

Regulatory Compliance Cost Measurement Framework

1. Introduction

The purpose of the regulatory compliance cost measurement framework is to make government departments aware of the costs regulations impose on individuals, businesses and organizations and to design compliance obligations that are the minimum necessary to achieve the policy objective.

All regulatory costs arising from new legislation or amendments to existing legislation must be quantified using the regulatory compliance cost measurement framework. Legislation includes Bills, Ministerial regulations, rules, regulations, orders and any other legal instrument that imposes a legal obligation on an individual, business or organization.

Taxes are excluded from the regulatory compliance cost measurement framework. However, costs incurred by regulated entities to demonstrate compliance with taxation (record-keeping and reporting costs) are included in the framework.

The regulatory compliance cost measurement must be completed and submitted to the responsible decision-maker prior to a decision being made to introduce new legislation or to amend existing legislation. To ensure accountability, a Certificate of Compliance must be signed by the responsible departmental head and the responsible Minister.

The signed compliance cost measurement report together with the Certificate of Compliance must be published on the responsible Ministry website and the Office of Regulation Reform website.

The regulatory compliance cost measurement framework provides guidance on how to calculate compliance costs and to assess the efficiency and effectiveness of the compliance design.

The Framework provides the following information:

Section 2: Overview of the type of regulatory compliance costs that need to be measured: direct financial costs, administrative costs and substantive compliance costs.

Section 3: Costing regulatory activities with five key steps for calculating compliance costs (with formulas and examples).

Section 4: Compliance design efficiency assessment (analysis and international benchmarking).

Section 5: Reporting requirements (certificate of compliance and the role of the Office of Regulation Reform).

Section 6: Template for compliance cost measurement and compliance design efficiency assessment.

2. Overview of the Regulatory Compliance Cost Measurement Framework

The Framework requires consideration of the following regulatory compliance costs:

- Direct financial costs
- Administrative costs
- Substantive compliance costs

2.1 Direct financial costs

These are charges prescribed in regulation that are payable to the government such as administrative charges, licence, permit, registration, accreditation and approvals fees, levies, and mandatory insurance premiums (where remitted to government).

2.2 Administrative costs

Administrative costs are incurred by regulated entities to demonstrate compliance with the regulation. Some examples of administrative costs are:

- Costs of making, keeping and providing records
- Costs of notifying the Government of certain activities
- Cost of conducting tests
- Costs of making an application
- Compliance costs associated with financial costs, including the costs incurred in complying with government taxes, fees, charges and levies (excluding the actual amount paid – for example the time taken to pay a licence fee is a compliance cost).

Administrative costs include the time taken to demonstrate compliance with the regulation as well as the associated travel costs (for instance, the costs of traveling to a particular location to submit a form or waiting in a queue in order to comply with a requirement).

2.3 Substantive compliance costs

Substantive compliance costs are costs incurred to deliver the regulated outcomes being sought. Some examples of substantive compliance costs are:

- Costs of providing training to employees to meet regulatory requirements
- Costs of purchasing and maintaining plant and equipment

- Costs of providing information for third parties, such as providing financial statements to consumers
- Costs of operation (for example, energy costs)
- Costs of professional services needed to meet regulatory requirements (for example legal, tax and accounting advice, and specialist auditing/consulting in areas such as environment, occupational health and safety or general compliance systems)

3. Costing regulatory activities

There are four key steps to costing regulatory activities as shown in Box 1 below.

Box 1: Key Steps

1. Define the regulatory activities that impose a compliance cost

This requires working through the regulations and identifying each clause that imposes a compliance cost.

2. Categorize each identified compliance obligation

Categorize each clause that has been identified as imposing a compliance cost as either a direct financial cost, administrative cost or substantive compliance cost.

3. Identify Sources

Identify the number of regulated entities and/or outputs (number of goods or services) that will be subject to the identified compliance costs.

4. Quantify each identified compliance cost

Calculate the direct financial costs, administrative costs and substantive compliance costs for each identified clause.

5. Summarize the total compliance costs

Add the direct financial costs, administrative costs and substantive compliance costs to calculate the total compliance costs on a per regulated entity and for all regulated entities.

Each of the five key steps is explained in further detail below.

Step 1: Define the regulatory activities that impose a compliance cost

Legislation, regulation and other legal instruments impose a broad range of compliance obligations on people, businesses and organizations. The following is a list of common compliance obligations that are prescribed in legislation, regulation and other legal instruments:

- Authorities and Approval to supply goods or services to a third party
- Audits
- Annual returns
- Annual reports
- Prescribed Equipment
- Condition and repair of equipment
- Disclosure of information
- Financial assurances
- Licence application fees
- Licence renewal fees
- Permit application fees
- Permit fees
- Registration application fees
- Registration fees
- Retention of records
- Specifications and equipment
- Maintenance of equipment
- Inspection of equipment
- Protection of equipment
- Security of premises, equipment, processes and systems
- Method of payment
- Prescribed processes and systems
- Standards for the production of goods and services
- Material Safety Data Sheets
- Induction, information, training and supervision
- Hazard identification and analysis
- Risk assessment and control
- Investigation
- Packing, marking and labelling
- Notification of incidents
- Planning for emergencies
- Review processes and systems

This is not an exhaustive list of compliance obligations.

