Tackling Compliance: Small Business and Regulation in Canada

Views of Publicly Traded Small and Medium-sized Entities (SMEs) and Accounting Practitioners (SMPs) in Canada

By the Certified General Accountants Association of Canada
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Appreciation is extended also to Association members, and team contributors who provided support, expertise, and peer review to the exercise.

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The observance of regulation has become a fundamental part of life for the conduct of business in Canada. Governments and their duly appointed designates, acting in the interest of the collective public, have relied on regulation to moderate economic and social behaviour through the imposition and enforcement of rules. And while it can be commonly accepted that such a prescriptive framework may be necessary for the achievement of desired economic and social outcomes, regulation does impose a cost to society and to individual firms. These costs, which can include the cost of governments to administer, the cost of firms to comply, and the multitude of indirect costs such as lost innovation and productivity or their interrelated opportunity costs, have received amplified attention.

Most notably, there has been increasing concern in Canada with respect to over-regulation; and specifically to what it means to smaller entities. A concern for smaller entities is that they must often comply with the same rules as those applicable to their larger better-resourced counterparts. That compliance can place a disproportionate burden on these smaller firms and may represent little relevance to the nature of their typically more restricted operations.

With the goal of gaining an objective understanding of the Canadian business reaction to regulation, the Certified General Accountants Association of Canada (CGA-Canada) commissioned a Small and Medium-sized Entities (SME) survey and a Practitioner survey in the fall of 2005. An interim report of survey findings which can be found on our website at www.cga-online.org/canada was published in February 2006 and subsequently relied upon to kindle a public consultation held in Ottawa, Canada, in March 2006. Initial observations and findings were shared with that broader constituency who afforded supplemental insight and advice. Aggregating these additional views, we have now also had the opportunity to compare our results and experiences with those of the United Kingdom by way of collaboration with the Association of Chartered Certified Accountants (ACCA) which concurrently conducted its own research in the United Kingdom.
As such, this paper represents the final leg of a substantive research undertaking which CGA-Canada is pleased to disseminate. We are honoured to have enjoyed the contributions of those attending the public consultation and proud of our collaboration with the ACCA. Our ultimate aim in presenting this final report has been to advance the understanding of the impacts of regulations on the SME sector, to influence the ongoing debate as to the reasonability of SME compliance, and to advocate for new approaches to regulatory pronouncement and administration.

Anthony Ariganello, CPA (Delaware), FCGA
President and Chief Executive Officer
The Certified General Accountants Association of Canada
Introduction

Oftentimes generically referred to as small and medium-sized entities (SMEs), one of the issues compounding the already abundant complexity of the vast SME sector is the absence of one common definition of what constitutes an SME. For the purposes of this study, the definition of an SME is based on the definition and thresholds used by the European Union’s European Commission. Accordingly, Micro, Small, and Medium-sized entities shall be defined as follows:

<table>
<thead>
<tr>
<th>SME Type</th>
<th># of Employees</th>
<th>Annual Revenue</th>
<th>Assets</th>
</tr>
</thead>
<tbody>
<tr>
<td>Micro</td>
<td>&lt;10</td>
<td>&lt; $3 million</td>
<td>&lt; $3 million</td>
</tr>
<tr>
<td>Small</td>
<td>&lt;50</td>
<td>&lt; $15 million</td>
<td>&lt; $15 million</td>
</tr>
<tr>
<td>Medium</td>
<td>&lt;250</td>
<td>&lt; $75 million</td>
<td>&lt; $65 million</td>
</tr>
</tbody>
</table>

Under this definition, for each SME type, an SME must meet the employee test and only one of the ensuing revenue or asset tests. For example, a “Small” entity is defined as an entity with 10 to 50 employees and less than $15 million in revenue or in assets.

With this definition in hand and the intention to advance an understanding of the issues and the concerns experienced by small and medium-sized entities (SMEs) when satisfying their regulatory obligations, the Certified General Accountants Association of Canada (CGA-Canada) conducted a survey of publicly listed SMEs in Canada, in the fall of 2005. The decision to survey publicly listed companies rather than private companies, was based on a number of considerations. Firstly, publicly traded entities are oftentimes more widely held than private companies and as a result, their views are likely to be more representative and of greater interest to the general public. Secondly, unlike private businesses, these publicly traded entities are subject to the regulations of securities administrators. Understanding the views of SMEs regarding the impact of requirements recently introduced by securities administrators to improve corporate governance and enhance investor confidence, is viewed as both timely and useful. Lastly, it has been observed that the issues and concerns of privately held SMEs in Canada have been the primary focus of a number of documented studies. By concentrating our efforts on the publicly accountable SMEs, it is expected that the results of this study can serve to enhance and broaden the current understanding of the regulatory burdens experienced by the greater SME sector in Canada.
To further enhance this understanding, CGA-Canada has also asked accounting practitioners from small and medium-sized practices (Practitioners) for their views on regulation and the corresponding impact on the SME clients they serve.

The questions posed of SMEs and Practitioners solicited the participant’s views on the: (1) reasonability of regulations; (2) reasonability of specific securities regulations; (3) issues with regulations; (4) accounting assistance; and (5) rating of external accountants in the areas of (a) taxation; (b) human resources/payroll; (c) securities; (d) employment; and (e) environmental regulation. The dimensions of complexity, quantity, change, timing, duplication, and inequity were also germane to the surveys.

To ensure final samples for both surveys were reflective of the total population of these groups across Canada, quotas were used to ensure proportional representation by region. The survey of Practitioners was also controlled to ensure proportional representation by gender. Based on the sample sizes, figures for SMEs are considered to be accurate within +/- 5.9 percentage points 95 times out of 100, while figures for Practitioners are considered to be accurate within +/- 5.0 percentage points 95 times out of 100.

For a complete discussion on the content, methodology, participation, instrument(s), observations and findings of the survey, the reader is encouraged to consult the interim report at www.cga-online.org/canada.

Rounding out this data collection and synthesis, CGA-Canada, facilitated by the Public Policy Forum, hosted a roundtable discussion on March 23, 2006. The event brought together senior representatives from government, business, experts and stakeholder groups to consider, validate or otherwise query the findings of the SME and Practitioner surveys. Participants quickly agreed that regulation had become an important issue for SMEs — and one that should be of interest to government. There was nevertheless a great deal of discussion as to what the government might be expected to do about it. Some of the identified challenges, prospective mechanisms and methodologies to deal with the challenges are recapitulated in the text that follows. Perhaps most relevant to our discussion of remedy, was the acknowledgement that small steps may prove to be more promising than grand or elaborate schemes.

