **Criterion 6:** Responsiveness of consultation exercises. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
- **Criterion 7:** Capacity to consult. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

An example of a UK government response to consultation can be found at: <https://www.gov.uk/government/consultations/tackling-intimidation-of-non-striking-workers>.

Source: www.bis.gov.uk/files/file47158.pdf for the 2008 Code of Practice on Consultation and https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/492132/20160111_Consultation_principles_final.pdf for the updated Consultation Principles, which replaced the 2008 Code of Practice.

- **Continue to develop better.go.kr as the central information portal for all data, documentation, and feedback on proposed regulation.** In order to avoid any duplication in relation to the feedbacks submitted to the various systems, it will be important to ensure that other online platforms are linked to better.go.kr portal and, if needed, filter specific cases that can be resolved using the appropriate portal. To continue supporting the role of better.go.kr as the central portal for better regulation, it will be helpful to continue **encourage cross-institutional sharing of data** across central administrative agencies and relevant institutions to reduce regulatory burden on applications as well as improve quality of feedback provided through benchmarking.
- **Review the many initiatives of stakeholder engagement to understand which are effective for the cost and time associated, and enhance the initiatives that work.** Existing stakeholder engagement initiatives would need some re-thinking, to prevent any duplications and ensure value for time and money. Focusing on the initiatives that work for both the consumers and businesses (for both new entrants and incumbents) would help simplify the process without sacrificing the quality of the process. The review should also take into consideration the evolution of stakeholder engagement from “listening” towards proactive dialogue. This maturing relationship will require both the administration as well as external stakeholders to be equally responsible for constructive engagement.

Box 6. Stakeholder engagement practices

The pilot database presents detailed information on a range of stakeholder engagement practices. It comprises of examples from 17 different OECD member and partner countries, including Korea, from various regions, and for stakeholder engagement at different stages in the regulatory policy cycle (early-stage and later-stage consultation for developing new regulation, implementation, evaluation, and review of regulatory policy tools).

Box 6. Stakeholder engagement practices (cont.)

The database serves as a repository of examples. While the examples serve as a source of insight, the effectiveness and suitability of the different tools included are dependent on country-specific contexts and institutions as well as the objectives of the consultation.

Source: OECD (2016), Pilot database on stakeholder engagement practices, accessed in www.oecd.org/gov/regulatory-policy/Pilot-database-on-stakeholder-engagement-practices.htm.

- **Develop a method to strengthen stakeholder engagement, including local administration, in the rule-making process of the National Assembly, particularly with regard to the laws initiated by Members of the National Assembly.** Currently, the National Assembly Act requires an advance notice of proposed legislation and public hearing for stakeholder engagement. However, if decided otherwise, such procedural requirement can be omitted upon proposal of the member of the National Assembly who is submitting the proposed legislation. The National Assembly also does not hold an obligation to conduct RIA or draft a RIA statement for initiating laws. Therefore, officialised standards or requirements on stakeholder engagement should be instituted in the National Assembly to correspond with the government-wide efforts of regulatory reform.

Box 7. Examples of co-ordination mechanisms for social media use across governments

Denmark: Co-ordination for social media use is part of Denmark's participation in the Open Government Partnership. A yearly Open Government Camp is organised for and by stakeholders in the public sector to meet civil society including individual citizens, businesses and NGOs. The responsibility for setting up the physical environment for the event is the Ministry of Finance, Agency for Digitisation.

France: Regular meetings, exchanges and seminars are organised by the *Service d'information du Gouvernement* (SIG) located at the Prime Minister's office.

Netherlands: A Dutch network of social media practitioners exists that is not actually operated by government. The "Civil Servant 2.0" platform is a wiki where government employees can gather and exchange information on good practices (<http://ambtenaar20.pbworks.com>).

United States: The US General Services Administration (GSA) facilitated the launch of the "Social Media Community of Practice" (CoP) in June 2012. The community unites more than 200 federal government social media managers and aims to spread good practices for improving citizen services and cutting service delivery costs.

Source: Responses to OECD survey on social media; official GSA information (United States); Mickoleit, A. (2014), "Social Media Use by Governments: A Policy Primer to Discuss Trends, Identify Policy Opportunities and Guide Decision Makers", *OECD working Papers on Public Governance*, No. 26, OECD Publishing, Paris, <http://dx.doi.org/10.1787/5jxrcmghmk0s-en>.

Compliance, inspection and enforcement

Regulatory delivery can either be carried out by the government or delegated externally to other providers. Regulations can be delivered or enforced by central administrative agencies, local governments, or legally entrusted non-government bodies including corporations, groups and individuals (e.g. Korea Occupational Safety and Health Agency, National Health Insurance Service, and the Association of Medical

Personnel). In particular, when local governments are entrusted by higher legislation to enforce regulations, different legal procedures can be considered such as the following: 1) the regional government (province, metropolitan city, etc.) directly enforces regulations; 2) the regional government enforces regulations through the sub-regional government (city, district [*gun*] or borough [*gu*]); or 3) the sub-regional government directly enforces regulations.

Regulatory Compliance is classified into conventional command-and-control measures and market-based measures. Market-based measures include self-regulation, voluntary agreement, economic inducement, and the release and disclosure of information. As an example, the Ministry of Environment introduced a full-scale voluntary environmental management to underscore the importance of voluntary agreement. The RRO issued “the Guideline for Regulatory Compliance Survey and Application Methods” that serves as a handbook for conducting compliance surveys. In accordance with the guideline, from 2002 to 2012, the Ministry of Environment has conducted an annual survey on regulatory compliance. This survey measures regulatory awareness level (awareness, comprehension, and clarity), regulatory recognition level (necessity, adequacy, and fitness for purpose), and regulatory conformity level (conformity, enforcement, and adequacy of penalty imposition).

Each central administrative agency performs the functions of both regulatory enforcement and regulatory inspecting agency. A clear and sound inspection and enforcement strategy can help ensure the quality and effectiveness of regulations as well as contribute to reducing the regulatory burdens imposed on businesses. However, little attention is placed on regulatory delivery in a strategic manner. Regulatory inspection is essential and should be integrated in the overall regulatory strategy, notably to complement regulatory efforts related to compliance.

For the past two decades, the Korean Government has undertaken significant progress to improve regulatory compliance, inspection, and enforcement and the associated institutional structure, as shown in the advanced regulatory practices that have been introduced since 1998. However, a number of the regulatory management mechanisms tend to be short-lived, particularly with the introduction of new practices and in relation to political transitions over the years.

Local governments play an important role as an enforcement agency and are also responsible for sustaining and improving the quality of regulations. Local governments serve as vital units to the implementation of regulatory reforms. In many cases, regulations would need to be tailored to adapt to local landscapes and dynamics. Local governments constantly deal with businesses and citizens at the frontline, but seldom were involved in the development of regulations or in the process of regulatory reform. In 2015, a number of activities have been held by the central government to discuss with local governments on the challenges faced when implementing regulatory reforms. Local authorities have undoubtedly the potential to contribute to a better understanding of specific regulations that can be formulated and applied at the local level. A more co-ordinated and efficient approach can be pursued to involve the local authorities in the process.

Furthermore, the number of regulatory mechanisms that have been introduced highlights the shortage of certain resources such as manpower for some enforcement agencies, especially in relation to occupational safety, including the appropriate skills needed to support this. Despite the government’s strong commitment to regulatory reform, the general public has continued to experience a low level of

improvement in their daily lives. This discrepancy between government efforts and public satisfaction is significantly correlated with a lack of capacity and resources that are necessary for regulators' efficient enforcement. In the context of Korea, the government is ultimately responsible for adequately enforcing regulations, for which increasing the number of government personnel need to be proportionally followed by the increasing intensity of regulatory reform efforts. However, the government permitted such increase only under exceptional conditions in order to restrain the expansion of the size of government. Despite this general tendency in Korea, it is important to recognise that the share of public sector employment in Korea lags significantly behind that of the rest of the OECD member states for certain enforcement areas, in particular occupational safety, which could be a major source of inefficiency in regulatory delivery (see Table 1.1)

The limited co-ordination across local government also incites confusion in terms of compliance, inspection, and enforcement. The lack of information and clarity brought about by limited co-ordination and the lack of understanding of the regulatory policy being enforced may be detrimental to enforcement and inspection activities as it creates confusion in terms of the role, rights, and obligations of both the authorities and the regulated subjects. Co-ordination would need to be strengthened across regional and sub-regional governments as well as between regional and sub-regional governments⁴.

Table 1. Comparison of OECD countries
(in terms of human resources assigned for occupational safety)

Category	South Korea (2015)	United Kingdom (2012)	Germany (2011)	United States (2010)	Japan (2010)	
Number of regulatory enforcement staff	406	2 432	4 405	3 878	1 400	
Number of industries	Total number (in thousands)	2 367	2 149	3 734	8 571	2 622
	Number of employees per regulatory enforcement staff	5 830	884	848	2 210	1 873
Number of employees	Total number (in thousands)	17 969	29 721	37 475	127 820	52 488
	Number of employees per regulatory enforcement staff	44 258	12 221	8 507	32 960	37 491

Source: Ministry of Employment and Labour (Korea), Health and Safety Executive (United Kingdom), Federal Ministry of Labour and Social Affairs (Germany), Occupational Safety and Health Administration (United States), and Statistics Bureau (Japan).

Occupational safety

Occupational Safety Regulations in Korea are focused on the need to maintain and promote the health and safety of workers, clarifying responsibility, and creating a comfortable working environment. Regulations on occupational safety were first introduced in 1953 through 10 provisions included in the Labour Standards Act, and were strengthened by enacting an independent act, the Occupation Health and Safety Act, on

December 1981 as a response to the public need for systematic industrial accident prevention measures. Since the beginning of 1991, mid- and long-term plans have been developed. In 2015, the 4th Industrial Accident Prevention Five-Year Plan (2015-19) was developed by the government on the basis of consultations with “the Industrial Accident Compensation Insurance and Prevention Deliberation Committee” and other relevant experts. At present, the Occupational Safety and Health Act serves as the major legislation that guides all business owners. Violations against the related laws are inspected by labour inspectors from the Regional Offices of the Ministry of Employment and Labour. Around 408 labour inspectors from 47 Regional Offices regularly visit businesses to inspect regulatory compliance. To support the regional inspection, 48 staff members at the headquarters of the Ministry of Labour and Employment are in charge of industrial accident prevention policy. Currently, these labour inspectors are situated in 47 local regions to enforce the inspection of businesses. According to the annual inspection plan established by the Ministry, such inspection gives more focus on the businesses that have the previous records of industrial accident, given the limited number of manpower and resources. In some cases, the Ministry acquires support from other agencies when needed. Upon the verification of violations, the case is transferred to the prosecutor and the decision is made by the court.

The Ministry of Employment and Labour is responsible for the oversight of occupational safety and health. There are currently eight central administrative agencies enforcing 24 legislations that are associated with occupational safety and health. There are also 949 regulatory provisions that are related to industry, safety, and health. There are two key players in the Ministry of Employment and Labour for regulatory policies on occupational safety and health: i) the Industrial Accident Prevention and Compensation Bureau which oversees regulatory policy affairs, such as the amendment of the Occupational Safety and Health Act and relevant secondary laws; and ii) the Regional Offices of the Ministry of Employment and Labour that perform regulatory enforcement, supervision, and inspection of businesses. In general, the Ministry of Employment and Labour acts as an oversight body of occupational safety matters, as stipulated in the Occupational Safety and Health Act. However, if other central administrative agencies have provisions related to occupational safety and health in their respective legislations, they can override the application of the Occupational Safety and Health Act and abide by their own legal obligations. This is the case for the Mining Safety Act (Ministry of Trade, Industry and Energy), Nuclear Safety Act (Nuclear Safety and Security Commission), Aviation Act (Ministry of Land, Infrastructure and Transport), and Ship Safety Act (Ministry of Oceans and Fisheries). In an effort to co-ordinate across central administrative agencies, the government, through the OPC, collects opinions from the central administrative agencies and local governments to address overlapping regulations and make regulatory amendments.

Industrial accident prevention policies are created and strengthened by the engagement of labour and business. In order to strengthen stakeholder engagement in the legislative process, the Industrial Compensation Insurance and Prevention Deliberation Committee, composed of representatives of labour, business and academia, is involved in the discussions to improve the occupational safety and health system.

Consistent efforts have been made to improve the Occupational Safety and Health System. A decision to strengthen or ease regulations on occupational safety and health in Korea is made responsive to the profile and behaviour of businesses. For instance, the government introduced a regulation to require businesses with less than 50 employees to appoint a safety and health manager, given that these businesses experience a higher

number of industrial accidents vis-à-vis larger enterprises. Other efforts to strengthen regulation include the imposition of a requirement for building owners to conduct asbestos investigations when demolishing or dismantling buildings, and for business owners to report industrial accidents to the Regional Office of the Ministry of Employment and Labour. On the other hand, several efforts have been made simultaneously to ease regulations for ensuring proportionality and risk-responsiveness. For instance, the amount of fines levied to business owners is differentiated based on the total cost of demolishing or dismantling buildings and the level of potential risks identified through asbestos investigations. The government has also made efforts to enhance transparency on occupational safety and health by publishing and disseminating the relevant information on the official gazette, the official website of central administrative agencies, and the Regulatory Information Portal. However, only 8% of the industrial accident compensation insurance and prevention fund has been allotted to activities related to industrial accident prevention.

Recommendations:

- **Adopt tools that ensure both consistency and efficiency.** Concentrate on and develop mechanisms that work and have room for flexibility. It is important that governments adopt mechanisms and policies that are long-term and have well-defined objectives. Provide more attention to compliance/inspection/enforcement mechanisms that ensure implementation without the extra burden of re-working guidelines and procedures. The *OECD Best Practice Principles for Regulatory Policy: Regulatory enforcement and inspections* can provide guidance for developing these mechanisms and methods.

Box 8. OECD Best Practice Principles for Regulatory Policy: Regulatory enforcement and inspections

1. **Evidence based enforcement.** Regulatory enforcement and inspections should be evidence-based and measurement-based: deciding what to inspect and how should be grounded on data and evidence, and results should be evaluated regularly.
2. **Selectivity.** Promoting compliance and enforcing rules should be left to market forces, private sector and civil society actions wherever possible: inspections and enforcement cannot be everywhere and address everything, and there are many other ways to achieve regulations' objectives.
3. **Risk focus and proportionality.** Enforcement needs to be risk-based and proportionate: the frequency of inspections and the resources employed should be proportional to the level of risk and enforcement actions should be aiming at reducing the actual risk posed by infractions.
4. **Responsive regulation.** Enforcement should be based on “responsive regulation” principles: inspection enforcement actions should be modulated depending on the profile and behaviour of specific businesses.
5. **Long term vision.** Governments should adopt policies on regulatory enforcement and inspections: clear objectives should be set and institutional mechanisms set up with clear objectives and a long-term road-map.
6. **Co-ordination and consolidation.** Inspection functions should be co-ordinated and, where needed, consolidated: less duplication and overlaps will ensure better use of public resources, minimise burden on regulated subjects, and maximise effectiveness.

**Box 8. OECD Best Practice Principles for Regulatory Policy:
Regulatory enforcement and inspections (cont.)**

7. **Transparent governance.** Governance structures and human resources policies for regulatory enforcement should support transparency, professionalism and results-oriented management. Execution of regulatory enforcement should be independent from political influence, and compliance promotion efforts should be rewarded.
8. **Information integration.** Information and communication technologies should be used to maximise risk-focus, co-ordination and information-sharing – as well as optimal use of resources.
9. **Clear and fair process.** Governments should ensure clarity of rules and process for enforcement and inspections: coherent legislation to organise inspections and enforcement needs to be adopted and published, and clearly articulate rights and obligations of officials and of businesses.
10. **Compliance promotion.** Transparency and compliance should be promoted through the use of appropriate instruments such as guidance, toolkits and checklists.
11. **Professionalism.** Inspectors should be trained and managed to ensure professionalism, integrity, consistency and transparency: this requires substantial training focusing not only on technical but also on generic inspection skills, and official guidelines for inspectors to help ensure consistency and fairness.

Source: OECD (2014), *Regulatory Enforcement and Inspections*, OECD Best Practice Principles for Regulatory Policy, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264208117-en>.

- **Further develop a risk-based approach to enforcement and inspections.** This approach should allocate resources based on data and risk analysis which would weigh risks on the basis of their impacts and the probability that they will occur. This risk analysis could also provide a key criterion for deciding what to inspect and how to enforce. Such risk analysis should be supported by appropriate data on risk.

**Box 9. Ensuring effective compliance and enforcement
through risk-based inspections**

A system of risk-based inspections aims to reduce and minimise routine inspections that often produce lower results in terms of accidents prevention, abuses or flagrant breach of regulations. Basically, a risk-based inspection system focuses on individuals/facilities/enterprises producing or dealing with processes and products of greater risk. Such a system is more a process than an organisational arrangement, which requires continuous improvement based on intelligence (in the sense of better exploiting information flows) and information management geared to a better understanding of the levels of performance or results.

The guiding principles of a risk-based inspection are:

- Regulators and the regulatory system as a whole should use broadly risk assessment/analysis to concentrate resources on the areas that need it most
- Companies and individuals who constantly violate regulations must be identified quickly and face proportionate and meaningful sanctions.

Box 9. Ensuring effective compliance and enforcement through risk-based inspections (*cont.*)

The objective of the system is to assist the enforcement authority to select the most appropriate and cost-effective controls and implement verification tasks by optimising the efforts and costs for the inspector and for the subjects under control. Some key features and advantages are:

- It focuses on the points of the import, production or distribution chain that pose the greatest risk
- Maximises consumer safeguards and security
- Promotes a preventive rather than a reactive approach to controls by individuals
- Provides more time and resources for inspection visits that have been prioritised
- Optimises the efficiency of controls and use of inspection resources
- Minimises costs to individuals through improved sampling and concentration in products or processes of high risk by reducing unnecessary costs of inspection and testing
- May significantly reduce inspection costs by focusing efforts on the riskiest cases
- Promotes the development of risk-based regulations that are more transparent than many prescribed regulations, and encourages mutual recognition and equivalence between trading partners.

Source: OECD (2010), *Risk and Regulatory Policy: Improving the Governance of Risk*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264082939-en>; OECD (2014), *Regulatory Enforcement and Inspections*, OECD Best Practice Principles for Regulatory Policy, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264208117-en>.

- **Develop a shared information system that** collects relevant information on probability and impact of risks using also **data on compliance and inspection activities**. Creating a central database that monitors inspection and compliance activities can help map risks and improve the consistency and efficiency of local governments in delivering inspections and can provide regulated bodies with a mechanism to monitor their compliance with regulations. Increasing attention towards evidence-based performance indicators for local authorities and evidence-based joint common goals may ease the way towards more service-oriented administrative culture.

Box 10. Good practice on risk-based inspections: Chicago's food inspection forecasting

There are over 15 000 food establishments across the City of Chicago that are subject to sanitation inspections by the Department of Public Health (CDPH). Three dozen inspectors are responsible for checking these establishments. Given the large number of inspections that inspectors have to complete, the time and effort it takes to discover critical violations can mean prolonged exposure to potential disease, illness, and unsanitary conditions at some food establishments.

**Box 10. Good practice on risk-based inspections:
Chicago's food inspection forecasting (cont.)**

The CDPH, the Department of Innovation and Technology, a private insurance company and a civic consultancy teamed up to create a computer algorithm to prioritise which establishments were to be inspected first. The analytical model forecasts the likelihood of critical violations for each establishment. It uses results from previous sanitary inspections, weather data, and information from other departments, available on Chicago's open data portal, which provides user-friendly access to more than 600 data sets.

During the pilot of implementation of the algorithm, establishments with critical violations were found, on average, 7.5 days earlier than with the normal operation procedure. As a result of this approach, the risk of patrons becoming ill is potentially reduced.

The risk-based initiative taken by the Department of Public Health goes in line with three International Best Practice Principles for Regulatory Enforcement and Inspections: risk focus and proportionality, responsive regulation and information integration.

Source: Adapted from <https://chicago.github.io/food-inspections-evaluation/> and Chicago Tech Plan website: <http://techplan.cityofchicago.org/2014-progress/effective-government/> (accessed 22 March 2017); OECD (2014), *Regulatory Enforcement and Inspections*, OECD Best Practice Principles for Regulatory Policy, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264208117-en>.

- **Regularly discuss and co-ordinate across local governments (regional-regional and regional-sub-regional) and sustain efforts that link local policies with national policies to ensure coherence in the process of compliance, inspection, and enforcement.** In order to avoid confusion, duplication, or any form of overlap between the regulators and the regulated, governments should collaborate and co-ordinate to update and publish new regulations or reforms that have been introduced, with the assumption that they are also kept up-to-date. It is important to consider how regulations address specific objectives: i) whether it is considered as the optimal tool to address a specific issue and ii) how they complement other policy instruments.
- **Consider introducing a primary authority scheme on compliance for companies operating in different parts of Korea.** Setting up a primary authority provides businesses with the opportunity to form partnerships with local authority, which can provide reliable advice for other councils when carrying out inspections or addressing non-compliance.

Box 11. UK primary authority scheme

Established in 2008, the primary authority is a statutory scheme that allows businesses and a single local authority or fire and rescue authority to form a legally recognised partnership to help strengthen compliance among local enterprises.

The scheme is open to both large and small business, but is notably useful for small businesses, which often have limited capacity and resources to address regulatory challenges. Primary authorities provide guidance, advice, and feedback to businesses – aligning corporate objectives with local regulations and context and carefully targeting regulatory issues that affect local businesses and citizens.

Box 11. UK primary authority scheme (*cont.*)

Since 2016, the primary authority has been led by Regulatory Delivery (RD), a directorate in the Department for Business, Energy and Industrial Strategy, which is responsible for providing a web-based Primary Authority register, explanatory materials and trainings, and managing the overall delivery of the scheme.

The Primary Authority register is an interactive online platform that provides information on all registered partnerships and also includes updates on the scheme as well as agreed inspection plans. The RD also celebrates and awards good practices performed through the scheme in relation to improving the regulatory environment and supporting the growth of the local economy.

Source: Regulatory Delivery (2016), “Primary Authority Handbook”, Department for Business, Energy & Industrial Strategy, October.

- **Engage representatives from the business industry to strengthen stakeholder engagement around occupational safety.** In addition to occupational safety and health experts, engaging representatives from the business sector may also be a way to strengthen the quality of occupational safety and health regulations.
- **Establish guidelines that call for coherent policies on Occupational Safety and Health.** Establishing a guideline or framework to guide occupational management systems would help strengthen compliance with regulations and standards and will, subsequently, improve Occupational Safety and Health performance.
- **Increase the human resources mandated to enforce regulations on occupational safety and health as well as their skills and capability.** Compared to other OECD countries, Korea does not appear to have sufficient regulatory enforcement staff. This increase in resources should be accompanied by a cultural shift in approaching compliance and enforcement. Inspection and policing implementation should be accompanied by skills and capacity to conduct risk assessment, inform regulated entities on the necessary steps to comply with regulation by providing informed advice, and educate employees.
- **Strengthen Compliance Systems and Programs for Occupational Safety.** Ensure there are enough tools and incentives in place to encourage employers to adhere to standards and, more importantly, to abate risks and hazards in a workplace. Creating consultation programs and training systems that assist businesses, particularly small business owners, to increase compliance and educate employers and their workers on the best practices, ways to prevent accidents and their rights to a safe workplace can help support regulations in place.
- **Create a risk strategy to understand the core threats to safety, explain why they are considered as threats, and identify ways on how to address them with limited resources.** This may include behaviourally-informed policies to empower/nudge/boost people’s ability to be safe at work.

Box 12. Applying behavioural approaches to occupational safety and health

Behaviourally-informed approaches can be used to enhance the effectiveness of government interventions especially on regulatory delivery by better understanding how people and businesses respond under different incentives and contexts. A number of behaviourally-informed approaches are cheap and executable and can be applied to different risk-based strategies.

Behaviour-based safety (BBS) is gaining traction in different industries and many countries, especially when searching for alternative approaches other than command-and-control mechanisms, penalties, or codes to reducing unsafe behaviours in the workplace. BBS approaches are normally considered as proactive bottom-up approaches, with strong commitment engagement from the frontline employees and commitment, and reinforcement from safety leaders.

- **Incentives and competition:** In South Africa, the Western Cape Government wanted to promote healthy behaviours among its staff. It implemented a workplace-based wellness programme, using incentives such as pedometers which tracked progress and competition to increase healthy behaviours.
- **Competition and Assigning Responsibility:** The Western Cape Government of South Africa tested an energy-efficiency project whereby to incentivise people to use less energy in a government office building. They tested this using reminder emails, social competition (between floors on energy consumption) and assigning responsibility through nominating an ‘energy champion’ on a daily basis that would be singled out and given responsibility for promoting energy efficiency. They also tried assigning specific duties to individual employees (turning of the lights, turning of the water heater, unplugging the printer, etc). The trial found that inter-floor competition plus the nomination of energy champions significantly led to a 14% reduction in energy use.
- **Social norms and active choice:** Costa Rica tried to change water consumption behaviour in the town of Belén. They tested two peer-comparison treatments (one that compared household consumption to the Neighbourhood, and the other to the City), as well as permitting people to make personal goals for water-use reduction. They found that both the Neighbourhood comparisons and Plan-Making interventions yielded between 3.5% to 5.5% reductions in water use (statistically significant), while the City comparison had no significant results.
- **Nudging:** The Netherlands Authority for Consumers and Markets (ACM), a regulator which ensures fair competition between businesses and protects consumer interests, found that energy providers did not always comply with the rules of the sector. This was especially in relation to disclosing the consumer the details of their energy contracts. The ACM invited three regulators separately for a formal meeting, using nudges such as creating a higher perceived probability of sanctions, informing firms of desired behaviour, and using social influence. This was enough to achieve compliance from the three energy providers.
- **Personalisation and timing:** The Irish Office of the Revenue Commissioners conducted a survey to quantify the number of issues related to SMEs in Ireland. In doing so, they wanted to also test the effects of including personalised messages on the response rate amongst SMEs. A sample of 2 000 SME businesses were sent the survey, of which about 15% received a personalised message. After the first 15 days, the response rate was 88% higher (36% vs 19.2%) for businesses who received the personalised message. However, they found that timing mattered – by the time reminders were sent out, the effect of the personalisation had declined dramatically. Over the full period of the survey, 59.7% of those who received personalised messages responded the survey, compared to 43.5% who did not.

Box 12. Applying behavioural approaches to occupational safety and health (*cont.*)

- Social norms/shaming:** In the United Kingdom, the Chief Medical Officer wanted to address the over-prescription of antibiotics. Working with Behavioural Insights Team (BIT), they identified General Practitioner (GP) practices that were in the top 20% of antibiotic prescriptions nationwide and send them two types of letters – one saying their prescription rates were higher than 80% of practices in the NHS Local Area, and the other that provided patient-focused information that promoted the reduced use of antibiotics. While the second letter produced no significant results, the first letter resulted in a 3.3% drop in prescriptions, which equates to 73 406 fewer doses across 790 practices.

Source: Ireland Health and Safety Authority (2013), “Behaviour Based Safety Guide”, Dublin, p. 3, [www.hsa.ie/eng/Publications and Forms/Publications/Safety and Health Management/behaviour based safety_guide.pdf](http://www.hsa.ie/eng/Publications_and_Forms/Publications/Safety_and_Health_Management/behaviour_based_safety_guide.pdf); Lunn, P. (2014), *Regulatory Policy and Behavioural Economics*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264207851-en>; OECD (2017), *Behavioural Insights and Public Policy: Lessons from Around the World*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264270480-en>.

Regulatory performance assessment

Regulatory *ex post* evaluation, Cost-in, Cost-out, and the Regulatory Sunset Clause are three of the core instruments used to evaluate existing regulations. When introducing or reinforcing regulations, each central administrative agency is mandated to draft a plan of regulatory *ex post* evaluation as part of the RIA statement. The *ex post* evaluation is intended to measure the actual impacts of each regulation, and check if the introduced regulation is fit for purpose. Initially launched as a pilot project in 2014, the “Cost-in, Cost-out” (CICO) system has formally entered into full force in July 2016 by ordinance of the Prime Minister. CICO is a mechanism to restrict the increase of the costs of newly introduced or reinforced regulations by abolishing or relaxing regulations that carry equal or greater costs. As of now, 27 central administrative agencies have adopted CICO concerning regulations that generate direct costs for profit-seeking activities of any individual or business. Since CICO requires the responsible agency to conduct a cost-benefit analysis for outgoing regulations that are bound to offset the costs of newly introduced regulations, there is a built-in mechanism to reassess the validity, rationality, and appropriateness of the existing regulations. As another policy tool to conduct *ex post* evaluation, central administrative agencies are mandated to include a sunset clause in all regulations unless there are particular reasons not to comply with the sunset requirement. Sunset clauses can take the form of “review and sunset” or “outright sunset” with the explicitly stated timeframe which is usually three years and shall not exceed a maximum of five years. Such requirement induces central administrative agencies to conduct a retrospective or *ex post* evaluation of existing regulations, and actively revise, improve, or repeal those that do not serve the originally intended purpose. At present, there is no existing system (externally or internally) that publishes a calendar of the regulations to be reviewed.

Each administration endeavoured to reduce the regulatory burden through various regulatory reduction initiatives. Since 1998, the central government has pushed to reduce the number of regulations, during which some regimes have strived to improve the quality and properly manage regulations. Most recently, the Park administration reduced 10% of the total number of economic regulations (995/9 876 regulations).

A number of surveys have been conducted to measure customer satisfaction in relation to the regulatory reforms. Despite the government's strong commitment to regulatory reform, the general public have continued to experience a low level of improvement in their daily lives. To address this discrepancy between government efforts and public satisfaction, the RRC has been annually conducting customer satisfaction surveys on regulatory reform as part of the government performance evaluation of regulatory reform. The survey is conducted on the perception of the general public, stakeholders, experts and government officials on regulatory reform efforts of the government, in terms of regulatory contents, process, performance, and impacts on daily lives. In this regard, the RRC collects the survey results through requesting independent research institutes to conduct telephone and online surveys. Furthermore, several organisations, such as the Chamber of Commerce and Industry, Small and Medium Business Ombudsman, KDI Centre for Regulatory Studies, and the Korea Foundation for SMEs have conducted surveys and polls to measure the degree of satisfaction related to the regulatory reform system and policies. In 2014 and 2015, the KDI Centre for Regulatory Studies conducted a survey among 300 corporations (32% are conglomerates and 68% are SMEs) to measure the degree of satisfaction on the current regulatory reform system and policy. Comparing both survey data sets from each year reveal that the degree of satisfaction has increased in relation to the past year. In 2015, the Korea Federation of SMEs conducted a survey on SME policies among 300 company CEOs as part of a mid-term assessment of the Park administration's performance. The survey found that regulatory reform was both ranked as the second best and second worst policy of the administration. The methodology and design of each survey are clearly varied across each organisation. As a result, comparability across datasets may be low, even if the surveys are focused on more or less the same subject matter.

Recommendations:

- **Introduce a strategy or system of *ex post* evaluation that looks at the overall impact of existing regulations.** Establishing a systematic strategy that looks at the overall impact of existing regulations can help improve the quality of regulatory performance assessments.
- **Regularly discuss and publish planned evaluations to properly structure evaluation activities and improve transparency and accountability.** This ensures that *ex post* analyses are well-planned and that relevant stakeholders are prompted to participate in the exercise.
- **Quality control systems should be integrated in regulatory reduction initiatives.** In order to avoid increasing regulatory burden when reducing regulations or creating a problem of “less is more”, it is important to integrate quality control systems in regulatory reduction initiatives to ensure that abolished regulations can contribute to the improvement of regulations or have an overall positive effect to the sector or economy.
- **Measuring improvements in the regulatory quality is also essential.** This can be achieved through introducing clear and systematic criteria to guarantee that regulations are meeting the intended objectives and develop metrics to show the added value of regulatory quality initiatives. In this respect, it would be important to measure the quality of regulatory processes.

- **Continue to strengthen initiatives that support evidence-based policy making** through setting up a public database that monitors the development and outcomes of key performance indicators and constructing robust yet implementable evaluation methodologies for evidence.

Small and medium-sized enterprises (SMEs)

SMEs make up around 99% of the total number of enterprises and account for 88% of employment across all industries. The scope of SMEs was formerly defined by the size of input (factors of production, such as labour and capital). Since 2015, however, a new standard has been introduced to classify enterprises into SMEs by their average sales of the past three years with different sales ceilings applied to different categories of industry. A similar standard of classification is also applied to determining the scope of small enterprises. On the other hand, unlike SMEs or small enterprises, the scope of micro enterprises is defined not by sales but by the number of employees, and such standard is differently applied to different categories of industry. For example, a firm in the construction, manufacturing, mining, or transportation sector is classified as a micro enterprise, as long as it has less than 10 full-time employees, and a firm in the rest of the sectors is classified as a micro enterprise as long as it has 5 full-time employees. In an effort to lessen regulatory burdens on various kinds of SMEs, individual laws have stipulated regulations tailored for SMEs. For example, micro enterprises with less than 10 full-time employees are exempted from the obligation of drafting their rules on employment (Labour Standard Act), and are allowed to report the total amount of salaries in a written form instead of an electronic one (Act on the Collection of Premiums for Employment Insurance and Industrial Accident Compensation Insurance). With the aim to reinforce such efforts to reduce regulatory burdens on SMEs, the Korean government officially included the Tailored Regulatory Approach for SMEs in the Ordinance of the Prime Minister. Once the regulations are implemented, the micro enterprises with less than 10 full-time employees are, in principle, exempted from regulations for 3 years. Moreover, necessary measures (e.g. less burdensome regulations) are considered to reduce the regulatory burdens for small enterprises.

The Park administration has aimed to stimulate the SMEs sector by reducing regulatory compliance costs and promoting investments. In order to achieve this, efforts have been made to establish and strengthen regulatory systems such as the Regulatory Impact Analysis on SMEs, the Tailored Regulatory Approach for SMEs, and the SMEs Ombudsman. Both RIA on SMEs and the SMEs Ombudsman were established during the Lee Myung-bak administration in 2009. RIA on SMEs has been useful in alleviating regulatory burdens on SMEs and in proposing proportional and flexible alternatives to the regulatory proposals in accordance with the size of enterprises. The RIA statements (RIAS) on SMEs are also made public through the official gazette, the website of the concerned central administrative agency, the Regulatory Information Portal, and the Foreign Investment Portal. The Tailored Regulatory Approach has been set-up for SMEs to differentiate regulations that are geared towards SMEs. This is essential to help balance out the regulatory burdens that are disproportionately imposed to the SMEs vis-à-vis large conglomerates. Furthermore, the SMEs Ombudsman system was established as an independent agency under the umbrella of the Small and Medium Business Administration (SMBA) to improve existing regulations on SME. The PPJRAI is jointly established by the RRO and the private sector such as the Korea Federation of SMEs (KBIZ) and the Korea Chamber of Commerce and Industry (KCCI). The primary

role of the PPJRAI is to identify on-site regulatory difficulties, to improve unreasonable regulations, and to inspect the progress on the implementation of regulatory reform.

The Small and Medium Business Administration and the SMEs Ombudsman serve as the key agencies that deal with SMEs-related regulations. The SMBA focuses on new and reinforced regulations while the SMEs Ombudsman focuses on the improvement of existing regulations, while the RRC works closely to support the two agencies as the central oversight body. Regulatory reform priorities for SMEs are concurrently set by the SMEs Ombudsman, the SMBA, and the RRC on an annual basis. The SMBA takes in charge of drafting RIAs on SMEs which consolidates views and technical expertise from SMEs, expert panels, and the Korea Small Business Institute. The SMEs Ombudsman represents the interests of SMEs and collaborates with each central administrative agency on regulatory reforms related to SMEs. Regulatory petition centres for SMEs have been set-up in 12 regional offices of SMBA and 243 local governments. In this regard, the SMEs Ombudsman has held meetings more than once a week to address these complaints, and the number of such meetings amounted to 541 as of 2016.