Step 2 Categorize each identified compliance obligation

Each identified compliance obligation needs to be categorized into either direct financial cost, administrative cost or substantive compliance cost. To illustrate this, the compliance obligations from Step 1 are categorized in Table 1 below.

Table 1: Compliance Obligations and Type of Compliance Cost

Regulatory Activity	Type of Compliance Cost
Authorities and Approval to supply goods or services to a third party	Substantive Compliance Cost
Audits	Substantive Compliance Cost
Annual returns	Administrative Cost
Annual reports	Administrative Cost
Prescribed Equipment	Substantive Compliance Cost
Condition and repair of equipment	Substantive Compliance Cost
Disclosure of information	Substantive Compliance Cost
Financial assurances	Substantive Compliance Cost
Licence application fees	Direct financial cost
Licence renewal fees	Direct financial cost
Permit application fees	Direct financial cost
Permit fees	Direct financial cost
Registration application fees	Direct financial cost
Registration fees	Direct financial cost
Retention of records	Administrative Cost
Specifications and equipment	Substantive Compliance Cost
Maintenance of equipment	Substantive Compliance Cost
Inspection of equipment	Substantive Compliance Cost
Protection of equipment	Substantive Compliance Cost
Security of premises, equipment, processes and systems	Substantive Compliance Cost
Method of payment	Administrative Cost
Prescribed processes and systems	Substantive Compliance Cost
Standards for the production of goods and services	Substantive Compliance Cost
Material Safety Data Sheets	Administrative
Induction, information, training and supervision	Substantive Compliance Cost
Hazard identification and analysis	Substantive Compliance Cost
Risk assessment and control	Substantive Compliance Cost
Investigation	Substantive Compliance Cost
Packing, marking and labelling	Substantive Compliance Cost
Notification of incidents	Administrative
Planning for emergencies	Substantive Compliance Cost
Review processes and systems	Substantive Compliance Cost

Step 3 Identify sources

Several pieces of information are required to calculate the cost of compliance. As a matter of good practice, government departments should validate government data from the National Statistical Office and other relevant departments by consulting with the appropriate industry federation or professional association.

You will need to know the number of regulated entities that will be affected by the proposed regulation. The government department may already have this data. If not, it may need to obtain this data from the National Statistical Office or the relevant industry federation or professional association.

In some cases, you will need to know the number of goods or services that are provided on an annual basis. This might be obtainable from the National Statistical Office, industry federation or professional association.

Where average weekly or monthly earnings for a regulated industry sector cannot be reliably sourced from an industry federation or professional association, the national average weekly or monthly earnings should be used from the National Statistical Office.

A desk-top estimate of the time taken for different administrative and substantive compliance costs can be undertaken but should be verified in consultation with a regulated industry sector, profession or occupation. For example, an industry federation or professional association may nominate a small sample of businesses that are willing to allow government department officials to visit and witness the time taken to complete the proposed administrative and substantive compliance measures.

Step 4 Quantify each identified compliance cost

Direct financial costs

The formula used for direct financial costs for individuals, business and organizations is:

Direct financial cost = Tariff x Quantity x Frequency

Where:

Tariff is the regulatory fee or administrative charge payable to government for a licence, permit, registration or any other approval.

Quantity is the number of regulated entities or the number of goods or services that incur a regulatory fee or administrative charge. A regulated entity includes an individual, business and organization.

Where a reasonably accurate number of regulated entities cannot be determined, the government department should still provide an estimated number and the basis for the estimated number (don't just pluck a number out of the sky).

Frequency is the number of times per year a regulatory fee or administrative charge is payable to the government. If the regulation requires payment of a quarterly fee, the frequency would be 4.

Box 2: Direct Financial Costs – Licence Fee Examples

A regulation prescribes a licence application fee of \$900 and 100 licence applications have been submitted on average over the past several years.

Using the above formula, the direct financial costs = \$900 licence application fee x 100 regulated entities = \$90,000.

A regulation prescribes a licence renewal fee of \$700 and 1,000 regulated entities will be required to renew their licence. Using the above formula, the direct financial costs = \$700 annual licensing renewal fee x 1,000 regulated entities = \$700,000.

Calculating Labour Costs for Administrative & Substantive Compliance Costs

The formula used for labour costs for business and community organizations is:

Labour cost = Price x Quantity

= (Time required x Labour Cost) x (Times Performed x Number of regulated entities x Number of staff)

Where:

Time required is the actual time taken per staff member, in hours (or minutes, where appropriate) for businesses or organizations to perform a regulatory activity.