Complementing the entire process, CGA-Canada and the Association of Chartered Certified Accountants (ACCA) collaborated on instrument design and administration, information sharing, and project execution. With the exception of relatively minor variances, the projects in the respective jurisdictions of Canada and the UK were conducted in similar and coherent fashion. Goals for doing so include obtaining comparable data and feedback
for the purpose of identifying potential similarities and differences, to promote transatlantic learning, and to explore and exchange potential strategies of mutual interest. In effect, we have been able to broaden our respective experiences and to expand the draw for internationally oriented solutions. Interestingly, a great number of similarities exist and the global phenomenon of other developed economies does not appear to be particularly divergent.

What is universally certain is that businesses, regulators, authorities and standards-setters alike are eager to strike a balance. The viability of commercial activity and competition depends on it.
In the fall of 2005, the Certified General Accountants Association of Canada (CGA-Canada) set out to ascertain the publicly-listed Small and Medium-sized Entities (SME) sentiment to regulation. At that time, the participating Canadian SMEs reported that, while important:

- 59.7% of them considered securities regulation not to be reasonable;
- 21.7% of them considered tax regulation not to be reasonable;
- 17.9% of them considered environmental regulation not to be reasonable;
- 7.7% of them considered human resource and payroll regulation not to be reasonable; and
- 4.4% of them considered employment regulation not to be reasonable.

What’s more concerning is that in respect to their regulatory obligations:

- 88.3% of these SMEs are concerned with issues of inequity;
- 88.0% of them are concerned with complexity;
- 88.0% of them are concerned with change;
- 86.8% of them are concerned with quantity;
- 62.9% of them are concerned with duplication; and
- 57.6% of them are concerned with timing.

Concurrently, practicing Certified General Accountants (Practitioners) reported that:

- 33.0% of them consider tax regulation to be unfair;
- 22.3% of them consider human resource and payroll regulation to be unfair;
- 22.1% of them consider employment regulation to be unfair;
- 22.1% of them consider environmental regulation to be unfair; and
- 21.5% of them consider securities regulation to be unfair.

Practitioner views respecting inequity, complexity, change, and quantity are constant with those expressed by the SMEs surveyed. Interestingly though, the practitioner group has heightened concern for duplication (81.9% vs. 62.9%) and for timing (76.1% vs. 57.6%).

Undoubtedly, there is a role for regulation in society. Well orchestrated, it is beneficial to efficiency, justice, and safety.

Nevertheless, it is commonly accepted that excessive regulation does interfere with, or at least detracts from, optimal productivity and living standards. It

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1 The pages that follow and the interim report of findings that can be found at www.cga-online.org/canada reveal the rigour and basis upon which the figures herein are postulated.
impacts consumer choice, entrepreneurship and competition; oftentimes in a negative or unintended way. In short, there is a real cost.

The question therefore becomes, how much regulation strikes the equilibrium between public protection and commercial pursuit. In the absence of a commonly accepted framework which can be uniformly applied to the complex publicly-listed SME sector, CGA-Canada has not attempted to quantify this cost or reconcile the costs and benefits of regulation. So, regrettably we do not have the answer other than to say that, based on our survey and roundtable participants, the pendulum may have swung too far in favour of excessive regulation. What has become abundantly clear through the conduct of this study is that regulation has become governments’ leading instrument to guide corporate behaviour and to prompt change. Equally unmistakable is that SMEs of all sizes are paying a price and have become unenthusiastic over the cumulative burden imposed by the multitude of regulations.

Our approach will therefore be to demonstrate to the highest level of decision-makers that business is responding pessimistically to swelling regulatory compliance, bureaucracy and paperwork burden. Crucially, it is imperative to convey the message that businesses continue to sense a lack of awareness or an appreciation by regulators of the impacts of regulation. Intuitively, we can also concede that government and its regulators might likewise feel that they are compelled to regulate in response to the public’s demand for increasing accountability. As such, we have a conflict of cultures between those who regulate and those who are expected to conform. Given this void, CGA-Canada is not optimistic that a grand and articulate plan is best. Rather, our approach shall be to present a number of interactive strategies which, introduced separately or taken together, can reduce pressure exerted on constituents to the regime. These are contained in a later section and the Closing Comments to this paper.

Encouragingly, this paper makes reference to some important steps already introduced in certain jurisdictions to improve regulatory accountability. These strategies hold significant promise and should not be ignored. Importantly, they can be imported to other jurisdictions and can help to set the stage for regulatory reform in Canada which integrates or otherwise harmonizes the individual efforts of various levels and agencies of government and potentially imparts a prospect of international alignment.
In the fall of 2005, the Certified General Accountants Association of Canada (CGA-Canada) surveyed 250 publicly-traded small and medium-sized entities (SMEs) and 350 practicing CGAs (Practitioners) on the topic of small business and regulation in Canada. The primary objective of this initiative was to advance an understanding of the issues and concerns experienced by SMEs when complying with the regulations applicable to their organizations. Insight from both the firms responsible for compliance (SMEs), and those often tasked for assisting SMEs with this compliance (Practitioners), was seen as useful for achieving this objective.

In March 2006, an interim report summarizing the results of the two surveys was published and circulated to the participants of a public forum organized specifically to examine this topic. Specifically, the report presented SME and Practitioner views on the following five topics:

- Reasonability and importance of taxation, human resource/payroll, securities, employment and environmental regulations;
- Reasonability and importance of three specific securities regulations including National Instrument 51-102 Continuous Disclosure Obligations (NI 51-102), proposed Multilateral Instrument 52-109 Certification of Disclosure in Issuers’ Annual and Interim Filings (MI 52-109), and proposed Multilateral Instrument 52-111 Reporting on Internal Control Over Financial Reporting (MI 52-111);
- Degree to which the issues of complexity, quantity, change, timing, duplication, and inequity concern SMEs and impact their compliance with applicable regulatory requirements;
- Extent to which SMEs rely on external accountants for assistance with their regulatory obligations; and
- An evaluation of the service received by SMEs from these external accountants or accounting firms.