SMEs are fully aware of the government’s commitment to regulatory reform. Out of all regulations in Korea, almost 60% of the regulations pertain to SMEs. In return, SMEs are inevitably afflicted with high regulatory burden while their capacity to comply with such level of discipline is still relatively low. Imposing regulations that have excessive costs can drive out entrants that could further curb entrepreneurship and jobs. At the same time, these efforts from the government have been met with much scepticism and dissatisfaction, as the expectations of SMEs on government efforts have been continuously increasing over the years. Moreover, efforts to reduce regulatory burden have come from different levels: the central administrative agency, the local governments and the legislative branch. However, as the efforts are dispersed, there is a tendency for regulatory reforms, initiatives, and policies to become redundant.

Government introduced the negative list-approach that is aimed to spark innovation and ease regulatory constraints, particularly among start-ups and emerging industries. Business operations continue to operate through a government-led model of growth, which hampers the growth and productivity of market entrants, particularly SMEs and emerging industries. Stringent regulations that limit the business environment to market incumbents would result in the possible loss of significant productivity gains from increased entrepreneurship, competition and innovation. To address this, all business activities are permitted in principle (with the exception of those related to health and safety), unless it is prohibited by law. This approach encourages developing industries to respond and keep up with the evolving business environment and permit them to expand in the global market.

Removal of the thorn-under-the-fingernail (RTUF) is also another way for the government to help relieve SMEs from regulatory difficulties. RTUF initiative aims to remove regulations that are easily neglected yet imposing significant impacts on the innovation and performance of businesses. Relevant stakeholders such as the RRO, the Public-Private Joint Regulation Advancement Initiative (PPJRAI), Korean Federation of SMEs, Small and Medium Business Administration (SMBA) and the SMEs Ombudsman have been working together to identify regulations that cause unnecessary burdens. In 2013, around 300 regulations considered as “thorn-under-the-fingernail” regulations have been removed. In 2015, 4 165 thorn-under-the-nail regulations were identified, of which 1 532 (37%) have undergone reform. The RTUF, expanded under the Park

Administration, has increased accountability of the relevant central administrative agencies to address regulatory difficulties faced by the regulated entities.

Recommendations:

- **Reduce regulatory compliance costs for SMEs by changing rigid or uniform regulations into more flexible ones.** This can be defined through regular consultations with SMEs. The idea is to introduce regulations that can be adapted according to the characteristics and economic situation of an enterprise. Guidance or information should be provided to SMEs on how to apply new requirements.
- **Streamline RIA on SMEs to the general RIA process.** As most RIA on SMEs is undertaken by the SMBA, mainstreaming RIA conducted by SMBA to the general regulatory process can avoid duplications in the review process as well as the regulations passed and pave the way towards more integrated policy development.
- **Provide SMEs with extra time or grace periods to comply with new regulations.** SMEs face difficulties when complying with new regulations, especially with their limited capacity and resources. Allowing SMEs to gradually and systematically adjust to new regulations would help incentivise SMEs to innovate (as endorsed in recommendations 2.2 to 2.4 of the 2012 *OECD Recommendation of the Council on Regulatory Policy and Governance*).
- **During the annual reporting of the RRC, provide an assessment of the impact of regulatory policies on SMEs for each year's regulating activities.** Providing a cumulative assessment of the effect of the regulatory policies on the performance of SMEs can help better identify the regulations that provide significant burdens on SMEs and underscore those that encourage growth in the sector.

Notes

1. *Sinmungo* is a system established 400 years ago in Korea. People would hit a big drum in front of the king's palace in order to present their grievances directly to the king, and the king would hear and resolve their issues. Based on this historical foundation, the Korean government has been operating two programmes: the Regulatory Reform *Sinmungo* and the National *Sinmungo* (www.epeople.go.kr), the former dealing with any petition regarding regulatory issues and the latter dealing primarily with general civil complaints or petitions. The information presented in this review only refers to the Regulatory Reform *Sinmungo*.
2. The total number of bills introduced by the members of the National Assembly are as follows: 1 912 (16th National Assembly, 2000-04), 6 387 (17th National Assembly, 2004-08), 12 220 (18th National Assembly, 2008-2012), and 16 729 (19th, National Assembly, 2012-16). Laws originating from the National Assembly were 90.4% of all approved laws in 2014, 90.6% in 2015 and 86.5% in 2016.
3. See example from Colombia's Regulation Commission in OECD (2016), Pilot database on stakeholder engagement practices: www.oecd.org/gov/regulatory-policy/Pilot-database-on-stakeholder-engagement-practices.htm
4. Municipalities could co-ordinate their peer-learning systems themselves. See for example "Kommunale Gemeinschaftsstelle für Verwaltungsmanagement", <https://www.kgst.de/>.

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Chapter 1

The context of regulatory reform in Korea

This chapter sets out the social and economic context for the review, including recent macroeconomic trends and a snapshot of Korea's performance in the 2015 OECD Indicators of Regulatory Policy and Governance (iREG). It also provides an overview of the challenges and opportunities faced by the country in shaping and enhancing its regulatory environment and institutions. It demonstrates how Korea has made significant progress in regulatory reform over years, but is currently faced with slowing growth and productivity as well as regulatory gaps that limit the country's potential in achieving its policy objectives. Sustainable growth in the long-term can be achieved by the country through implementing targeted, fit-for-purpose, and proactive regulations that ensure that the impacts from the regulatory reform initiatives are felt both at the local and national level.

Economic and political context

Korea has demonstrated rapid and unprecedented levels of growth in the latter half of the past century, using a strategically directed system of close government and business ties to transform itself into a high-tech industrialised economy. Korea's impressive growth in the past four decades has been attributed to the rapid increase in the volume of exports, making the country the 6th largest exporter and 11th largest economy in the world in 2015 (OECD, 2016).

However, following the 1997 financial crisis, the economy has remained on a steadily declining trend. Whilst growth remains relatively high, Korea faces both structural and cyclical issues. The economy is heavily dependent on the manufacturing exports of few and large firms and, in light of increased external uncertainties, has undermined the country's opportunity to grow sustainably. Overall economic prosperity has similarly been concentrated within the highly competitive export-oriented conglomerates, which employ only a small share of the population. Furthermore, household income growth and service sector productivity have remained sluggish. Over the past years, high household debt has stunted domestic demand while labour market inequalities have further undermined economic confidence. Meanwhile, trade restrictions, particularly in the service sector, have left Korea unable to profit from the benefits of international market competition and have kept levels of Foreign Direct Investment (FDI) low.

Political objectives have been directed towards addressing economic imbalance issues, which is partly made possible by the fiscal flexibility afforded by Korea's comparatively low public debt. While fiscal stimulus has produced a number of successful outcomes in the short run, challenges such as uneven sector distribution and labor market distortions must be addressed in order to ensure sustained and long-term growth. This can be achieved by targeting specific barriers faced in the economic and political environment and by pursuing a more forward-looking agenda. In particular, targeted and sustained regulatory reforms can be of significant contribution to stimulating sustainable economic growth in Korea.

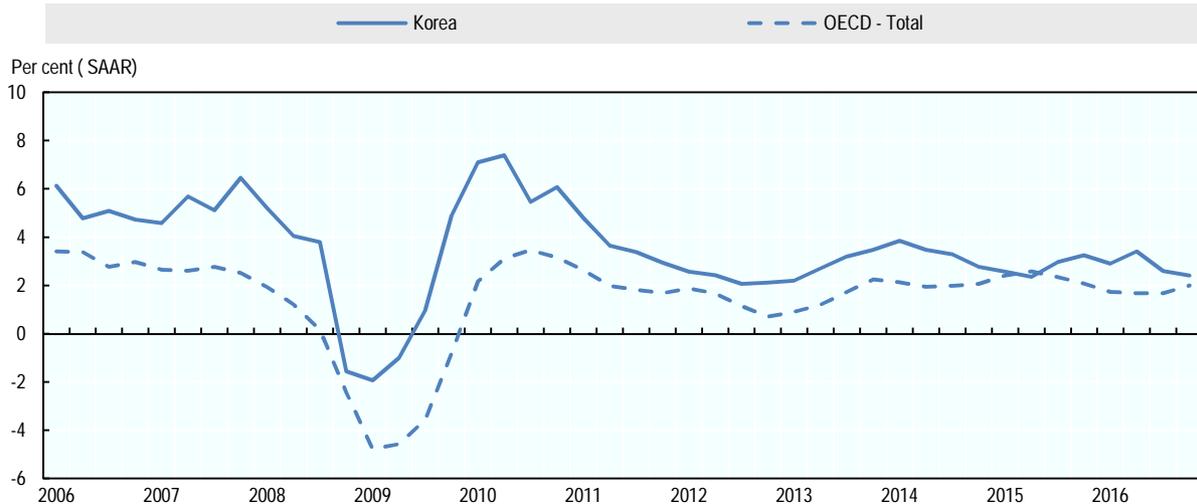
Implementing high-quality, fit-for-purpose and relevant regulations is vital to continue shaping the nature of the Korean economy and society over the coming years. For this purpose, it is important that different levels of government and government institutions work together to design and deliver effective regulations in order to ensure that reform initiatives achieve the fully intended effect across all systems and at all levels of society.

A slowing economy in need of a boost

Slowing growth and productivity

However, GDP growth is slowing, averaging 2.96% over the past five years and has been driven by both internal and external factors. Output growth has slowed from an average of 4.25% per year over the periods 2001-2011 to around 2.75% since 2011 (OECD, 2016) (Figures 1.1 and 1.2).

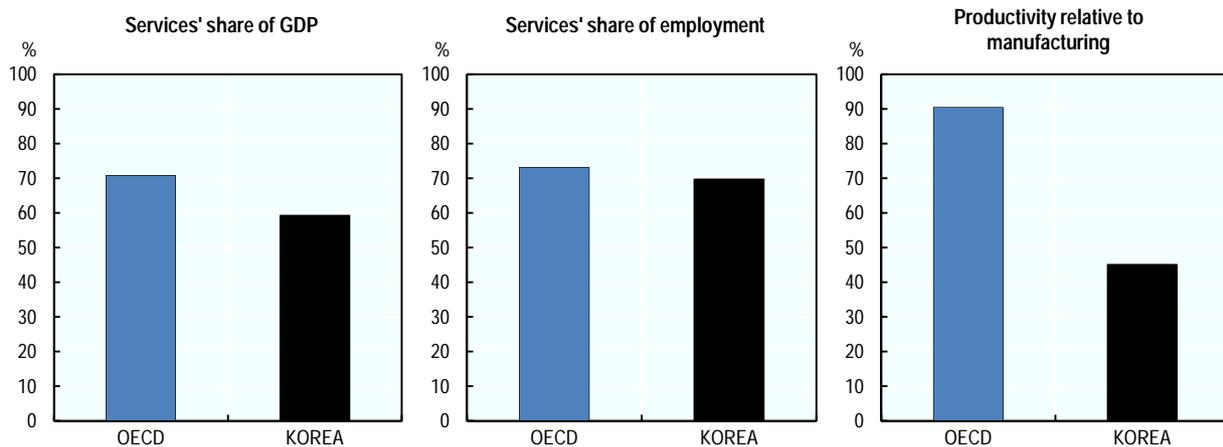
Figure 1.1. GDP growth



Source: OECD (2016), *OECD Economic Surveys: Korea 2016*, OECD Publishing, Paris, http://dx.doi.org/10.1787/eco_surveys-kor-2016-en.

The Korean economy is characterised by significant reliance on manufacturing exports, which has left the economy vulnerable to external shocks. The slowdown in world trade since 2010 has left Korea's export-led growth model stuttering. Economic slowdown in China, Korea's largest export market, has further exacerbated the problem. Merchandise exports to China accounted for 10% of GDP in 2014 (OECD, 2016).

Figure 1.2. The service sector in Korea



Source: OECD (2016), *OECD Economic Surveys: Korea 2016*, OECD Publishing, Paris, http://dx.doi.org/10.1787/eco_surveys-kor-2016-en.

Furthermore, the slowing growth in exports has been unable to be offset by gains from the service sector. The level of labour productivity in the service sector is less than half of that in manufacturing (Figure 1.2). SMEs account for about 80% of output and 90% of employment in the service sector, which suggests that the productivity gap between the manufacturing and service sectors is also closely linked to the productivity

gap between SMEs and large-sized firms. While large-sized manufacturing firms have substantially increased their usage of foreign components, causing detrimental effects on domestic production, it appears that firms in the service sector are unable to exploit the benefits from engaging in global value chains.

Weak SME sector

The manufacturing sector, and its resultant wealth, is largely controlled by a small number of large family-run conglomerates known as *chaebols*. On the other hand, Korea's small and medium-sized enterprise (SME) sector struggles to expand. Over the years, Korea has experienced a substantial decline in the contribution of SMEs to exports vis-a-vis large-sized firms. Moreover, productivity of SMEs is only 30.5% of large firms. Existing SME policies in the country are focused on ensuring the survival of small firms and gives less emphasis on promoting higher productivity. As a result, only a handful of micro and small firms grow into medium-sized firms. Venture capital investments have likewise had limited impact in encouraging innovative start-up companies (OECD, 2016).

Lack of domestic demand

Whilst exports remain at a standstill, Korea's slowing growth has not been offset by domestic demand. Domestic demand has been generally weak owing to high household debt, and sluggish wage and employment growth (EIU, 2016), with private consumption growing gradually than the broader economy for six straight years. Since housing market deregulation measures and the relaxation of macro-prudential regulations on mortgage loans in 2014, residential investment has improved, rising at a 25% annual rate since the final quarter of 2014 and housing prices are increasing at a 2.2%* annual pace (OECD, 2016). This shows the importance of regulatory reform initiatives to improve confidence in the economy and boost consumer spending. However, in early 2016, prudential rules on mortgage lending were once again tightened to restrain high and rising level of household debt. The rebound experienced in the second half of 2015, supported by fiscal stimulus, faltered in early 2016 as private consumption declined anew.

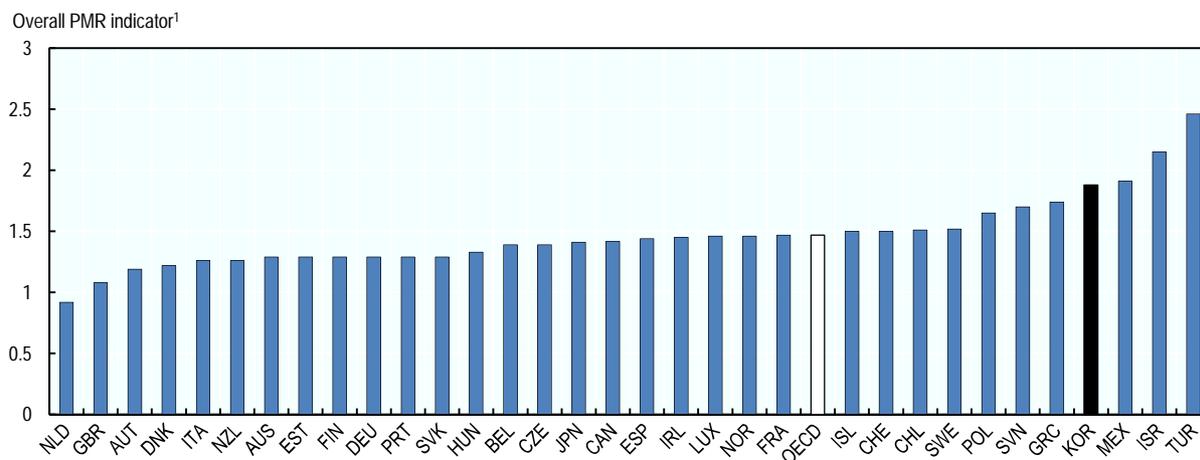
Towards strengthening good regulatory practices

Diversification of the economy is necessary to improve firm performance and boost overall growth. However, Korea's product market regulation (PMR) is the fourth most stringent in the OECD and continues to limit opportunities for competition and innovation. The PMR indicator shows that the state maintains a relatively high involvement in business operation, which is a legacy of the government-led model of growth that continues to steer the country. This is reflected also in the strong regulatory protection of market incumbents that stifle the potential for market entrants. Explicit barriers to trade and investment in the country are also considered the highest among OECD countries and have been further closing off the business environment (OECD, 2016) (Panel A).

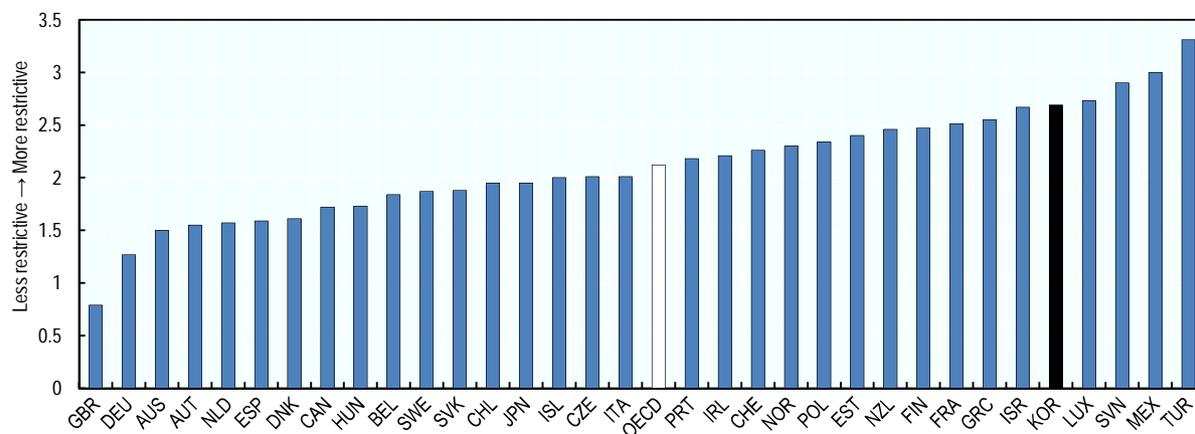
Regulation of the network sectors is also restrictive, with transport and energy well above that of its regional counterparts such as Japan. Lower barriers to entry and diversifying the shares held by a particular firm in these sectors would allow for more competition, which can result in significant productivity gains and have positive effects on the quality and value of the services provided to citizens and businesses (Panels B and C).

*. Adjusted for inflation.

Figure 1.3. **Product Market Regulation**
 Panel A. **Overall Product Market Regulation**

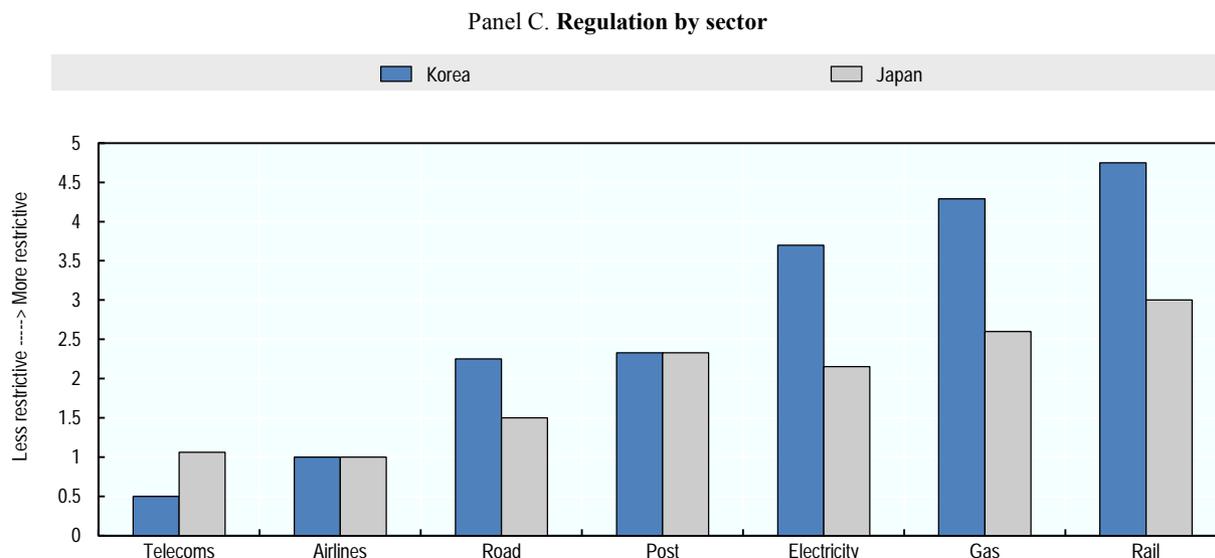


Panel B. **Regulation of network sectors**



Note: “Network sectors” includes electricity, gas, telecom, postal services, rail, airlines and road transport.

Source: OECD (2016), *OECD Economic Surveys: Korea 2016*, OECD Publishing, Paris, http://dx.doi.org/10.1787/eco_surveys-kor-2016-en.

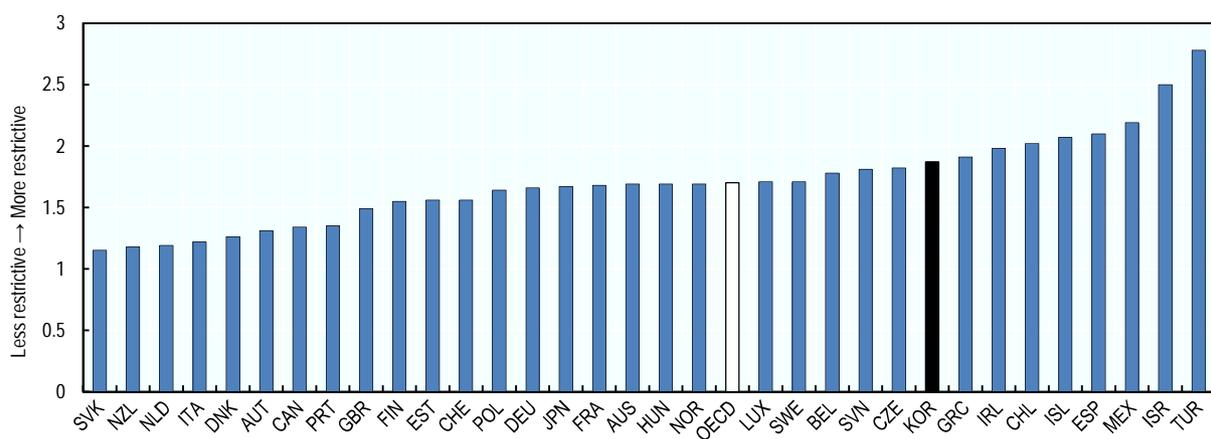


Note: Data refer to 2013, the latest available update of the PMR dataset.

Source: OECD (2013), Product Market Regulation Database, www.oecd.org/eco/growth/indicatorsofproductmarketregulationhomepage.htm.

Opening up the marketplace by relaxing restrictions would stimulate entrepreneurship, create jobs and improve efficiency. The government has started to make moves in this regard, introducing the “Three-year Plan for Economic Innovation” in 2014 (OECD, 2016). In this respect, sustained regulatory reform can generate confidence and economic activity in Korea.

Panel D. Barriers to entrepreneurship

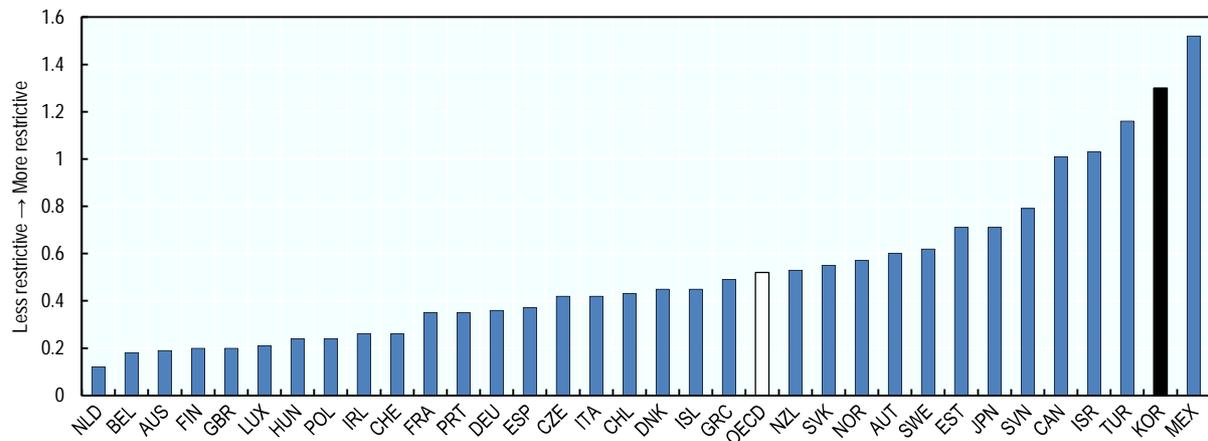


Source: OECD (2016), *OECD Economic Surveys: Korea 2016*, OECD Publishing, Paris, http://dx.doi.org/10.1787/eco_surveys-kor-2016-en.

High barriers to trade and investment (Figure 1.4) has left the stock of FDI as a share of GDP in Korea at 13% in 2014 – the third lowest in the OECD area (OECD, 2016). As a result, Korea has been unable to take advantage of the benefits that can be gained from engaging in international competition, including improved efficiency, knowledge

diffusion and new technologies. Korea's service trade restrictiveness index is below the OECD average in 11 of the 18 sectors (OECD, 2016). Therefore, regulatory reforms in the service industry could have a significant impact on innovation and productivity. An improved business environment, with less overall restrictions, both domestic and international, is also key to attracting more FDI.

Figure 1.4. **Barriers to foreign trade**



Note: Korea's barriers to trade and investment are the second highest in the OECD.

Source: OECD (2016), *OECD Economic Surveys: Korea 2016*, OECD Publishing, Paris, http://dx.doi.org/10.1787/eco_surveys-kor-2016-en.

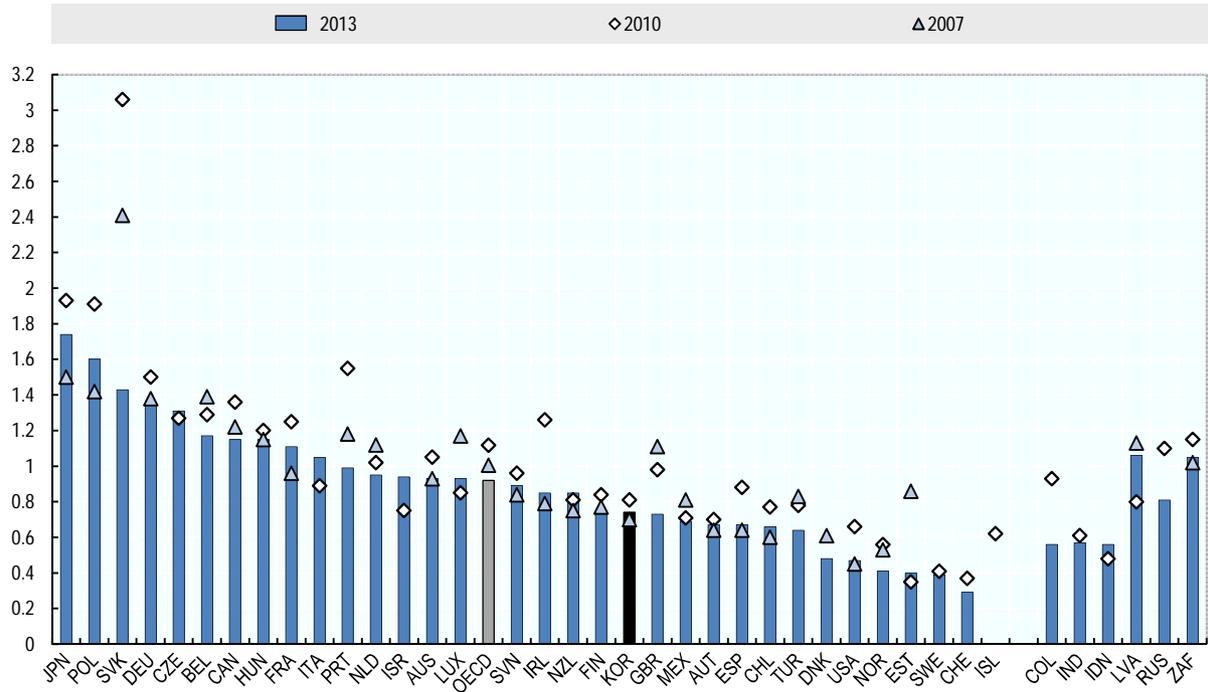
The importance of high quality regulatory reforms designed specifically for the SME sector is particularly significant, given the two-sided nature of SME attitudes towards, and requirements in terms of, regulation. The current position of firms in this sector necessitates both the implementation of additional regulation to protect SMEs from the dominance in the marketplace of the larger *chaebols*, whilst requiring deregulation to allow and encourage increased competition and growth amongst firms. Sixty percent (60%) of the Korean population is employed by SMEs. Therefore, good quality regulation that enhances the growth of these firms could play an important role in improving average household incomes and overall social well-being.

Public sector efficiency

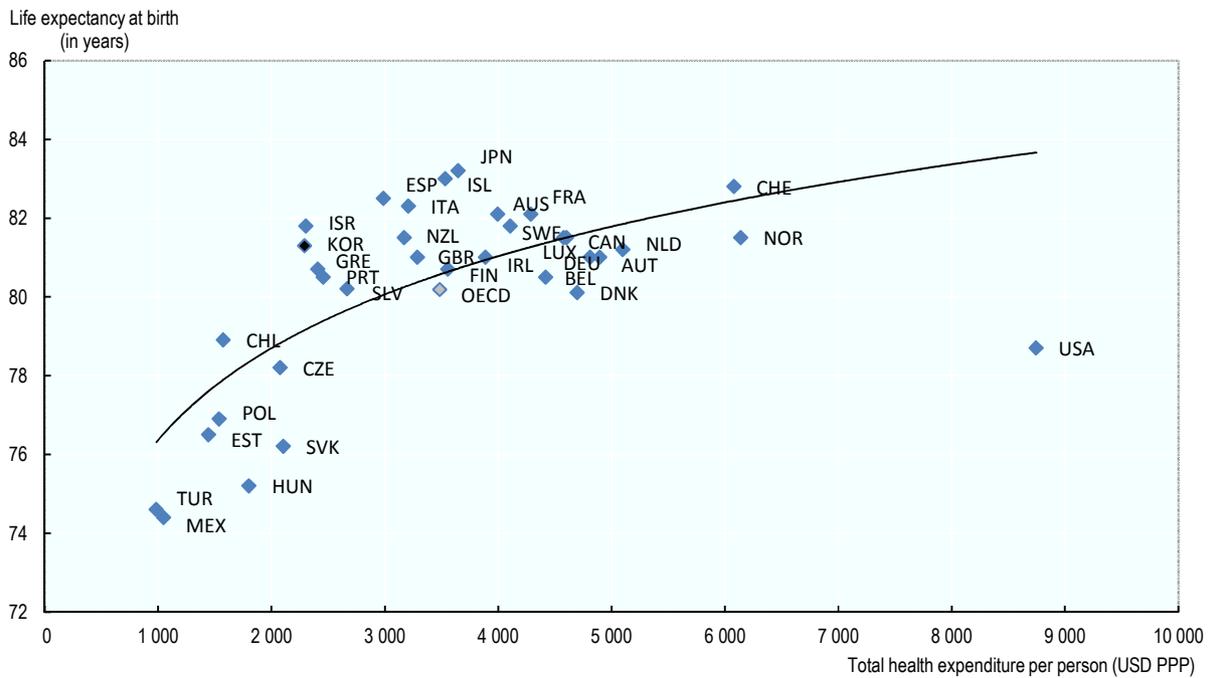
A strong public sector is important to ensure that regulatory reform initiatives are effectively carried out. Indicators suggest that Korea's public services are performing fairly well. Despite a low level of social spending from government, life expectancy and education results are relatively high, though it is questionable how long such low levels of expenditure on social services can be maintained, given changing demographic trends. Korea will also need to increase its tax revenue if it is to continue to maintain its comfortable fiscal position amongst economic and social spending pressures (OECD, 2016). Nevertheless, the current performance of the public sector suggests a positive foundation for the process of regulatory reform (Figure 1.5).

Figure 1.5. Performance of public services

Panel A. Tax administration efficiency

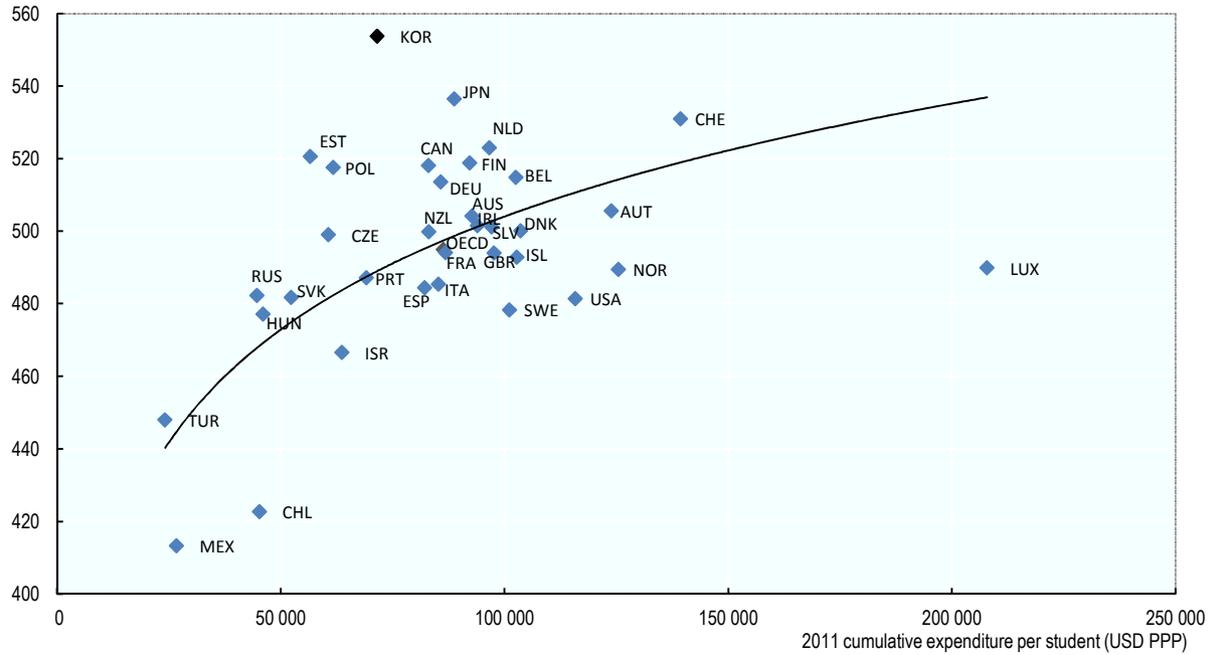


Panel B. Effectiveness of the health sector

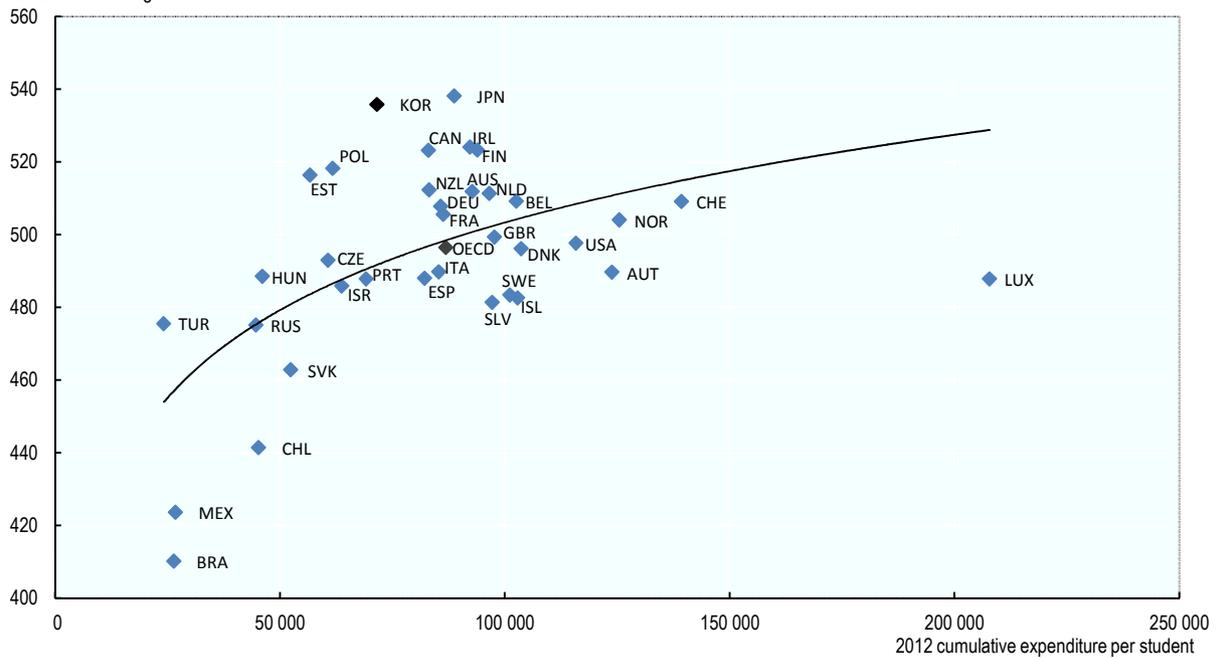


Panel C. Performance in education

2012 PISA mathematics score



2012 PISA reading score



Notes: Every three years, the OECD Programme for International Student Assessment (PISA) measures the performance of 15 years-old students in three domains: reading, mathematics and science. The comparison between the learning outcomes of student based on PISA scores and the cumulative expenditure per student between 6 and 15 years of age on education provides an aggregate measure of the cost effectiveness of education systems.