Labour cost is the hourly wage rate plus any non-wage costs of employees. The hourly wage rate is the gross wage received by an employee. Non-wage costs of employees should include any on-costs associated with the wage, such as payroll tax, superannuation and workers compensation premiums, as well as any overhead costs associated with running the business such as rent, rates, building insurance, electricity, gas (other energy costs) information technology equipment, telephone, motor vehicles, machinery and equipment and other business consumables.

The formula for calculating the hourly wage rate:

Gross annual salary divided by the number of working days (excludes annual holidays, public holidays and sick leave entitlements) multiplied by the number of hours per working day.

For example annual salary is \$60,000. The number of working days is 200 per annum and 8 hours per working day. This equals 1600 hours of work. So \$60,000 is divided by 1600 hours = \$37.50 hourly rate.

Where the hourly wage rate and non-wage costs of employees is unknown or is likely to be a costly exercise to collect such information, an economy-wide value should be used sourced from the National Statistical Office.

In Australia, the default multiplier is 16.5% for salary on-costs (multiplier 1.165 and 50% for overheads (multiplier 1.5).

Using the above example for the hourly wage rate of $\$37.50 \times 1.165 \times 1.5 = \65.53 hourly rate.

The \$65.53 hourly rate is the wage and non-wage cost of an employee.

Time Performed is the number of times a regulatory activity is performed per year per staff member. For example, if a regulatory activity is required monthly, the value would be 12.

Number of businesses or community organizations is the number affected by a particular regulatory obligation.

Number of staff is the number of staff members per business or community organization who perform the regulatory activity.

Box 3 below shows how to calculate administrative costs using quarterly returns as an example.

Box 3: Administrative costs – Quarterly Returns Example

A regulation requires quarterly reports to be submitted to a government agency. Consultation with a sample of affected regulated entities reveals the following information. The average time taken to prepare a quarterly report is one hour. The average employee hourly rate is \$50 (includes wage and non wage cost). The number of times the quarterly report is performed is 4 times per year. There are an estimated 2,000 regulated entities and it takes only one employee per regulated entity to prepare the quarterly report.

Using the labour cost formula, the administrative cost per annum per regulated entity is:

$$1 \text{ hour} \times \$50 \times 4$$

$$= \$200$$

Using the labour cost formula, the administrative cost per annum for the industry is:

$$(1 \text{ hour} \times \$50) \times (4 \times 2000 \times 1)$$

$$= \$50 \times 8,000$$

$$= \$400,000$$

Box 4 below shows how to calculate substantive compliance costs using professional services as an example.

Box 4: Substantive Compliance Cost - Professional Services Example

Using the example from Box 3 where a regulation requires quarterly reports to be submitted to a government agency, let's assume that the quarterly report also requires independent certification by an accountant (that is an accountant external to the regulated entity). Consultation with a small sample of accounting firms reveals the average cost for engaging an external accountant to certify the quarterly report is \$100. The number of times the quarterly report is performed is 4 times per year. There are an estimated 2,000 regulated entities.

Hence, the substantive compliance cost per annum incurred by each regulated entity would be:

$$\$100 \times 4 = \$400$$

The substantive compliance cost per annum incurred by the industry would be:

$$\$100 \times 4 \times 2,000 = \$800,000$$

Box 5 provides an example of a substantive compliance cost in relation to training. Given that training is a significant cost, this example demonstrates how the compliance cost affects small, medium and large businesses.

Box 5: Substantive Compliance Cost - Training Example

The regulations impose a number of compliance obligations that require persons to be qualified to undertake the prescribed compliance program. The regulations prescribe the curriculum and a requirement that regulated entities provide evidence personnel responsible for the compliance program have undertaken appropriate training. Consultation with a sample of affected regulated entities reveals that large firms will need to provide training to an average of four staff, medium sized firms two staff and small firms one person.

The government agency in consultation with the relevant industry federation has estimated 20 large firms, 60 medium firms and 140 small firms.

Consultation with a sample of regulated entities reveals that large firms will need to provide training to 4 personnel, for medium-sized firms about 2 personnel and for small firms one person. Accordingly, a total of 340 personnel across the industry will need to be trained (20 large firms x 4 personnel =80 personnel)(60 medium-sized firms x 2 personnel = 120 personnel)(140 small firms x 1 person= 140 personnel).

Consultation reveals the compliance manager in large and medium-sized firms and a senior manager in a small firm will undertake the training. Preparation time for the development of an internal training program is estimated at about 16 hours at \$100 per hour or \$1,600 for large and medium-sized firms and \$120 per hour or \$1,920 for small firms.

Consultation also reveals that staff training will take an average of three hours. The compliance manager from large and medium-sized firms and the senior manager from small firms will present the training at a cost of \$300 and \$360 respectively. The average hourly rate of the 340 employees requiring training is \$50 across all firms.