The results for each of these topics were summarized on an overall basis, as well as on a regional basis (i.e. British Columbia, Alberta, the Prairies, Ontario, Quebec, and the Atlantic provinces). In addition, SME views on securities regulation were broken down by SME size (i.e. Micro, Small and Medium-sized entities) and by exchange (i.e. TSX and TSX Venture Exchange).
The purpose of the remainder of this section is to highlight some of the more significant findings flowing from the analysis of the survey results. Included are highlights for each of the five topics listed above, as well as a summary of the most important findings emanating from an examination of the regional results and those relating to SME views on securities regulations by SME size and exchange.

2.1 Reasonability of Regulations

**Highlights:**

- *Regulations are generally considered fair and reasonable to Practitioners and SMEs (Securities regulations being the only exception for SMEs)*

- *Securities regulations are the most important category of regulation to SMEs, while Human Resource/Payroll requirements are considered the least important*

**Analysis:**

Figures 1 and 2 summarize SME and Practitioner views on the reasonability and fairness of regulations applicable to SMEs in Canada.

When surveying SMEs, each respondent was asked to assess the reasonability of the requirements that apply to their organization for each of the five regulatory areas considered. In addition, respondents were asked to indicate whether the reasonability of each regulatory area is important or not important to their organization. Figure 1 presents the combined results by first separating responses of those that feel the reasonability of each regulation is *not important* (grey) from those that consider each issue as *important* (light and dark blue). Responses in this latter category are then divided into those that feel the requirements in each regulatory area are *not reasonable* (dark blue) and those that consider these requirements as *reasonable* (light blue).

In Figure 1 we can see from the blue-shaded areas that for all regulations, the issues of reasonability is considered important to a majority of respondents. Securities regulations are considered the most important at 96.8% of all respondents and Human Resource/Payroll requirements lowest at 60.4% of all respondents. In terms of reasonability, we can see that a greater percentage of SMEs feel that the requirements in each regulatory area are *more reasonable* (light blue) than *unreasonable* (dark blue). This is the situation in all instances except for Securities regulations where the opposite holds true (i.e. 59.7% *not reasonable* AND *important* compared to 37.1% *reasonable* AND *important).*
In the case of Practitioners, respondents were asked to evaluate whether the requirements in each regulatory area, as they apply to SMEs, are *fair*, *somewhat fair*, *somewhat unfair*, or *unfair*. As can be seen in Figure 2, less than a majority believe that the regulatory requirements of SMEs are either *unfair* or *somewhat unfair*. These results are consistent with those provided by SMEs themselves, as both groups consider the regulatory requirements applicable to SMEs as being fair and reasonable. As noted above, the only exception relates to Securities regulations where it is clear that SMEs have a less favourable view regarding the reasonability of these requirements.
2.2 Reasonability of Specific Securities Regulations

Highlights:

• The less favourable view held by SMEs with respect to Securities regulations is also reflected in their opinions toward recently introduced securities requirements

• With respect to addressing the concerns of SMEs, proposed Multilateral Instrument 52-111 Reporting on Internal Control Over Financial Reporting was considered the least reasonable of the three specific securities regulations evaluated

Analysis:

Figures 3 and 4 represent SME and Practitioner views on the reasonability and importance of National Instrument 51-102 Continuous Disclosure Obligations (NI 51-102), proposed Multilateral Instrument 52-109 Certification of Disclosure in Issuers’ Annual and Interim Filings (MI 52-109), and proposed Multilateral Instrument 52-111 Reporting on Internal Control Over Financial Reporting (MI 52-111) for improving the quality of financial reporting and for appropriately addressing the concerns of SMEs.

From the perspective of SMEs in Canada, the results presented in Figure 3 echo the concerns expressed in the United States with section 404 of the Sarbanes-Oxley Act of 2002 (SOX) and support the Canadian Securities Administrators’ (CSA) decision to withdraw a majority of the internal reporting requirements included under MI 52-111. As Figure 3 demonstrates, of those SMEs that feel that it is important that MI 52-111 address the concerns of SMEs, a far greater number feel this requirement is not reasonable (dark blue) than reasonable (light blue) for achieving this objective (i.e. 71.6% versus 14.2%).

Of the two remaining regulations, NI 51-102 and MI 52-109, the findings presented in Figure 3 illustrate that SMEs are more likely to disagree than agree that these regulations improve the quality of their organization’s financial reporting and address the unique concerns of smaller entities. The greater percentage of respondents that consider these regulations as unreasonable (dark blue) than reasonable (light blue) is consistent with the general response to the reasonability of securities regulations shown in Figure 1.

4 It is important to note that at the time of the surveys, while NI 51-102 was already in force, MI 52-111 was still in proposed form and certain requirements under MI 52-109 had yet to be finalized. Since that time, Canada’s securities administrators have issued a notice withdrawing MI 52-111. This decision by the securities regulatory authorities in Canada, as stated in a March 10, 2006 CSA notice, was based on an extensive review and consultation and in view of the delays and the debate underway in the U.S. over the rules implementing section 404 of the Sarbanes-Oxley Act of 2002; the U.S. equivalent to MI 52-111. A primary concern with respect to section 404 has been the substantial costs firms have had to incur, especially smaller organizations, to comply with the requirements under this rule.
As represented in Figure 4, and consistent with their favourable view of Securities regulation (Figure 2), Practitioners are more likely to agree than disagree that NI 51-102 and MI 52-109 improve the quality of financial reporting in Canada and address the unique concerns of smaller entities.
2.3 Factors Contributing to Regulatory Burden

**Highlights:**

- All factors considered to have an influence on SMEs and their ability to satisfy all applicable regulatory obligations are of significant concern to both SMEs and Practitioners

- Inequity, Quantity, Change and Complexity are the issues considered the most influential in contributing to the compliance burdens of SMEs

**Analysis:**

Figures 5 and 6 show the percentage of SMEs and Practitioners that are very concerned and somewhat concerned with the issues of regulatory Duplication, Timing, Complexity, Change, Quantity and Inequity as they relate to SMEs and their compliance with all applicable regulatory requirements.

It is apparent from Figures 5 and 6 that a majority of both SMEs and Practitioners are concerned with each of the issues surveyed.

In the case of SMEs, we see that Inequity, followed closely by Quantity, Change and Complexity are the factors considered to have the greatest impact on their ability to satisfy their regulatory obligations. Duplication and Timing, although still viewed as a concern by a majority of respondents, are of relatively less concern for SMEs.