Source: OECD (2015a), *Government at a Glance 2015*, OECD Publishing, Paris, http://dx.doi.org/10.1787/gov_glance-2015-en.

Minding the regulatory governance gaps

The executive and legislative relationship

The government of South Korea is divided into three branches: executive, judicial, and legislative. The President is the head of the executive branch and represents the nation externally. The President is elected by a nationwide, direct, equal and secret ballot every five years and serves a single five-year term, with no additional term allowed. The President performs his/her executive functions through the State Council, made up of 15 to 30 members, whom he/she appoints upon the recommendation of the Prime Minister. The Prime Minister is appointed by the President and approved by the National Assembly.

Legislative power is vested to the National Assembly, which is composed of 299 members serving four-year terms. Every four years, 252 members are elected by popular vote, while the remaining 47 seats are allotted to each political party that has obtained three or more percent of the total valid votes or five or more seats in the local constituency election. The executive and legislative branches of government operate primarily at the national level, although various ministries in the executive branch also carry out local functions.

This hybrid constitutional system poses some governance challenges that need to be taken into consideration for regulatory policy and governance. While the prime minister is approved by the National Assembly, the cabinet, once appointed, do not require re-approval from the National Assembly even if changes in the majority occur.

The executive can have relatively limited control on the legislative agenda. The National Assembly exercises certain autonomy when initiating legislation. In 2015, approximately 94% legislations (16 700 of the 17 800 legislations proposed) came from parliamentary initiatives. Good regulatory practices initiated by the executive stop at the doors of the National Assembly. For example, legislations initiated by the National Assembly are not subject to compulsory regulatory review vis-à-vis regulations initiated by the executive government. This regulatory governance gap weakens the efforts put in place to improve the quality of regulation and ultimately advance regulatory reform.

The judiciary

The Korean legal system derives primarily from continental civil law, with some elements of Anglo-American Law. The Korean judiciary system operates on a three-tier system, comprised of the Supreme Court, appellate courts (High Courts), and district courts (including branch courts). The judiciary also operates a family court, an administrative court and a patent court. The courts hand down decisions in litigations involving civil, criminal, administrative, election and other matters.

In addition, a Constitutional Court has been established in September 1988, which protects the Constitution through reviewing the constitutionality of any law passed by the National Assembly and safeguards the fundamental rights of citizens. Any citizen whose fundamental rights have been infringed may file a petition for relief or remedy to the Constitutional Court. Anyone whose constitutional rights have allegedly been aggrieved may also resort to the Court by means of a Constitutional complaint.

Central and local government relationship

Korea is a unitary country, with elected regional authorities since 1994. Administratively, Korea is divided into one independent metropolitan city: Sejong, seven metropolitan cities: Seoul (the Capital), Incheon, Daejeon, Gwangju, Daegu, Busan, Ulsan and nine provinces: Gyeonggi, Chungbuk, Chungnam, Jeonbuk, Jeonnam, Gyeongbuk, Gyeongnam, Gangwon, and Jeju. The lower administrative level includes 226 bodies including Cities, Counties and Autonomous Districts (OECD, 2012).

Regional development in Korea has been correlated with the country's export-oriented economic strategy. Development has been largely concentrated in the Capital region, especially in terms of business and education opportunities. The country's rapid industrialisation process favoured the Capital Region and the coastal areas, with the central government targeting public investments in specific locations chosen to host industrial complexes and scientific and technological centres. The effects of this on urbanisation and rural-urban migration meant that Korea is now the OECD country with the highest share of its national population living in large metropolitan regions (i.e. predominantly urban regions with a population of at least 1.5 million). In 2008, 70% of the total population was living in large metropolitan areas, compared with an OECD average of 38% (OECD, 2012).

Although local governments are semi-autonomous, and contain executive and legislative bodies of their own, overall the Korean institutional framework is highly centralised. Imbalances in territorial development are to some extent symptomatic of the limited role regional authorities have so far played in policy making. This is reflected in the process of regulatory reform in Korea, which is largely dictated from central authorities, with limited policy input from provincial bodies.

Yet, whilst national government is responsible for regulatory reform at a policy level, it is local governments who are at the 'frontline' in dealing with businesses and citizens and who are responsible for implementing the policy changes in on the ground. By virtue of its imbalance, the very nature of Korea's economic landscape entails that different regions will have different regulatory needs, and it is local authorities who are best equipped to tailor specific regulations towards the stakeholders under their own administration.

The regulatory needs of the Seoul metropolitan area, for example, where the dense concentration of economic activity has made an increase in safety and environment regulation as a priority, contrast directly with the decrease in regulation that is necessary in less economically developed provinces to encourage competition amongst firms and therefore growth. A bottom-up approach to regulatory reform would go some way towards addressing regional economic imbalances in Korea by empowering regions as agents of change. Without this, disparities remain between what is decided on a policy level and what actually becomes a ground reality. Good communication and co-ordination between local and national government regarding regulatory reform is, therefore crucial, to ensure that what is secured on paper is in fact performed in practice.

Regulatory performance of Korea (iREG)

Over the years, Korea has established institutions and introduced different programmes, tools and methods to improve regulatory quality and performance in the country. Many of these regulatory findings from the 2015 Regulatory Policy Outlook, derived from the 2014 Regulatory Indicators Survey, show that Korea has performed above average on indicators relating to RIA, stakeholder engagement, and *ex post* evaluation.

Box 1.1. 2015 Indicators of Regulatory Policy and Governance (iREG)

The 2015 Indicators of Regulatory Policy and Governance (iREG) present up-to-date evidence of OECD member countries' and the European Commission's regulatory policy and governance practices advocated in the *2012 Recommendation of the Council on Regulatory Policy and Governance*. They cover in detail three principles of the 2012 Recommendation: stakeholder engagement, Regulatory Impact Assessment (RIA) and *ex post* evaluation, and provide a baseline measurement to track countries' progress over time and identify areas for reform. The Indicators present information for all 34 OECD member countries and the European Commission as of 31 December 2014.

The 2015 Indicators draw upon responses to the 2014 Regulatory Indicators survey. Answers were provided by delegates to RPC and central government officials. Compared to previous surveys, the 2014 survey puts a stronger focus on evidence and examples to support country responses, as well as on insights into how different countries approach similar regulatory policy requirements. The survey questionnaire has been developed in close co-operation with RPC delegates and members of the OECD Steering Group on Measuring Regulatory Performance. Survey answers underwent a verification process carried out by the OECD Secretariat in co-operation with delegates to the RPC in order to enhance data quality and ensure comparability of answers across countries and over time.

The survey focuses on RIA and stakeholder engagement processes for developing regulations (both primary laws and subordinate regulations) that are carried out by the executive branch of the national government and that apply to all policy areas. Questions regarding *ex post* evaluation cover all national regulations regardless of whether they were initiated by parliament.

Based on available information, most national regulations are covered by survey answers, with some variation across countries. Most countries in the sample have parliamentary systems. The majority of their national primary laws therefore largely originate from initiatives of the executive. This is not the case, however, for the United States where no primary laws are initiated by the executive, or, to a lesser extent, for Mexico and Korea where the share of primary laws initiated by the executive is low compared to other OECD member countries (4% over the period 2009-2012 and 30% in 2013 in Mexico and 16% in Korea over the period 2011-13).

Based on the information collected through the 2014 survey, the OECD has constructed three composite indicators on RIA, stakeholder engagement for developing regulations, and *ex post* evaluation of regulations in order to help present the information collected in an easily expressible format. Each composite indicator is composed of four equally weighted categories: systematic adoption, methodology, transparency, and oversight and quality control.

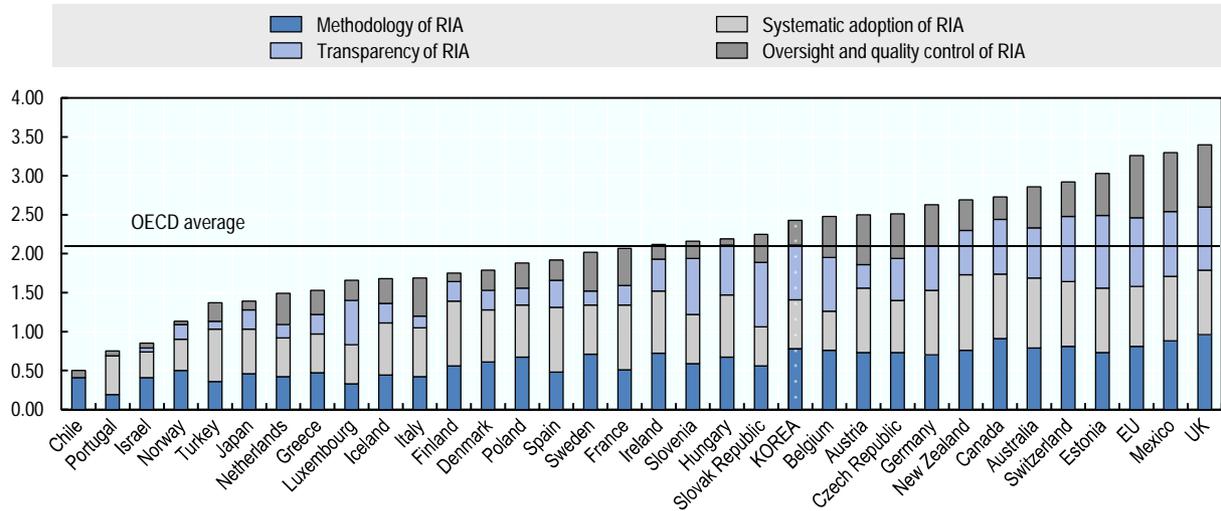
While composite indicators are useful in their ability to integrate large amounts of information into an easily understood format (Freudenberg, 2003), they cannot be context specific and cannot fully capture the complex realities of the quality, use and impact of regulatory policy. In-depth OECD country peer reviews are therefore required to complement the indicators and provide readers with an in-depth assessment of the quality of a country's regulatory policy, taking into account the specific governance structures, administrative cultures and institutional and constitutional settings to provide context-specific recommendations. Moreover, the results of the iREG indicators, as those of all composite indicators, are sensitive to methodological choices. It is therefore not advisable to make statements about the relative performance of countries with similar scores. Please note that while the implementation of the measures assessed by the indicators aim to deliver better regulations, the indicators should not be interpreted as a measurement of the quality of regulation itself.

All underlying data and scores for the composite indicators are available at www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm.

Source: www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm.

Regulatory impact assessments (RIA)

Figure 1.6. 2015 Indicators of Regulatory Policy and Governance (iREG):
Regulatory Impact Assessment for developing primary laws

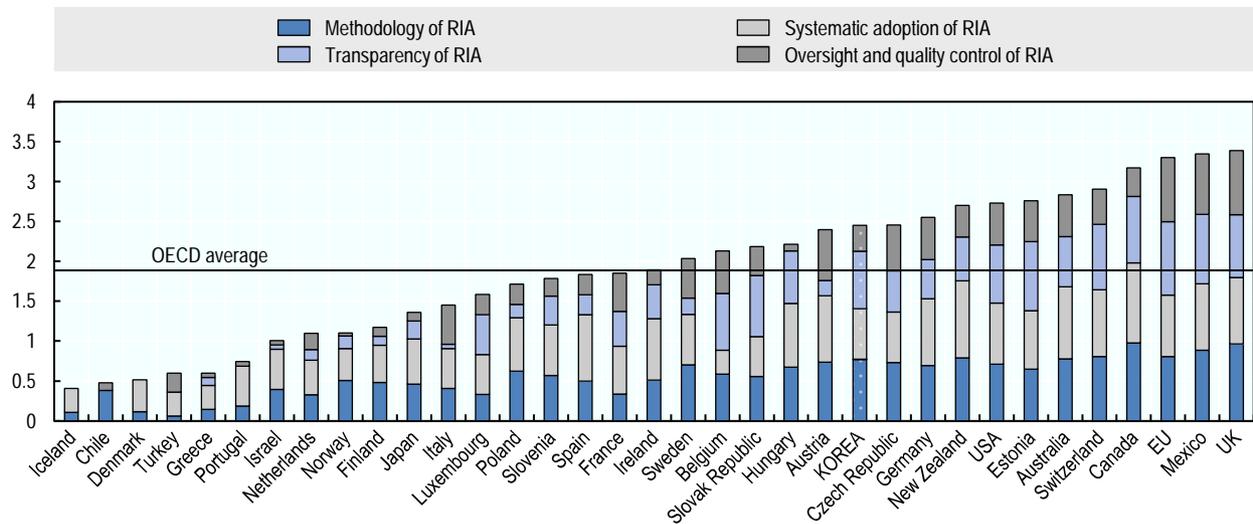


Note: The results apply exclusively to processes for developing primary laws initiated by the executive. The vertical axis represents the total aggregate score across the four separate categories of the composite indicators. The maximum score for each category is one, and the maximum aggregate score for the composite indicator is four. This figure excludes the United States where all primary laws are initiated by Congress. In the majority of countries, most primary laws are initiated by the executive, except for Mexico and Korea, where a higher share of primary laws are initiated by parliament/congress (respectively 90.6% and 84%).

Source: OECD (2015b), *OECD Regulatory Policy Outlook 2015*, OECD Publishing, Paris.

<http://dx.doi.org/10.1787/9789264238770-en>

Figure 1.7. 2015 Indicators of Regulatory Policy and Governance (iREG):
Regulatory Impact Assessment for developing subordinate regulations



Note: The vertical axis represents the total aggregate score across the four separate categories of the composite indicators. The maximum score for each category is one, and the maximum aggregate score for the composite indicator is four.

Source: OECD (2015b), *OECD Regulatory Policy Outlook 2015*, OECD Publishing, Paris,

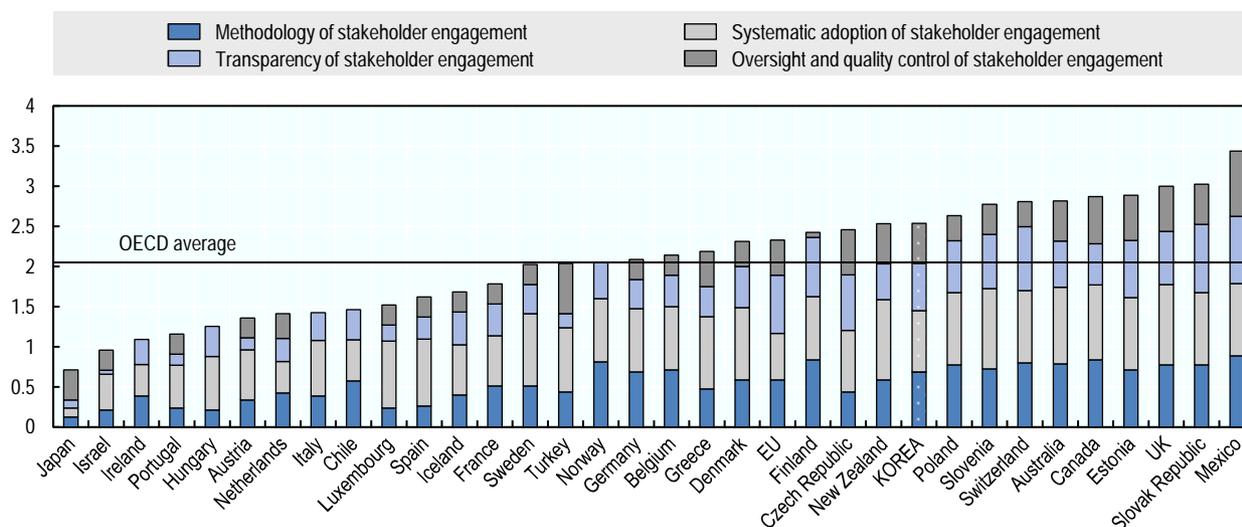
<http://dx.doi.org/10.1787/9789264238770-en>

The RIA indicator for Korea reflects the introduction of the “Cost-in, Cost-out” (CICO) which is a mechanism to restrict the increase of the costs of newly introduced or reinforced regulations by abolishing or relaxing regulations that carry an equal or more amount of costs. The CICO has likewise complemented the government’s efforts in improving the cost-benefit analysis in the Regulatory Impact Analysis and establishing a way to continuously improve the quality of regulations. Furthermore, two regulatory research centres under the Korea Development Institute (KDI) and the Korea Institute for Public Administration (KIPA) were created to support central administrative agencies in improving the quality of cost-benefit analysis through activities that focused on data analysis and capacity-building.

Stakeholder engagement

Korea’s performance on stakeholder engagement relates to the greater use of online tools, which aim to create better information dissemination on issues relating to the country’s regulatory policies. As an example, the Korean government has launched an online regulatory petition system in 2014, also referred to as the Regulatory Reform *Sinmungo*. Through the dedicated regulatory portal (<http://better.go.kr>), citizens or businesses can access the Regulatory Reform *Sinmungo* and either participate in the regulatory process or provide their views and suggestions for improvement to a specific regulation. Acceptance rate of the petition system has increased by 36.6% in 2014, which is 4.6 times greater than the previous year.

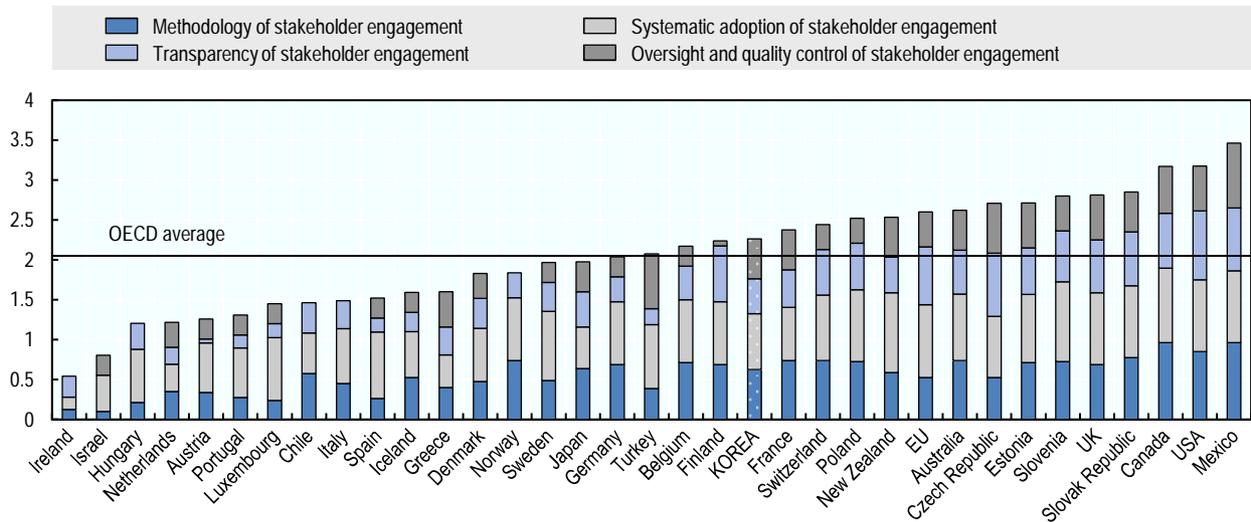
Figure 1.8. 2015 Indicators of Regulatory Policy and Governance (iREG):
Stakeholder engagement in developing primary laws



Note: The results apply exclusively to processes for developing primary laws initiated by the executive. The vertical axis represents the total aggregate score across the four separate categories of the composite indicators. The maximum score for each category is one, and the maximum aggregate score for the composite indicator is four. This figure excludes the United States where all primary laws are initiated by Congress. In the majority of countries, most primary laws are initiated by the executive, except for Mexico and Korea, where a higher share of primary laws are initiated by parliament/congress (respectively 90.6% and 84%).

Source: OECD (2015b), *OECD Regulatory Policy Outlook 2015*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264238770-en>.

Figure 1.9. 2015 Indicators of Regulatory Policy and Governance (iREG): Stakeholder engagement in developing subordinate regulations



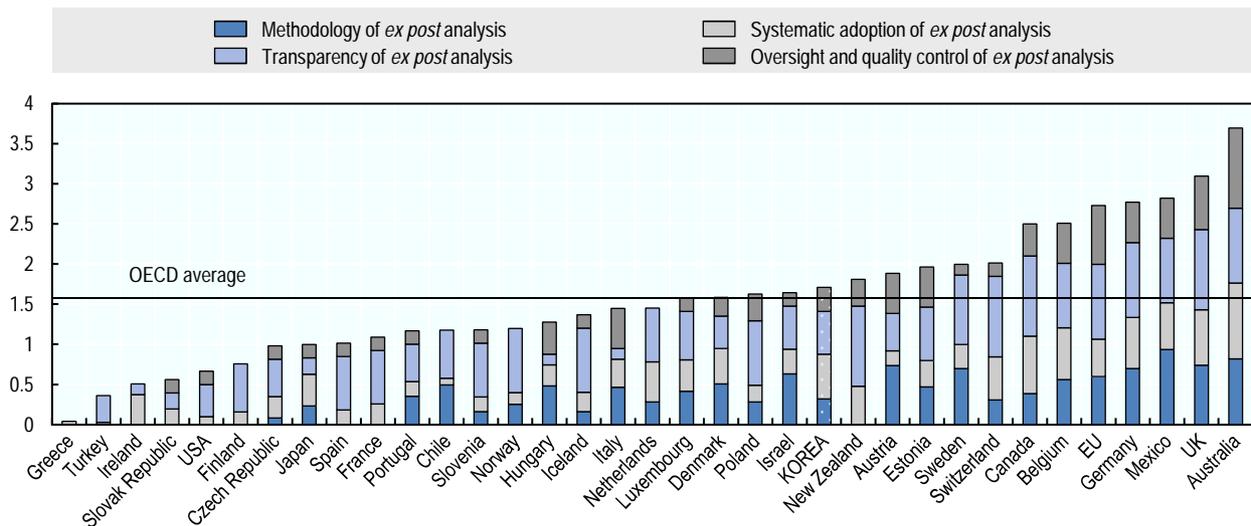
Note: The vertical axis represents the total aggregate score across the four separate categories of the composite indicators. The maximum score for each category is one, and the maximum aggregate score for the composite indicator is four.

OECD (2015b), *OECD Regulatory Policy Outlook 2015*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264238770-en>.

Ex post evaluation

Korea has recently formally required periodic *ex post* evaluation for all major primary laws and subordinate regulations developed. Although this mechanism permits the identification of inconsistencies or overlaps as well as the possibility of identifying achievements of the policy goals, there is currently no existing systematic or standard technique to help support evaluations.

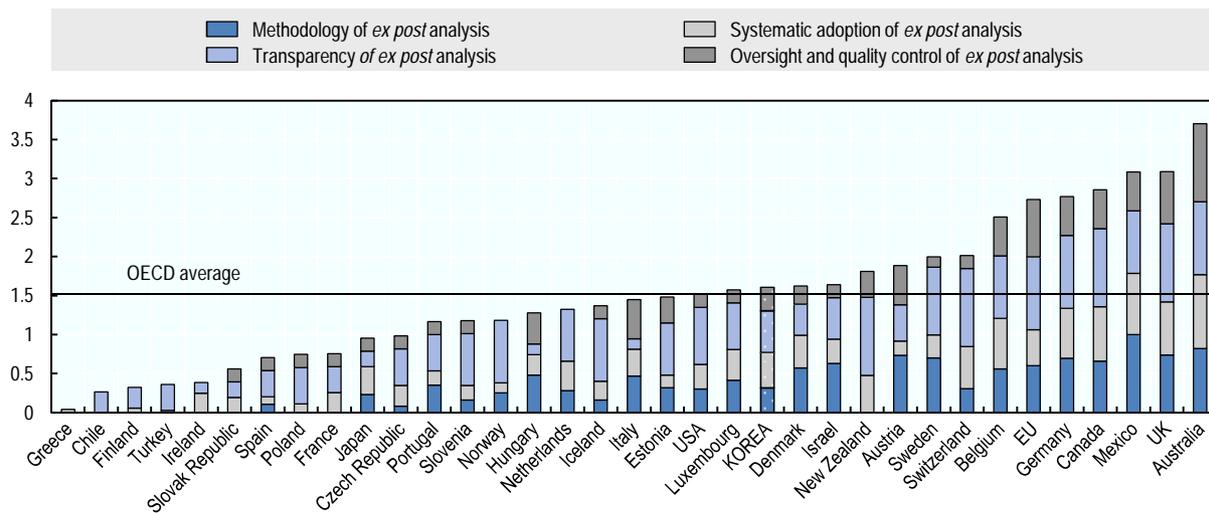
Figure 1.10. 2015 Indicators of Regulatory Policy and Governance (iREG): Ex post evaluation for primary laws



Note: The vertical axis represents the total aggregate score across the four separate categories of the composite indicators. The maximum score for each category is one, and the maximum aggregate score for the composite indicator is four.

Source: OECD (2015b), *OECD Regulatory Policy Outlook 2015*, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264238770-en>.

Figure 1.11. **2015 Indicators of Regulatory Policy and Governance (iREG):**
Ex post evaluation for subordinate regulations



Note: The vertical axis represents the total aggregate score across the four separate categories of the composite indicators. The maximum score for each category is one, and the maximum aggregate score for the composite indicator is four.

Source: OECD (2015b), *OECD Regulatory Policy Outlook 2015*, OECD Publishing, Paris.

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Chapter 2

Regulation and regulatory reforms in Korea

This chapter maps the history of regulatory reform in Korea since 1998. It presents the specific regulatory reform initiatives that have been carried out by each administration and highlights the efforts that have been undertaken to secure institutional support both from the public and private sector to strengthen and advance the regulatory reform agenda in the country.

Definition and scope of regulation

Definition of regulation

According to the Framework Act on Administrative Regulations, regulations refer to restrictions on the rights of citizens or duties imposed thereon by the central or local governments to accomplish a specific administrative objective, which are prescribed by Acts and subordinate statutes, municipal ordinances or municipal rules.

Classification of regulations

Definition	Administrative regulation means a restriction on the rights of citizens (including foreigners subject to Acts of the Republic of Korea) or a duty imposed thereon by the State or local governments to accomplish a specific administrative objective, which is prescribed by Acts and subordinate statutes, Municipal Ordinances, or Municipal Rules.
1. Regulator	Central administrative agencies Local governments
2. Regulated party	Legally entrusted non-government bodies including corporations, groups and individuals Citizens (including foreigners), corporations, foundations
3. Form	Act, Presidential Decree, Ordinance of the Prime Minister, Ordinance of Ministries, Municipal Ordinance, Public Notification, etc. Affairs governed by the National Assembly, the Courts, the Constitutional Court, the Election Commission, and the Board of Audit and Inspection Affairs relevant to criminal matters, criminal administration, and security measures Matters relevant to information and security-related duties under the National Intelligence Service Act.
Exclusion from application	Matters relevant to enrolment, drafting, mobilisation and training under the provisions of the Military Service Act, the United Defence Act, the Establishment of Homeland Reserve Forces Act, the Framework Act on Civil Defence, the Emergency Resources Management Act, and the Framework Act on the Management of Disasters and Safety. Matters relevant to military facilities, protection of military confidentiality, and defence industries. Matters relevant to the items, rates, imposition and collection of taxes.

Up until 2015, the regulatory registry system in Korea, which has been in place since 1998, required all registered regulations to be indicated with the type and form of regulation. Such classification standard is specified in the following table.

	Economic	Entry / price / transaction / quality
Type	Social	Input standard setting / performance standard setting / market incentive Environment / industrial accident / consumer safety / social discrimination
	Administrative	
Form		Permission / authorisation / licence / patent/ approval / designation / recommendation / accession / test / examination / verification / identification / guidance / control / administrative penalty / reporting obligation / registration obligation / employment obligation / notification obligation / submission duty / standard setting etc.

However, the system has identified that some regulations concern cross-cutting issues that cannot be classified easily into one single type or form. In 2015, recognising this challenge, the government lifted its obligation to classify regulations in the registration process. Since then, regulations have been classified into either responsible administrative agencies or broader categories such as themes, user description, and life cycle, only after they are registered into the system for the sole purpose of letting the general public easily and promptly find the regulations of their interests.

The system of regulatory registry, however, has changed several times in the past. In 1998, the central administrative agencies were initially required to register each unit of their administrative orders into the system as one unit of regulation. As a result, one unit of registered regulation could be in a form of single primary or secondary law, single provision, or even multiple provisions across different laws. Between 2007 and 2008, regulations were no longer counted according to the unit of administrative orders. Instead, regulations that share the same regulating body, regulated entities, legal contents, and legal basis were registered as one consolidated unit of regulation. This resulted in the sharp decline in the number of registered regulations during that period. In 2009, increased efforts have been made to identify unregistered regulations and improve the management of regulatory registry. Hence, the government required all regulations to be registered by each regulatory provision, while allowing multiple regulatory provisions with a similar nature and objective to be regarded as one consolidated unit. In 2015, the regulatory registry system was completely overhauled, strictly requiring all regulations to be registered by each regulatory provision without any exception and linking the system to the Ministry of Government Legislation's National Law Information Centre for easy revision. Since the change of system, the government has found that the fluctuating number of registered regulations does not reflect the actual changing size of regulations, and that the mere focus on reducing the number of regulations does not correspond with the nationwide effort towards the better quality of regulation. Therefore, the government has stopped keeping track of the number of regulations.

Legal bases of regulations

All laws of Korea should be in accordance with the Constitution. The Constitution can be amended by national referendum after the National Assembly passes the proposed amendment. In general, primary laws established by the National Assembly are the basis for all central and local government legislations, such as acts, presidential decrees, ordinances of the Prime Minister, ordinances of the Central Administrative Agency, municipal ordinances, and municipal rules. With regard to regulation, the Framework Act on Administrative Regulations (Law No. 13329) clearly stipulates its definition, objective and principles, as well as procedural requirements for establishment, improvement, relaxation or abolishment of regulations. According to the Framework Act on Administrative Regulations, regulations shall be clearly stated in acts, and specific details of the regulations can be determined by presidential decrees, ordinances of the Prime Minister, and ordinances of the Central Administrative Agency, municipal ordinances or municipal rules, as entrusted by acts. No administrative agency can limit the rights of citizens or impose duties on citizens pursuant to regulations that are not stated in or delegated by the acts.

History of Korea's regulatory reform

In the late 1990s, the experience of severe economic crisis and restructuring became a turning point for the Korean government to push for regulatory reform as a critical economic recovery measure. In 1997, the Framework Act on Administrative Regulations was enacted to serve as a legal ground for regulatory reform and in 1998; the Regulatory Reform Committee (RRC) was established as a regulatory oversight body. The Framework Act on Administrative Regulations includes principal measures for regulatory reform including the regulatory registry system, regulatory impact analysis (RIA), review of regulations to be newly introduced or reinforced, quality management of existing regulations, and sunset review. Since then, regulatory reform has become one of the critical policy tasks of all administrations.

Kim Dae-jung administration (1998-2003)

Based on the Framework Act on Administrative Regulations, which came into force in March 1998, the Kim Dae-jung administration established the Regulatory Reform Committee (RRC) right after his inauguration. The RRC was mandated with the authority to review regulations to be newly introduced or reinforced, to improve the quality of existing regulations, and to manage the regulatory registry system based on the Framework Act on Administrative Regulations. Since then, all central administrative agencies have been required to prove the legitimacy, necessity, and goodness-of-fit of each regulation they plan to introduce through RIA, and to conduct their own internal reviews prior to the final review of the RRC.

Subsequently, as an effort to create an investment-friendly environment for foreign investors and to increase foreign investment, the Kim administration enacted the Foreign Investment Promotion Act in 1998, and eliminated or relaxed foreign investment regulations on 29 industries. The Kim administration also enacted the Act on Promotion of the Digitalization of Administrative Affairs in 2001 to improve efficiency and transparency in public administration, and launched the E-Government System in 2003 which made most of the administrative services available online. Through the regulatory registry system and the Regulatory Guillotine, the Kim administration succeeded in reducing the registered regulations in half. The new system required central administrative agencies to abolish the existing regulations if failing to prove the legitimacy or necessity of those regulations. The dramatic reduction in the number of regulations led to an increase in economic efficiency and simplification of administrative procedures.

Roh Moo-hyun administration (2003-08)

The Roh administration emphasised regulatory quality management in addition to the continued efforts in regulatory stock management. In doing so, the Roh administration established the Public-Private Joint Regulatory Reform Planning Initiative. The Initiative consisted of an equal number of public and private personnel who were mandated to reform bundled regulations that might generate significant economic impacts.

As one of the regulatory reform measures, President Roh adopted the Regulatory Stock Management System to prevent an increase in the number of unreasonable or inefficient regulations, and mandated central administrative agencies to improve the quality of existing regulations upon introducing new regulations.

Moreover, the Roh administration abolished the Affirmative Action for Small and Medium Enterprises (SMEs) that was implemented in 1970 to prohibit *chaebols* from competing with SMEs. Such decision was to address the competitiveness loss resulted from the government-led protection of SMEs.

Lee Myung-bak administration (2008-2013)

The Lee Myung-bak administration carried out the reform by institutionalising the Presidential Council on National Competitiveness (PCNC) in 2008, strongly believing that regulatory reform is the most effective way to advance domestic investment environment and the economy. The PCNC meetings were held every month, and the President himself presided over the meetings. The Lee administration also restructured the RRC website and initiated the Regulatory Information System (RIS) to provide information on regulation and its reform process to the public.