Using the labor cost formula, the substantive compliance cost for each large firms is:

$$\$1600 + \$300 + \$600 = \$2,500.$$

The substantive compliance cost for the 20 large firms is:

$$(20 \text{ large firms} \times 1 \text{ compliance manager} = 20) \times (\$100 \times 16 \text{ hours} = \$1,600) + (20 \text{ large firms} \times 1 \text{ compliance manager} = 20) \times (\$100 \text{ per hour} \times 3 \text{ hours} = \$300) + (20 \text{ large firms} \times 4 \text{ personnel} = 80) \times (\$50 \text{ per hour} \times 3 \text{ hours} = \$150)$$

$$\begin{aligned} &= (20 \times \$1,600) + (20 \times \$300) + (80 \times \$150) \\ &= \$32,000 + 6,000 + \$12,000 \\ &= \$50,000. \end{aligned}$$

The substantive compliance cost for each medium-sized firms is:

$$\$1,600 + \$300 + \$300 = \$2,200.$$

The substantive compliance cost for the 60 medium-sized firms is:

$$(60 \text{ medium-sized firms} \times 1 \text{ compliance manager} = 60) \times (\$100 \text{ per hour} \times 16 \text{ hours} = \$1,600) + (60 \text{ medium-sized firms} \times 1 \text{ compliance manager} = 60) \times (\$100 \text{ per hour} \times 3 \text{ hours} = \$300) + (60 \text{ medium-sized firms} \times 2 \text{ personnel} = 120) \times (\$50 \text{ per hour} \times 3 \text{ hours} = \$150)$$

$$\begin{aligned} &= (60 \times \$1,600) + (60 \times \$300) + (120 \times \$150) \\ &= \$96,000 + \$18,000 + \$18,000 \\ &= \$132,000 \end{aligned}$$

The substantive compliance cost for each small firm is:

$$\$1,920 + \$360 + \$150 = \$2,430.$$

The substantive compliance cost for the 140 small firms is:

(140 medium-sized firms x 1 senior manager = 140) x (\$120 per hour x 16 hours = \$1,920) + (140 medium-sized firms x 1 compliance manager = 140) x (\$120 per hour x 3 hours = \$360) + (140 medium-sized firms x 1 person = 140) x (\$50 per hour x 3 hours = \$150)

$$\begin{aligned} &= (140 \times \$1,920) + (140 \times \$360) + (140 \times \$150) \\ &= \$268,800 + \$50,400 + \$21,000 \\ &= \$340,200 \end{aligned}$$

Summary of total costs:

20 large firms = \$50,000

60 medium-sized firms = \$132,000

140 small firms = \$340,200

Total cost to industry = \$522,200

Box 6 below provides an example of how to calculate the depreciation of equipment that needs to be purchased to comply with the regulations. Note, if regulated entities are likely to use this equipment in the absence of regulation (i.e. it is a business-as-usual cost), the equipment compliance cost should not be included. It is still worthwhile calculating the compliance cost and providing an explanatory note if it is being excluded on the basis it is a business-as-usual cost.

Box 6: Substantive Compliance Cost – Equipment Example

The regulation prescribes the type of equipment that must be used. In this example, it is assumed the cost of the equipment is \$2,000 and has a life of ten years. Consultation with the industry reveals 1,000 regulated entities will be required to obtain the equipment. Each regulated entity would be required to fund/finance the initial cost of \$2,000 to purchase the equipment with a total cost to the industry of \$2 million.

The equipment cost is depreciated using a straight-line method over the ten years to calculate the annual depreciation charge. In this case, the annual depreciation charge is \$200.

Accordingly, the annual depreciation charge per regulated entity is \$200.

The annual depreciation charge to the industry is \$200,000.

Box 7 below provides an example of a substantive compliance cost that requires data on the number of goods sold.

Box 7: Substantive Compliance Cost – Disclosure Example

The regulation prescribes a disclosure statement must be accompanied with each unit of good that is presented for sale. Consultation with the industry reveals that 1,000 regulated entities will be required to comply with the disclosure statement requirements.

Consultation with the industry reveals the average time to prepare a disclosure statement is 15 minutes (0.25 hour) and the average personnel cost is \$50 per hour (wages and non-wages). Hence, the cost per disclosure statement is $0.25 \times \$50 = \12.50 .

The industry estimates about 1,500,000 units of goods are sold per annum.

Accordingly, the total cost to industry of the disclosure statement is $\$12.50 \times 1,500,000 \text{ units} = \$18,750,000$.

Step 5: Summarize Total Compliance Costs

The direct financial costs, administrative costs and substantive compliance costs should be identified and calculated as shown in Table 2 below. This provides a summary for the Minister or regulatory body to understand the extent of the compliance costs for various compliance obligations imposed on regulated entities.

Key steps 1 & 2 are effectively completed in the first column (Type of Regulatory Cost); the data requirements of Step 3 are completed in the second column (Number of Regulated Entities) and the third column where applicable (Units of Goods/Service); Step 4 is completed in Columns 5, 6, 7, 8 & 9.