Practitioner views shown in Figure 6 validate those held by SMEs, with Inequity, Quantity, Change and Complexity considered the issues of greatest concern. In fact, the results are quite similar between the two groups, with approximately the same percentage of respondents in each survey indicating they are either very concerned or somewhat concerned with the regulatory impacts of these four issues.

The only significant difference evident in the results presented in Figures 5 and 6 is that Duplication and Timing are viewed as being more of a concern in the eyes of Practitioners than they are by SMEs themselves. Despite this difference, both groups agree that Timing is the issue of least concern for SMEs.
Figure 5: Percentage of SMEs that are **Very Concerned** and **Somewhat Concerned** with the Factors Impacting Compliance with Applicable Regulations

![Chart showing the percentage of SMEs concerned with various factors.]

- **Duplication**: 27.8% Very Concerned, 35.1% Somewhat Concerned
- **Timing**: 28.6% Very Concerned, 29.0% Somewhat Concerned
- **Complexity**: 49.6% Very Concerned, 38.4% Somewhat Concerned
- **Change**: 52.0% Very Concerned, 36.0% Somewhat Concerned
- **Quantity**: 56.8% Very Concerned, 30.0% Somewhat Concerned
- **Inequity**: 61.8% Very Concerned, 26.5% Somewhat Concerned

Figure 6: Percentage of Practitioners that are **Very Concerned** and **Somewhat Concerned** with the Factors Impacting SME Compliance with Applicable Regulations

![Chart showing the percentage of Practitioners concerned with various factors.]

- **Duplication**: 47.0% Very Concerned, 34.9% Somewhat Concerned
- **Timing**: 27.7% Very Concerned, 48.4% Somewhat Concerned
- **Complexity**: 58.9% Very Concerned, 30.0% Somewhat Concerned
- **Change**: 37.5% Very Concerned, 45.5% Somewhat Concerned
- **Quantity**: 50.1% Very Concerned, 38.4% Somewhat Concerned
- **Inequity**: 48.1% Very Concerned, 40.3% Somewhat Concerned
2.4 SME Reliance on External Accounting Assistance

Highlights:

- A significant majority of the publicly-traded SMEs in Canada require assistance from an external accountant to help with their organization’s Securities and Taxation filing requirements.

- Over half of the publicly-traded SMEs in Canada delegate the primary responsibility for satisfying their organization’s Taxation filing requirements to an external accountant.

Analysis:

The degree to which SMEs rely on the assistance of an external accountant to help meet their organization’s regulatory obligations is presented in Figure 7, while Figure 8 reveals the percentage of SMEs that assign an external accountant or accounting firm the primary responsibility for satisfying the organization’s regulatory obligations for each of the regulatory areas considered.

It is apparent from Figure 7 that a significant majority of the publicly-traded SMEs in Canada rely on an external accountant to assist with their organization’s Taxation filing requirements (85.6% of all respondents) and Securities obligations (72.8%). Perhaps less predictable, the results in Figure 7 also reveal that a substantial percentage of SMEs are using an external accountant to help their organization comply with applicable Human Resource/Payroll filing requirements (14.8%), Employment standards (7.8%) and Environmental regulations (7.5%).

Figure 7: Percentage of SMEs that Require Assistance from an External Accountant, by Regulatory Area
Figure 8, which also includes the views of SMEs that do not require external accounting assistance, shows that over half (53.1%) of the organizations surveyed delegate primary responsibility for their organization’s compliance with Taxation filing requirements to an external accountant or accounting organization. In terms of ensuring compliance with applicable Securities requirements, 24% of the SMEs surveyed assign primary responsibility to an external accountant in this area, while the figure drops to only 2.1% in the case of compliance with Environmental regulations.

In comparing the values for each regulatory area in Figure 8 to those in Figure 7, we can see that the ratio of SMEs assigning primary responsibility (Figure 8) to those assigning some responsibility (Figure 7) is highest for Taxation filing requirements. This finding suggests that accountants are considered strongest in this area and are more likely to be relied upon by SMEs to assume most of the responsibility in this area. Using the same logic, it is interesting to note that when called upon for assistance, accountants are next most likely to be given primary responsibility for ensuring compliance with applicable Employment standards.

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5 Although not shown here, the greater reliance on external accountants for assistance with taxation issues is consistent with the response given by CGA Practitioners, where 92.9% of these practitioners consider themselves most qualified to assist SMEs with their Taxation filing requirements.
2.5 SME Rating of External Accounting Assistance

**Highlights:**
- SMEs rate their external accountants highly in all service areas
- Technical Understanding is the service area where accountants are rated highest
- Value of Service Provided is the service area where SMEs believe that their external accountant or accounting organization could improve most

**Analysis:**
How SMEs rate the quality of the service they have received from their external accountant or accounting organization in five service areas is summarized in Figure 9.

It is evident from Figure 9 that SMEs are satisfied with the service provided by their external accountants. In each of the service areas evaluated, the majority of SMEs surveyed consider the assistance provided by an external accountant or accounting firm as either excellent or good.

Overall, SMEs rated accountants highest for their Technical Understanding with an 82.3% rating their external accountant as excellent or good in this area.

Although still rated favourably overall (i.e. 59.7% excellent or good), Value of Service Provided is the service area that has the most room for improvement in the collective opinion of SMEs as 15.0% rated the Value of Service Provided by an external accountant as either below average or poor.

![Figure 9: SME Rating of Assistance Provided by External Accountant or Accounting Organization by Service Area](image-url)
2.6 Regional Differences

For each of the topics addressed by the SME and Practitioner surveys, results were also tabulated for six regions in Canada. Although the results for individual regions typically mirror national averages, a number of differences are identifiable. The following section highlights some of the more pertinent differences noted between the regions.

**Reasonability of Securities and Taxation Requirements**

Figures 10 and 11 delineate the results contained in Figure 1 concerning the reasonability and importance of Securities regulations and Taxation filing requirements for the four largest provinces in Canada.

Focusing on the dark blue-shaded portion of the chart in Figure 10, we can see that of those SMEs that consider the issue of reasonability important, SMEs in the western-most provinces are more likely to disagree (i.e. not reasonable AND important) that the Securities regulations that apply to their organizations are reasonable.