Moreover, the Lee administration extended the scope of sunset clause in 2009 by introducing “review and sunset clause” in addition to the previous “outright sunset clause” that has been implemented since 1998. With this new sunset clause policy, the government needed to regularly examine and verify the necessity of all the existing regulations to secure better regulatory quality. The Lee administration came up with an innovative regulatory policy called the Temporary Regulatory Relief (TRR) in the early 2009 to address the economic challenges caused by the US subprime mortgage crisis. The TRR was designed to temporarily suspend the existing regulations on the private sector.

During the Lee administration period, a great push for regulatory reform was made on regulations related to entrepreneurship, land-use and factory-building. Specifically regarding entrepreneurship, the Lee administration abolished the minimum capital requirement and reduced the required establishment period. Also, President Lee relaxed a great portion of regulations on the metropolitan area by eliminating land-use regulations, and allowing the establishment or expansion of factories inside the overconcentration-control region and nature preservation region.

Park Geun-hye administration (2013-17)

Ever since President Park Geun-hye took office, she has continuously emphasised the importance of regulatory reform and chose regulatory reform as the key policy tool to revitalise the economy and create more jobs. As stagnation in the domestic market was expected to continue, **economic revitalisation** and **job creation** were given top priority in the policy tasks of the administration. Furthermore, the Park administration took the “**two track**” approach for regulatory reform, reinforcing regulations that are related to public safety and health while abolishing regulatory constraints that hinder economic vitality.

In this regard, the Park administration adopted the Cost-in, Cost-out (CICO) system, which replaced the former Regulatory Stock Management System. The President has also chaired the Ministerial Meetings on Regulatory Reform which are broadcasted live to the public. These meetings that are held twice a year bring together the relevant central administrative agencies and stakeholders to discuss important regulatory issues.

Furthermore, The Park administration established the Public-Private Joint Regulation Advancement Initiative in September 2013 to proactively incorporate voices of the private sector into the regulatory reform.

The Park Administration established various regulatory public consultation channels such as Regulatory Reform *Sinmungo*, PPJRAI, and Regulatory Information Portal (<http://better.go.kr>) in 2014.

As of 2015, over 11 612 regulations have been revised, of which 5 422 (46.69%) were from the central government and 6 190 (53.30%) were from the local governments. At the same time, the improvement of 152 regulations in 2015 has generated around KWR 5.7 trillion worth of economic impacts.

Table 2.1. Summary of change in the regulatory reform system by administration

	Kim Dae-jung (1998-2003)	Roh Moo-hyun (2003-2008)	Lee Myung-bak (2008-2013)	Park Geun-hye (2013-2017)
Regulatory oversight body	Regulatory Reform Committee			
Separate institution for reform initiatives		Public-Private Joint Regulatory Reform Planning Initiative	Public-Private Joint Regulatory Reform Initiative Presidential Council on National Competitiveness	Public-Private Joint Regulation Advancement Initiative Ministerial Meeting on Regulatory Reform Investment Committee on Emerging Industry
Summary of major reforms	Enacted the Framework Act on Administrative Regulations Established the Regulatory Reform Committee Introduced Regulatory Guillotine	Initiated the Regulatory Stock Management System Abolished the Affirmative Action for SMEs Improved the bundled regulations	Adopted Review and Sunset Clause Created the Regulation Information System(RIS) Initiated the Temporary Regulatory Relief (TRR)	Adopted the Cost-in, Cost-out (CICO) Established the Regulatory Reform <i>Sinmungo</i> Improved local government regulations

Principles and objectives of regulatory policy of the Korean Government

The Park administration had set four administrative priorities and 140 policy tasks of the administration at the beginning of the presidency. President Park has chosen regulatory reform as a critical method to support them. President Park has consistently emphasised importance of regulatory reform, underscoring it as the most effective measure to increase investment without additional fiscal burdens. In 2015, the Park administration generated KRW 5.7 trillion in profits by inducing KRW 4.5 trillion worth of investments and reducing regulatory costs by KRW 860 billion. Setting economic revitalisation and job creation as the national top priority, the Park administration took the “two track approach” to relax regulatory constraints that hinder economic growth while reinforcing regulations related to public safety and health.

The Park administration’s regulatory reform also has heavily relied on the Framework Act on Administrative Regulations for the legal basis and set seven principles for the regulatory reform.

Box 2.1. Seven principles of regulatory reform

1. Restraining from newly establishing economic regulations
2. Alleviating regulatory cost burdens (Cost-in, Cost-out)
3. Adopting a negative-list approach
4. Enforcing systematic improvement of existing regulations
5. Pursuing prompt improvement of unreasonable local government regulations
6. Exempting the liability of public officials who proactively carry out regulatory reform.
7. Providing generous incentives to induce active regulatory reform.

As an effort to implement the seven principles of regulatory reform, the Park administration introduced the Cost-in, Cost-out (CICO) so that the government not only restricts the increase of the costs of newly introduced or reinforced regulations but also helps improve existing regulations that create unnecessary burdens. The CICO began as a pilot project in July 2014, and it is now put into full force covering 27 central administrative agencies. The CICO has a banking function to keep track of the total amount of the reduced or increased regulatory costs. To provide technical support for the review process of CICO, regulatory research centres have been established under Korea Development Institute (KDI) and Korea Institute of Public Administration (KIPA).

To get rid of unreasonable obstacles to emerging industries, the Park administration launched the Investment Committee on Emerging Industry consisting entirely of civilian experts in March 2016. It was designed to review regulations related to investment in the newly developing industries with the least government involvement. The designated eight newly developing industries include: i) drones, ii) Internet of the Things (IoT), iii) smart cars, iv) bio-medicine, v) 3D printing, vi) big data, vii) clouds, and viii) Online to Offline (O2O). However, regulations related to public safety and health are exempted.

Additionally, for a prompt economic revitalisation, the government decided to carry out the Temporary Regulatory Relief, previously adopted by Lee Myung-bak Administration. The Park administration lifted regulatory constraints in five major industries including ship-building, shipping, steel, petro-chemistry and construction that could generate massive economic spill-over effects.

Also, to reduce regulatory burdens on the Small and Medium Enterprises, the government took the tailored regulatory approach for SMEs which is based on the regulatory impact assessment of the SMEs. In this connection, the SMEs impact assessment guideline was established in May 2013.

Furthermore, the Park administration continued its efforts to reform local government regulations. The Task Force on Finding Unreasonable Regulation was established in each local government to alleviate regulatory burdens on local businesses and citizens. Also, to motivate local government officials to take a proactive administrative role in the regulatory reform, the government introduced a new incentive system. The central government also published the regulatory performance of local governments through the National Regulatory Map to induce voluntary competition among local governments,

Securing political and public support for regulatory reform

President Park Geun-hye indicated her strong support for the regulatory reform at the World Economic Forum of 2014 and G20 Summit. Chairing the Ministerial Meetings on Regulatory Reform, President Park has taken bold steps to eliminate unreasonable regulations through the Regulatory Guillotine, Cost-in, Cost-out and other policy tools.

In 2014, the government introduced the Cost-in, Cost-out (CICO) that enforces central administrative agencies to restrict the increase of the costs of newly introduced or reinforced regulations by abolishing or relaxing regulations that carry an equal or more amount of costs. Unlike general regulations, a cost-benefit analysis of the regulations that fall under the scope of CICO is limited to direct costs and benefits generated for profit-seeking activities of any individual or business.

To support this effort, the government established regulatory research centres in KDI and KIPA, and mandated them to assess the validity of regulatory cost-benefit analyses prepared by the central administrative agencies.

In 2014, the Park Administration's introduction of Regulatory Information Portal (<http://better.go.kr>) increased transparency in regulatory reform. Through the Portal, the general public and firms can easily access regulatory information or submit their opinions online

In order to encourage public participation, the government does not collect personal information of online users so that the general public would feel comfortable discussing their opinions about the regulatory reform. The service is also offered via mobile site (m.better.go.kr) to make it readily accessible. The Regulatory Information Portal provides information on regulatory proposals and the entire regulatory revision process.

In addition, the government established the Regulatory Reform *Sinmungo* which gives citizens and stakeholders the opportunity to file petitions on regulatory reform. This system serves as a one-stop shop that integrates all existing channels of regulatory petition in all administrative agencies. The petition system of the Regulatory Reform *Sinmungo* consists of three steps. When a petition is filed to the *Sinmungo*, the official in charge must respond to the petitioner within 14 days whether to accept the petition or not. If the rejected petitions are deemed reasonable by the RRO, the responsible agency would need to justify the grounds for refusal and inform the petitioner accordingly within 3 months' time. Lastly, if the rationale for refusal is not sufficiently justified, the RRC can issue recommendations to the responsible agency for regulatory improvement. As of November 2016, around 40% of the regulatory petitions (3 769 petitions) have been accepted, which resulted in significant improvement.

Regulatory impact analysis statements (RIAS) are also made available to the public on the Regulatory Information Portal during the advance notice of proposed legislation. Such disclosure of all RIAS online gave the general public an open-access channel to submit their opinions on regulatory proposals, and motivated the central administrative agencies to improve the quality of their RIAS when introducing new regulations.

The Park administration particularly recognised “Galapagos Islands regulations” that are referred to as regulations inconsistent with global standards and only existent in Korea. To address these regulations, the Park administration encouraged the central administrative agencies to consider international cases as a reference point for regulatory reform. For this purpose, the cases and standards of OECD countries should be examined when the administrative agencies introduce or reinforce regulations. In particular, with regard to regulations on public safety and health, the central administrative agencies are required to consider international standards and cases to check if their regulatory proposals are overly excessive or insufficient.

Furthermore, the Park Administration has extended the stakeholder engagement opportunities to foreigners in regulatory policy making procedures. In this effort, the government established online portals such as the English version of the Regulatory Information Portal (<http://e.better.go.kr>) for general regulatory suggestions or petitions and i-Ombudsman (<http://i-ombudsman.kotra.or.kr>) for foreign businesses in Korea. The former provides general information on the regulatory reform policy tools in Korea like the Cost-in, Cost-out, updates the current progress on regulatory achievement, and offers Regulatory Reform *Sinmungo* for foreign people to submit their petitions in English. The latter, operated by Korea Trade-Investment Promotion Agency (KOTRA), provides information on regulatory legislations that may hinder their business or investment in Korea.

Specifically, foreign businesses can submit their comments on regulatory bills through the aforementioned online channels, and then their comments are conveyed to the relevant authorities. When leaving a comment, the user has the option of making his/her comments open to the public or leave them as confidential, as well as the option of sending their information (company name, contact information, etc.) to the competent authorities.

By opening up the decision-making process related to regulatory reform within the Korean government, these portals in English have contributed to increasing the transparency and the foreign stakeholders' accessibility to the Korean regulatory system.

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Chapter 3

Institutional infrastructure for regulatory management in Korea

This chapter provides insight on the oversight bodies and administrative agencies responsible for regulatory reform in Korea. It highlights the functions and co-ordination arrangements among different government institutions through the use of regulatory quality management tools and the implementation of the initiatives aimed at reducing regulatory burdens such as Cost-in, Cost-out (CICO), regulatory reform Sinmungo, and regulatory sunset clause. It also presents the different capacity building activities that have been carried out by the Korean government to strengthen and improve the implementation of these initiatives.

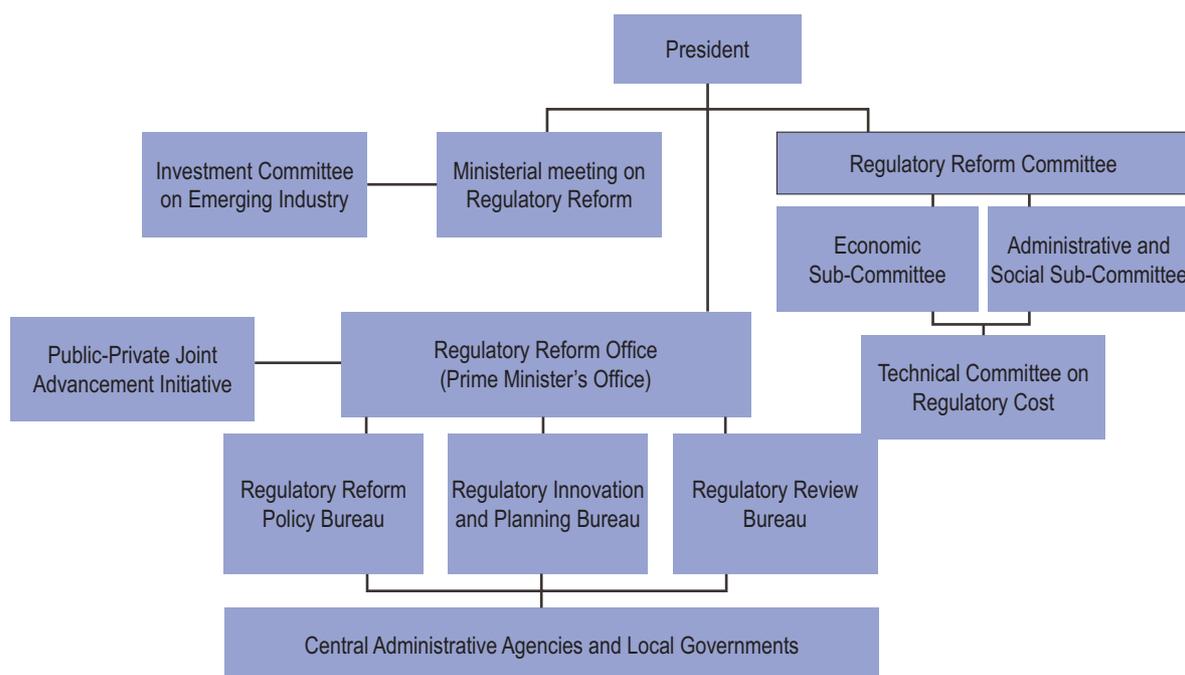
Leadership and oversight for regulatory reform

Regulatory oversight: Executive centre of government

During the presidency of Roh Moo-hyun and Lee Myung-bak, separate institutions managed i) the improvement of existing regulations and ii) the review of newly established or reinforced regulations. While the Roh administration improved existing regulations through the Ministerial Meetings on Regulatory Reform chaired by the Prime Minister and Public-Private Joint Regulatory Reform Planning Initiative, the Lee administration did so through the Presidential Council on National Competitiveness (PCNC) and Public-Private Joint Regulatory Reform Initiative. Meanwhile, the Regulatory Reform Committee (RRC) took charge of the regulatory review during both Roh's and Lee's administration. In order to tackle the inefficiency incurred by a separation of institutions, the Park Geun-hye administration reoriented both roles to the RRC.

The RRC, chaired by the Prime Minister and the chairman from the non-governmental sector, is the final decision-making body for regulatory reform at the centre of the government. The Park administration also established the Technical Committee on Regulatory Cost under the RRC to examine and review the validity of cost-benefit analysis for Cost-in, Cost-out (CICO). Furthermore, in supporting the mandated tasks of the RRC, the Regulatory Reform Office (RRO) serves the role of its secretariat and co-ordinates with relevant central administrative agencies for ensuring the quality of regulation. Also, to support central administrative agencies in reviewing regulatory impact on competition, SMEs and technology, the government established the Regulatory Reform Task Force in the Fair Trade Commission (FTC), Korea Agency for Technology and Standards (KATS), and Small and Medium Business Administration (SMBA), respectively.

Figure 3.1. Regulatory reform organisation chart



In addition to the aforementioned efforts, President Park established the Ministerial Meeting on Regulatory Reform in 2014, which was chaired by the President herself. The Rules on the Ministerial Meeting on Regulatory Reform was enacted in 2014 to officially institutionalise the meeting. Through this Ministerial Meeting, the Park administration demonstrated its strong commitment to the improvement of regulatory quality.

The government also established the Public-Private Joint Regulation Advancement Initiative and the Investment Committee on Emerging Industry, in order to remove regulations that are easily neglected yet imposing significant impacts, which are so-called “thorn-under-the-fingernail”, and to get rid of unreasonable regulatory obstacles to emerging industries, respectively.

Ministerial meeting on regulatory reform

The ministerial meeting on regulatory reform was established as part of the Park administration’s priority to improve regulations in 2014. The meetings are organised twice a year and chaired by the President. The meeting involves stakeholders from the non-government sector as well as relevant central administrative agencies. During the meetings, participating ministers report on their regulatory reform initiatives, and business leaders and stakeholders share their experiences and raise their opinions on regulatory reform. In particular, in May 2016, the meeting introduced a new initiative to reduce burdens for emerging industries, and as a follow-up measure, the Investment Committee on Emerging Industry was established. All meetings have been broadcasted on national television to raise awareness of government efforts in regulatory reform.

Regulatory Reform Committee

With the enactment of the Framework Act on Administrative Regulations, the Regulatory Reform Committee (RRC) was established to improve the existing regulations and review newly introduced or reinforced regulations. As stipulated in Article 24 of the Framework Act on Administrative Regulations, the RRC is mandated to co-ordinate and deliberate on matters concerning the following:

- Basic direction-setting for regulatory reform policy as well as research and development of the regulatory system
- Review of regulations to be established or reinforced
- Review of existing regulations, and establishment and implementation of comprehensive plan for regulatory reform
- Registration and announcement of regulations
- Stakeholder engagement in regulatory improvement
- Inspection and evaluation of regulatory reform efforts conducted by each administrative agency; and
- Other issues deemed by the chairperson of the RRC as requiring further deliberation and co-ordination.

The RRC is divided into the Economic Sub-Committee and the Administrative and Social Sub-Committee, which separately review regulations according to their nature. Members of the RRC are from both the government and non-government sectors, and their participation in the committee is done on a part-time basis. The RRC meets twice a month on Fridays to deliberate on significant regulations.

From the government side, the RRC is comprised of the prime minister, ministers from the Ministry of Strategy and Finance, Ministry of the Interior, Ministry of Trade, Industry and Energy, Ministry of Public Safety and Security, Office for Government Policy Coordination, and Ministry of Government Legislation and the chair of the Fair Trade Commission. The rest of the RRC is composed of 17 non-government representatives, which includes one chair and 8 non-government representatives under each sub-committee. Annually, around 80 regulatory proposals are reviewed weekly by the RRC mostly online. Among them, around 8 significant regulatory proposals are reviewed by the RRC during their bi-weekly in-person meetings.

Regulatory Reform Office (RRO)

The RRC's executive office is run by the Regulatory Reform Office (RRO) under the Prime Minister's Office. Under the Prime Minister's supervision, the Regulatory Reform Office plays a mediating role among central administrative agencies related to regulatory issues and a supporting role for the RRC that acts as a central oversight body for regulatory reform. Its legal basis is on the Government Organisation Act and the Framework Act on Administrative Regulations.

When conflicts of interests among central administrative agencies arise in regards to regulatory direction (whether to relax or reinforce), content (whether to focus on industrial rearing or public safety & environment), and degree (whether to make the regulation more restrictive or less restrictive), the RRO takes the role of mediating and resolving the conflicts. If these conflicts cannot be resolved by the RRO, the issues can be transferred to the Ministerial Meetings on Regulatory Reform, chaired by the President, for mediation.

Furthermore, the RRO organises On-site Meetings on Regulatory Reform, which is chaired by the Prime Minister himself, to discuss the current status of regulatory reform and address regulatory challenges at the local level by visiting local cities and provinces around the country. Up to now, these meetings have been held in Ansan City of Gyeonggi Province (July 2015), Gwangju Metropolitan City (Oct. 2015), Busan Metropolitan City (Dec. 2015), Daejeon Metropolitan City (Feb. 2016), Daegu Metropolitan City (April 2016), Wonju City (June 2016), Incheon Metropolitan City (Aug. 2016), and Hwasung City of Gyeonggi Province (Oct. 2016).

Public-Private Joint Regulation Advancement Initiative

The PPJRAI is jointly led by the RRO and the non-government organisations such as the Korea Federation of SMEs (KBIZ) and the Korea Chamber of Commerce and Industry (KCCI). It regularly holds stakeholder meetings and is composed of four teams, namely: Planning and Budget Division, Regulatory Improvement Division, Investment Environment Improvement Division, and SMEs Support Division. Two of the division heads represent the government, and the other two represent the non-government sector. In total, the PPJRAI is composed of the 13 public officials and 13 non-government representatives.

At present, this initiative is responsible for finding thorn-under-the-fingernail regulations through on-site meetings, particularly regulations that are easily neglected yet imposing significant impacts on business. Among these regulations, the Initiative selects high-impact regulations and analyses their overall impact to the national economy.

The process of handling unreasonable regulations is done by i) identifying the regulatory challenge by communicating closely with businesses; ii) initiating dialogue with the relevant central administrative agency to address the challenge; iii) Improving the relevant regulations through the joint co-operation with the relevant central administrative agencies.

Since the establishment of the PPJRAI in September 2013, the initiative has carried out around 73 on-site visits. From this, a total of 4 165 thorn-under-the-fingernail regulations were identified, of which 1 532 were improved.

Investment Committee on Emerging Industry

In contrast to the PPJRAI, the Investment Committee on the Emerging Industry is composed solely of civilian experts working on issues in relation to emerging industries. There are around 70 experts in total who are mandated to conduct the following tasks: i) review suggestions raised by the general public regarding regulations on emerging industry; ii) abolish all regulations unless there is a rationale for retaining them in tact; and iii) ensure a minimum level of regulation in accordance with international standards.

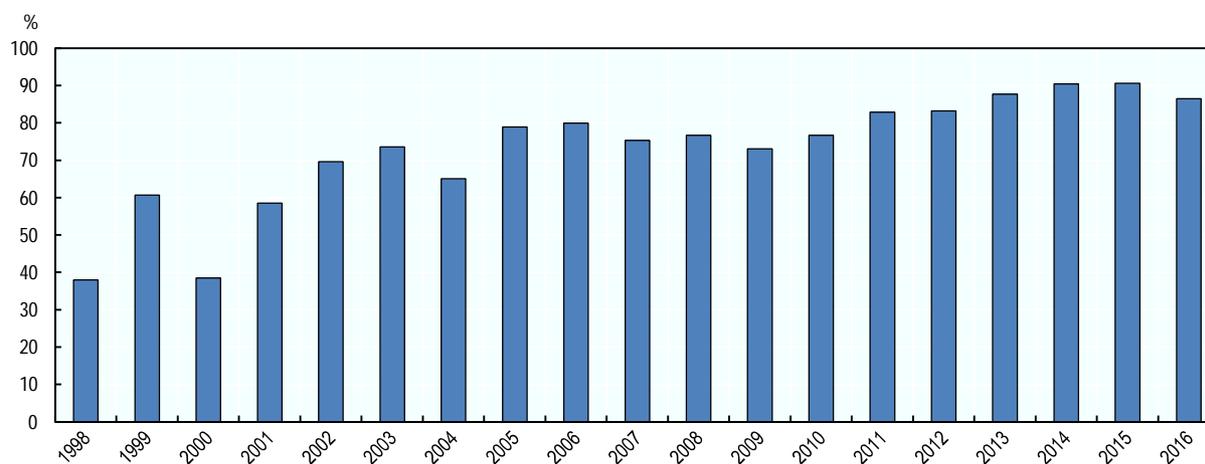
Since March 2016, a total of 271 petitions on new or existing regulations have been reviewed by the Investment Committee on Emerging Industry, of which 255 or 94% of the petitions have been resolved. The fields of these regulation discussed and reviewed by the Investment Committee on Emerging Industry include drones, ICT and technological convergence, bio-health, energy materials and other new services.

Regulatory oversight: National Assembly

The number of parliamentary bills is continuously increasing in Korea as well as the number of parliamentary bills that contain regulation. However, no regulatory impact assessment on the parliamentary bills is performed and the RRC lacks control over the legislature.

Figure 3.2. Percentage of primary laws initiated by the National Assembly

1998-2016



Source: The National Assembly of the Republic of Korea.

The House Steering Committee of the National Assembly has 28 lawmakers and 12 staff members. The current National Assembly is the 20th National Assembly. In 2016, there have been over 1 468 legislations proposed, of which 1 270 (86.5%) comes from the parliament and 198 from the executive branch.

An amendment of the National Assembly Act mandating regulatory impact assessment on parliamentary bills was submitted to the National Assembly in 2014 by the ruling party. However, the amendment was met with significant opposition from members of parliament concerned about restricting their legislative power. As a consequence, the amendment has not yet been enacted.

The legislature engages stakeholders in the rule-making process through public hearing in the standing committee under its jurisdiction, and improves quality of legislation through reviewing reports on legislative bills at the Secretariat of the National Assembly and utilising policy research functions of the National Assembly Budget Office and National Assembly Research Service. However, there is no separate institution within the legislature that reviews these regulations.

There have been efforts to introduce RIA in the National Assembly, but these attempts have been less than successful. Economic analyses of the legislations passed are limited to computing the economic impacts and only a handful of members conduct impact assessments or cost-benefit analysis, as these remain to be optional.

Regulatory oversight: judiciary

The courts can overturn regulatory decisions deemed illegitimate or unfair after a court review. Although courts are not involved in the regulatory review at the policy adoption stage, a regulatory decision loses its legal effect when a lawsuit related to the concerning regulatory decision is filed and the courts decide that it is illegitimate. In addition, when a person experiences violation against his or her constitutional rights as a result of a certain law or action, he or she can file a lawsuit to the Constitutional Court which, in turn, can decide whether the concerned law or action is in line with the Constitution of Korea. When the courts overturn the regulatory decisions made by the executive branch and the regulations lose its legal effect, the grounds for overturning decisions is not restricted to procedural issues. Instead, the courts make decisions based also on substance.

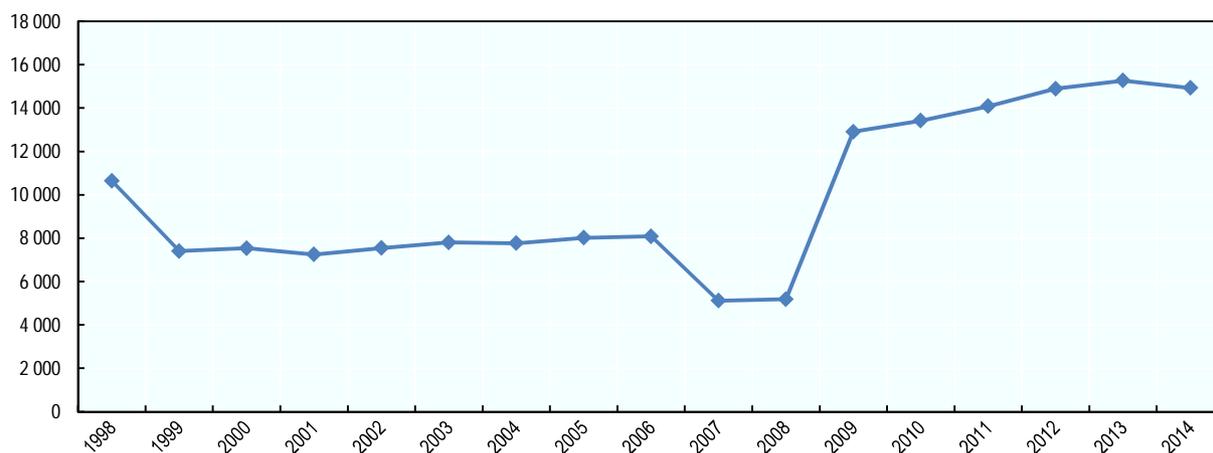
Regulatory registry system

Since 1998, the regulatory registry system has been considered as the most fundamental mean for regulatory management. All regulations that are defined by the Framework Act on Administrative Regulations are subject to the regulatory registry system. As a result, this requirement for all regulations enabled the government to identify unreasonable or inefficient regulations, and in turn, made it possible to reduce the number of regulations in half through Regulatory Guillotine in 1998.

The process of regulation registry is summarised in the following steps: i) central administrative agencies enact or amend their laws; ii) central administrative agencies review the provisions of the newly introduced or amended laws, and assess whether these provisions need to be newly registered to, updated to or deleted from the registry system in accordance with the change in their regulatory contents. iii) Subsequently, the central administrative agencies request the RRO for an approval for updating these provisions in the registry system accordingly; iv) the RRO reviews and approves the registration; and v) the registry procedure is completed.

In case the RRC finds that some regulations are omitted from the registry system, it has the authority to recommend or alert concerned central administrative agencies of the need to register their regulations into the system accordingly.

Figure 3.3. Number of registered regulations by year



Note: Year: as of end of year.

Source: The White Paper of Regulatory Reform, 2013~2015

The number of registered regulations has changed significantly due to the modification of the regulatory registry system. In 1998, the registry system required central administrative agencies to register each unit of their administrative orders into the system as one unit of regulation. As a result, one unit of registered regulation could be in a form of single primary or secondary law, single provision, or even multiple provisions across different laws. Between 2007 and 2008, regulations were no longer counted according to the unit of administrative orders. Instead, regulations that share the same regulating body, regulated entities, legal contents, and legal basis were registered as one consolidated unit of regulation. This resulted in the sharp decline in the number of registered regulations (around 3 000 regulations) during that period. In 2009, increased efforts have been made to identify unregistered regulations and improve the management of regulatory registry. Hence, the government required all regulations to be registered according to each regulatory provision, while allowing multiple regulatory provisions with a similar nature and objective to be regarded as one consolidated unit. This resulted in a sharp increase in the number of regulations (around 7 000 regulations). Furthermore, 5 019 and 4 747 unregistered regulations were found and registered into the registry system in 2009 and 2014, respectively.

In 2015, the regulatory registration system was completely overhauled, strictly requiring all regulations to be registered by each regulatory provision without any exception and linking the system to the Ministry of Government Legislation's National Law Information Centre.

The details of the key changes are the following:

- A single regulatory provision, which is the smallest statutory unit, is now defined as a unit of regulation for registration. This ensures the objectivity and consistency of regulatory registration.

- The regulatory registry system is now linked to the National Law Information Centre in the Ministry of Government Legislation, so that the change of legislations can be reflected promptly to the registry system.
- Through the National Law Information Centre, the general public has gained easier access to the regulatory information.

Since the change of registry system, however, the government has found that the fluctuating number of registered regulations does not reflect the actual changing size of regulations, and that the mere focus on reducing the number of regulations does not correspond with the nationwide effort towards the better quality of regulation. Therefore, the government has stopped keeping track of the number of regulations.

Regulatory Reduction Initiative

In Korea, a legal basis for regulatory reform is found in the Framework Act on Administrative Regulations established in 1997. According to Article 20 of the Framework Act on Administrative Regulations and its enforcement decree, the Regulatory Reform Committee selects the focus fields of regulation or specific regulations in need of improvement, and prepares a guideline for drafting a plan for regulatory reform to be distributed to all central administrative agencies.

Subsequently, each central administrative agency refers to the guideline and establishes its own plan for regulatory reform, and submits it to the RRC. The RRC then compiles all of the plans submitted by the central administrative agencies, and integrates them into a Comprehensive Plan for Regulatory Reform on an annual basis. Upon its completion, the Comprehensive Plan for Regulatory Reform is published annually on the government's official gazette and the official webpage including the Regulatory Information Portal, by the end of February.

The RRC continues to put forth efforts in regulatory improvement through the establishment and implementation of the Comprehensive Plan for Regulatory Reform. In 2014, the RRC set the goals to reduce the economic regulations by 10%, and completed the improvement measures within the government. As a result, 995 out of 9 876 economic regulations were improved, which amounts to 10.1% of the total.

In order to reduce the administrative burdens borne by the general public and businesses, the Framework Act on Administrative Investigations was established in 2007. In this effort, the government abolished unnecessary inspections and simplified or integrated overlapping inspections in 2016 through the co-operation with the Korea Federation of SMEs.

Regulatory quality management

Various regulatory measures were introduced with an aim to improve regulatory quality, and reduce regulatory burdens on the general public and businesses. These regulatory measures include, but are not limited to, Regulatory Impact Analysis (RIA), Cost-in, Cost-out (CICO), Regulatory Reform *Sinmungo*, and Sunset Clause.

Regulatory impact analysis (RIA)

As stipulated in Article 2 of the Framework Act on Administrative Regulations, Regulatory Impact Analysis (RIA) in Korea aims to predict and analyse the economic, social and administrative impact of a regulation through the use of objective and scientific means, and thus establishing a standard which serves as the basis for determining the appropriateness of the regulation.

In order to promote an evidence-based rule-making and improve regulatory quality, regulators are required to conduct RIA which examines, but is not limited to, the necessity, objective, feasibility and goodness of fit of any regulation that is to be newly introduced or reinforced. RIA also requires regulators to extensively compare and review multiple alternatives (both regulatory and non-regulatory alternatives) to the regulation under review. For each alternative considered as part of RIA, regulators are mandated to analyze its costs and benefits, enforcement feasibility, and potential impact on SMEs, competition and technology, as well as a rationale for choosing or discarding the reviewed alternatives.

In particular, RIA requires a quantitative cost-benefit analysis which measures various administrative costs. Generally, the administrative costs of regulations are measured by a quantitative methodology which is based on the Standard Cost Model (SCM) but adjusted to the characteristics of the Korean regulatory system. As an effort to support this cost-benefit analysis, regulatory research centres have been established under the Korea Development Institute (KDI) and Korea Institute of Public Administration (KIPA).

Furthermore, to increase the quality of RIA and lessen the burden of preparing RIA statements, e-RIA was launched in October 2015. The e-RIA has contributed to the behavioural change of government officials in the process of policy design and development, as well as the institutionalisation of evidence-based policy making.

Cost-in, Cost-out (CICO)

Initially launched as a pilot project in 2014, the “Cost-in, Cost-out” (CICO) has been formally entered into full force in July 2016 by the ordinance of the Prime Minister. CICO is a mechanism to restrict the increase of the costs of newly introduced or reinforced regulations by abolishing or relaxing regulations that carry an equal or more amount of costs. The system also aims to continuously improve the existing regulations that generate unnecessary burdens on the regulated party. Currently, CICO is applied to 27 central administrative agencies that are most relevant to economic issues, with an aim to relieve actual burdens on businesses or individuals, who pursue profit-seeking activities, through cost-oriented management.

The Regulatory Reform *Sinmungo*

The Regulatory Reform *Sinmungo* serves as a platform for the general public and businesses to participate in the government’s regulatory reform efforts by giving them opportunities to file petitions on regulatory reform to the government. It also serves as a one-stop shop that integrates all existing channels of regulatory petitions in all central administrative agencies. The petition system of the Regulatory Reform *Sinmungo* consists of three steps. When a petition is filed to the *Sinmungo*, the public official in charge must respond to the petitioner within 14 days whether to accept the petition or not. If the rejected petitions are deemed reasonable by the RRO, the responsible agency would need to justify the grounds for refusal and inform the petitioner accordingly within 3 months’ time. However, if the submitted petition is deemed urgent, the responsible agency is required to provide a feedback within one week. Also, if the agency decides to reject the urgent petition yet deemed reasonable by the RRO, the agency must provide proper justification within one month. Lastly, if the rationale for refusal is not sufficiently justified, the RRC can issue recommendations to the responsible agency for regulatory improvement. As of November 2016, around 40% of the regulatory petitions (3 769 petitions) have been accepted, which resulted in significant improvement.

Regulatory sunset clause

Based on the Framework Act on Administrative Regulations, the sunset clause was introduced in 1998 as a form of “outright sunset” clause which provides for an automatic expiry of a regulation based on a specified date. In 2009, “review and sunset”, which imposes a duty to carry out a review of the regulation on a specified schedule, was added to the system of sunset clause. The sunset clause was established upon the idea that even a rational regulation needs to be examined periodically to determine its grounds for remaining in force as its validity may be compromised under any change in circumstances or its characteristics. Given such rationale, the sunset clause is considered as a critical component of efforts in regulatory quality improvement.

Regulatory impact analysis

Introduction of RIA in Korea

In Korea, the Framework Act on Administrative Regulations was enacted in August 1997 to serve as a legal basis for requiring all central administrative agencies to conduct RIA.