Table 2: Total Compliance Costs

Type of Regulatory Cost	Number of Regulated Entities	Regulatory Fee	Units of Goods/Service	Time - hour	Labor Cost	Frequency	Cost per regulated entity	Total Cost
Direct Financial Cost								
Licence Application	100	\$900				1	\$900	\$90,000
Licence Renewal	1,000	\$700				1	\$700	\$700,000
Sub-total								\$790,000
Administrative Cost								
Quarterly Returns	2,000			1	\$50	4	\$200	\$400,000
Sub-total								\$400,000
Substantive Compliance Costs								
Independent certification	2,000			1	\$100	4	\$400	\$800,000
Equipment	1,000						\$2000	\$2,000,000
Disclosure	1,000		1,500,000	0.25	\$12.50			\$18,750,000
Training								\$522,200
Sub-total								\$22,072,200
Total								\$23,262,200

Table 2 shows that the total compliance costs is \$23,262,000 and is based on the compliance cost measurement undertaken from the examples in Step 4 (boxes 2 to 7).

However, the above summary in Table 2 is likely to include one-off costs (licence application), annual on-going costs (licence renewal, quarterly returns, independent certification and disclosure) and periodic costs (training and equipment).

It is useful to identify the annual compliance costs per regulated entity and for the industry, and where applicable, the compliance costs per unit for goods and services and the compliance cost as a percentage of the cost of providing a unit of a good or service.

Table 3 below shows the annual compliance costs per regulated entity.

Table 3: Annual Compliance Costs per Regulated Entity

Type of Regulatory Cost	Annual Compliance Costs
Licence Renewal	\$700
Quarterly Returns	\$200
Independent Certification	\$400
Equipment (depreciation)	\$200
Total	\$1,500

The cost of disclosure statements is the major compliance cost for the industry but represents a relatively small cost per unit of a good sold. To ascertain the cost on per regulated entity basis would require access to sale figures to determine the likely cost for the average sales turnover for small businesses, medium sized and large businesses.

It would be useful to estimate the cost of disclosure statements as a proportion of the retail price of a good/service.

In addition, regulated entities will incur periodic training of personnel from \$2,200 to \$2,500. The frequency of periodic training will be dependent on staff turnover at each regulated entity.

As can be seen from the above discussion, it is difficult to quantify precisely the exact compliance cost on an annualized basis. What is important is to use the compliance cost measurement results to target compliance obligations that appear to impose an unreasonably high cost and find low cost solutions that still meet the policy objective.

4: Compliance Design Efficiency Assessment

The objective of regulatory reform is to ensure the regulatory compliance obligations are the minimum necessary to achieve the policy objective and to solve the problem. Any compliance obligation that exceeds the minimum necessary will impose an unnecessary cost on regulated entities.

The completion of the compliance cost measurement exercise will identify some compliance obligations that impose greater compliance costs than other compliance obligations. This may help a government agency to target its efforts in terms of investigating the scope for more efficient options that can deliver a reduced compliance cost.

This section provides several techniques for ensuring compliance obligations are efficient and the minimum necessary to achieve the policy objective.

The techniques involve questioning the purpose and benefits of each compliance obligation and also undertaking international benchmarking to identify better compliance approaches that impose lower costs on regulated entities.

Benchmarking other jurisdictions is useful for identifying different compliance approaches. This requires minimal research effort given that most governments now keep an on-line central library of legislation. In some cases, it may be necessary to access published regulatory impact analysis and/or liaison with responsible officers in these jurisdictions to understand the reasons for the different approach.

The following questions need to be asked by the government agency responsible for the administration of the regulation for each of the compliance cost categories to ensure that the regulations do not impose unnecessary compliance costs on regulated entities.

Direct financial costs

The key question in respect to regulatory fees and administrative charges is whether the fees and charges are based on cost recovery. Fees and charges should be based on the 'user pays' principle (unless there are justifiable equity reasons to not fully recover costs).

Have the proposed fees and charges been assessed using the Government's Cost Recovery Guidelines?

Do the proposed fees and charges fully recover the Government's costs?

Are the costs efficient or is there scope to streamline or improve the processing of licences to reduce costs and ultimately the level of fees and charges?

Does the application for a licence capture identical or similar information required in other licences that the prospective licence-holder is likely to already hold?

Administrative Costs

Administrative costs often involve a regulated entity keeping records to demonstrate that it has actually undertaken a particular compliance obligation and/or providing/notifying a government agency of a compliance obligation.

Some key questions that need to be explored include:

Do the regulations require regulated entities to keep paper records where electronic records exist?

Legislation often requires regulated entities to maintain paper based record keeping. However, most businesses maintain electronic records (for efficiency reasons and to reduce storage costs associated with paper-based records). Accordingly, legislation tends to permit regulated entities to maintain paper and/or electronic records.

Is the prescribed period for the retention of records appropriate and is it linked to the policy objective and the way in which the market operates?