**Figure 10: SME Views Regarding the Reasonability and Importance of Securities Regulations for the Four Largest Provinces in Canada**

<table>
<thead>
<tr>
<th>Province</th>
<th>Not Reasonable AND Important</th>
<th>Reasonable AND Important</th>
<th>Not Important</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quebec</td>
<td>48.5%</td>
<td>42.4%</td>
<td>9.1%</td>
</tr>
<tr>
<td>Ontario</td>
<td>58.1%</td>
<td>38.7%</td>
<td>3.2%</td>
</tr>
<tr>
<td>CANADA</td>
<td>59.7%</td>
<td>37.1%</td>
<td>3.2%</td>
</tr>
<tr>
<td>Alberta</td>
<td>62.3%</td>
<td>35.8%</td>
<td>1.9%</td>
</tr>
<tr>
<td>BC</td>
<td>64.8%</td>
<td>33.0%</td>
<td>2.3%</td>
</tr>
</tbody>
</table>

With respect to the reasonability of Taxation filing requirements, we see in Figure 11 that SMEs in Alberta are the least concerned of the provinces, with only 13.2% viewing these requirements as not reasonable AND important (dark blue). Furthermore, this issue is considered more important to SMEs in Alberta than in the other provinces as 86.8% consider the reasonability of Taxation filing requirements important compared to only 72.6% in British Columbia and 77.5% nationally.
Factors Contributing to Regulatory Burden

To determine which issues have the greatest impact on SMEs in each of the six regions analyzed, the results in Figure 5 were broken down by region and then ranked according to the degree to which each issue is of concern to SMEs in the region. The results from this analysis are revealed in Figure 12. As can be seen in Figure 12, although Inequity is the issue of greatest concern nationally (and is also the primary concern in British Columbia, Ontario and the Atlantic provinces), not all regions rank this as their number one concern. For example, Duplication and Quantity are the issues of greatest concern in the Prairies, while Change is of greatest concern to SMEs in Alberta.

Figure 12: SME Ranking of the Issues that Can Impact Compliance with Applicable Regulations, by Region

<table>
<thead>
<tr>
<th>REGION</th>
<th>COMPLEXITY</th>
<th>QUANTITY</th>
<th>CHANGE</th>
<th>TIMING</th>
<th>DUPLICATION</th>
<th>INEQUITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>BC</td>
<td>3</td>
<td>2</td>
<td>4</td>
<td>6</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Alberta</td>
<td>3</td>
<td>4</td>
<td>1</td>
<td>6</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>Prairies</td>
<td>3</td>
<td>1</td>
<td>4</td>
<td>6</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>Ontario</td>
<td>3</td>
<td>4</td>
<td>2</td>
<td>6</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Quebec</td>
<td>1</td>
<td>4</td>
<td>3</td>
<td>5</td>
<td>6</td>
<td>2</td>
</tr>
<tr>
<td>Atlantic</td>
<td>4</td>
<td>3</td>
<td>1</td>
<td>5</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>CANADA</td>
<td>3</td>
<td>4</td>
<td>2</td>
<td>6</td>
<td>5</td>
<td>1</td>
</tr>
</tbody>
</table>
Reliance on External Accounting Assistance

Figure 13 illustrates that the degree to which SMEs require assistance with their obligations under Securities regulations varies between regions, with SMEs in Ontario and Quebec more apt than those in British Columbia and Alberta, to obtain assistance with these requirements.

In terms of requiring assistance with taxation issues, we see in Figure 14 that the eastern-most provinces are the most likely to give an external accountant primary responsibility for ensuring compliance with pertinent Taxation filing requirements.

Figure 13: Percentage of SMEs that Require Assistance from External Accountant with SECURITIES REGULATIONS, by Region

Figure 14: Percentage of SMEs Where External Accountant has Primary Responsibity for TAXATION FILING REQUIREMENTS, by Region
SME Rating of External Accounting Assistance

By taking the results from Figure 9 and breaking them down by region, a ranking of how SMEs in each region rate their external accountants in five service areas is possible. Figure 15 summarizes these results, with service areas most likely to be rated as excellent or good ranked as “1” and those receiving the poorest rating given a “6”.

As the figure reveals, Technical Understanding, although receiving the highest rating nationally, is not regarded as the strongest characteristic of an external accountant or accounting firm in all regions. For example, we see that accountants in Ontario and Quebec are rated highest for their Business Understanding, while accountants in the Prairies are rated highest for their Responsiveness.

Figure 15: Ranking of How SMEs Rate Service Provided by External Accountant, by Region

<table>
<thead>
<tr>
<th>REGION</th>
<th>Technical Understanding</th>
<th>Business Understanding</th>
<th>Explanation of Work</th>
<th>Value of Service Provided</th>
<th>Responsiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>BC</td>
<td>1</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>Alberta</td>
<td>1</td>
<td>4</td>
<td>2</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>Prairies</td>
<td>2</td>
<td>4</td>
<td>3</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Ontario</td>
<td>3</td>
<td>1</td>
<td>4</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>Quebec</td>
<td>4</td>
<td>1</td>
<td>3</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>Atlantic</td>
<td>1</td>
<td>3</td>
<td>2</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>CANADA</td>
<td>1</td>
<td>2</td>
<td>4</td>
<td>5</td>
<td>3</td>
</tr>
</tbody>
</table>
2.7 Differences by SME Size and Exchange

Highlights:

• Opinions on the reasonability of Securities regulations are similar between SMEs listed on the TSX and those listed on the TSX Venture Exchange, with TSX-listed SMEs only slightly more likely to disagree that their Securities obligations are reasonable

• SME size has little influence on whether the SME is likely to agree or disagree that applicable Securities requirements are reasonable

• As an SME’s size increases, the more likely the entity is to consider the reasonability of Securities regulations an important issue

Analysis:

Figure 16 highlights differences between SMEs listed on the Toronto Stock Exchange (TSX) and the TSX Venture Exchange (TSX-V) regarding the reasonability and importance of Securities regulations, while Figure 17 highlights differences on this issue by SME size. In both figures, the results are compared to the views of all SMEs on the reasonability and importance of Securities regulations taken from Figure 1 (represented as “All”).