Furthermore, as stipulated in Article 2 of the Framework Act on Administrative Regulations, the RIA is to predict and analyse the economic, social and administrative impact of a regulation through the use of objective and scientific means, and thus establishing a standard which serves as the basis for determining the appropriateness of the regulation.

Box 3.1. The Framework Act on Administrative Regulations

- (Article 7, Clause 1 of the Framework Act on Administrative Regulations) when the head of a central administrative agency intends to establish a new regulation or reinforce existing regulations, he/she shall conduct a regulatory impact analysis (RIA) and prepare a RIA statement.
- (Article 7, Clause 2 of the Framework Act on Administrative Regulations) the head of a central administrative agency shall publish a RIA statement to the general public during the advance notice period of the proposed legislation.
- (Article 7, Clause 4 of the Framework Act on Administrative Regulations and Article 6, Clause 4 of the Enforcement Decree of the Framework Act on Administrative Regulations) the Regulatory Reform Committee (RCC) shall give central administrative agencies a guideline on the preparation and publication of RIAs.

Table 3.1. Number of RIA statements by Central Administrative Agencies (2010-16)

Name of the Ministry	2010	2011	2012	2013	2014	2015	2016
Ministry of Strategy and Finance	6	30	27	40	15	12	12
Fair Trade commission	46	32	43	32	13	9	33
Financial Services Commission	114	51	116	113	133	60	192
Financial Supervisory Service	4	6	19	23	23	10	29
Korea Customs Service	4	8	16	10	3	3	2
Ministry of Trade, Industry and Energy	69	147	117	48	87	54	65
Small and Medium Business Administration	3	3	2	14	6	12	14

Table 3.1. Number of RIA statements by Central Administrative Agencies (2010-16) (cont.)

Name of the Ministry	2010	2011	2012	2013	2014	2015	2016
Korea Intellectual Property Office	2	19	17	13	1	4	3
Ministry of Land, Infrastructure and Transport	174	234	350	213	182	119	157
Ministry of Oceans and Fisheries	94	107	162	96	74	82	117
Ministry of Agriculture, Food and Rural Affairs				69	52	66	55
Korea Forest Service	12	24	31	24	8	14	12
Korea Communications Commission	37	53	72	14	23	17	36
Ministry of Employment and Labor	31	35	33	27	48	11	56
Korea Meteorological Administration	0	0	2	1	2	1	0
Ministry of Environment	99	105	156	99	143	56	142
Ministry of Education	18	39	22	36	17	40	25
Ministry of Science, ICT and future Planning	-	-	-	37	43	46	37
Ministry of Culture, Sports and Tourism	12	31	28	39	35	52	58
Cultural Heritage Administration	33	1	17	8	14	7	14
Nuclear Safety and Security Commission	-	0	6	10	13	12	15
Ministry of Health and Welfare	119	112	154	72	50	92	137
Ministry of Gender Equality and Family	10	11	31	21	11	20	0
Ministry of Food and Drug Safety	51	35	33	40	79	97	97
Ministry of Unification	3	7	6	0	3	0	1
Ministry of Foreign Affairs	2	3	4	0	1	0	4
Ministry of National Defence	2	1	14	2	2	0	0
Ministry of Patriots and Veterans Affairs	10	2	9	17	1	12	23
Ministry of the interior	23	76	48	31	13	2	17
Ministry of Personnel Management	-	-	-	-	5	6	1
Ministry of Justice	8	15	4	8	5	12	13
National Police Agency	13	11	4	1	9	19	11
Anti-Corruption and Civil Rights Commission	0	1	0	5	1	13	17
National Tax Service	0	0	1	0	0	0	0
National Science and Technology Council	0	0	1	-	-	-	-
Office for Government Policy Coordination	4	4	8	0	0	0	0
National Human Rights Commission of Korea	0	0	1	0	0	0	0
Rural Development Administration	0	2	3	6	0	1	0
Ministry of Public Safety and Security	4	3	6	5			98
	32	40	35	26	33	61	
Statistics Korea	0	0	0	0	0	0	1
Total	1 039	1 248	1 598	1 200	1 148	1 022	1 494

Note: “-” in the table indicates that the selected central administrative agencies did not exist in the selected years while “0” indicates that the selected central administrative agencies did not record any RIAs in the selected years.

Introduction of additional RIA for the fields of SMEs, competition, and technology

Additional RIA was introduced to carefully analyse and compare the impacts of administrative regulations concerning competition, SMEs, and technology. Regarding competition, the additional RIA evaluates impacts such as enhancement of market efficiency and competition restriction. Regarding SMEs, issues like equity among economic players are assessed. Regarding technology, RIA is conducted to check whether the concerned regulation is on a par with the pace of technological development.

Box 3.2. Introduction of RIA in various fields

- **RIA on Competition:** The OECD Competition Committee recommends the regulatory authorities to conduct a self-assessment on competition when establishing a new regulation or reinforcing existing regulations. In 2007, the Committee developed the Competition Assessment Toolkit. In 2009, the Korean government institutionalised the competition assessment by putting the Fair Trade Commission in charge for the newly established or reinforced regulations concerning competition. Such efforts made on the competition assessment in Korea were presented to the OECD Competition Committee in December 2011.
- **RIA on SMEs:** Through the 6th meeting of the President Council on National Competition (PCNC) in 2008, it reviewed and adopted “the Plan for Reforming the Policies on SMEs” jointly proposed by the eight central administrative agencies. As a follow-up measure for the aforementioned plan, the Council decided to introduce the RIA on SMEs to assess whether the newly established or reinforced regulations impose excessive burdens on SMEs. In June 2013, a Guideline on the Preparation of RIA Statement was amended to introduce the Tailored Regulatory Approach to balance out the regulatory burdens falling disproportionately on the SMEs by differentiating the regulations based on the size of the businesses. RIA on SMEs in Korea is conducted by the Small and Medium Business Administration, with the support of the Korea Small Business Institute.
- **RIA on Technology:** In July 2012, the PCNC reviewed “the Plan for Improving the National Standards and Certification System” jointly proposed by the twelve ministries, and introduced RIA on technology to check whether the concerned regulation is on a par with the pace of technological development and global standards.

For this purpose, the “Rules on Establishment and Operation of Regulatory Reform Task Force for Field-oriented Regulatory Reform” was introduced on 15 April 2013. According to the Rules, a separate Regulatory Reform Task Force has been established in the Fair Trade Commission, the Small and Medium Business Administration, and Korea Agency for Technology and Standards (KATS) to carry out an in-depth analysis of regulatory impacts on competition, SMEs, and technology, respectively.

Implementation of a web-based system for RIA and RIA statement preparation

Since the introduction of RIA in 1998, there have been concerns regarding the quality of RIA, especially with regard to cost-benefit analysis. In particular, the National Assembly underscored the lack of quantitative cost-benefit analysis in the RIA statements (RIAS).

To help improve the quality of RIAS, the e-Regulatory Impact Analysis (e-RIA) was launched in July 2015. The e-RIA system obligated users to fill out all the required fields in the electronic form of RIAS, in order to prevent from omitting the important data for RIA. The system also enabled the public officials who prepare RIAS to automatically obtain the necessary data for cost-benefit analysis by linking the system with the national statistical database. Furthermore, the system provides a sufficient amount of descriptions and examples for all fields to be filled out, so that the public officials can easily complete the RIAS by themselves. Once all fields are filled out completely, the system automatically produces the RIAS. The introduction of the system has strengthened the capacity of central administrative agencies in developing better regulation.

Scientific movement and enrichment of RIA

In order to enrich the quality of RIA, the Korean government required all central administrative agencies to consider at least three alternatives when performing RIA. These alternatives include an existing regulation, a regulatory alternative, and a non- or less regulatory alternative. All these alternatives must be substantiated by the cost-benefit analysis, and when the regulating administrative agency selects one of these alternatives, the decision must be made rationally and objectively through the comparison of the analysis results.

Furthermore, the Korean government introduced the Tailored Regulatory Approach to regulations on SMEs. This approach was designed to balance out the regulatory burdens falling disproportionately on SMEs by differentiating the regulations based on the size of businesses. In July 2016, the Ordinance of the Prime Minister was introduced to establish a legal basis for the tailored regulatory approach. According to the Ordinance, when newly introducing or reinforcing regulations, the central administrative agencies shall consider a plan to exempt micro enterprises from the application of regulations for the duration of three years, only if deemed necessary. In addition, if uniformly imposing regulations on all businesses is deemed inappropriate or excessive for small enterprises, the central administrative agencies are also required to consider a plan to relax regulatory burdens on small enterprises by either exempting them from the application of all or some regulations or by setting a temporary relief period.

Requirements of RIA

In Korea, the head of a central administrative agency is required by the Framework Act on Administrative Regulations to prepare a RIA statement when establishing a new regulation or reinforcing existing regulations.

When the head of a central administrative agency intends to establish a new regulation or reinforce existing regulations (including the extension of the effective period of regulations), he/she shall conduct a regulatory impact analysis taking account of the following matters comprehensively, and prepare a regulation impact analysis statement, as stipulated in Chapter 2, Article 7 of the Framework Act on Administrative Regulations:

1. Necessity of establishing a new regulation or reinforcing existing regulations
2. Feasibility of the objectives of regulations
3. Existence of alternative means to a regulation, or possible overlaps between the proposed regulation and existing regulations

4. Comparative analysis on costs and benefits which are to be borne by or enjoyed by the regulated and the general public following the implementation of regulations
5. Effects arising from the implementation of regulations on small and medium enterprises under Article 2 of the Framework Act on Small and Medium Enterprises
6. Whether competition-restricting factors are included
7. Objectivity and clarity of regulations
8. Administrative organisation, human resources, and required budget following the establishment or reinforcement of regulations
9. Whether documents required for relevant civil service, procedures for handling thereof, and other similar matters are appropriate.

All regulations defined by the Framework Act on Administrative Regulations fall under the requirement of RIA, including all primary and secondary laws within the jurisdiction of central administrative agencies. Based on the principle of separation of power, the affairs governed by the National Assembly and the Judiciary and the matters relevant to national defence and taxation are not subject to the Framework Act on Administrative Regulations, and thus exempted from RIA, as stipulated in Article 3. In details, the Act shall not apply to matters falling under any of the followings:

1. Affairs governed by the National Assembly, the Courts, the Constitutional Court, the Election Commission, and the Board of Audit and Inspection
2. Affairs relevant to criminal matters, criminal administration, and security actions
3. Matters relevant to intelligence and security-related duties under the National Intelligence Service Act
4. Matters relevant to enrolment, drafting, mobilisation and training under the provisions of the Military Service Act, the United Defence Act, the Establishment of Homeland Reserve Forces Act, the Framework Act on Civil Defence, the Emergency Resources Management Act, and the Framework Act on the Management of Disaster and Safety
5. Matters relevant to military facilities, military confidentiality, and defence industries
6. Matters relevant to the items, rates, imposition and collection of taxes.

However, to reduce unnecessary burdens of central administrative agencies, a RIA statement can be drafted in a standard or simple form.

Table 3.2. **Difference between standard and simplified RIA**

	Criteria	Requirement
Standard RIA	<ul style="list-style-type: none"> • All regulations aside from the regulations fall under the criteria of simplified RIA 	<ul style="list-style-type: none"> • All requirements stipulated in Chapter 2, Article 7 of the Framework Act on Administrative Regulations
Simplified RIA	<ul style="list-style-type: none"> • Administrative actions that impose penalties, fines, etc. • Regulations that hold legal authority delegated by higher legislations yet contain insignificant regulatory elements • Procedural regulation imposed by beneficial administrative actions • Regulations that are introduced for the purpose of administrative inspection 	<ul style="list-style-type: none"> • Cost-benefit analysis must be reviewed by the regulatory research centres • Simplified cost-benefit analysis or qualitative analysis is required instead • Single alternative to the proposed regulation is required

RIA process

The head of a central administrative agency is responsible for conducting RIA. When introducing a new regulation or reinforcing an existing regulation, the responsible agency conducts a cost-benefit analysis as part of the RIA with the help of CBA experts from the affiliated research institutes.

Figure 3.4. **Regulatory impact analysis process in Korea**

	Procedure	Responsible Agency	Procedural Information
Initial stage of a bill	Drafting of a Bill	Central Administrative Agencies	<ul style="list-style-type: none"> Drafting a bill through stakeholders' engagement
	Prior consultation	Regulatory Reform Office (RRO)	<ul style="list-style-type: none"> Determining whether the drafted bill is subject to regulatory review
Regulatory impact analysis	Drafting of a RIAS	Central Administrative Agencies	<ul style="list-style-type: none"> Conducting RIA and drafting a RIA Statement (RIAS)
	Advance Notice of the Proposed Legislation	Central Administrative Agencies	<ul style="list-style-type: none"> Making an advance notice for 40 days
	Ruling on the Applicability for CICO	Regulatory Research Centres (KDI, KIPA)	<ul style="list-style-type: none"> Determining whether the drafted bill is subject to CICO
	Validity Assessment of RIA and CICO	Technical Committee on Regulatory Cost (Regulatory Reform Committee)	<ul style="list-style-type: none"> Testing the robustness of cost-benefit analysis in RIA/CICO
	Review by the Technical Committee on Regulatory Cost	Regulatory Reform Task Force	<ul style="list-style-type: none"> Conducting a final review on cost-benefit analysis, if the regulation falls under the scope of CICO
Regulatory review	Regulatory Impact Analysis on SMEs, Competition and Technology		<ul style="list-style-type: none"> If necessary, an additional RIA on SMEs, competition and technology is requested to SMBA, FTC, and KATS, respectively
	Internal review	Internal Regulatory Reform Committee in the Central Administrative Agencies	<ul style="list-style-type: none"> Conducting a regulatory review within the responsible central administrative agencies
	Preliminary review	Regulatory Reform Committee	<ul style="list-style-type: none"> Conducting an online review to classify the bill into significant and less significant regulation
	General review	Regulatory Reform Committee	<ul style="list-style-type: none"> Conducting an in-person review on the significant regulatory bill.

The RIA is a multi-layer process composed of various steps. A RIA statement is initially prepared by the concerning central administrative agency through co-operation with experts in related fields, supported by agencies such as the Small and Medium Business Administration (SMBA), Fair Trade Commission, and Korea Agency for Technology and Standards (KATS), and then reviewed by the internal regulatory reform committee in each central administrative agency. In case of significant regulations, the RIAs are referred to the regulatory research centres at the Korea Development Institute (KDI) and the Korea Institute of Public Administration (KIPA) for the review of cost-benefit analysis.

More specifically, once a RIA is finalised and submitted by the central administrative agency, the RRC reviews the regulatory proposals and classifies the proposals into significant and less significant proposals based on the size of assessed impacts. The RRC then conducts in-person meetings only for regulatory proposals classified as significant. During the meetings, the RRC conducts an in-depth analysis of direct and indirect economic, social, and administrative impacts on the general public and businesses, with a particular focus on SMEs, competition and technology, as well as the review of stakeholders' opinions. Any decision made by the RRC on the regulatory proposals is considered to be final, and must be adhered by the central administrative agencies.

As a means to enhance the quality of RIAs, the RRC regularly issues a guideline on the preparation of RIAs. A central administrative agency, then, drafts a RIA on the proposed regulation in accordance with the guideline, and conducts a regulatory review through its internal regulatory reform committee. The central administrative agency is also required to publish the RIA to the general public during the advance notice period of the proposed legislation for the duration of approximately 40 days, as required by the Framework Act on Administrative Regulations.

Building foundation for the CICO implementation

The web-based e-RIA system assists in making a quantitative comparison among all considered alternatives to the proposed regulation, as the system requires all costs and benefits associated with each alternative to be measured and quantified. Such quantification of all costs and benefits enabled the introduction of “Cost-in, Cost-out” (CICO) which is implemented based on the net direct cost of regulation calculated through the RIA.

The e-RIA system has a standard calculation model laid out for eight (8) types of direct costs in the computerised RIA statement form. The total direct costs are automatically computed once the user inserts the correct numbers for all fields. For specific examples, see Box 3.3:

Box 3.3. Methodology for calculating direct costs

Administrative burdens

- Personnel expenses: (number of personnel per year) x (amount of time spent per year) x (wage per hour) x (number of regulated)
- Other expenses: (price) x (frequency of occurrence per year) x (number of the regulated).

Box 3.3. Methodology for calculating direct costs (cont.)**Direct labour costs**

- Personnel expenses: (number of personnel per year) x (amount of time spent per year) x (wage per hour) x (number of regulated)
- The amount of time spent can be estimated through either directly attaining the information from the regulated or utilising available information sources, such as standard estimates and similar case studies
- Wage per hour is estimated through either directly attaining the information from the regulated industries or referring to the average labour costs, in particular industrial fields or the entire economy according to the scope of regulation.

Education or training costs

- Trainer's wage: (number of lectures per year) x (lecture service fees + other miscellaneous fees) x (number of the regulated)
- Tuition fees: (number of educated individuals) x (number of lectures per year) x (tuition fees) x (number of the regulated)
- Opportunity costs: (day-to-day operating profits) x (number of days lost from conducting lectures) x (number of the regulated).

Costs of external service

- Direct attainment of information from the relevant service providers is preferable to indirect methods since they can provide more precise information on the specific contents or costs of the service used
- Costs of consultation service: (fees for expert services) x (number of experts) x (frequency of usage of services) x (number of the regulated)
- Costs of external services, excluding consultation services:
 - Installation fees: (system installation fees) x (number of the regulated).
- Operating fees: (number of external personnel including secondees) x (system operating fees) x (frequency of usage of services) x (number of the regulated).

The government continues to increase its efforts to develop and expand the use of CICO among central administrative agencies. At present, there are 27 central administrative agencies covered by CICO.

Capacity-building for regulatory management***Number of regulatory officials***

There are around 60 staff members working to co-ordinate and manage the regulatory policies at the Regulatory Reform Office in the Prime Minister's Office of Korea. The number of staff members expands to around 90, including the personnel in the Public-Private Joint Regulation Advancement Initiative that is jointly led by the RRO and the non-government organisations such as the Korea Federation of SMEs (KBIZ) and the Korea Chamber of Commerce and Industry (KCCI). In addition to the RRO, the Regulatory Reform and Legal Affairs Division is set up in each central administrative

agency to oversee the regulatory reform affairs that are under the jurisdiction of each agency. Although the size of the Regulatory Reform and Legal Affairs Divisions varies by agency, there are generally around ten staffs assigned to the regulatory tasks within each agency.

Hence, considering that there are 38 central administrative agencies, the total number of government officials in charge of regulatory affairs is around 400 in Korea. Moreover, 613 local government officials are involved in regulatory reform affairs at the local level.

Capacity-building for regulatory reform

Since the introduction of RIA in 1998, public officials' overall knowledge of regulation and their capacity for regulatory analysis have improved incrementally. However, in terms of conducting objective, quantitative, and evidence-based analysis of regulatory impact, public officials have yet to be fully equipped with relevant expertise and skills.

For the purpose of regulatory quality improvement and capacity building of the public officials in-charge, various training and consulting programs are provided by the RRO, the National Human Resources Development Institute (NHI), the Local Government Officials Development Institute, and the regulatory research centres such the KDI Center for Regulatory Studies and the KIPA Department of Regulatory Research.

In particular, the RRO regularly provides informative sessions on regulatory reform policies, distributes video clips on regulatory reform cases, and develops online and offline programs such as “Regulatory Reform of the Government” and “Learning Regulatory Reform by Cases”. These online programs, intended for both general government officials and regulatory officials, are provided by the National Human Resources Development Institute E-Learning Center (<http://e-learning.nhi.go.kr>). The NHI also provides offline programs on regulatory reform tailored for various levels of public officials.

Table 3.3. Syllabus for online programmes: “Regulatory Reform of the Government” (as of 2016)

Theme	#	Contents
Necessity of regulatory reform	1	Necessity of regulatory reform and success cases
Significance of regulatory reform	2	Significance of administrative regulation and standards of classification for administrative regulation
	3	Overview of regulatory reform policies in Korea
	4	Behavioural change of public officials
Institutional framework for regulatory reform	5	Regulatory registry system
	6	Improvement of existing regulations
	7	Review process of regulations to be newly introduced or reinforced
	8	Regulatory impact analysis and “Cost-in, Cost-out”
Lessons learned from international cases	9	Regulatory reform of local governments
	10	Regulatory Reform <i>Sinmungo</i>
	11	International cases of regulatory reform

The regulatory research centres such the KDI Center for Regulatory Studies and the KIPA Department of Regulatory Research provides regulatory consulting sessions. For instance, KIPA conducted 5 regulatory training sessions in 2014 and 20 sessions in 2015.

In addition, the RRO, KDI, and KIPA jointly provided 6 training sessions on the e-Regulatory Impact Analysis and 18 sessions on the CICO from July 2014 to March 2016.

Lastly, in order to provide similar training for local government officials, the Local Government Officials Development Institute has continued to provide online training sessions by utilising the same contents of the online program provided by the NHI.

As for the offline training, various courses on regulatory reform have also been offered to local government officials. As a result, a total of 514 local government officials completed their training courses on regulatory reform between 2014 and 2015, such as “Training Programme on Local Regulatory Reform” and “Seminar on Policy Tasks of the Administration for High-Ranking Local Government Officials”.

Table 3.4. A sample syllabus for offline programmes

Subject	Contents
1 Recognition of policy directions	Governments' basic policy for regulatory reform Policy for improving local regulation Case study: local regulatory reform
2 Regulatory reform cases	Regulations in urban planning project Field trip
3 Reinforcing Capability for Solving Problems	Discussions on lessons learned from the field trip and improvement measures

The RRO plans to expand and strengthen training sessions on RIA for public officials from 2017, through close co-operation with the National Human Resources Development Institute (NHI), KIPA, and KDI. In this regard, NHI has developed a training session on RIA as part of the mandatory training courses it offers to public officials on various occasions. Meanwhile, KIPA has developed a standardised textbook for training public officials, and KDI has developed the contents of the training sessions with a particular focus on case studies and actual practices. The training sessions are designed to make the public officials draft RIA statements on the actual cases on the spot, which is expected to provide practical knowledge and experience for public officials who are directly in charge of regulatory policies.

With the newly developed plan in 2017, around 400 public officials who are newly recruited as deputy directors and around 1 700 public officials who are newly promoted to the deputy director level will be mandated to take the training session on RIA. In addition, around 70 high-level public officials and around 80 public officials who are directly in charge of regulatory reform will also be mandated to complete the session.

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Chapter 4

The process of designing regulations in Korea

This chapter focuses on the regulation-making procedure in Korea, which includes the roles and responsibilities of each regulatory body for newly introduced, reinforced, or relaxed regulations. It also presents the various initiatives implemented to increase transparency and public access to the regulatory process through engaging with stakeholders and establishing partnerships with the private sector.

Decision making and governing body

Regulation making process

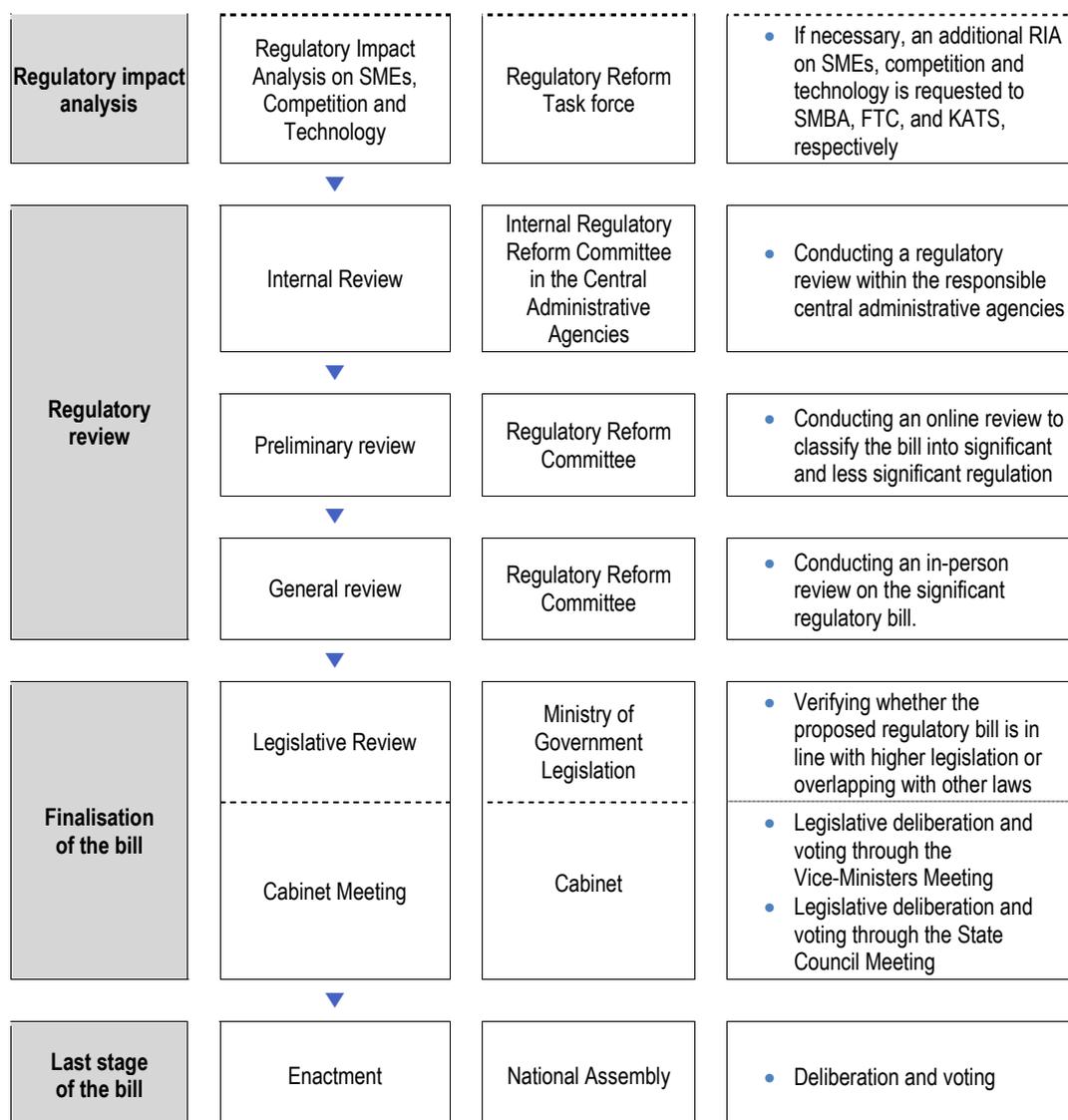
For primary legislation that contains regulation, a central administrative agency is required to conduct RIA, make an advance notice of the proposed legislation, engage stakeholders in the RIA process, conduct an internal regulatory review, and submit the RIA statement to the RRC for a final review. After the completion of the entire RIA process, the regulatory bill is submitted to the Ministry of Legislation for legislative review. Subsequently, the bill is submitted to the Vice-Ministers Meeting, and then to the State Council Meeting for finalisation of the bill. Lastly, the bill is passed to the National Assembly for deliberation and final approval. Once the bill is passed by the National Assembly, the bill obtains the legal authority as an “Act”.

For secondary legislation that contains regulation, all of the aforementioned procedures are required, except for the enactment procedure of the National Assembly. The secondary legislation is finalised within the executive branch.

Figure 4.1. Regulation making process in Korea

	Procedure	Responsible Agency	Procedural Information
Initial stage of a bill	Drafting of a bill	Central Administrative Agencies	<ul style="list-style-type: none"> Drafting a bill through stakeholder engagement
	Prior consultation	Regulatory Reform Office (RRO)	<ul style="list-style-type: none"> Determining whether the drafted bill is subject to regulatory review
Regulatory impact analysis	Drafting of a RIAS	Central Administrative Agencies	<ul style="list-style-type: none"> Conducting RIA and drafting a RIA Statement (RIAS)
	Advance Notice of the Proposed Legislation	Central Administrative Agencies	<ul style="list-style-type: none"> Making an advance notice for 40 days
	Ruling on the Applicability for CICO	Regulatory Research Centres (KDI, KIPA)	<ul style="list-style-type: none"> Determining whether the drafted bill is subject to CICO
	Validity Assessment of RIA and CICO	Regulatory Research Centres (KDI, KIPA)	<ul style="list-style-type: none"> Testing the robustness of cost-benefit analysis in RIA/CICO
	Review by the Technical Committee on Regulatory Cost	Technical Committee on Regulatory Cost (Regulatory Reform Committee)	<ul style="list-style-type: none"> Conducting a final review on cost-benefit analysis, if the regulation falls under the scope of CICO

Figure 4.1. Regulation making process in Korea (cont.)



Review of regulatory proposals

There are several key players that are involved in the process of regulatory review. First, an internal regulatory reform committee in each central administrative agency plays a significant role in amending and substantiating the RIA statement (RIAS) with any additional or necessary evidence based on the quantified data and stakeholders' opinions. The internal regulatory reform committee is composed of 10 to 20 members who represent government and non-government sectors, with a condition that non-government experts shall form a simple majority of the committee membership.

Second, Small and Medium Business Administration (SMBA), Fair Trade Commission (FTC), and Korea Agency for Technology and Standards (KATS) have established the Regulatory Reform Task Force within their own jurisdiction to provide expert opinions on regulations that concern SMEs, competition, and technology, respectively. During the process of regulatory review, if the RRO determines the

necessity of more in-depth review on regulatory proposals that concern any of the above-mentioned fields, the RRO can request SMBA, FTC, and KATS to conduct an additional impact assessment to substantiate and improve the quality of RIA.

Third, regulatory research centres at KDI and KIPA are in charge of verifying the validity of RIA, with a particular focus on the cost-benefit analysis. In the regulatory review process, KDI is responsible for the assessment of RIA statements (RIAS) drafted by economic central administrative agencies, while KIPA is in charge of the assessment of RIAS drafted by social and administrative central administrative agencies. Furthermore, KDI and KIPA perform an in-depth review of cost-benefit analysis conducted for regulations that fall under the scope of CICO. When KDI and KIPA conduct this particular review, they have the authority to issue a clearance on the reviewed cost-benefit analysis (CICO). If there is any error or ambiguity found in the cost-benefit analysis, KDI and KIPA can return the analysis for partial or complete revision. Such clearance from the research centres is required in order to continue the review process, which cannot be detoured.

Fourth, the RRO serves the role of Secretariat for the RRC. During the initial stage of rule-making, the RRO determines whether the proposed bill is subject to regulatory review. Moreover, when conflicts of interests among central administrative agencies arise in relation to regulatory direction (whether to relax or reinforce), content (whether to focus on industrial rearing or public safety & environment), and degree (whether to make the regulation more restrictive or less restrictive), the RRO takes the role of mediating and resolving the conflicts. In addition, in the process of regulatory review, the RRO determines the necessity of additional impact assessment on SMEs, competition, and technology, and exercises the authority to request SMBA, FTC and KATS to perform the review on these specific fields, if deemed necessary.

Fifth, the RRC is the final decision-making and central oversight body of regulatory reform in Korea. The RRC is mandated to co-ordinate and deliberate on matters concerning i) basic direction-setting for regulatory reform policy as well as research and development of the regulatory system; ii) review of regulations to be established or reinforced; iii) review of existing regulations, and establishment and implementation of comprehensive plan for regulatory reform; iv) registration and announcement of regulations; v) stakeholder engagement in regulatory improvement; vi) inspection and evaluation of regulatory reform efforts conducted by each administrative agency; and vii) other issues deemed by the chairperson of the RRC as requiring further deliberation and co-ordination.

The RRC is composed of the Economic Sub-Committee and the Administrative and Social Sub-Committee to separately review regulations according to their nature. Members of the RRC are from both the government and non-government sector, and their participation in the committee is done on a part-time basis. The RRC meets twice a month on Fridays to deliberate on significant regulations. From the government side, the RRC is comprised of the prime minister, ministers from the Ministry of Strategy and Finance, Ministry of the Interior, Ministry of Trade, Industry and Energy, Ministry of Public Safety and Security, Office for Government Policy Coordination, and Ministry of Government Legislation and the chair of the Fair Trade Commission. On the other hand, the rest of the RRC is composed of 17 non-government representatives, which includes one chair and 8 non-government representatives under each sub-committee.

Annually, around 80 regulatory proposals are reviewed weekly by the RRC mostly via online. Among them, around 8 significant regulatory proposals are reviewed bi-weekly in the in-person meeting of the RRC. Following the review, the RRC has the authority to make a final decision on the regulatory proposal, such as “approval”, “recommendation for revision”, and “withdrawal”. Without the RRC’s clearance, the regulatory proposal or bill cannot be enacted into a law.

Table 4.1. Number of examined regulations by ministry in 2016

Name of Central Administrative Agency	Reviewed Regulatory Proposals [A]+[B]	Less Significant Regulatory Proposals [A]	Significant Regulatory Proposals				Regulatory Proposals Approved Without Revision [A]+[C]
			All [B]	Withdrawal Recommended	Revision Recommended	Approval [C]	
Ministry of Strategy and Finance	12	12	0	0	0	0	12
Fair Trade commission	33	32	1	0	1	0	32
Financial Services Commission	189	178	11	1	7	3	181
Financial Supervisory Service	29	28	1	0	1	0	28
Korea Customs Service	2	2	0	0	0	0	2
Ministry of Trade, Industry and Energy	65	64	1	0	0	1	65
Small and Medium Business Administration	14	14	0	0	0	0	14
Korea Intellectual Property Office	3	2	1	0	1	0	2
Ministry of Land, Infrastructure and Transport	157	147	10	1	8	1	148
Ministry of Oceans and Fisheries	117	116	1	0	0	1	117
Ministry of Agriculture, Food and Rural Affairs	55	55	0	0	0	0	55
Korea Forest Service	12	12	0	0	0	0	12
Korea Communications Commission	36	35	1	0	1	0	35
Ministry of Employment and Labor	56	55	1	0	1	0	55
Korea Meteorological Administration	0	0	0	0	0	0	0
Ministry of Environment	142	132	10	1	6	3	135
Ministry of Education	25	24	1	1	0	0	24
Ministry of Science, ICT and future Planning	37	35	2	0	1	1	36
Ministry of Culture, Sports and Tourism	58	55	3	0	3	0	55
Cultural Heritage Administration	14	14	0	0	0	0	14
Nuclear Safety and Security Commission	15	15	0	0	0	0	15

Table 4.1. Number of examined regulations by ministry in 2016 (cont.)

Name of Central Administrative Agency	Reviewed Regulatory Proposals [A]+[B]	Less Significant Regulatory Proposals [A]	Significant Regulatory Proposals				Regulatory Proposals Approved Without Revision [A]+[C]
			All [B]	Withdrawal Recommended	Revision Recommended	Approval [C]	
Ministry of Health and Welfare	137	133	4	0	3	1	134
Ministry of Gender Equality and Family	0	0	0	0	0	0	0
Ministry of Food and Drug Safety	97	96	1	0	0	1	97
Ministry of Unification	1	1	0	0	0	0	1
Ministry of Foreign Affairs	4	4	0	0	0	0	4
Ministry of National Defence	0	0	0	0	0	0	0
Ministry of Patriots and Veterans Affairs	23	21	2	0	2	0	21
Ministry of the interior	17	17	0	0	0	0	17
Ministry of Personnel Management	1	1	0	0	0	0	1
Ministry of Justice	13	13	0	0	0	0	13
National Police Agency	11	10	1	0	0	1	11
Military Manpower Administration	0	0	0	0	0	0	0
Anti-Corruption and Civil Rights Commission	17	15	2	0	2	0	15
Rural Development Administration	0	0	0	0	0	0	0
Ministry of Public Safety and Security	98	95	3	0	3	0	95
Statistics Korea	1	1	0	0	0	0	1
Total	1 491	1 434	57	4	40	13	1 447

Stakeholder engagement and transparency

Provisions for stakeholder engagement

In accordance with the Framework Act on Administrative Regulations, when the head of a central administrative agency intends to establish a new regulation or reinforce existing regulations, he or she shall sufficiently consult the opinions of stakeholders such as administrative agencies, civic groups, research institutes and experts by means of public hearing and advance notice of proposed legislation.