It is common for legislation to prescribe different periods for the retention of records: for example, two years, five years, six years, seven years and ten years. In many cases, the period for the retention of records has been determined in an arbitrary manner without any consideration to other legislative standards and the purpose for keeping records for a particular timeframe. As a result, an inconsistent approach has developed across legislation, and in some cases, the record retention requirement exceeds the associated risk and the way in which the market operates.

In Australia, it is a requirement for businesses to retain financial records for seven years to enable the Australian Securities and Investment Commission to undertake audits. The corporations regulatory framework provides a benchmark for other regulatory frameworks.

The Motor Car Traders Regulations (Victorian Government, Australia) previously required motor car traders to retain records of contracts and warranties for seven years. This prescribed period was based on the seven year requirement in the corporations law without any consideration as to the way in which the market operated. A review found that seven years was unwarranted and the regulation was amended to six years on the basis that most financing/leasing and warranty periods fell within the six year timeframe.

Is the compliance obligation a duplication of an existing compliance obligation?

Where a regulation requires regulated entities to keep records and to provide information (e.g. returns) about those records, a key question is whether unnecessary duplication is likely to occur. If the regulation requires records to be kept, the preparation of a return that provides a summary of the records is in effect duplication. An alternative approach would be to require regulated entities to keep records and make those records available for inspection by authorized officers of the responsible government agency.

Using the Quarterly Returns example from Box 3, let's assume that the regulation also requires the retention of records for five years. Further questions that need to be asked include: does the government agency process, review or analyze the quarterly reports for non-compliance? How many government agency officers are involved in processing, reviewing and analyzing the quarterly reports? What is the rate of non-compliance detected? Is the type of non-compliance likely to inflict harms (e.g. consumer detriment) on third parties? Are there any specific characteristics of the regulated entities that tend to exhibit non-compliance? If the non-compliance rate is low across the industry, is this due to the regulatory requirement to lodge quarterly reports or due to other regulatory and/or market practices?

The regulation already requires retention of individual transaction records for five years. These records are used to compile the quarterly report. If an assessment found low rates of non-compliance across the industry, an alternative approach could be to undertake random audits based on the risk profile of regulated entities and/or respond to consumer complaints.

Substantive Compliance Costs

Substantive compliance costs involve regulated entities purchasing to meet compliance obligations (e.g. professional services, equipment, training, etc).

Some key questions that need to be explored include:

Is it necessary for the regulated entity to purchase professional services?

It is relatively common for legislation to require a regulated entity to have documents independently certified by an auditor or a lawyer. This obviously increases the compliance cost. The quarterly returns (Box 3) revealed that the preparation of a quarterly returns cost a regulated entity \$200 per annum and the independent certification of the quarterly return by an accountant added a further \$400 cost to the regulated entity per annum (Box 4).

The compliance cost measurement provides useful information in identifying that the independent certification represents two-thirds of the compliance cost associated with submitting annual returns.

If the analysis by the government agency to the above-mentioned questions to the quarterly returns in the administrative costs section revealed a preference to moving to a risk-based random audit approach rather than the requirement to submit quarterly returns, it would seem inevitable that the compliance obligation to have independent certification should be removed.

In other cases, a corporation must keep financial accounts and submit an independently certified annual return with financial information (balance sheet and profit and loss statement).

The purpose of the annual return is to enable other persons, companies and organizations to obtain a copy of a particular registered company's annual return to ascertain its financial health and whether there is a risk in trading with that company. For public companies, the lodgment of an annual return with financial information provides a transparent account of the company's balance sheet and profit and loss to enable current and potential investors to make informed investment decisions. Independent certification of the financial position of a corporation provides some reassurance to potential investors that the accounts are a true and fair representation of the corporation's assets and liabilities.

However, for private companies it is not clear whether independent certification of its annual return (assets and liabilities) is particularly useful to other businesses that want to determine their credit risk in trading with them. An annual return provides historical financial data but not the current financial position of the company. Financial institutions also draw upon annual returns to determine credit risk for the purposes of lending to a private company.

In the absence of an annual return, financial institutions would request a company seeking a loan to provide copies of the past three years of financial accounts, and in most cases, request that an accountant has certified the financial accounts. In addition, it would also seek recent bank statements to determine the current financial position of the company. Where the private company does not have sufficient assets, the financial institution would seek personal collateral (director's family home and/or other assets).

In respect to other businesses wanting to trade with the company, they could obtain credit rating searches on the company to determine credit risk, request a bank guarantee as a contractual condition or liaise with other business suppliers to the company to ascertain their payment history.

For most of these reasons, Australia removed the requirement for private companies to disclose financial information in the annual return. This effectively reduced an unnecessary compliance cost but still enabled financial institutions or other businesses to seek detailed financial information, and where appropriate, to request independent certification by an accountant.

Can the compliance obligation be delivered in a more efficient way?

The compliance cost measurement can be useful in dissecting the key cost components of a particular compliance obligation. For example, the training example in Box 5 showed that the substantive compliance cost included the preparation of an internal training program, the presentation of the training program and the cost of staff attending the training.