Figure 16: SME Views on the Reasonability and Importance of Securities Regulations, by Exchange

<table>
<thead>
<tr>
<th></th>
<th>Not Reasonable AND Important</th>
<th>Reasonable AND Important</th>
<th>Not Important</th>
</tr>
</thead>
<tbody>
<tr>
<td>ALL</td>
<td>59.7%</td>
<td>37.1%</td>
<td>3.3%</td>
</tr>
<tr>
<td>TSX</td>
<td>63.8%</td>
<td>34.8%</td>
<td>1.4%</td>
</tr>
<tr>
<td>TSX-V</td>
<td>58.1%</td>
<td>38.0%</td>
<td>3.9%</td>
</tr>
</tbody>
</table>
In Figure 16, we see that SMEs on the TSX and TSX-V share similar views regarding the reasonability and importance of Securities regulations, with SMEs listed on the TSX only slightly more likely to disagree that Securities regulations are reasonable. In terms of importance, almost all SMEs on both the TSX and TSX-V consider the reasonability of Securities regulations an important matter, as demonstrated by the small grey-shaded areas for both groups in Figure 16.

From Figure 17 it is also apparent that the size of the SME has little impact on how SMEs perceive the importance and reasonability of the Securities regulations that apply to their organizations.

However, despite the similarities present in Figure 17, it can be inferred from the grey-shaded areas that importance increases as the size of the SME increases. This conclusion is demonstrated by the result that no Medium-sized SME considers the reasonability of Securities regulations as not important, while 6.5% of Micro-sized SMEs indicate their indifference to this issue.

**Figure 17: SME Views on the Reasonability and Importance of Securities Regulations, by SME Type**

<table>
<thead>
<tr>
<th>Type</th>
<th>Not Reasonable AND Important</th>
<th>Reasonable AND Important</th>
<th>Not Important</th>
</tr>
</thead>
<tbody>
<tr>
<td>ALL</td>
<td>59.7%</td>
<td>37.1%</td>
<td>3.2%</td>
</tr>
<tr>
<td>MICRO</td>
<td>55.2%</td>
<td>38.3%</td>
<td>6.5%</td>
</tr>
<tr>
<td>SMALL</td>
<td>63.9%</td>
<td>34.9%</td>
<td>1.2%</td>
</tr>
<tr>
<td>MEDIUM</td>
<td>62.1%</td>
<td>37.9%</td>
<td>0.0%</td>
</tr>
</tbody>
</table>
3 The Public Forum: Expert Views

On March 23, 2006, in Ottawa, Canada, CGA-Canada held a public forum to examine the topic of small business and regulation in Canada. The event, facilitated by the Public Policy Forum6, brought together senior representatives from government, business, and other interested stakeholder groups to discuss the preliminary findings of the SME and Practitioner surveys. Throughout the discussions, participants provided feedback on these findings and debated the general causes and concerns associated with the issue of regulatory burden and small business in Canada. In addition, participants shared ideas on how to address these concerns in the future.

3.1 Reactions to the Survey Findings

For the most part, participants were not surprised by the results presented in the interim findings report (highlighted in Section 2), indicating that the results confirmed their general view that regulations are a significant concern for smaller enterprises in Canada.

In the few instances where SME and Practitioners views differed, participants attributed the differences in part to the relative familiarity of the groups with the different categories of regulations. For example, in the case of securities regulations, the less favourable view held by SMEs may be considered a consequence of having greater experience with these regulations (i.e. not all Practitioners provide advice on securities issues) and that these requirements are relatively more important and “top of mind” to publicly-traded SMEs than are other regulatory requirements. It was also suggested this same logic holds true for Practitioners and their less favourable view of the taxation filing requirements of SMEs. In this instance it was argued that accounting Practitioners are more likely to have experience with taxation filing requirements than with other requirements and, therefore, with this understanding are likely to attribute greater complexity to these requirements.

It was suggested that familiarity could not only lead to a better understanding of the complexities of the requirements and a more accurate assessment of the reasonability of those requirements, but in some cases, this familiarity could also lead to a potential overstatement of concerns in comparison to lesser known requirements. Although this was cited as a possibility, it was generally

6 The Public Policy Forum (PPF) is an independent, non-partisan research organization dedicated to the pursuit of excellence in government and public policy.
acknowledged that the concern held by a majority of SMEs regarding the reasonability of securities regulations, is likely justified. Participants identified the Sarbanes-Oxley Act of 2002 (SOX) and its impact on securities requirements in Canada as a significant contributor to the concerns of publicly-traded SMEs, while one participant fittingly drew attention to the complexity and sheer volume of requirements contained in Canada’s various Securities Acts. Notwithstanding securities regulations, the survey results revealed that regulations, when considered independently, are considered reasonable. This result appears to contradict the overall concern expressed by both SMEs and Practitioners over issues of regulatory inequity, quantity, change, timing, duplication and complexity. Although SMEs concerns regarding securities regulations could partially explain the apparent contradiction, it was clear from the discussions that the “cumulative effect” of regulations was a primary source of SME anxiety towards regulation. In other words, it was recognized that although the majority of regulations by themselves are reasonable, the cumulative effect of all regulatory obligations taken together has contributed significantly to the negative impact of regulation on SMEs in Canada.

To examine this issue in more detail and to evaluate some of the other factors contributing to the concerns of SMEs, the group was invited to engage in a broader discussion of the current situation in Canada. This discussion, which included an analysis of the potential causes of regulatory burden, is the focus of the next section.

3.2 The Regulatory Burden of SMEs — Contributing Factors

It was apparent that representatives from both government and business appreciated the complexity of the issue at hand. Both groups recognized that regulation is necessary to protect the public interest, but in doing so, poses a cost to business and to society. This cost, identified as more than just a “paperwork” cost to business, was also cited to include the administrative costs of government. It was clear to the participants that an appropriate balance between these costs and the social benefits of regulation should be an objective of governments and regulators. What was considered less clear, however, was where the line should be drawn to achieve this balance and how this balance can effectively address the needs of smaller entities.

The group also recognized that the issue is further complicated by the continued internationalization of markets, which has seen the convergence of standards in a number of regulatory areas including accounting standards. The impact

7 The terms “government” and “regulators” are used interchangeably throughout this paper.
of this ongoing convergence was identified by the roundtable to be one of a number of factors contributing to the concerns of SMEs with respect to the regulations they face. Each of these factors is summarized below.

**Complex Regulatory Structure**
A number of participants feel that government, with its various levels and departments, is unnecessarily complex. For these individuals, the three tiers of government and numerous departments and agencies have made it difficult for government to effectively coordinate its regulatory activities. As a result, departments are seen as working in isolation from one another leading to regulations that are sometimes redundant, incompatible and confusing for business. In addition, as one participant stated, the departmental “silos” that have emerged are indicative of the unique departmental cultures and administrative philosophies now present within government. As an example, the regulatory approaches of Service Canada and the Canada Revenue Agency were cited, referring to the “command and control” style present at Service Canada and the more “risk management” approach taken by the Canada Revenue Agency.