Stakeholder engagement

The general public as well as all stakeholders are engaged in the rule-making process. In particular, opinions of direct stakeholders are consulted even prior to drafting a bill.

Once a central administrative agency drafts a regulatory bill, it is required to conduct RIA and draft a RIA statement (RIAS). Such drafted RIAS must contain the outline of regulation, comparison of alternatives to the proposed regulation, cost-benefit analysis, and stakeholder opinions. As the central administrative agency is obligated to publish the RIAS on the official gazette and its webpage during the advance notice period of proposed legislation, there is a built-in obligation to engage stakeholders before this period. When the RIAS is made public in the advance notice period, the central administrative agency collects opinions from all stakeholders and the general public, and provides feedbacks accordingly. Subsequently, the central administrative agency feeds these collected opinions into its regulatory bills, and conducts an internal review through the regulatory reform committee established within its agency.

After the regulatory proposal is finalised and submitted to the RRC for regulatory review, the RRC reviews the proposal along with its RIAS. If stakeholder engagement is deemed insufficient, the RRC can demand the central administrative agency to revise the RIAS.

In case of existing regulations, there are several offline and online platforms for the general public as well as stakeholders to be engaged in the regulatory reform process in Korea. Offline platforms include the Ministerial Meeting on Regulatory Reform chaired by the President, On-site Meeting on Regulatory Reform chaired by the Prime Minister, Public-Private Joint Regulation Advancement Initiative (PPJRAI), the Investment Committee on Emerging Industry, and the Small and Medium Business Ombudsman. All of these, with the exception of the Ministerial Meeting on Regulatory Reform, conduct field visits to specific areas to address regulatory issues faced by stakeholders.

Furthermore, on-line channels include the Regulatory Information Portal, Regulatory Reform *Sinmungo*, and e-Legislation Centre (www.lawmaking.go.kr). For example, the Regulatory Information Portal publishes all RIA statements as well as all regulatory information on the regulatory review process and the RRC. Through the Regulatory Information Portal, users can easily find regulations that are relevant to their own interests.

Table 4.2. User-customised search system for regulations

	Details
Theme	Regulations are classified into various themes including family law, early childhood and youth education, housing, money and banking, business, entrepreneurship, customer, cultural or leisure activities, lawsuit, transportation, labour, welfare, etc.
Customised user description	A list of regulations is provided after the user selects his/her basic personal information including age, gender, family and marital status, employment status, etc.
Stages of life cycle	Regulations are classified into different stages of life cycle, such as birth, childhood, adolescence, youth, midlife and old age
Day-to-day issue	Regulations are classified into various issues that impact daily lives, such as wage, sexual assault, domestic violence, child abuse, and pension

The Regulatory Reform *Sinmungo*, established in 2014, serves as a platform for the general public and businesses to participate in the government's regulatory reform efforts by giving them opportunities to file petitions on regulatory reform to the government. It also serves as a one-stop shop that integrates all existing channels of regulatory petitions

in all central administrative agencies. The petition system of the Regulatory Reform *Sinmungo* consists of three steps. When a petition is filed to the *Sinmungo*, the public official in charge must respond to the petitioner within 14 days whether to accept the petition or not. If the rejected petitions are deemed reasonable by the RRO, the responsible agency would need to justify the grounds for refusal and inform the petitioner accordingly within three months' time. However, if the submitted petition is deemed urgent, the responsible agency is required to provide a feedback within one week. Also, if the agency decides to reject the urgent petition yet deemed reasonable by the RRO, the agency must provide proper justification within one month. Lastly, if the rationale for refusal is not sufficiently justified, the RRC can issue recommendations to the responsible agency for regulatory improvement. As of November 2016, around 40% of the regulatory petitions (3 769 petitions) have been accepted, which resulted in significant improvement.

The e-Legislation Center also provides an online platform for the general public to propose a bill, submit opinions on the regulatory bills, and request easier interpretation of the laws. Any opinion or suggestion submitted through the e-Legislation Centre is delivered to the relevant central administrative agency, and the agency is required to provide feedbacks.

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Chapter 5

Implementation and outcome in Korea

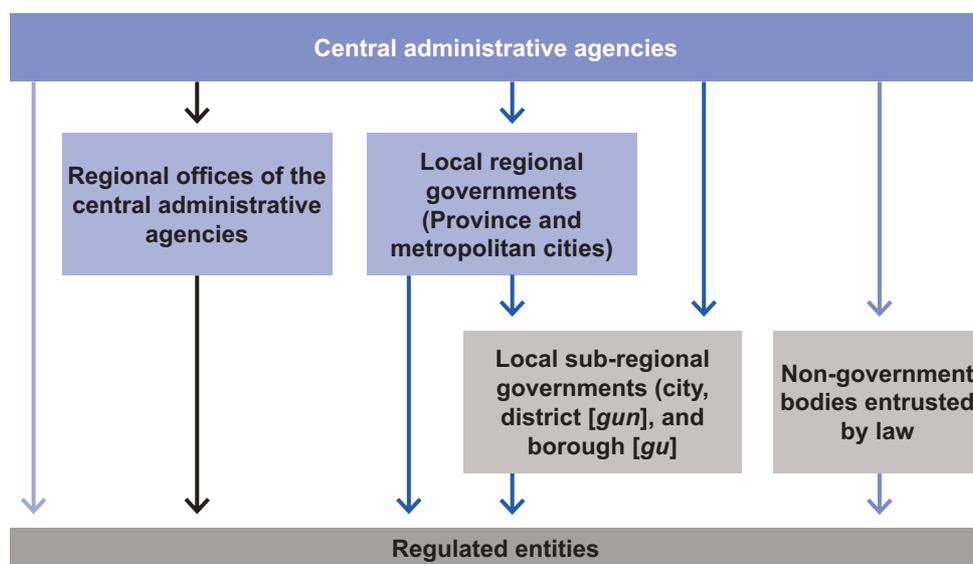
This chapter looks at the institutional framework and the mechanisms for the enforcement and inspection for the implementation of regulations, compliance by relevant stakeholders, and appeal processes. It also provides concrete examples of the implementation of regulatory delivery strategies, with a focus on occupational safety and health. Furthermore, it presents current and planned initiatives to monitor and evaluate regulatory performance, such as reviews, surveys, and a futuristic regulatory map. The chapter also looks at the role of local governments in the delivery of regulation.

Compliance, inspection and enforcement

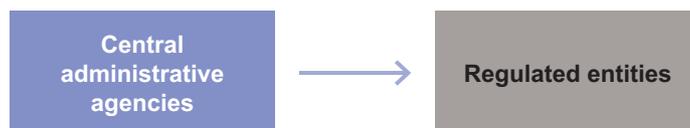
Regulatory delivery

Regulatory enforcement is carried out not only by central administrative agencies but also by their regional offices, local governments (regional and sub-regional), and non-government bodies entrusted by law. As shown below, the delivery procedure of each regulation may vary, as the authority of regulatory enforcement is often delegated to other bodies.

Figure 5.1. Delivery procedure of regulations



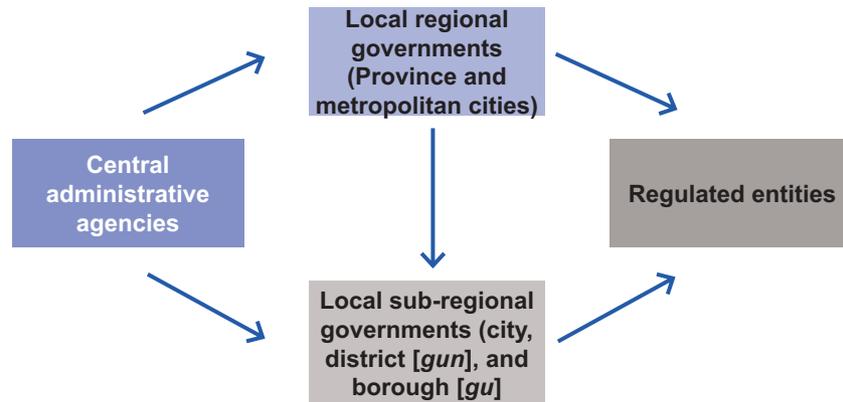
When a central administrative agency establishes and directly enforces a regulation, the regulatory delivery procedure is as follows:



When a central administrative agency establishes a regulation and enforces the regulation through its regional offices, the regulatory delivery procedure is as follows:



When the local government is responsible for enforcement, the regulatory delivery procedure is as follows:



In such case, a central administrative agency delegates the role of regulatory enforcement to local governments, which is divided into two levels: i) provinces or metropolitan cities and ii) cities, districts [*gun*] or boroughs [*gu*].

The local government’s regulatory enforcement procedure can take one of the following channels: i) the local regional government directly enforces regulations that impact citizens and businesses in the region under its jurisdiction; ii) the local regional government enforces regulations through the sub-regional government; or iii) the sub-regional government independently and directly enforces regulations.

Finally, when a central administrative agency delegates the role of regulatory enforcement to non-government bodies, such as Korea Occupational Safety and Health Agency, National Health Insurance Service, and Association of Medical Personnel, the regulatory delivery procedure is as follows:



Regulatory compliance

In 2002, the Korean government emphasised the importance of regulatory compliance. In this effort, the RRO issued the “Guideline for Regulatory Survey and Application Methods”. In accordance with the guideline, from 2002 to 2012, the Ministry of Environment has conducted an annual survey on regulatory compliance. The compliance survey is designed to investigate the levels of awareness, recognition, and conformity of the regulated, enforcement officers, and the general public. The survey is composed of the following elements:

Table 5.1. Survey items for regulatory compliance measurement

Survey Item	Measures for raising regulatory compliance	
Regulatory awareness level	Awareness	<ul style="list-style-type: none"> • Informative promotion programme
	Comprehension	<ul style="list-style-type: none"> • Policy promotion, seminar, and simplification of legal terms in regulations
	Clarity	<ul style="list-style-type: none"> • Use of plain language in regulation
		<ul style="list-style-type: none"> • Clear stipulation of the legal basis on which subordinate legislations are based • Provision of clear examples for ambiguous contents of the regulation

Table 5.1. Survey items for regulatory compliance measurement (*cont.*)

Survey Item	Measures for raising regulatory compliance
Regulatory recognition level	Necessity <ul style="list-style-type: none"> • Review of the reasonability of existing regulations • Securing the public support for the abolition of unreasonable regulations by means of public debate or cost-benefit analysis • Consideration of other alternatives to the existing regulations if deemed unfeasible
	Adequacy <ul style="list-style-type: none"> • Adoption of a priority driven approach to regulatory design, which gives a priority to non-regulatory alternatives, and then to regulatory alternatives
	Fitness for purpose <ul style="list-style-type: none"> • Consideration of other alternatives if regulation is needed
Regulatory conformity level	Conformity <ul style="list-style-type: none"> • Differentiation of regulatory intensity in accordance with the level of regulatory conformity
	Enforcement <ul style="list-style-type: none"> • Consideration of non-“command and control” regulatory enforcement measures, such self-regulation, voluntary agreement, and economic inducement
	Adequacy of penalty imposition <ul style="list-style-type: none"> • Enhancement of the effectiveness of penalty on regulatory violation

The following table is a summary of the results of a regulatory compliance survey conducted by the Ministry of Environment from 2002 to 2012.

Table 5.2. Environmental regulatory compliance: survey results from 2002 to 2012

Year	Regulation	Regulatory awareness level	Regulatory recognition level	Regulatory conformity level	Regulatory compliance level
2002	The Emission Charge System	3.2	3.6	3.1	3.3
2002	The Business Waste Reduction System	2.9	3.8	3.0	3.2
2003	Making and Submitting Environmental Impact Assessment Reports	4.0	3.7	3.0	3.6
2003	The Volatile Organic Compounds Control	3.3	3.5	3.0	3.3
2004	The Obligation of Waste Treatment Standards Compliance	3.3	3.6	3.5	3.5
2005	The Prior Environmental Review System	3.5	3.5	3.0	3.3
2006	The Duty of Indoor Air Quality Measurement	3.6	3.5	3.2	3.5
2007	The Obligation of Groundwater Quality Inspection	3.1	3.5	3.0	3.2
2008	The Obligation of Proper Management of Toxic	3.3	3.6	3.2	3.4
2009	The Obligation of Noise Limitation Compliance Inside of a Building	2.6	3.2	2.7	2.9
2010	The Obligation of Food Waste Reduction for Business	3.1	3.2	3.2	3.2
2011	The Obligation to Use Clean Fuels	3.5	4.1	3.4	3.7
2012	The Restriction on the Use of Disposable Products	3.5	3.2	3.2	3.3

Note: All scores are ranged from 0 to 5; and the scores of the ‘Regulatory Compliance Level’ are averaged from the total value of other three levels.

Appeal process for regulatory enforcement decisions

Korea provides a range of opinions for appealing against the decision of regulatory enforcement. First, any individual or business, regardless of nationality, can file a petition against unreasonable or unfair regulations through Regulatory Reform *Sinmungo* e-petition system. Once a petition is submitted, the responsible central administrative agency is required to address the issue by either amending the concerned regulation or providing a detailed explanation as to why the regulation should remain intact. However, if the rationale for refusal to accept the petition is deemed unreasonable, the RRC has the ultimate authority to recommend the responsible central administrative agency to revise or improve the regulation accordingly. Second, any citizen can file a civil petition for grievance to the Anti-Corruption and Civil Rights Commission, if experiencing the infringement of his/her rights or any inconvenience or burden imposed by unlawful, unreasonable or passive administrative actions of an administrative agency or by unreasonable administrative system. In such case, the Anti-Corruption and Civil Rights Commission holds the authority to conduct a review of the filed petition, and recommend the responsible administrative agency to either rescind the concerned action or amend/abolish the relevant legal provisions. Third, any citizen, who experiences the infringement of rights or interests as a result of any unlawful or unfair administrative action or inaction of an administrative agency, can appeal to the Administrative Appeals Commission established under the jurisdiction of the Anti-Corruption and Civil Rights Commission. Unlike the above-mentioned grievance procedure, the Administrative Appeals Commission handles much narrower issues mostly concerning the significant infringement of rights, and requires substantive evidence akin to judicial procedures. The Administrative Appeals Commission can make the following decisions: i) mandating the responsible administrative agency to revoke the unlawful or unfair administrative action; ii) affirming the nullity of the addressed administrative action; and iii) demanding the responsible administrative agency to perform a certain action.

Appealing against regulatory enforcement decisions can also be done through judicial procedures. First, any citizen whose rights or interests are infringed by an unlawful administrative action or inaction of an administrative agency can file litigation to the Administrative Court against the responsible agency. Upon receiving the lawsuit, the Administrative Court can make the following decisions: i) mandating the responsible administrative agency to revoke the unlawful administrative action; and ii) affirming the nullity of the addressed administrative action. Second, any person whose fundamental rights, guaranteed by the Constitution of Korea, have been infringed by the public authority can file a constitutional complaint to the Constitutional Court of Korea, only if all other appeals processes are exhausted. Upon receiving the complaint, the Constitutional Court conducts a review of the concerned administrative action as well as the laws on which the administrative action is based. In this regard, the Constitutional Court has the ultimate authority to adjudicate on the constitutionality of the addressed administrative action and its laws.

Compliance, inspection and enforcement in occupational safety and health

The objective of regulations related to occupational safety and health is to prevent industrial accidents and promote a pleasant working environment for workers so as to improve their safety and health. The Occupational Safety and Health Act provide a strategic direction for issues related to occupational safety and health. Accordingly, the purposes of this Act are to maintain and promote the safety and health of workers by preventing industrial accidents through establishing standards on occupational safety and

health and clarifying where the responsibility lies, and to create a comfortable working environment.

Furthermore, Industrial accident prevention policies impose obligations on businesses to consistently update and improve indicators on industrial accidents, such as the industrial accident rates and the rates of death in industrial accidents.

The major legislations on occupational safety include one act, namely the Occupational Safety and Health Act, one enforcement degree, and three enforcement rules.* The majority of these legislations contain regulations imposing duties on business owners to prevent occupational hazard. The major regulations stipulated in the Occupational Safety and Health Act include requirements for establishing the safety and health management system in workplaces, preventing harm and danger to workers, providing the safety and health education for workers, ensuring health and safety where harmful and dangerous machinery, apparatuses, and other equipment are used, inspecting working environment, providing medical services like medical check-ups of workers, banning the manufacture of harmful and dangerous materials, prohibiting any contract for dangerous work without an approval of the Minister of Employment and Labor, and observing the permissible level of harmful factors.

The government continues to establish and enforce mid-term and long-term plans for industrial accident prevention in accordance with the Article 8 of the Occupational Safety and Health Act. Such plans were first established in 1991, and the government is in the midst of implementing the 4th Industrial Accident Prevention Five-Year Plan (2015-19) after a review from the Industrial Accident Compensation Insurance and Prevention Deliberation Committee and related experts on 27 January 2015.

As of 2016, there are 949 articles that are related to occupational safety and health in the legislations. However, businesses are not required to comply with all 949 articles as different industries are subject to different sets of regulatory articles. These articles include regulation specific to: i) ensuring safety in the workplace, ii) use of risk-prone equipment, iii) assessing risks/hazardous elements, or iv) medical check-ups for employers handling toxic substances.

As industrial accident prevention policies often contain regulation, the regulating agency generally takes into account various issues of regulatory reform. In this regard, the “Industrial Accident Compensation Insurance and Prevention Deliberation Committee” and the “Expert Committee on Occupational Safety and Health”, which are composed of representatives from both labour and management, serve as the key organisations under the Ministry of Employment and Labour, in accordance with the Article 8 of the Industrial Accident Compensation Insurance Act. Through these committees, employers and employees as well as other stakeholders are actively engaged in the rule-making and legislative amendment process.

Aside from this, in order to improve the occupational safety and health system, the Committee on Industrial Safety Innovation was established within the Economic and Social Development Commission of Korea. The said committee is represented not only by labour, management and government but also by experts in occupational safety and health policies.

*. The three enforcement rules include the Enforcement Rule on the Occupational Safety and Health Act; the Enforcement Rule on the Occupational Safety and Health Standards; and the Enforcement Rule on the Hazardous and Dangerous Work Employment Restriction.

In the field of occupational safety, workers demand more rigid regulations to protect workers' rights while businesses demand more relaxed regulations to further liberalise business activities. Given this condition, any decision to strengthen or ease regulations is made based on the changes in the policy environment.

Box 5.1. Examples of regulatory initiatives in occupational safety and health

Since 1999, consistent efforts of regulatory reform have been made concerning occupational safety.

Reinforced Regulation: given that the occurrence of industrial accidents is concentrated in businesses with less than 50 employees, the government imposed a legal obligation on any business with less than 50 employees to appoint a safety and health management officer (Occupational Safety and Health Acts amended on 27 January 2016).

Other efforts to strengthen regulation include the imposition of a requirement for building owners to conduct asbestos investigations when demolishing or dismantling buildings, and for business owners to report industrial accidents to the Regional Office of the Ministry of Employment and Labour.

Relaxed Regulation: the government differentiated the amount of fines levied to business owners based on the total cost of demolishing or dismantling buildings and the level of potential risk identified through asbestos investigations (Occupational Safety and Health Acts Enforcement Ordinance amended on 17 February 2016).

Other efforts to ease regulations include the exemption of businesses from regulation imposed by the Occupational Safety and Health Act if there are overlaps with other laws, and the replacement of heavy administrative penalty (imprisonment or service suspension) with monetary fines.

Labour inspectors from the Regional Offices of the Ministry of Employment and Labour are responsible for monitoring regulatory compliance. When labour inspectors from these regional offices detect and confirm the violation of laws on occupational safety and health, they transfer the case to a prosecutor who can press charge against the violator. The final decision on whether there was an actual infringement of the laws or not is made by the Court.

Upon the confirmation of the court, labour inspectors can implement corrective measures like monetary fines and penalties against the person or business that violated the law. If a violation is deemed as severe infringement of laws, labour inspectors can command a suspension order on the business in addition to taking administrative and legal actions.

Around 408 labour inspectors from 47 Regional Offices of the Ministry of Employment and Labour regularly visit and inspect businesses that have high potential risks and have recorded a high frequency of industrial accidents in the previous years. Labour inspectors mainly assess if businesses are properly complying with regulatory requirements imposed by primary and secondary laws on occupational safety and health.

Evaluating the performance of the sector

Evaluation of regulations related to occupational safety and health is performed in various ways. As the regulated entities can submit their opinions on regulations at any point of time through the Regulation Reform *Sinmungo*, evaluation of regulations on occupational safety and health can be easily made upon request.

Additionally, a regular assessment is performed on the regulation that contains a sunset clause which is to set a timeframe for reassessment to decide whether to extend its effective period or not. Moreover, the government reviews and manages overlapping regulations on occupational safety and health, and eliminates unnecessary regulatory burdens that are addressed by the relevant regulating agencies and the regulated entities. The government also regularly assesses various proposals from economic organisations to improve burdensome or unreasonable regulations, reviews thorn-under-the-fingernail regulations, and feeds the received proposals into the work of regulatory reform.

Table 5.3. Regulatory reform achievement related to occupational safety

Regulatory reform measure	Context of the proposal	Date of the proposal	Details of the achievement
Proposals from economic organizations	Burden reduction for working environment measuring costs	9 July 2015	Expansion of application scope and budget for the support (Dec. 2015)
	Support for the installation costs of the Clean Workplace, particularly regarding the product loading stands	9 July 2015	Amendment of budget support program guideline (Korea Occupational Safety and Health Agency, Oct. 2015)
	Deadline extension for re-examination period of the workers' health	30 March 2016	Amendment of the related public notification (until Dec. 2016)
	Relaxation of regulation regarding the installation of large doors in workplaces	26 March 2014	Amendment of Municipal Rule of Occupational Safety Health Standards (30 Sep. 2014)
Thorn-under-the-Nail	Simplification of the submission list of the business's report on the harm and danger prevention plan	2 April 2014	Amendment of Municipal Rule of Harm and Danger Prevention Plan Submission and Examination (29 Oct. 2014)
	Improvement on the installation plans of handrail pole installation	7 August 2014	Amendment of Municipal Rule of Occupational Safety Health Standards (31 Dec. 2015)
Regulatory Reform <i>Sinmungo</i>	Resolving the issues with unreasonable regulations regarding the designation of special health examination institution pursuant to the Occupational Safety and Health Act	12 February 2015	Amendment of related municipal rule through expert meeting and research on the actual condition of designated equipment of special health examination institution (17 Feb. 2016)
	Improvement on the investigation system of a new chemical risk investigation	19 September 2014	Amendment of related municipal rule to simplify the requirements upon registration of a new chemical totalling less than one ton (16 Jan. 2015)

Regulatory performance assessment

Regulatory performance assessment is conducted through *ex post* evaluation, Sunset Clause, and “Cost-in, Cost-out” (CICO). First, when introducing or reinforcing regulations, each central administrative agency is mandated to draft a plan of regulatory *ex post* evaluation as part of the RIA statement. The *ex post* evaluation is designed to: i) review the achievement progress of the regulation’s first-hand objectives; ii) consider any other less-regulatory alternatives, in accordance with changing environment; and iii) monitor the regulated entities’ compliance and satisfaction. This measure is introduced to ensure the overall quality of regulations and justify existing regulations.

Second, as another policy tool to conduct *ex post* evaluation, central administrative agencies are mandated to include a sunset clause in all regulations unless there are particular reasons not to obligate a sunset requirement. Sunset clauses can take the form of “review and sunset” or “outright sunset” with the explicitly stated timeframe which is usually three years and shall not exceed a maximum of five years. Such requirement

induces central administrative agencies to conduct a retrospective or *ex post* evaluation of existing regulations, and actively revise, improve, or repeal those that do not serve the originally intended purpose.

Third, launched as a pilot project in 2014, the “Cost-in, Cost-out” (CICO) has been formally entered into full force in July 2016 by the ordinance of the Prime Minister. CICO is a mechanism to restrict the increase of the costs of newly introduced or reinforced regulations by abolishing or relaxing regulations that carry an equal or more amount of costs. As of now, 27 central administrative agencies have adopted CICO concerning regulations that generate direct costs for profit-seeking activities of any individual or business. Since CICO requires the responsible agency to conduct a cost-benefit analysis for outgoing regulations that are bound to offset the costs of newly introduced regulations, there is a built-in mechanism to reassess the validity, rationality, and appropriateness of the existing regulations.

Furthermore, to assess the regulatory performance of each central administrative agency, the Government Performance Evaluation Committee annually evaluates the government performance of regulatory reform, along with other evaluation criteria such as the government’s implementation of policy tasks of the administration and policy promotion program. Every year, the Regulatory Reform Committee updates or revises the evaluation criteria to make regulatory reform efforts closely in line with core national agenda initiatives, and informs all government agencies of the expected evaluation criteria and indicators to ensure a whole-of-government approach to regulatory reform. In particular, the evaluation criteria include the quality of RIA, the improvement of existing regulations, and the performance of Regulatory Reform *Sinmungo*. The annual evaluation, however, does not provide a numerical value that is given to each regulating agency per evaluation criteria, but instead ranks the evaluated agencies on a three-tier scale.

Monitoring progress of regulatory reduction initiatives

Each administration has adopted distinct institutions or measures to continue its push for their respective regulatory reduction initiatives. The Kim Dae-Jung administration (1998-2003) reduced the number of regulations by half through the Regulatory Guillotine. The Roh Moo-hyun administration (2003-08) subsequently continued this effort for regulatory reduction through the Regulatory Stock Management System. The Roh administration focused its regulatory reform goals not only on reducing the number of regulations but also on quality improvement. In this effort, the Roh administration established the Public-Private Joint Regulatory Reform Planning Initiative to target the bundled regulations that concern various central administrative agencies and laws.

During the Lee Myung-bak administration (2008-13), the Temporary Regulatory Relief (TRR) was introduced to reduce regulatory burdens on the general public and businesses by temporarily suspending or relaxing the regulations. Moreover, the Lee administration extended the scope of sunset clause in 2009 by introducing “review and sunset clause” in addition to the previous “outright sunset clause” that has been implemented since 1998.

The Park Geun-hye administration (2013-17) launched the Economic Regulation 10% Reduction Plans to continue supporting the regulatory reduction initiatives of the past administrations.

In addition, the Park Geun-hye administration (2013-17) launched the Ministerial Meetings on Regulatory Reform to demonstrate strong political support for regulatory reform. In addition, the Park administration launched the Investment Committee on Emerging Industries in March 2016 in order to get rid of unreasonable obstacles to emerging industries.

Box 5.2. Examples of successful cases of regulatory reform in Korea

Case 1. Land-use regulations

The revision of land-use regulation has helped expand a semi-conductor company in the Banwol Industrial Complex, which generated USD 600 million in investment and 2 000 hired employees.

At the same time, the revised land-use regulation has also helped resume the plan to build a tourist complex in Kangwon Province with the investment size of USD 300 million.

Case 2. Reducing the burdens on the emerging industry

By easing the barriers to entry in the car sharing service industry, the number of employees in the industry increased by 6.3% (400 000 to 2.5 million). At the same time, the industry service zone was expanded by 2.6% (1 400 to 3 600) and the number of service cars increased by 3.1% (2 000 to 6 500).

Customer satisfaction survey on regulatory reform

Despite the government's strong commitment to regulatory reform, the general public has continued to experience a low level of improvement in their daily lives. To address this discrepancy between government efforts and public satisfaction, the RRC has been annually conducting customer satisfaction surveys on regulatory reform as part of the government performance evaluation of regulatory reform. The survey is conducted on the perception of the general public, stakeholders, experts and government officials on regulatory reform efforts of the government, in terms of regulatory contents, process, performance, and impacts on daily lives. In this regard, the RRC collects the survey results through requesting independent research institutes to conduct telephone and online surveys.

Furthermore, the Chamber of Commerce and Industry (KCCI) conducts surveys to generate comprehensive information on the degree of business satisfaction with local government regulatory administration and the business-friendliness level of each region. In details, the KCCI produces the Business Sentiment Index by commissioning research institutes to conduct telephone or online surveys (personal interviews, if necessary), which evaluates the level of satisfaction of large, medium, and small enterprises with regards to local government regulatory administration. In addition, the KCCI evaluates the intensity of local government regulations and produces the Business Friendliness Index by requesting the public officials in 228 local governments to fill out the distributed database template with regards to local government regulatory policies and achievements in providing assistance for business activities.

Utilising the Business Sentiment Index and Business Friendliness Index, the Ministry of the Interior and the KCCI introduced the National Regulatory Map in 2014 as a way to monitor the regulatory performance and induce competition among local governments. This map demonstrated two important implications: i) the level of regulatory intensity experienced by businesses in each local region and ii) significant regulatory improvement in 65 regions.

Table 5.4. Assessment criteria and element

Business Sentiment Index		
Assessment criteria	Assessment element	
1. Appropriateness of regulation	<ul style="list-style-type: none"> • Licensing • Land use and development • Operations and marketing activities • Constructions and facilities • Environment 	
2. Local governments' administrative system	<ul style="list-style-type: none"> • Transparency and deadline compliance • Information availability • Simplification of paperwork • Adoption of one-stop services 	
3. Administrative behaviour	<p style="text-align: center;">Positive</p> <ol style="list-style-type: none"> 1. Complaints management between stakeholders 2. Active improvement of ambiguous legislations 	<p style="text-align: center;">Negative</p> <ol style="list-style-type: none"> 1. Interpret laws arbitrarily 2. Demand paperwork 3. Demand donations and contributions 4. Demand for contributed acceptance
4. Public officials' attitude	<ul style="list-style-type: none"> • Fairness • Promptness • Expertise • Activeness 	
5. Heads of local governments' willingness to improve regulation	<ul style="list-style-type: none"> • Resolving business difficulties • Managing and monitoring public officials 	
Business Friendliness Index		
Assessment criteria	Assessment element	
A. Building factories	<ul style="list-style-type: none"> • Land use restriction • Limiting degree of slope • Building coverage ratio • Floor area ratio • Consultation period in government offices • Limiting repeated deliberation of urban planning committee • Allowing written reviews of urban planning committee • Pre-modification requirement to reduce complaints • Parking space more than 350 m² in size • Total period of licensing 	
B. Building multiple dwellings	<ul style="list-style-type: none"> • Land use restriction • Floor area ratio • Landscaping requirement • Minimum distance for building separation • Total period of licensing 	

Table 5.4. **Assessment criteria and element** (*cont.*)**Business Friendliness Index**

Assessment criteria	Assessment element
C. Starting restaurant business	<ul style="list-style-type: none"> • Land use restriction • Ventilation system • Washing machine • Flexible allowance for restaurants serving on terrace
D. Supporting business start-ups	<ul style="list-style-type: none"> • Funding • Business consulting centre • Centre for business education • Exhibition for Business Start-ups • Support technology and development
E. Investment attraction	<ul style="list-style-type: none"> • Tax reduction • Subsidy • Facilities support • Funding • Administrative assistance
F. Performance deviation	<ul style="list-style-type: none"> • Improvement of the central government law • Improvement of local government regulations • Rate of winning administrative litigations • Rate of increase in business population
G. Industrial complex	<ul style="list-style-type: none"> • Cover development expenditure • Entity for development execution • Rate of return of development • Building coverage rate • Qualification for moving in • Conditions for the cancellation of a contract • Disposal of industrial land • Restriction on land partition • Disposal of restitution land • Registration of stores in large scale • Additional documents for store registration • Preliminary review of establishment registration • Setting up temporary markets
H. Distribution and logistics	<ul style="list-style-type: none"> • Existence of Distribution Dispute Mediation Committee • Degree of slope inside warehouses for moving vehicles • Area of canopy including floor area ratio • Warehouse licensing period • Minimum distance between warehouses • Warehouse parking standards

Table 5.4. **Assessment criteria and element** (*cont.*)

Assessment criteria	Assessment element
I. Regulation on environment	<ul style="list-style-type: none"> • Allowance of waste disposal industry • Use of solid fuel • Installation of rain-utilisation facilities • Submission of food waste reduction plan • Requirement for the reporting use of sewage • Permission on sewage occupancy • Restriction on bidding qualifications • Disclosure of contract information
J. Public contract and delivery	<ul style="list-style-type: none"> • Preliminary evaluation on the selection of preferred companies • Selection of companies for towing services • Selection of preferred companies for water services • Commission fees for the selection of preferred companies for water services
K. Service charge	<ul style="list-style-type: none"> • Payment deadline for water bills • Payment method for water bills • Reduction of charges for sewer services • Instalment payment for sewer services • Unit price for sewer services • Paying for road recovery charges • Additional rate for groundwater charges • Additional rate for waste disposal charges
L. Local tax administration	N/A
M. Industrial assistance	N/A
N. Public property	N/A
O. Urban planning facilities	N/A
P. Active administration	N/A

*. In 2015, 5 indicators have been added to the assessment criteria (shaded in grey).

*. In 2016, 5 additional indicators have been added to the assessment criteria (shaded in dark blue).

Source: Drafted and translated by KCCI.

Other non-government bodies have also conducted independent surveys to evaluate the level of satisfaction with regards to regulatory reform. In 2014 and 2015, the KDI Centre for Regulatory Studies conducted interview surveys of 300 sample corporations (32% are conglomerates and 68% are SMEs) to measure the degree of satisfaction with regards to the current regulatory reform system and policy. A comparison of both survey data sets from each year revealed an increase in the degree of satisfaction, as well as awareness in relation to regulatory reform policy and system vis-a-vis the 2014 results. Meanwhile, in 2015, the Korea Federation of SMEs has also surveyed 300 company CEOs on SME policies as part of a mid-term assessment of the Park administration's performance. The survey found that regulatory reform was both ranked as the second best and second worst policy of the administration. The result generally implies that despite the government commitment to regulatory reform, there is a discrepancy between government efforts and public satisfaction.

Futuristic Regulatory Map

The RRC plans to launch the “Futuristic Regulatory Map” which aims to analyse the current and future trends of industrial convergence and technological development in the selected fields of emerging industry. Based on such analysis and prediction of future industrial and technological development, the Futuristic Regulatory Map provides a forward-looking plan for regulatory reform. In specific, the Map provides a direction for future policy reforms, a plan for improvement of existing regulations, and a rationale for introducing new regulations in time for different stages in the industrial cycle (ranging from R&D to market entry and market development) of the selected emerging industries.

Unlike the Investment Committee on Emerging Industry which utilises a bottom-up approach to address regulatory challenges raised by businesses or economic organisations, the Futuristic Regulatory Map adopts a top-down approach to strategically establish a forward-looking framework and plan for regulatory reform.

It is expected that the introduction of the Futuristic Regulatory Map would be able to help the government steer its regulatory reform efforts more effectively to overcome various regulatory challenges. Such challenges include, but not limited to, the persistence of existing regulations that hinder the entry of new industries and technology, and the lack of necessary regulations in time for the introduction of emerging industry.

In 2017, the RRC plans to design the Futuristic Regulatory Map for self-driving cars as a pilot project. After the methodology and procedures for designing the Futuristic Regulatory Map are fully developed, each central administrative agency plans to develop the map for other emerging industrial fields.

Local government

Local government’s regulatory authorities

The autonomous legislative authority of the local government is prescribed in the Constitution of the Republic of Korea. Based on such legal grounds, the Local Autonomy Act recognises two forms of legislation, municipal ordinance and municipal rule. All local government regulations must be in line with higher legislation.