As can be seen from Box 5, the compliance cost measurement revealed that the preparation of an internal training program by each of the 220 regulated entities would cost \$396,800 or 76 percent of the \$522,200 total compliance cost.

The presentation of the training program to personnel resulted in a further \$74,400 or 14 percent of total compliance costs.

The opportunity cost of 340 personnel attending training resulted in \$51,000 or 10 percent of total compliance costs.

The compliance cost measurement enables a government agency to target significant cost components and to find alternative cost effective solutions. In this case, a possible solution would involve the government agency preparing the training material and notes. That is, the preparation of training material would be undertaken once rather than by each individual regulated entity. In addition, the government agency could collaborate with the relevant industry federation to provide training to a larger number of personnel from several regulated entities rather than at each regulated entity's premises.

While this would shift the cost back onto government it would ensure a consistent training program and provide 220 regulated entities with significant compliance cost savings. A lower number of training sessions would also produce further compliance cost savings in respect to the presentation of the training program.

Are the compliance obligations prescriptive and duplicate a licensing condition?

Regulations that prescribe the type of equipment are likely to prevent business from developing innovative methods and/or adopting market improvements such as new technologies. It is normally unnecessary for a regulation to be prescriptive if another regulation requires as a licence condition a particular outcome that is related to the prescriptive equipment requirement.

For example, accident towing regulation requires as a licence condition that a licensed tow truck operator/driver must clean debris at the accident scene before leaving to tow a smash motor vehicle. This makes redundant and unnecessary the compliance obligation for a tow truck to carry a shovel and a broom. The licence condition to clean debris at the accident scene should be relied upon from an enforcement perspective rather than the prescriptive equipment compliance obligation as this prevent tow truck operators from

adopting solely mechanical cleaning solutions that are more likely to be quicker in cleaning up an accident scene.

Do the compliance obligations duplicate the operation of the market?

A common legislative requirement is for regulated entities to provide disclosure statements to consumers to address informational asymmetry. However, government agencies need to assess whether the market has changed in the way in which information is disseminated to consumers. The internet has changed markets considerably, particularly consumer access to information that was previously only obtainable from a disclosure statement.

For example, motor car traders are required to place a disclosure statement physically on the window of a second-hand motor vehicle at a motor car trader's dealership. This was the traditional method for prospective purchasers to browse the details about the motor vehicle (odometer reading, vehicle identification, warranty status etc). The internet has led to major car sales websites that provide photographs and similar information (and in some cases, more valuable information) to the prospective purchaser. In these situations, consideration needs to be given to whether the regulatory disclosure statement is duplicating the way the market has changed, and whether electronic disclosure on the internet is a more cost effective solution than a paper-based disclosure system.

Benchmarking

Part of the regulatory reform approach is to benchmark different approaches to compliance obligations to identify potential lower cost compliance that still delivers the policy objective.

Table 4 below shows a list of hypothetical benchmarks with Australia, Malaysia and the U.S.A on a range of different compliance obligations. Table 4 is provided to illustrate the benefits of benchmarking. In respect to the licence renewal fee, Thailand has a higher fee compared with the other countries. Further investigation for the difference revealed the other countries have on-line licensing systems whereas Thailand manually processes licence renewals. Hence, there is potential scope for Thailand to adopt an on-line licensing system subject to a business case that demonstrates such a system would provide greater cost savings to government and business.

Benchmarking record-keeping requirements reveals the other countries have similar retention periods compared with Thailand. Further investigation reveals similar regulatory frameworks and the lower retention periods have not caused any problems for the regulators in these countries. Accordingly, it is recommended that Thailand adopt a five year period rather than the current nine year period.

With disclosure statements, Thailand and the other countries have similar content and there would appear to be no superior approach to disclosure statements.

In respect to the requirement for the lodgment of annual return, the other countries do not prescribe this compliance obligation. Further investigation revealed that regulators in these other countries rely on other regulatory and market processes to achieve the same outcome as the annual return. Thailand has these other processes and it is recommended that the annual return is abolished.

As the other countries do not have an annual return, the independent certification requirement does not exist. For the above reasons, it is also recommended the independent certification is abolished.

Table 4: International Benchmarking

Type of Regulatory Cost	Thailand	Australia	Malaysia	USA	Response
Licence Renewal Fee	\$600	\$400	\$450	\$300	Australia & USA have on-line licence renewal systems, Malaysia has a partial on-line system. Thailand manually processes licence renewals.
Record-keeping	9 years	5 years	6 years	5 years	Recommend 5 years
Disclosure Statement	Yes	Yes	Yes	Yes	The content of the disclosure statements are similar in each country.
Annual return	Yes	No	No	No	Recommend removal of annual return. Regulated entities will be still required to keep transactional records
Independent certification of annual return	Yes	n/a	n/a	n/a	Recommend removal of independent certification

5. Reporting Requirements

Certificate of Compliance

The signed compliance cost measurement report together with the Certificate of Compliance must be published on the responsible Ministry website and the Office of Regulation Reform website. The Certificate of Compliance pro-forma is provided in Section 6 Templates.