**Regulators Lack Client Focus**
A point was raised that regulators and the businesses that they attempt to regulate are disjointed. It was believed that regulations are often created without appropriate consultation or consideration of the businesses that they impact, and when implemented, regulators fail to effectively communicate and educate businesses on the requirements that apply to their organizations. In addition, one participant indicated that he felt that in some instances regulators have lost touch with who they are truly trying to serve. As an example, the participant questioned if securities regulators have even assessed whether new requirements aimed to restore investor confidence in the capital markets after the scandals at Enron and WorldCom have actually resulted in improvements in investor confidence in Canada.

**Regulators Are Risk Adverse**
A number of participants felt that regulatory burden is partly a result of regulators’ risk-adverse approach to setting regulation. It is believed that regulators are “afraid to make mistakes” and, therefore, attempt to “bullet-proof” regulations. For these individuals, with regulators trapped in a “perfect solution world” and not willing to take risks, regulations have become unnecessarily complex and burdensome.

**Regulators Cannot Regulate Ethics**
In addition to creating overly complex regulations, it is felt that regulators often attempt to use regulations to promote ethical behaviour. One individual conveyed concern with this approach stating that it is “difficult to make a
dishonest person honest with rules”. Another participant added that too much regulation may even encourage unethical behaviour or non-compliance due to the frustrations created by over-regulation.

**Public Policy Isolated from Regulatory Process**

The group also recognized that part of the problem with regulation has to do with the environment in which regulations are set. A number of participants felt that policy-makers fail to give appropriate consideration to the regulatory impacts of their policy decisions. An example of this problem mentioned during the discussions related to the current government’s proposed Universal Child Care Benefit and Children’s Fitness Tax Credits. Although these proposed policies may be desirable from a social perspective, the concern is that they add more complexity to the tax system (i.e. through changes to taxation forms and guides) which increases the burden of those directly impacted by the requirements (in this case individual taxpayers). As one participant pointed out, this example highlights the reality of the current situation where the tax system is no longer just a tax system but has now evolved into a “tax, credit and benefit system for implementing social policy”.

**One-Size-Fits-All**

The “one-size-fits-all” approach, whereby businesses in a particular industry or jurisdiction, regardless of size, are subjected to the same requirements, has often been considered a key contributor to the regulatory burden of smaller businesses. This issue was raised during the roundtable discussions and participants shared their views on the topic, generally agreeing that common requirements can be disproportionately burdensome for smaller entities. However, it was also argued that regulators have taken steps to make requirements less onerous for smaller entities. The “tiered” approach used by securities regulators in some instances to reduce requirements for entities listed on the TSX Venture Exchange (TSX-V) serves as one example, while the provision of simplified forms for smaller entities was mentioned as another example. Although it was acknowledged that reduced requirements for smaller entities are desirable in certain circumstances, one participant noted that a “tiered” approach also has its drawbacks. In particular, it was pointed out that the more stringent securities regulations facing companies listed on the TSX may actually deter TSX-V entities from seeking growth and eventual inclusion on the TSX.

**International Influences**

Globalization has led to convergence of regulations internationally. In harmonizing its standards with other jurisdictions, it is felt that Canada has

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8 Effective July 2006, the Universal Child Care Benefit provides all families with $100 per month for each child under the age of 6 (up to $1,200 a year per child). Amounts received are taxed in the hands of the lower-income spouse or common-law partner. Under the Children’s Fitness Tax Credit, a maximum amount of up to $500 will be eligible as a non-refundable tax credit for registration fees in an “eligible physical fitness program” for every child under the age of 16 beginning in the 2007 taxation year.
found a “middle-ground” adopting both the principles-based approach of the international community and the rules-based approach of the United States. As was noted earlier, this strategy has added to the complexities of an already difficult issue. In particular, convergence has been challenging to small businesses as most international standards have been created with a focus on large multinationals. Convergence with international accounting standards and the adoption of equivalent rules to those found in the Sarbanes-Oxley Act of 2002 in Canada, were two areas discussed. Although some felt this convergence was a positive development, especially in the case of cross-listed entities, others aired concerns on the impacts this convergence will have on smaller entities. This last point was reflected in a debate over whether Canada should have a common securities regulator. During the discussion, it was suggested that one of the main reasons why some provinces have been opposed to the idea of a common regulator, is that by doing so, they would effectively open the door to “SOX-like” requirements (i.e. those developed in the United States) in their jurisdictions.

3.3 The Regulatory Burden of SMEs — Potential Solutions

After providing their reactions to the survey results and discussing potential factors contributing to the problem of regulatory burden for SMEs, participants were asked to share ideas on how to move forward to address the concerns that were identified. During this segment of the roundtable, participants shared organizational and personal perspectives as well as debated the merits of the approaches taken in British Columbia and the Netherlands to tackle regulation in these specific jurisdictions. A summary of the solutions put forward by the group to address the regulatory burden of SMEs in Canada follows.

**Measure Burden**

One of the most significant recommendations coming from the discussion was the need for a simple, standard way to measure the regulatory burden on SMEs. It was felt that once regulators have an understanding of what they are trying to reduce, they can then consider ways to look at the incremental burden for companies, assess the cost and benefit of new regulations, and determine how to achieve better outcomes.

The experience in the Netherlands for measuring the paperwork cost of compliance was cited as an example of how to measure burden. One participant summarized this approach, indicating that the cost of paper burden was measured by identifying the following: (1) length of each form; (2) wage rate of person completing the form; (3) number of businesses that must complete the form; and (4) how often each organization must comply. With an estimate of the burden, the Netherlands then set a target to reduce the burden, which was
to be monitored by a newly formed independent oversight body that reports directly to parliament.

The approach used in the province of British Columbia to measure regulatory burden was also discussed at length. In British Columbia, the volume of regulations or number of “regulatory requirements” was used to measure the burden. With a verifiable number in hand the newly appointed Minister of State for Deregulation was then tasked with cutting the regulatory burden in the province by one third in three years starting in 2001. In doing so, the government has also established a requirement that for every new requirement implemented, two regulatory requirements must be eliminated.