Local governments shall deal with administrative matters pertaining to the welfare of local residents, manage properties, and may enact provisions relating to local autonomy, within the limit of Acts and subordinate statutes (Constitutional Court Act, Article 117, Clause 1)

Local governments may establish municipal ordinances concerning their affairs within the scope of statutes; Provided that in order for such local governments to prescribe matters concerning the restriction on rights of residents, the imposition of obligations on residents, or penalties, they shall have the authority delegated by Acts (Local Autonomy Act, Article 22.

The heads of local governments may establish municipal rules concerning affairs under their jurisdiction to the extent delegated by statutes or municipal ordinances (Local Autonomy Act, Article 23.

According to the Local Autonomy Act, the local governments can i) perform autonomous affairs of their jurisdiction and the affairs entrusted under statutes (delegated affairs); ii) enact or amend municipal ordinances and rules; iii) formulate and execute

budget; and iv) guide and supervise policies and local affairs under the jurisdiction of subordinate administrative agencies.

All regulations enacted by central administrative agencies can take effect in all local regions, even though they are mostly exercised by local governments. On the other hand, local regulations—regulations tailored to local characteristics—are only in effect in local regions of their jurisdiction.

When disputes arise between the local governments (heads), the mediation process is led by the heads of the concerned provinces or metropolitan cities or the Minister of the Interior. Such disputes can also be resolved directly by the Central Dispute Mediation Committee of the Local Government. On the other hand, when disputes arise between the heads of the central administrative agency and the local government, the disputes are mediated and adjusted by the Administrative Mediation Council under the supervision of the Prime Minister. If the disputes cannot be resolved through the aforementioned administrative processes, they can be resolved at the Constitutional Court of Korea. The decision ruled by the Constitutional Court legally binds all governmental institutions and local governments.

Constitutional Court Act, Article 111, Clause (1): “The Constitutional Court shall have jurisdiction over the following matters:

1. The constitutionality of a law upon the request of the courts
2. Impeachment
3. Dissolution of a political party
4. Competence disputes between State agencies, between State agencies and local governments, and between local governments, and
5. Constitutional complaint as prescribed by Act”.

Regulatory reform in local government

Korea consists of 17 regional governments (provinces and metropolitan cities) and 226 sub-regional governments (cities, districts [*gun*], and boroughs [*gu*]). As prescribed in Article 3, Clause 3 of the Framework Act on Administrative Regulations, local governments are mandated to register regulations that are contained in municipal ordinances and municipal rules, to review regulations that are to be newly introduced or reinforced, and to improve existing regulations in accordance with the framework of regulatory reform instituted by the central government.

In order to enforce the above-mentioned regulatory reform tasks, all local governments have established their own regulatory reform committees and regulatory reform units under their jurisdiction. The total number of staffs in regulatory reform units amount to 613, representing 77 staffs in regional governments and 536 in sub-regional governments, as of February 2017. Despite some variations in the official title of the regulatory reform units in regional governments (Regulatory Reform Division, Regulatory Reform and Legal Affairs Division, etc.), an average of 4-5 staffs in each of these units are designated to perform regulatory reform tasks and support their internal regulatory reform committee. Likewise, an average of 2-3 staffs in each of these regulatory reform units in sub-regional governments are devoted to conducting regulatory reform and supporting their internal regulatory reform committee although these units vary in their official title due to dissimilar administrative characteristics and culture.

Since July 2015, the Prime Minister has been holding On-site Meetings on Regulatory Reform in different local regions on a quarterly basis. In such meetings, the representatives of central and local governments and business groups actively participate in a discussion on the current status of regulatory reform at local levels, and deliberate on various action plans to tackle regulatory difficulties experienced by local citizens and businesses. The meetings focused on the following themes: i) Creation/Expansion of Factories and Revitalisation of Industrial Complex (30 July 2015); ii) Announcement/Prescription of the Seven Principles on Regulatory Reform and Inspection of Local Regulatory Management Status (20 October 2015); iii) Improving the Restrictive Regulation on Competition (3 December 2015); and iv) Finalising the Plans on Local Regulatory Reform (23 February 2016). As follow-up measures to the On-site Meetings on Regulatory Reform, several initiatives have been introduced, such as “ultimate debate on regulatory reform” and “initiative on identifying and improving unreasonable local government regulations”.

In addition, the Ministry of the Interior also regularly convenes local meetings on regulatory reform with the heads of local governments to address regulatory difficulties raised by local businesses and citizens, and to ensure that local regulations fall within the parameter of higher legislations. The Ministry has so far carried out these field visits to Gyeonggi Province (November 2014); Busan and Ulsan (December 2015); Gangwon-do (January 2015); Gwangju and Jeollanam-do (March 2015); and Jeollabuk-do (July 2015). Along with this effort, the Ministry of the Interior establishes a strategic plan of local regulatory reform and publishes a manual of regulatory management for local governments on an annual basis. Local governments utilise the manual and strategic plan to establish their own action plans for regulatory reform, and regularly publish the performance of their reform work online.

Furthermore, the Ministerial Meeting on Regulatory Reform issued a plan in March 2015 to identify and improve unreasonable regulations across 11 major areas which are divided into three steps:

- Step 1: Land, industry, agriculture, environment, and construction
- Step 2: Culture and tourism, local regulations, oceans and fisheries
- Step 3: Transport, health & welfare, and forestry.

Public consultation has been conducted by means of, but not limited to, the joint workshop between local officials in charge of regulation and the relevant central authorities, once the regulatory reform task in the above-mentioned fields is identified and confirmed.

Last, in order to encourage local governments to actively pursue regulatory reform, the government introduced different methods to help promote more proactive attitude of local government officials in the regulatory reform efforts, by means of:

- Introducing the system of Pre-Audit Consulting to lessen the local governments’ burden of *ex post* audits and encourage active regulatory reform initiatives
- Strengthening disciplinary standards to discourage passive bureaucratic attitude
- Strengthening incentives to induce active administrative performance of public officials through rewards like promotion opportunities

- Expanding one-stop channels in local government offices to address civil complaints and grievances about various regulatory issues such as licensing and certification.

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Chapter 6

Regulatory practices supporting small and medium-sized enterprises in Korea

This chapter focuses on regulatory processes for SMEs-related policy in Korea and provides an overview of past and current regulatory reforms and the leadership and oversight arrangements supporting regulatory reform in the SME sector. It also provides insights into the development and use of the different regulatory management tools for SMEs-related policies and the different ways these are monitored and evaluated.

Overview of small and medium-sized enterprises (SMEs) in Korea

According to the figures from 2014, there are about 3.54 million recorded small and medium-sized enterprises (SMEs) in Korea, which comprise nearly 99.9% of the total enterprises in the country. From the labour market perspective, SMEs hire around 14.03 million workers or 87.9% of the total employment. The importance of SMEs in the Korean economy is on the rise, as demonstrated in the increasing trends of the SMEs to total number of enterprises ratio (99.2% in 2000 to 99.9% in 2005 to 99.99% in 2014) and the SMEs to total number of employment ratio (80.6% in 2000 to 87.8% in 2005 to 87.9% in 2014). Therefore, in order to revitalise the Korean economy, it is imperative to adopt appropriate regulatory reform measures to create a hospitable business environment for SMEs to thrive. Particularly in the Korean case, the Framework Act of Small and Medium-Sized Enterprises (SMEs Act) serves as a basis for setting future directions for SMEs since its enactment in 1996.

A transition to creative economy is built through the technological and innovative capacity of SMEs and the virtuous cycle of industry that fosters the competitive edge of SMEs. Given this, the main objective of regulatory reform in Korea is to identify and reform SME regulations that inhibit the development of creative economy. In particular, the regulatory reform measures to achieve such goal entail creating a business-friendly environment for new industries and technologies to be developed, reducing regulatory barriers to start-ups to facilitate the establishment of new enterprises in the fields of creative economy, and scrutinising market regulations with concentrated efforts to facilitate sales.

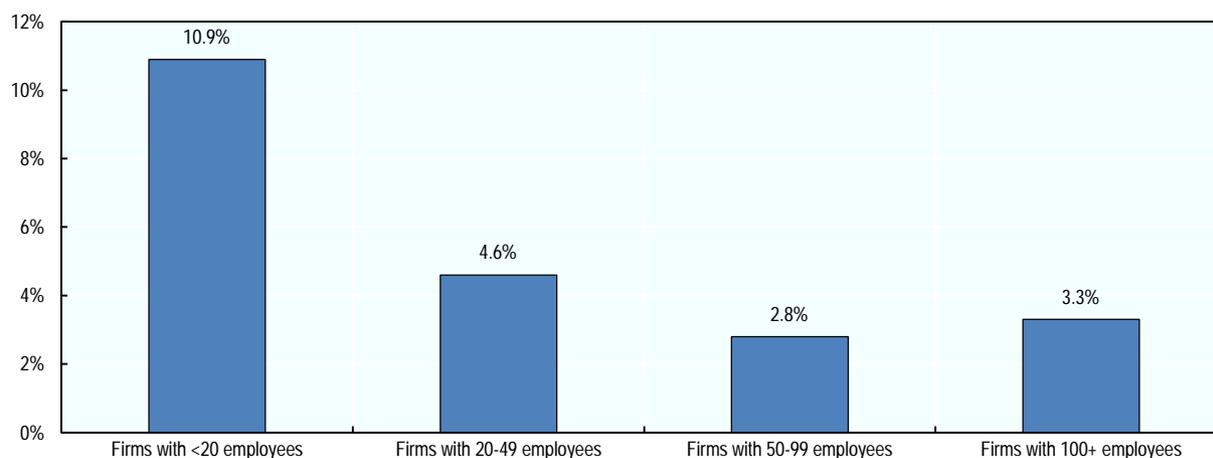
Of all current regulations in Korea, around 60% of the regulations pertain to SMEs. In return, SMEs are inevitably afflicted with high regulatory burden while their capacity to comply is still relatively low. According to the research conducted by the Korea Small Business Institute (KOSBI) in June 2013, among the 14 177 regulations registered with the Regulatory Reform Committee, 8 291 regulations (58.5%) contain an element concerning SMEs. Furthermore, by virtue of their characteristics, regulations often impose regulatory costs to businesses in forms of hidden taxes, which exacerbate the regressive burdens experienced by SMEs.

Given this, the key goal in institutionalising the SME-focused regulatory policies lies in taking reformative measures to reconstruct a uniform, rigid regulatory standard into a more rational and fair measure, particularly taking the capability of SMEs into account. In terms of regulatory compliance costs, it is relatively difficult for SMEs to adapt to any changes made in regulations, leaving SMEs to incur higher burdens compared to large enterprises that often gains cost advantages through economies of scale or scale of operation.

As an illustration, according to Industrial Bank of Korea Economic Research Institute, “the ratio of regulatory compliance costs to sales” of enterprises with more than 100 employees stood at 3.3% in 2008. Meanwhile, the said ratio for enterprises with less than 20 employees stood at 10.9% which is 3 times more than that of the aforementioned enterprises.

Moreover, large enterprises hold enough resources and power to participate in the process of formulating regulations through associations. In contrast, SMEs lack the expertise and influential power to participate in a legislative process and normally face difficulties in abiding by the regulations.

Figure 6.1. Distribution of regulatory compliance costs by firm size in 2008



Note: Percentage (%) indicates annual regulatory cost per annual sales.

Source: Industrial Bank of Korea Economic Research Institute (2008).

Table 6.1. Comparison of regulatory compliance capabilities between large enterprises and SMEs

Large enterprises		SMEs
<ul style="list-style-type: none"> Sufficient human resources and legal expertise in complying with regulations Further strengthening capabilities through infrastructure expansion and information gathering 	Compliance capabilities	<ul style="list-style-type: none"> Shortage of human resources in complying with regulation, and a CEO often assumes the responsibility Lack of information and infrastructure to properly comply with a regulation
<ul style="list-style-type: none"> Able to reduce regulatory compliance costs by increasing consumer prices or decreasing subcontractor prices 	Avoiding regulatory compliance costs	<ul style="list-style-type: none"> As a price taker, avoiding the regulatory compliance costs is unattainable

Source: Korea Small Business Institute.

Given this, the direction of some major regulatory reform initiatives taken by the Korean government has been towards relieving such burdens on SMEs by decreasing their regulatory compliance costs while promoting investments in SMEs. Particularly, the Korean government has put forth efforts in addressing these issues by establishing and managing a regulatory system tailored for SMEs, such as Regulatory Impact Assessment on SMEs and SMEs Ombudsman.

With regard to newly established or reinforced regulations that target SMEs, Regulatory Impact Assessment on SMEs (RIA on SMEs) has been introduced to alleviate regulatory burdens on SMEs and to enforce a tailored regulatory approach for SMEs by differentiating regulatory burdens based on the size of firms. In addition, pertaining to existing regulations, there has been various efforts to reduce the regulatory compliance costs on SMEs including the on-site consultation with SMEs that aims to achieve its goal by transforming uniformly or rigidly managed existing regulations into more rational, flexible ones.

Key factors in achieving the regulatory reform objectives pursued by SMEs include the identification and improvement of unreasonable regulations through enhancing intercommunication among enterprises, the improvement of understanding of regulatory rationale, and the increase in the level of satisfaction with regulatory reform. Regulatory petition centres for SMEs are in operation within the respective 243 local governments and the small-scale meetings are held at least once a week through the SMEs Ombudsman. In the process, the SME Ombudsman serves as a medium for intercommunication among enterprises and also as a platform to identify burdensome regulations.

Despite these various regulatory reform measures carried out by the government, it still remains a challenge to satisfy diverse needs of SMEs. Regulatory Reform Satisfaction Survey conducted by Korea Federation of Small and Medium Business (KBIZ) in 2015 shows that 59.3% of SME respondents are dissatisfied with government's regulatory reform effort. In explanation for such results, the survey also details that this sense of frustration is partly due to the high expectations of the SMEs towards regulatory reform. In general, the level of satisfaction with regard to regulatory reform is determined by the gap between the expected and the experienced qualities of regulatory reform, as is the case with consumer satisfaction towards service quality. Since SMEs have become increasingly aware of the government's willingness and commitment to regulatory reform, their expectations on the favourable outcomes of regulatory reform have, too, become heightened. Moreover, SMEs often lack a full comprehension of the regulations, which instigates them to express grievances caused by the stagnant economy towards regulatory difficulties. Thus, in order to enhance the SME satisfaction towards regulatory reform, it is imperative to enhance their understanding of regulatory reform, as it would also eventually aid in strengthening their motivations for investment and employment as well.

Definition and classification of SMEs

Prior to 2015, SMEs were defined by the size of input factors of production such as labor and capital. However, since 2015, the criteria for classifying enterprises such as SMEs have been changed to reflect only the average sales for the past three years. This new criteria is part of an effort to build an industry structure centred on growth promotion and job creation. In order to ensure that industry-specific characteristics are fully considered in the classification of SMEs, companies representing different sectors of industry were given a sufficient amount of consultation opportunities to voice their opinions and to have an input in the decision making process. As a result, a ceiling on the average annual sales to be classified as SMEs is differently applied to different sectors of industry (Box 6.1).

The aforementioned standards of classification based on average annual sales are also applied to small enterprises, classifying 41 industries (manufacturing and other sectors) into 5 groups (120, 80, 50, 30, and KRW 10 billion). On the other hand, the status of micro enterprises is not defined by the sales standards but rather by the number of full-time employees. In particular, businesses in the mining, manufacturing, construction and transportation sectors with less than 10 full-time employees are defined as micro enterprises. In other sectors, businesses with less than 5 full-time employees are considered to be micro enterprises in Korea.

Box 6.1. Classification standards for SMEs

Average annual sales of less than KRW 150 billion

Six manufacturing sectors (electrical equipment, wearing apparel, luggage and footwear, pulp and paper, basic metal products, and furniture)

Average annual sales of less than KRW 100 billion

Twelve manufacturing sectors (tobacco, vehicles, chemicals, fabricated metal products, food products, textiles, wood products, rubber and plastic products, electronic components, machinery and equipment, and other transport equipment), *Construction, Mining, Wholesale and Retail, Agriculture, Forestry and Fishing, and Electricity, Gas, Steam and Water Supply*

Average annual sales of less than KRW 80 billion

Six manufacturing sectors (beverages, printing and reproduction of recorded media, pharmaceuticals and medicinal chemicals, non-metallic mineral products, and medical, precision and optical Instruments), *Transportation, Sewerage, Waste Management, Environmental Preservation, Publication, and Information Services*

Average annual sales of less than KRW 60 billion

Five service sectors (repair and other personal services, business facility management and business support services, human health and social work activities, professional, scientific and technical activities, and arts, sports and recreation related services)

Average annual sales of less than KRW 40 billion

Four service sectors (accommodation and food service activities, financial and insurance activities, education, and real estate, renting and leasing)

In an effort to lessen and rationalise the regulatory burden on various kinds of SMEs, each regulation differentiates regulatory compliance costs according to various factors, such as, but not limited to, enterprise classification, sales, the number of full-time employees, equity capital and construction expenses. The followings are the examples of individual regulation tailored for SMEs: The Labour Standards Act states that micro enterprises with less than 10 full-time employees are exempted from the obligation to report or draft their rules on employment. The Act on the Collection of Premiums for Employment Insurance and Industrial Accident Compensation Insurance stipulates that micro enterprises with less than 10 full-time employees are allowed to report on the total amount of salaries in a written form in lieu of an electronic record. The Act on Employment Promotion and Vocational Rehabilitation for Disabled Persons stipulates that small enterprises with less than 50 full-time employees are exempted from the duty of hiring disabled person(s). The Occupational Safety and Health Act stipulate that for small enterprises with less than 50 full-time employees (the standard for the manufacturing sector) are exempted from the duty of establishing and operating an occupational safety and health committee. With the aim to reinforce such efforts to reduce regulatory burdens on SMEs, the Korean government officially included the Tailored Regulatory Approach for SMEs in the Ordinance of the Prime Minister. Once the regulations are implemented, the micro enterprises with less than 10 full-time employees are, in principle, exempted from regulations for 3 years. Moreover, necessary measures (e.g. less burdensome regulations) are considered to reduce the regulatory burdens for small enterprises.

Table 6.2. Various criteria for implementing the tailored regulatory approach

Classification	Description	Example	
Basic criteria	Full-time employees	The number of employees fewer than a certain threshold	Firms employing fewer than 500 employees are exempt from mandatorily operating workplace child care facilities
	Sales	Average annual sales less than a certain threshold	IT firms with annual sales under KRW 10 billion are exempt from the mandatory certification of information security management system
	Equity capital	Equity capital less than a certain threshold	Firms with gross capital less than 10 billion won are exempt from external audit.
Ancillary criteria	Construction expenses, building area, emission quantity, and tonnage of a vessel	Factories emitting pollutants less than 1 500 m ³ per day are exempt from installing pollutant reduction facility	

Table 6.3. Criteria of small and medium enterprises (SMEs)

Sector	Industry codes	Size standards
1. Manufacture of wearing apparel, clothing accessories and fur articles	C14	Average annual sales of less than KRW 150 billion
2. Tanning and dressing of leather , manufacture of luggage and footwear	C15	
3. Manufacture of pulp, paper and paper products	C17	
4. Manufacture of basic metal products	C24	
5. Manufacture of electrical equipment	C28	
6. Manufacture of furniture	C32	
7. Agriculture, forestry and fishing	A	Average annual sales of less than KRW 100 billion
8. Mining and quarrying	B	
9. Manufacture of food products	C10	
10. Manufacture of tobacco products	C12	
11. Manufacture of textiles, except apparel	C13	
12. Manufacture of wood products of wood and cork ; except furniture	C16	
13. Manufacture of coke, hard-coal and lignite fuel briquettes and refined petroleum products	C19	

Table 6.3. Criteria of small and medium enterprises (SMEs) (cont.)

Sector	Industry codes	Size standards
14. Manufacture of chemicals and chemical products except pharmaceuticals, medicinal chemicals	C20	Average annual sales of less than KRW 100 billion
15. Manufacture of rubber and plastic products	C22	
16. Manufacture of fabricated metal products, except machinery and furniture	C25	
17. Manufacture of electronic components, computer, radio, television and communication equipment and apparatuses	C26	
18. Manufacture of other machinery and equipment	C29	
19. Manufacture of motor vehicles, trailers and semitrailers	C30	
20. Manufacture of other transport equipment	C31	
21. Electricity, gas, steam and water supply	D	
22. Construction	F	
23. Wholesale and retail trade	G	
24. Manufacture of Beverages	C11	Average annual sales of less than KRW 80 billion
25. Printing and reproduction of recorded media	C18	
26. Manufacture of pharmaceuticals, medicinal chemicals and botanical products	C21	
27. Manufacture of other non-metallic mineral products	C23	
28. Manufacture of medical, precision and optical instruments, watches and clocks	C27	
29. Other manufacturing	C33	
30. Sewerage, waste management, materials recovery and remediation activities	E	
31. Transportation	H	
32. Information and communications	J	
33. Professional, scientific and technical activities	M	
34. Business facilities management and business support services	N	
35. Human health and social work activities	Q	
36. Arts, sports and recreation related services	R	
37. Repair and other personal services	S	
38. Accommodation and food service activities	I	Average annual sales of less than KRW 40 billion
39. Financial and insurance activities	K	
40. Real estate activities and renting and leasing	L	
41. Education	P	

Note: 1. Industry classification and industry codes in this table are derived from Korea Standard Industrial Classification (KSIC) in accordance with Article 22 of the Statistics Act.

Source: Article 2 of Framework Act on SMEs and Article 3 of Enforcement Decree of the Act.

Table 6.4. Criteria of Korean small business

Sector	Industry codes	Size standards
1. Manufacture of food products	C10	
2. Manufacture of beverages	C11	
3. Manufacture of wearing apparel, clothing accessories and fur articles	C14	
4. Tanning and dressing of leather , manufacture of luggage and footwear	C15	
5. Manufacture of coke, hard-coal and lignite fuel briquettes and refined petroleum products	C19	
6. Manufacture of chemicals and chemical products except pharmaceuticals, medicinal chemicals	C20	
7. Manufacture of pharmaceuticals, medicinal chemicals and botanical products	C21	
8. Manufacture of other non-metallic mineral products	C23	Average annual sales of less than KRW 12 billion
9. Manufacture of basic metal products	C24	
10. Manufacture of fabricated metal products, except machinery and furniture	C25	
11. Manufacture of electronic components, computer, radio, television and communication equipment and apparatuses	C26	
12. Manufacture of electrical equipment	C28	
13. Manufacture of other machinery and equipment	C29	
14. Manufacture of motor vehicles, trailers and semitrailers	C30	
15. Manufacture of furniture	C32	
16. Electricity, gas, steam and water supply	D	
17. Agriculture, forestry and fishing	A	
18. Mining and quarrying	B	
19. Manufacture of tobacco products	C12	
20. Manufacture of textiles, except apparel	C13	
21. Manufacture of wood products of wood and cork ; except furniture	C16	
22. Manufacture of pulp, paper and paper products	C17	
23. Printing and reproduction of recorded media	C18	
24. Manufacture of rubber and plastic products	C22	Average annual sales of less than KRW 8 billion
25. Manufacture of medical, precision and optical instruments, watches and clocks	C27	
26. Manufacture of other transport equipment	C31	
27. Other manufacturing	C33	
28. Construction	F	
29. Transportation	H	
30. Financial and insurance activities	K	
31. Wholesale and retail trade	G	Average annual sales of less than KRW 5 billion
32. Information and communications	J	

Table 6.4. **Criteria of Korean small business** (*cont.*)

Sector	Industry codes	Size standards
33. Sewerage, waste management, materials recovery and remediation activities	E	
34. Real estate activities and renting and leasing	L	Average annual sales of less than KRW 3 billion
35. Professional, scientific and technical activities	M	
36. Business facilities management and business support services	N	
37. Arts, sports and recreation related services	R	
38. Accommodation and food service activities	I	
39. Education	P	Average annual sales of less than KRW 1 billion
40. Human health and social work activities	Q	
41. Repair and other personal services	S	

Note: 1. Industry classification and industry codes in this table are derived from Korea Standard Industrial Classification (KSIC) in accordance with Article 22 of the Statistics Act.

Source: Article 2 of Framework Act on SMEs and Article 8 of Enforcement Decree of the Act.

History of regulatory reform in the Korean SME Sector

In 2008, regulatory reform was undertaken in order to promote start-ups and SMEs. As a way to alleviate barriers to entry and simplify procedures of establishing a company, the minimum capital requirement (KRW 50 million) and mandatory issuance of certification for small-scaled start-ups were revoked, in addition to reduction of time required for the issuance of a business registration certificate. In 2009, underpinned by the global financial crisis, regulations that caused impediments to economic revitalisation underwent a two-year regulatory suspension through the implementation of temporary regulatory relief in order to mitigate the operation burdens on SMEs.

In 2010, with increasing complaints raised by SMEs on their difficulties, reformative measures were adopted on such regulations that have significant spill-over effects as barriers to entry of SME start-ups, regulations on investment and distribution, and regulations that cause excessive burdens on micro enterprises.

In 2011, while full-fledged discussions were underway on strategies for adopting tailored regulatory measures to enhance regulatory fairness for SMEs, reform was carried out on the regulations that imposed disproportionate burdens on SMEs.

In 2012, to increase the participation of SMEs in the procurement market, the government eased restrictions on bidding and implemented regulatory reforms to improve the contractual relationships that disadvantage SMEs. In 2013, the government enforced regulatory reform in order to lower the threshold for entrepreneurial ventures or start-ups and to stimulate private investment in ventures.

In 2014, each central administrative agency initiated the regulatory reduction program which is to decrease unreasonable economic regulations by 10%. Each central administrative agency put its effort into reducing regulations to reach its own set-out target. As a result, a total of 995 out of the 9 876 regulations pertaining to the investment promotion, mitigation of burdens, and alleviation of administration burdens for SMEs have been reformed. Since the establishment of the SMEs Ombudsman in 2009, 10 150

complaints were submitted through various channels, of which 9 855 cases have been resolved.

In 2015, reform measures were introduced to amend regulations that have significant spill-over effects yet impede economic innovation, such as regulations on land use, technological convergence, emerging industries and certification.

Table 6.5. Statistics on regulatory complaints from SMEs

Classification	2009-2014				2015				Total			
	Sub Total	Improve-ment	Explan-ation	Long-term review	Sub Total	Improve-ment	Explan-ation	Long-term review	Sub Total	Improve-ment	Explan-ation	Long term review
Number	7 801	1 341	3 851	2 609	2 054	499	789	766	9 855	1 840	4 640	3 375
Ratio (%)	100.0	17.2	49.4	33.4	100.0	24.3	38.4	37.3	100.0	18.7	47.1	34.2

Source: SMEs Ombudsman.

During Kim Dae-jung (1998-2003) and Roh Moo-hyun (2003-08) Administrations, the Presidential Commission on Small and Medium Enterprises (PCSME), established in 1998, took in charge of resolving unreasonable on-site regulatory difficulties incurred by SMEs. The PCSME performed a role of comprehensively reviewing and co-ordinating policies pertaining to SMEs, alleviating on-site difficulties of SMEs, and suggesting regulatory improvements to the RRC. Other regulatory reform initiatives carried out under the supervision of PCSME include the deregulation for establishment of factories and the simplification of start-up procedures.

Kim Dae-jung Administration (1998-2003)

In 1998, the Kim Dae-jung administration abolished approximately half of the 11 000 regulations and reformed 21.7% of the remaining regulations through the RRC. The rest of 6 811 regulations underwent a review process in 1999, through which 503 (7.45%) and 570 (8.4%) of them were abolished and improved, respectively. Most of these regulations pertained to SMEs, as the focus of such reform initiative was to eliminate unreasonable and unrealistic administrative regulations.

Roh Moo-hyun Administration (2003-08)

Under the Roh Moo-hyun administration, the Public-Private Joint Regulatory Reform Planning Initiative achieved innovative overhauls of bundled regulations that hinder SME activities. With the mission to address decreasing profits of SMEs and weak investment in R&D, the regulations on ventures, micro enterprises, and innovative SMEs were reformed. To support such efforts, a SME regulation database was established.

Lee Myung-bak administration (2008-2013)

Under the Lee Myung-bak administration, the Presidential Council on National Competitiveness, the Public-Private Joint Regulatory Reform Initiative, and the SMEs Ombudsman were established to efficiently identify and resolve on-site regulatory difficulties for SMEs. Field-specific and region-specific meetings were established and are still held periodically to identify and improve on-site SME regulations. In particular,

the public was able to participate directly in regulatory reform. Through the consultations undertaken by the Public-Private Joint Regulatory Reform Initiative, 3 040 regulations were identified and 1 849 of those were deemed unreasonable and subjected to reform. The SMEs Ombudsman held 123 discussion meetings to identify regulatory difficulties. Approximately 1 300 persons participated in the discussions, through which 3 328 SMEs-related complaints were addressed, and 451 regulations were improved.

In addition, during the Lee Myung-bak Administration, the commitment to SME regulatory reform was institutionalised through the enactment of the Regulatory Impact Assessment on SMEs (RIA on SMEs), which was benchmarked from the U.S.’s Regulatory Flexibility Act. The purpose of the RIA on SMEs is to prevent regulations that impose unreasonable burdens on SMEs even prior to their enactment. To institutionalise such efforts, the Ordinance of the Prime Minister, namely “Rules on the Establishment and Operation of Regulatory Reform Task Force for Field-oriented Regulatory Reform” has been enforced since 2009.

The SMEs Ombudsman, which is responsible for improving existing regulations on SMEs, was established in July 2009 on the basis of Article 22 of the Framework Act on Small and Medium Enterprises, which was benchmarked against the United States’ National Ombudsman system of the Small Business Administration (Small Business Regulatory Enforcement Fairness Act). The Ombudsman independently performs its duties, including the improvement of existing regulations that affect SMEs and support for addressing SMEs’ complaints on regulations.

Table 6.6. Statistics on activities of the SME ombudsman

Classi- fication	Number of suggestions							Ombudsman activities							
	Total	Co- operation Organis- ation	Region- al channel	Industrial channel	Direct Chan- nel	Govern- ment ministry	Report Centre	Total	Explan- ation	Policy Sugges- tion	Accepted	Partially Accepted	Long term review	Rejected	With- drawal
2009	451	106	62	48	234	1	-	259	198	0	2	2	29	23	5
2010	1 213	83	154	222	449	305	-	1 112	824	0	40	42	73	107	26
2011	962	192	328	180	164	98	-	1 062	788	30	48	41	115	38	2
2012	1 005	202	221	209	311	62	-	895	427	37	166	110	96	51	8
2013	1 085	135	109	108	507	226	-	1 027	434	11	183	74	158	153	14
2014	3 418	103	33	72	1 383	422	1 405	3 446	1 180	34	389	244	463	1 065	71
2015	2 016	96	9	225	886	41	759	2 054	789	2	356	143	309	425	30
Total	10 150	917	916	1 064	3 934	1 155	2 164	9 855	4 640	114	1 184	656	1 243	1 862	156
Ratio	100.0	9.0	9.0	10.5	38.8	11.4	21.3	100.0	47.1	1.2	12.0	6.7	12.6	18.9	1.6

Notes: SMEs complaints on regulations are collected via various channels (SME-related organizations, regional and industrial channels, local government’s report centres). The amended regulations include partially amended regulations.

Source: SMEs Ombudsman.

Park Geun-hye Administration (2013-17)

The Park Geun-hye administration focused on regulatory reform through the RRC, the Public-Private Joint Regulation Advancement Initiative (PPJRAI), the Small and Medium Business Administration (SMBA), and the SMEs Ombudsman. Regulatory burdens on SMEs have been alleviated through the implementation of the tailored regulatory approach, the regulatory reform at the local government level, and the regulatory reform within public institutions, with a particular focus on improving regulatory quality and identifying or improving the blind spots of regulatory reform measures. From 2013 to 2015, the PPJRAI, through the efforts of the removal of the thorn-under-the-fingernail (RTUF), identified 4 165 thorn-under-the-fingernail regulations of which 1 532 underwent reform. The SMEs Ombudsman addressed a total of 6 477 regulatory complaints, of which 1 389 regulations on SMEs has been improved.

The Park Geun-hye Administration established and periodically convened the Ministerial Meeting on Regulatory Reform. One of the agendas of the Meeting is to identify and resolve regulatory challenges faced by SMEs, notably those that are found unreasonable in practice.

There have been constant reform efforts with a focus on strengthening the RIA on SMEs. In 2013, through the revision of the guideline on the preparation of RIAs, an impact analysis on every regulation concerning SMEs has been made compulsory. In 2015, with the amendment of the Framework Act on Administrative Regulations, the RIA on SMEs, which was previously obligated under the Ordinance of the Prime Minister, is officially required by the Act itself. Out of all RIA on SMEs conducted by the SMBA, 426 RIAs included alternatives (less burdensome options for SMEs) to the proposed regulation, of which 191 have been fed into the proposed regulatory bill.

Table 6.7. Statistics on SMEs' Regulatory Impact Assessment

Year	RIAs on SMEs		
	No. of RIAs that include alternatives	No. of RIAs that accepted alternatives	Acceptance rate
2009	153	61	39.9%
2010	40	19	47.5%
2011	82	37	45.1%
2012	55	26	47.3%
2013	39	19	48.7%
2014	42	21	50.0%
2015	15	8	53.3%
Total	426	191	44.8%

Note: 1. Number of acceptance is captured in the year when the agency agrees to accept alternatives suggested by SMBA and makes amendments in the relevant regulation.

Source: Small and Medium Business Administration.

Principles and objectives of SME regulatory reform

There is little difference between general regulatory policy on the business as a whole and SMEs-related regulatory policy. Generally, when it comes to regulatory policies for enterprises, the main target pursued by the Korean government is to promote growth of SMEs. Thus, it can be stated that the majority of the regulatory policies for enterprises can be considered as SMEs-related regulatory policies.

In the early stages of regulatory reform, one of the inherent challenges that the Korean government faced was its top-down approach in enforcing the process. Consequently, many of the implemented measures lacked sufficient bottom-up consultations incorporating the voices of the businesses. In many cases, the voices of SMEs were not sufficiently reflected in the process of formulating and reforming regulations as they had relatively less resources and knowledge on regulatory reform process.

Addressing these challenges, the Park Geun-Hye administration has strengthened demand-driven regulatory reform efforts including more active engagement of SMEs in the reform process. Some of the major policy measures in achieving such objective by removing regulatory difficulties include the Tailored Regulatory Approach for SMEs and “Removal of the Thorn-Under-the-Fingernail” (RTUF). In addition, various regulatory strategies have been taken in effect, such as the Cost-in, Cost-out (CICO), the Regulatory Reform *Sinmungo*, and the Plan for 10% Reduction of Economic Regulation.

Improvement of regulations on SMEs to be more proportional was already considered during the Lee Myung-bak administration in 2011 as a part of the regulatory strategies to increase equity in regulatory burdens for SMEs. However, such efforts have not been officially institutionalised until the Park Geun-hye administration. The Park administration mandated the consideration of proportional regulatory alternatives in RIA on SMEs in 2015 and the adoption of the Tailored Regulatory Approach for SMEs to strengthen the principle of proportionality in 2016.

Box 6.2. Enhancing equity on regulatory burden

Two-track approach to reducing disproportionate regulatory burdens on SMEs:

1. Proportional Regulation for Small and Medium Enterprises

- In the case of regulations that can classify the regulated entities by their business size, regulatory burdens are applied to SMEs proportionally.

2. Building SME-friendly regulatory environment

- a priority of regulatory reform is given to improving the regulations that cause unreasonable regulatory burdens on SMEs.