Role of the Office of Regulation Reform

The role of the Office of Regulation Reform (ORR) is to educate and provide advice on the compliance cost measurement framework.

The ORR may advise the Office of the Prime Minister if it believes the Compliance Cost Measurement report has not been undertaken in accordance with the Government's Compliance Cost Measurement Guidelines.

The ORR will establish a compliance cost measurement database. The ORR will record in the database the results from each compliance cost measurement report prepared by government agencies. In particular, for each type of compliance obligation, the ORR will build a knowledge database of the different regulatory approaches and use this information to target inconsistent approaches across government. For example for the retention of records, the database may show that Regulation A requires records to be kept 5 years, Regulation B for 8 years, Regulation C for 2 years, Regulation D for 4 years, Regulation E for 5 years, Regulation F for 5 years, Regulation G for 10 years.

With this information, the ORR could analyze each of the regulations and the risks associated and make a policy recommending the maximum period for the retention of records by persons, business and organizations. This policy would provide guidance to government agencies introducing or amending a legislative instrument of the government's position on the maximum period for the retention of records and the matters that need to be considered in determining the appropriate period. In doing so, this will help to prevent unnecessary compliance cost burdens on persons, business and organizations.

This comparative analysis and policy-making approach will be undertaken for each of the compliance obligations that are common to most regulatory schemes.

6: Templates

This section provides a template for compliance cost measurement and compliance design efficiency assessment and also a pro-forma for the certificate of compliance that needs to be signed by the responsible departmental head and responsible Minister.

Compliance Cost Measurement Template

Name of Ministry/ Regulatory Body.....

Title of Legislation/Regulation.....

Total Compliance Cost Summary

Type of Regulatory Cost	Number of Regulated Entities	Regulatory Fee	Units of Goods/ Services	Time	Labor Cost	Frequency	Cost per regulated entity	Total Cost
Direct Financial Cost								
Sub-total								
Administrative Cost								
Sub-total								
Substantive Compliance Costs								
Subtotal								
Total								

Annual Compliance Costs per Regulated Entity

Type of Regulatory Cost	Annual Compliance Costs
Total	

Where applicable, one-off costs

Where applicable, periodic costs

Where applicable, compliance cost per unit (goods or services)

Where applicable, compliance cost as a percentage of market price per unit (goods or services)

Compliance Design Efficiency Assessment Template

Type of Regulatory Activity	Question	Yes/No	Explanation
Direct Financial Cost			
	Have the proposed fees and charges been assessed using the Government's Cost Recovery Guidelines?		
	Do the proposed fees and charges fully recover the Government's costs?		
	Are the costs efficient or is there scope to streamline or improve the processing of licences to reduce costs and ultimately the level of fees and charges?		
	Does the application for a licence capture identical or similar information required in other licences that the prospective licence-holder is likely to already hold?		
Administrative Costs			
	Do the regulations require regulated entities to keep paper records where electronic records exist?		
	Is the prescribed period for the retention of records appropriate and is it linked to the policy objective and the way in which the market operates?		
	Is the compliance obligation a duplication of an existing compliance obligation?		
	What is the purpose and benefits of the compliance		

	obligation?		
	What would happen in the absence of the compliance obligation?		
Substantive Compliance Costs			
	What is the purpose and benefits of the compliance obligation?		
	Is it necessary for the regulated entity to purchase professional services?		
	Can the compliance obligation be delivered in a more efficient way?		
	Are the compliance obligations prescriptive and duplicate a licensing condition?		
	Do the compliance obligations duplicate the operation of the market?		
	What would happen in the absence of the compliance obligation?		

International Benchmarking

Type of Regulatory Cost	Thailand	Name of Country	Name of Country	Name of country	Response

Certificate of Compliance

The responsible agency has assessed any fees and charges in accordance with the Government's Cost Recovery Guidelines.

The responsible government agency has undertaken an assessment of each compliance obligation (tested the purpose and appraised the likely outcome in the absence of the compliance obligation) in consultation with affected stakeholders.

Name the key affected stakeholder organizations:

- 1.....
- 2.....
- 3.....

Add more lines if necessary.

The identified compliance costs have been benchmarked against other jurisdictions.

Name the jurisdictions and the title of the legislation/regulation

1.
2.
- 3.....

Departmental Head

I am satisfied that the compliance cost measurement has been undertaken in accordance with the Government's Compliance Cost Measurement Framework.

Signature.....

Date.....

Minister

I am satisfied that the compliance obligations are the minimum necessary to meet the policy objective.

Where appropriate, (However, I have requested the department to undertake further research as to whether a more effective approach with lower compliance costs can be implemented for the following compliance obligations. A report must be submitted to myself by)

Signature.....

Date.....