Removal of the Thorn-under-the-Fingernail (RTUF), which aims to remove the regulatory difficulties of SMEs, is an important agenda introduced by the Park administration to provide a business-friendly environment for SMEs. RTUF is not another catch phrase but an important regulatory tool that practically alleviates regulatory difficulties encountered by SMEs. As the name implies, thorn-under-the-fingernail regulations refer to regulations that are easily neglected yet imposing significant impacts. As most of these amended regulations concern SMEs, many SMEs have a positive attitude toward the RTUF policy.

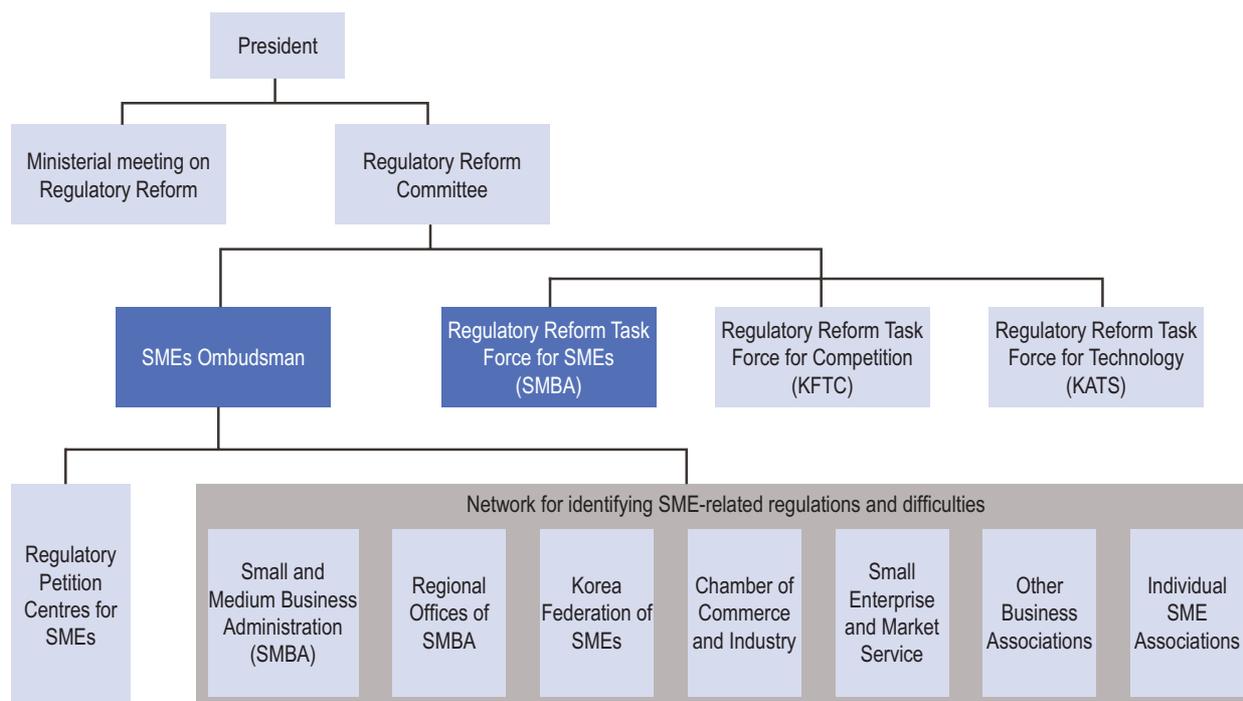
Under this policy, SMEs related organisations such as the Korean Federation of SMEs, Small and Medium Business Administration (SMBA), and the SMEs Ombudsman have been collaborating with each other to identify and reform regulatory difficulties and produced considerable results. In the first half of 2013, approximately 300 thorn-under-the-fingernail regulations were removed, and the PPJRAI was established to promote regulatory reform.

In addition, the core principles of the regulatory policies on SMEs include a close communication with businesses throughout the entire cycle of regulatory reform. Various measures are adopted to alleviate the regulatory burdens on businesses, such as the tailored regulatory approach, the integration of overlapping regulations, and the temporary regulatory relief. The primary targets of these reform policies are the regulations that have significant spill-over effects, particularly on business investment and job creation.

Leadership and oversight for SME regulatory reform

While the RRC takes on the role of central oversight body for regulatory management under the aforementioned principles of the reform put out by the Park administration, the central and local governments and the private SMEs associations closely collaborate amongst each other to further facilitate reform efforts. In addition, the economic organisations quarterly establish a working group to identify and resolve the challenges pertaining to SME regulatory reform.

Figure 6.2. **Organisational structure of SME regulatory reform**



Source: Small and Medium Business Administration.

Under the supervision of the Ministry of Strategy and Finance (MoSF), the regulatory reform for businesses is pursued under the objectives of promoting the business investments, advancing the economic and public welfare, and fostering the micro-enterprises. The Ministry of the Interior (MoI) and local governments collaborate to reform unreasonable regulations and practices that fall under their jurisdiction. In addition, the Ministry of Land, Infrastructure and Transport (MoLIT), the Ministry of Trade, Industry and Energy (MoTIE), the Ministry of Environment (MOE) and other central administrative agencies are strongly encouraged to consult the opinions of SMEs and reform unreasonable regulations. A Public-Private Policy Review Committee has

been established under the MoLIT to ensure that the regulations sufficiently reflect the voices of the businesses in managing the land-use regulations, such as the regulations on the operational process of the City Planning Commission. The MoTIE has conducted a regulatory hearing to review and reform regulations regarding certification, trade investment, economic zones, oil hubs, renewable energy, and industrial sites. In a similar manner, the MOE has established a taskforce that consults and reflects the voices of the industries in reviewing a new environmental regulation like the Act on Integrated Environmental Management System to ease unreasonable regulatory standards.

While the RRC assumes the role of oversight body for all general regulations, the SMBA and the SMEs Ombudsman take the responsibility of oversight for SMEs regulatory reform.

Regulatory Reform Committee (RRC)

The RRC acts as the central oversight body and holds the responsibilities to discuss the general direction of regulatory reform, to pursue an overhaul of existing regulation, and to evaluate new or strengthened regulations. However, since the SMBA has more expertise on the issues pertaining to SMEs, management of regulations concerning SMEs are conducted in co-operation with the SMBA.

Public Private Joint Regulation Advancement Initiative

The PPJRAI is jointly established by the RRO and the private sector such as the Korea Federation of SMEs (KBIZ) and the Korea Chamber of Commerce and Industry (KCCI). The primary role of the PPJRAI is to identify on-site regulatory difficulties, to improve unreasonable regulations, and to inspect the progress on the implementation of regulatory reform.

Small and Medium Business Administration

The SMBA is tasked with the quality management of new or strengthened regulations through the Regulatory Impact Assessment on RIA (RIA on SMEs). The Korea Small Business Institute (KOSBI) operates the Center for Regulatory Impact Assessment (CRIIA) to provide consultation in drafting a regulatory impact analysis. As stipulated in the Ordinance of the Prime Minister, namely “Rules on the Establishment and Operation of Regulatory Reform Task Force for Field-oriented Regulatory Reform”, the SMBA holds the main authority over RIA on SMEs.

SMEs Ombudsman

As an independent agency, the SMEs Ombudsman is responsible for improving existing regulations on SMEs. Given this, the SMBA has established and been operating the Ombudsman Support Team to facilitate a smooth reform process. The legal authority of the SMEs Ombudsman is clearly stipulated in the Framework Act on Small and Medium Enterprises and the laws related to the promotion of growth of medium enterprises. The main functions of the SME Ombudsman are as follow:

1. Identifying and improving regulations pertaining to small and medium enterprises (through suggestions and recommendations);
2. Investigating, analysing, resolving, and evaluating regulatory difficulties;
3. Responding to complaints on unreasonable regulations;

4. Actively providing recommendations on administrative exemptions; and
5. Implementing inspections.

The Ombudsman's legal obligations and authorities include providing recommendations on improvements, investigating on the performance of the concerned agencies, conducting stakeholder engagement, and publishing its work. At the same time, the Ombudsman is obligated to report to the RRC, the State Council Meeting, and the National Assembly on an annual basis to ensure accountability for its independent activities.

Launched in 2009, the SMEs Ombudsman initially consisted of 8 representatives – 2 public officials, 2 private experts, and 4 representatives of SMEs-related institutions.

Given the increasing momentum for the SMEs regulatory reform, its scope of work, the main functions, and its rights have been dramatically expanded to reflect the government's commitment and willingness towards SMEs regulatory reform since 2013. In order to effectively address to the increased demands for SMEs regulatory reform, the structure of SMEs Ombudsman was expanded in 2013. In addition to the amendment made to the Framework Act on Small and Medium Enterprises, the Ombudsman Support Team was established to ensure the independent and effective operation of the SMEs Ombudsman. In particular, the Ombudsman Support Team consists of 23 representatives in total – 10 public officials (inclusive of those assigned from central administrative agencies), 11 experts in the non-government sector, and 2 persons assigned from associated institutions.

Figure 6.3. **Expanded roles of the SMEs ombudsman**

	Before	After
Scope of task	Improving existing regulations and responding to SME related complaints	Improving existing regulations and related difficulties
Reporting	Reporting to the Regulatory Reform Committee and Small and Medium Business Administrator	Reporting to the Regulatory Reform Committee, State Council Meeting, and National Assembly
Major function	Recommendations for Improving regulations	Recommendations and proposals for improving regulations, and performance assessment
Supporting organisation	None	Secretariat office assisting the Ombudsman established within Small and Medium Business Administration
Authority	Public announcement of performed activities	Public announcement of performed activities and recommendation on granting immunity for proactive administration

Source: SMEs Ombudsman.

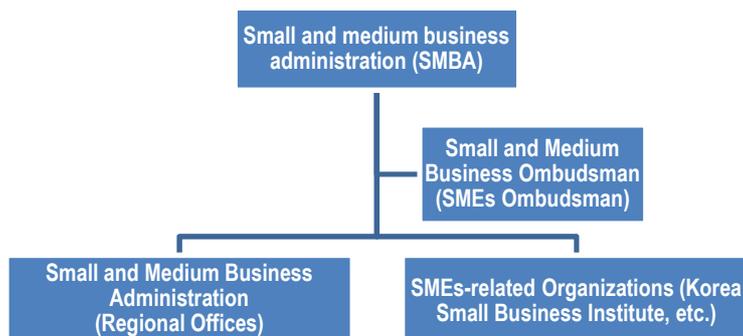
The tasks of the RRC and the SMBA – including RIA on SMEs – are systematically interlinked to effectively manage new or reinforced regulations concerning SMEs. If new or reinforced regulations which are relevant to SMEs, the SMBA conducts RIA on SMEs by consulting the opinions of experts and the affected businesses, and submits the RIA statements (RIAS) to the RRC. The RRC then utilises the RIAS submitted by the SMBA to review regulatory proposals, and, if necessary, make recommendations to the concerned administrative agencies.

On the other hand, regulatory reform for the existing regulations on SMEs is performed in collaboration among the SMBA, the SMEs Ombudsman, and the RRC. On an annual basis, these bodies hold a meeting to determine the regulatory reform priorities.

Using the authority and expertise of each agency, the SMEs Ombudsman identifies the on-site regulatory difficulties while the SMBA and RRC initiate regulatory reform through co-ordination and co-operation with the concerned central administrative agencies. Some of the regulatory reform measures undertaken in 2016 are the Triangle Tasks for Mitigation Regulatory Burden for SMEs that consists of the complete overhauls of unreasonable procurement regulations, the alleviation of administrative burdens on SMEs, and the tailored regulations for SMEs. Moreover, the concerned central administrative agencies and the public-private associations collaborate frequently by establishing task forces to enhance synergy among various agencies.

Since the initial establishment of the SME-related regulatory reform process in 2009, the Park administration has continued to maintain and pursue this policy process in which the SMBA governs new and reinforced regulations on SMEs while the SMEs Ombudsman governs the reform of existing regulations. In effort to effectively integrate the voices from the businesses into the SMEs regulatory reform process, various channels have been put in place to conduct stakeholder engagement. These channels include regulatory consultation centres in 12 regional local SMBAs, the Small and Medium Business Corporation (SBC), the Small Enterprise and Market Service (SEMAS), the Korea Industrial Complex Corporation (KICOX), and regulatory petition centres for SMEs in 243 local governments. Reinforcing such ideals, the Korea Federation of SMEs (KBIZ), Korea Chamber of Commerce and Industry (KCCI), industry specific associations have also established a network to identify SMEs-related regulations and to conduct a real-time consultation with the business community.

Figure 6.4. **Organisation chart of the SME regulatory reform**



Source: Small and Medium Business Administration.

Prior to 2014, a collaborative system between the SMEs Ombudsman and the petition centres within the local governments was established to handle local government regulation and promptly reform unreasonable on-site regulations concerning SMEs. Furthermore, the RRO, the KCCI, and the KBIZ jointly established the PPJRAI as a channel to receive and process regulatory petitions on existing regulations with a particular focus on business-related regulations. The PPJRAI has also established a support team for SMEs and micro enterprises with the aim to address regulatory difficulties on site.

Table 6.8. Compositions and functions of major organisations related to SME regulation

	Regulatory Reform Committee	Regulatory Reform Task Force on SMEs	SMEs Ombudsman	Public-Private Joint Regulation Advancement Initiative
Composition	25 members including the Prime Minister	10 members	26 members in 6 teams	13 officials and 13 private sector representatives
Major Role and Function	Review of new or reinforced regulations Consulting opinions on regulatory reform	Regulatory Impact Assessment on SMEs	Improving unreasonable regulations related to SMEs	Improving regulations with a particular focus on business-related regulations
Location within Government	Committee under the jurisdiction of the President	Central government	Independent organisation within the Small and Medium Business Administration	Public-Private Joint initiative under the Prime Minister
Specific Mandate	Regulatory review and recommendation Investigation and hearing of opinion	Submitting RIAs on SMEs to Regulatory Reform Committee	Regulatory improvement recommendation Performance assessment and public disclosure	Identification of on-site regulatory difficulties Improvement of unreasonable regulations Inspection of the implementation of regulatory reform
Legal Basis	Framework Act on administrative regulations	Ordinance of the Prime Minister	Framework Act of Small and Medium Enterprises	Ordinance of the Prime Minister

Regulatory impact assessment on SMEs

If any central administrative agency introduces a new regulation or strengthens an existing regulation that has a potential impact on SMEs, regulatory impact assessment on SMEs must be conducted accordingly, and its statement must be made public during the advance notice period of the proposed legislation. A RIAS on SMEs must include quantitative or qualitative analyses on the effects of the new or reinforced regulations on SMEs, including the cost and benefit analysis. It also needs to mitigate the regulatory burdens on SMEs by considering other alternatives to the proposed regulation and preventing the introduction of regulations that overlap with existing regulations. Furthermore, RIA on SMEs conducts an evaluation to examine whether the regulation to be implemented is in line with the global standards. With the businesses particularly in mind, a RIAS on SMEs is made public on the concerned central administrative agency's website, the Regulatory Information Portal, and the Foreign Investment Portal to ensure transparency.

The RIA on SMEs is conducted by the SMBA with the expert supports from the Center for Regulatory Impact Assessment (CRIA) under the Korea Small Business Institute. The CRIA's regulatory impact assessment covers the five sectors, such as land, transport & maritime, environment, food & drug, and employment & micro enterprises.

Figure 6.5. Review process of RIAS on SMEs for new or reinforced regulations

1. Preparation of a RIA Statement	2. Regulatory impact analysis on SMEs		3. Review
Drafting a Regulatory Impact Analysis Statement (RIAS) (including impact assessment on SMEs)	Requesting for RIAS on SMEs	Conducting RIA on SMEs	Review and Recommendation
Central Administrative Agency	Regulatory Reform Office	Small and Medium Business Administration and Korea Small Business Institute	Regulatory Reform Committee

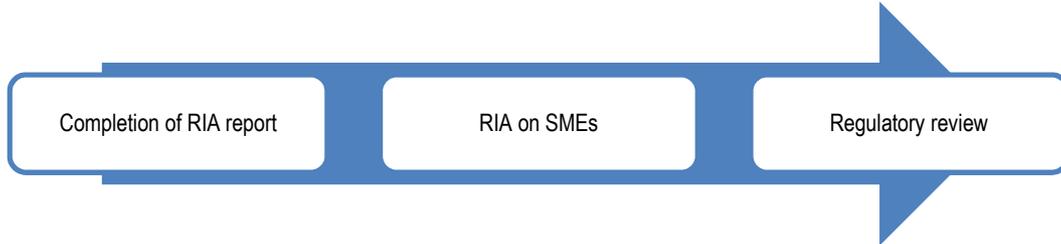
Source: Small and Medium Business Administration.

The RRO first determines if the regulation affects SMEs and, if so, transfers the task to the Small and Medium Business Administration (SMBA). The SMBA then works closely with the CRIA to propose alternatives to the proposed regulation, to conduct a cost-benefit analysis, and to gather expert opinions on the regulatory proposal. The SMBA then submits the drafted RIAS on SMEs to the RRC. Finally, the RRC reviews the regulatory proposal and determines whether to approve or reject the proposal.

Box 6.3. Alternatives to regulatory proposals

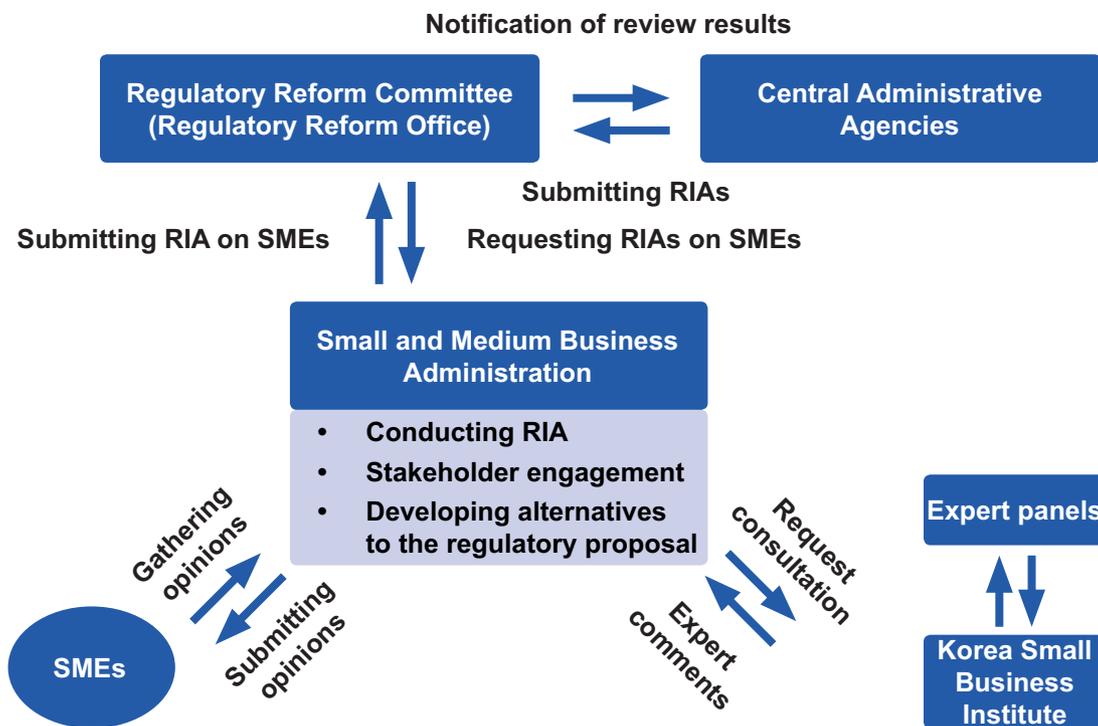
1. Fair regulation
 - Enhancing regulatory equity by enforcing regulations tailored in accordance with firm size and capabilities
 - Standards, procedures, and time frames of registration requirements and document submission
2. Reasonable regulation
 - Prohibiting overlapping regulations, alleviating regulatory barriers to entry, and simplifying excessively burdensome regulations
 - Consolidating and overlapping certifications and land-use regulations, and reducing the burden of mandatory training
3. Selective regulation
 - Permitting all kinds of economic activities and regulating performance and outcomes instead
 - Performance-based regulation and negative-list approach (all kinds of economic activities should be permitted, excluding cases where there are reasons to be prohibited)
4. Flexible regulation
 - Flexible enforcement of regulation, depending on the economic or business situation
 - Sunset clause and temporary regulatory relief

More specifically, a RIA on SMEs is composed of the following three phases:



The first phase consists of a concerned central administrative agency completing a RIA statement which contains an analysis of regulatory impact on SMEs. Included in this analysis should be i) the confirmation of whether the regulation pertains to SMEs, ii) the state of the regulated businesses by size, iii) the ratio of regulatory burdens by the enterprise(s) size, iv) the outcomes of consultations with SMEs, and v) alternatives to alleviate the regulatory burdens on SMEs. In the second phase, the RRO requests the SMBA for a RIA on SMEs, and the SMBA submits the RIAs on SMEs to the RRC. Finally, the RRC conducts a regulatory review on the regulatory proposal, and recommends the concerned central administrative agency to either withdraw or amend the regulatory proposal if it is deemed unreasonable to SMEs.

Figure 6.6. Process of small business regulatory impact analysis



Source: Korea Small Business Institute.

Since 2009, the SMBA has worked with the CRIA to review 2 610 laws and 5 939 regulations. Furthermore, around 426 RIAs were submitted, of which 191 were accepted.

Table 6.9. Statistics on regulatory impact analysis on SMEs

Year	Assessment			Review comments	
	No. of laws	No. of regulations	No. of RIAs on SMEs	No. of acceptance	Acceptance rate
2009	376	726	153	61	39.9%
2010	337	707	40	19	47.5%
2011	494	1 204	82	37	45.1%
2012	584	1 433	55	26	47.3%
2013	308	667	39	19	48.7%
2014	240	627	42	21	50.0%
2015	271	575	15	8	53.3%
Total	2 610	5 939	426	191	44.8%

Note: 1. Number of acceptance is captured in the year when the agency agrees to accept the alternatives suggested by SMBA and makes amendments in the relevant regulation.

Source: Small and Medium Business Administration.

Appeal process for SMEs

Conflicts of interest may arise during the review process of SMEs-related regulatory proposals. More specifically, conflicts of interest may arise between SMEs and large enterprises, or among SMEs, due to their disagreement on the degree of regulation, the subject of regulation, and the reverse discrimination of the regulations. For instance, when barriers to entry for a specific industry are alleviated, start-up SMEs may receive benefits at the expense of the existing SMEs in the same industry, jeopardising the latter to be in a disadvantageous position due to increased competitiveness.

Among various regulations, conflicts of interests are significantly high for regulations that pertain to the service sector and the self-employed micro enterprises. For instance, a conflict of interests may occur between medical and non-medical persons, retail shops and opticians, domestic and import honey retailers, and the public and the private cadastral measurement enterprises. However, such conflict of interests is likely to happen in the process of regulatory reform and rarely occurs in the regulatory enforcement stage.

In order to resolve these disputes during the process of regulatory reform, alternatives to the proposed regulation must be arranged after sufficient consultations with the stakeholders through channels like open discussions, briefings, and general public hearings. In practice, however, the process of reaching an agreement is rather complicated as each detail of the regulatory proposals directly impacts the operational profits or losses of the stakeholders. Under these circumstances, a rational alternative measure is arranged for each agenda through discussions in the OPC and the Ministerial Meetings on Regulatory Reform. Moreover, expert opinions and advice are consulted through the Korea Society for Regulatory Studies, Korea Association of Small Business Studies, and other associations or organisations to seek rational, non-biased alternatives.

A procedural system is established for SMEs to file any complaints or appeals against the regulatory enforcement or decisions made by the relevant regulators. When a new or reinforced regulation is introduced, SMEs can submit their opinions during the advance notice period of proposed legislation usually lasting 40 days. Furthermore, any citizen having objections to regulations, enforcement of regulations or administrative actions also undergoes an appeal process through the Administrative Appeals Procedures or the Administrative Litigation.

Once a formal complaint is filed, the Administrative Appeals Commission and the Administrative Court review and adjudicate on the validity of the administrative actions. Compared to the general appeal process, the administrative appeal process is free of charge and simple in procedures, which gives easier access for SMEs. The subject of administrative appeals includes enforcement procedures of regulations, such as business registration, permit revocation, business suspension, or penalty issuance.

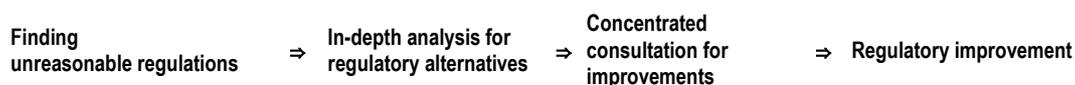
In addition, the Regulatory Reform *Sinmungo* has been instituted for providing the public with a channel to file complaints or submit reform proposals on existing regulations. In effort to ensure easy access to the public, the *Sinmungo* was established as a web-based system and is currently available on the website of each central and local government. If the petitioning parties (e.g. SMEs) still have concerns or questions regarding the results of the regulatory review conducted by each central administrative agency, an additional review can be requested. Along with these channels, the SMEs Ombudsman and the PPJRAI provide online and offline platforms for SMEs to submit suggestions on the improvement of existing regulations.

Stakeholder engagement in the reform process of SME-related regulations

Generally, with regard to the implementation of new or reinforced regulations, SMEs can engage in regulatory reform process through the following measures: i) SMEs may submit their advisory opinions during the advance notice period of the proposed legislations, ii) if necessary, SMEs' opinions can be consulted during the process of regulatory review, iii) SMEs' opinions must be consulted according to the Guideline on the Preparation of RIAs. According to the Guideline, it is mandatory for the concerned central administrative agency to consult SMEs through public hearings and on-site visits, and to report on the level of regulatory burdens felt by SMEs and their demands for improvement when drafting a RIA statement.

Regulatory reform is generally composed of the four steps: i) finding unreasonable regulations, ii) arranging alternatives to the concerned regulations, iii) discussing with concerned administrative agencies, and iv) improving the concerned regulations. Particularly, regarding the reform procedure of an existing legislation, the SMEs Ombudsman must transparently open the complete process of regulatory reform to the businesses.

Figure 6.7. Steps in the reform process of SME-related regulations



Source: SMEs Ombudsman.

Despite such efforts to alleviate burdens on SMEs, the businesses used to experience inconvenience as not all process of regulatory reform was made public. In this regard, a user-based web system has recently been introduced by SMEs Ombudsman to secure transparency and accountability throughout the entire formulation and reform process of SMEs-related regulations.

**Box 6.4. System of categorising the regulatory reform cases
conducted on SMEs by user types**

Roundtable Discussion	One-click Service for Regulatory Information	Compass for Regulatory Map	Regulatory Complaints	Ombudsman Activities	Introduction on Ombudsman
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One-click information on regulatory reform implementation status

- 547 regulations were confirmed for improvement (implemented: 502, implementation delayed: 39, temporarily withheld: 6), and 363 were completed.
- Monitor the regulations that are to be improved, and check if these concern your company
- Navigate your search by industry (standard industry classification), business (procurement, export, etc.), and region.
- Click on the characteristics of your company to find relevant regulatory details

Advanced search	Manufacturing	Service	Transportation, construction etc.	Procurement, export, etc.	Region	Other
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Manufacturing

- 319 regulations were confirmed for improvement (implemented: 295, implementation delayed: 20, temporarily withheld: 4), and 166 were completed.

<p>Food <i>Confirmed for improvement : 33 regulations</i> Implemented : 33 Implementation delayed : 0 Temporarily withheld : 0 ----- Completed : 22 regulations</p>	<p>Textile products <i>Confirmed for improvement : 2 regulations</i> Implemented : 2 Implementation delayed : 0 Temporarily withheld : 0 ----- Completed : 2 regulations</p>	<p>Clothes, accessories, fur products <i>Confirmed for improvement : 1 regulation</i> Implemented : 1 Implementation delayed : 0 Temporarily withheld : 0 ----- Completed : 1 regulation</p>	<p>Chemical substance and chemical products <i>Confirmed for improvement : 14 regulations</i> Implemented : 12 Implementation delayed : 2 Temporarily withheld : 0 ----- Completed : 2 regulations</p>	<p>Rubber and plastic products <i>Confirmed for improvement : 1 regulation</i> Implemented : 1 Implementation delayed : 0 Temporarily withheld : 0 ----- Completed : 1 regulation</p>
<p>Primary metals <i>Confirmed for improvement : 0 regulation</i> Implemented : 0 Implementation delayed : 0 Temporarily withheld : 0 ----- Completed : 1 regulation</p>	<p>Fabricated metal products <i>Confirmed for improvement : 3 regulations</i> Implemented : 3 Implementation delayed : 0 Temporarily withheld : 0 ----- Completed : 2 regulations</p>	<p>Electronic parts, computer, video, and sound & communication equipment <i>Confirmed for improvement : 6 regulations</i> Implemented : 6 Implementation delayed : 0 Temporarily withheld : 0 ----- Completed : 1 regulation</p>	<p>Medical products, precision products, optics and clock <i>Confirmed for improvement : 25 regulations</i> Implemented : 24 Implementation delayed : 1 Temporarily withheld : 0 ----- Completed : 9 regulations</p>	<p>Electrical equipment <i>Confirmed for improvement : 6 regulations</i> Implemented : 6 Implementation delayed : 0 Temporarily withheld : 0 ----- Completed : 5 regulations</p>

Source: Translated into English, www.osmb.go.kr/sub9/oneclick01.jsp?outer=no (accessed 22 March 2017).

In order to increase the transparency of regulations, the regulations that received high frequency of complaints are selected and indicated on the Compass for Regulatory Map with different colour codes, allowing a regional comparison among the local governments. In addition, participation of the general public and businesses is encouraged through making all information available online, including regulatory proposals and RIAS prepared by each central administrative agency. Businesses and the general public can freely voice their opinions anonymously through the aforementioned online SMEs Ombudsman channel.

For instance, in the case of the regulatory proposal that allows retailers to use optician test equipment, a total of 28 000 people participated in the reform process by submitting approximately 2 000 comments. The system of categorising the cases of SMEs-related regulatory reforms by user types (there are 55 business specifications such as industrial field, current business conditions, and region, among others) is also established to make the information readily available to the public.

SME regulatory delivery

The key regulators of SMEs include the central and local governments. Approximately 20 central governments, including MoLIT, MOE and the Ministry of Health and Welfare (MoHW), have a sizable proportion of regulations pertaining to SMEs.

Table 6.10. Central administrative agencies responsible for SMEs-related regulations

Numbers	Ministerial level	Administrative-level	Commission
Economic agencies	12	<ul style="list-style-type: none"> Ministry of Land, Infrastructure and Transportation 	<ul style="list-style-type: none"> Small and Medium Business Administration
		<ul style="list-style-type: none"> Ministry of Agriculture, Food and Rural Affairs 	<ul style="list-style-type: none"> Public Procurement Service
		<ul style="list-style-type: none"> Ministry of Trade, Industry and Energy 	<ul style="list-style-type: none"> Defence Acquisition Program Administration
		<ul style="list-style-type: none"> Ministry of Strategy and Finance 	<ul style="list-style-type: none"> Financial Service Commission
		<ul style="list-style-type: none"> Ministry of Oceans and Fisheries 	<ul style="list-style-type: none"> Korea Communications Commission
		<ul style="list-style-type: none"> Ministry of Science, ICT and Future Planning 	<ul style="list-style-type: none"> Fair Trade Commission
Social and administrative agencies	8	<ul style="list-style-type: none"> Ministry of Interior 	<ul style="list-style-type: none"> Korea Forest Service
		<ul style="list-style-type: none"> Ministry of Health and Welfare 	<ul style="list-style-type: none"> Cultural Heritage Administration
		<ul style="list-style-type: none"> Ministry of Environment 	
		<ul style="list-style-type: none"> Ministry of Employment and Labour 	
		<ul style="list-style-type: none"> Ministry of Culture, Sports and Tourism 	
		<ul style="list-style-type: none"> Ministry of Food and Drug Safety 	

Each regulatory agency is responsible for drafting and managing regulations that concern SMEs in the field under its own jurisdiction, and each agency derives its legal basis from the relevant laws. For example, the Ministry of Environment (MOE) has amended the Act on Registration, Evaluation, ETC. of Chemicals and the Chemicals Control Act. Due to an increase in new regulations derived from these amendments, the MOE has provided education, consulting and other means of support to assist SMEs in their comprehension of and compliance with new regulations.

SMEs-related regulatory policies are delivered and enforced in a similar way as other regulations. In order to facilitate easier access, communication channels have been expanded through the Regional Offices of SMBA, the SMEs Ombudsman, and the KBIZ.

Due to the lack of capacity to understand and comply with regulations compared to large enterprises, SMEs encounter numerous on-site challenges at the regional level during the enforcement of regulations. Some of the relevant cases are as follows: i) additional requirements for information that might cause extra administrative burdens; ii) administrative costs caused by passive bureaucratic attitude; and iii) regulations are applied conservatively to create impediments to businesses. In effort to alleviate these types of difficulties in regulatory enforcement, all local governments have established regulatory petition centres and improved unreasonable regulations. In collaboration with the Board of Audit and Inspection of Korea (BAI), various institutional reforms have been enforced, such as monitoring passive administrative work of public officials, expanding departments for the issuance of certifications and permits, and strengthening incentives for active administrative work of public officials.

Monitoring progress of SMEs regulatory initiatives

Plans for SMEs regulatory reform are formulated by the RRC and the SMBA. The RRC reviews and co-ordinates government policies containing SMEs-related regulations, and governs the overall process of regulatory review and overhaul. Meanwhile, the SMBA prepares comprehensive policies for SMEs. SME regulatory reform plans are generally arranged in February every year through consulting the opinions of businesses and experts.

The SMEs Ombudsman, which is among the main agencies for SMEs regulatory reform, annually devises its regulatory reform plans which are reported to the RRC prior to implementation. In 2013, important regulatory reform measures included reduction of thorn-under-the-fingernail regulations on SMEs, and regulatory reforms that concern micro enterprises and that create SMEs-friendly environment. In 2014, action plans included fair market regulations for SMEs and cost-reducing methods of integrating overlapping regulations, in effort to promote growth of SMEs. In 2015, improvement of unreasonable regulations and bundled regulations was given priority, in an effort to promote investment through creating a SMEs-friendly environment. In 2016, alleviation of regulatory burdens on start-ups and elimination of discriminatory regulations on governmental procurements have been pursued with a vision to establish a creative economy growth engine.

Evaluating SME regulations

SME-related regulations are periodically assessed through the sunset clause. Through the sunset clause, the validity of regulations is reviewed, and if deemed regressive, the concerned central administrative agency is tasked to revise and improve the regulation. When improving existing regulations, the central administrative agency must give much consideration to whether the burden on SMEs can be alleviated through regulatory reform. And, if possible, such consideration should be reflected on the regulatory reform process. In addition, the SMEs Ombudsman and KBIZ periodically conduct surveys on SMEs to determine the level of engagement of SMEs in regulatory reform process and their understanding of the government's regulatory reform objectives.

For instance, the SMEs Ombudsman conducted an SME regulatory cost survey to identify vulnerable businesses and high-cost regulations. For SMEs, the estimation on comprehensive regulatory compliance costs is used as a basis of the regulatory cost reduction program. In order to determine the effectiveness of the regulation, the cost impact on SMEs and their level of compliance is estimated. The survey conducted in-depth interviews with 160 enterprises from 24 industries.

Estimation is made on direct costs for regulatory implementation (actual compliance costs) and administrative costs (burdens), as well as estimation on the appropriate level of regulatory costs desired by businesses. The result shows that an average enterprise costs KRW 470 million for regulatory implementation and administrative costs (manufacturing: KRW 510 million, transportation: KRW 270 million, construction: KRW 250 million). However, desired costs by businesses are on average KRW 330 million.

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