Although these two initiatives have been singled out for their successes, some participants identified the shortfalls of these approaches and the challenges similar initiatives would have on a broader scale in Canada. For example, it was noted that in the Netherlands example that the measurement instrument used to measure the paper burden, could itself contribute to the paperwork burden. Further, it was pointed out that the Netherlands does not have the three levels of government that are present in Canada, making it relatively easier to assess and to implement necessary changes. With respect to the British Columbia example, an allegation was that in measuring the total volume or number of regulatory requirements, the government has failed to adequately consider the relative impact of the regulations (i.e. eliminating two irrelevant or dated requirements may have less impact than eliminating a more comprehensive or far-reaching requirement). Further, it was felt that the province’s “two for one” rule limits the government’s ability to bring in new regulations that may be more relevant to current social and economic objectives in British Columbia.

**Need for Leadership**

Despite some apparent shortfalls, the group recognized that the initiatives in British Columbia and the Netherlands are good examples of the leadership needed by governments to address the issue of regulatory burden. It was clear from the discussions that in order for change to occur, a strong commitment is needed by government and that this commitment has to come from the top. The appointment of a Minister of State for Deregulation in British Columbia was viewed as an example of the province’s commitment to fixing the problem. It was noted that British Columbia’s new approach also represents a change in perspective for government where the government sees itself as a “manager” rather than a “regulator”. This change in mindset was considered to be consistent with the leadership and commitment required to bring about the desired change.
Intergovernmental Coordination
A number of participants felt that there needs to be more cooperation and communication between the federal government, the provinces and the cities or municipalities. As it now stands, these groups are often viewed as working in isolation and, as a result, redundancies and inconsistencies in regulatory terminology and thresholds have emerged. It was suggested that improved communication between the various levels of government and their departments and agencies would hopefully lead to more harmonized requirements. The Agreement on Internal Trade (AIT) was considered an appropriate mechanism for helping achieve harmonization in Canada and for reducing requirements in areas such as procurement. It was also mentioned that in order to improve the AIT’s effectiveness, its panel’s activities should be more accountable and more accessible to the public.

Public Consultation
Before implementing regulations, it was felt by some that regulators should improve efforts to first consult those likely to be affected by the regulations to allow these organizations an opportunity to voice any potential concerns. One participant felt that regulators, when introducing or implementing new requirements, should take an approach similar to that seen in the private sector where a new product is first tested in the market prior to its full introduction.

Education
In order to prevent or reduce the burden on small businesses, some participants voiced their support for better education and communication of requirements by governments and regulators to business. More than one participant felt that owners and managers could be better informed of the regulatory and administrative responsibilities associated with taking their organization public. Other suggestions brought forward included providing dedicated education material to SMEs to inform them of their specific obligations as well as providing resources to help businesses set up their accounting records correctly in order to avoid such things as non-compliance with the Goods and Services Tax (GST) or taxation filings requirements in the future.

Outcome and Reward-Based Regulations
It was felt by some that regulations are often too prescriptive, leading to non-compliance and inefficient methods for satisfying obligations. These individuals felt that outcome or reward-based regulations would not only encourage businesses to comply with regulations, but they would also provide organizations with an opportunity to choose the most effective and efficient way to achieve compliance.
Public Disclosure
It was suggested that more effort be made by governments to educate and communicate to the public, the costs and benefits of regulation. It is felt that the government’s regulatory activities should attract the same level of attention and transparency currently devoted to its other responsibilities (i.e. spending and taxation). Another comment was made that all new regulations go through an impact assessment and that the results of this assessment, including why certain alternatives were rejected, be made public.

Non-Regulatory Approaches
It was proposed that regulators give more consideration to non-regulatory approaches when evaluating the need for new regulations or the removal or adjustment of existing regulations. According to some, a great deal can be achieved by encouraging certain practices without resorting to regulation. For example, as one participant described, companies are surpassing the governance requirements envisioned by the Sarbanes-Oxley Act of 2002, yielding to public pressures that have arisen through initiatives by the Canadian Coalition for Good Governance and the Report on Business.

Although a majority of the discussion focused on the issue of regulatory burden for SMEs and how governments can improve their approach to regulation, it was also recognized that governments have taken steps to address the problem. In particular, representatives from government made reference to the efforts of the Smart Regulation initiative. As one participant noted, the objectives of this initiative include:

• Strengthening regulatory management including the policy and analytical requirements of regulation;
• Enhancing regulatory cooperation within the federal regulatory community and across jurisdictions within Canada and internationally; and,
• Achieving results.

The representative also communicated to the group that progress has been made with this initiative and that tools to assist regulators with risk management and the assessment of the cost and benefits of new regulations are currently in development. At the same time, it was also recognized that government still has a ways to go before the primary objectives of the Smart Regulation initiative are achieved and significant progress is made in reducing the regulatory burden experienced by smaller entities in Canada.

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9 The Canadian Coalition for Good Governance (CCGG) was formed to promote good governance practices in the companies owned by its 48 members, all of which are institutional investors who invest in the Canadian capital market. To support its activities, the CCGG has created the Governance Gavel Award to recognize excellent disclosure of director information, including reporting the amount and type of compensation paid to directors as well as their biographies, continuing education achievements, qualifications and share ownership stakes. The Report on Business “Corporate Governance Rankings” comprise a ranking of the boards of Canada’s largest companies on more than 30 characteristics or categories.
Concurrent with the CGA-Canada study on regulation in Canada, a similar study has been launched in the United Kingdom (UK) by the Association of Chartered Certified Accountants (ACCA). The purpose of this collaboration was to enrich the findings of the respective studies through a comparison of identified similarities and differences between the regulatory environments of the two jurisdictions. Although the ACCA study has focused on private SMEs and the CGA-Canada study on publicly-traded entities, comparisons are still afforded on key regulatory issues including a comparison of SME views on the reasonability of regulations, the issues affecting compliance, and the external assistance required by SMEs to help satisfy their regulatory obligations. The remainder of this section will highlight some of the main conclusions emerging from these comparisons. For more details on the UK study, including methodology, results, and recommendations, please see the ACCA’s report entitled Managing regulation: Evidence of SMEs’ and accountants’ perspectives from the UK and Canada.

4.1 Reasonability of Regulations

The CGA-Canada and ACCA studies each asked SMEs to share their views regarding the reasonability of regulations in five regulatory areas. The studies coincided in four of these areas while the CGA-Canada study sought supplemental insight on the reasonability of Securities regulation and the ACCA study solicited additional SME views on the reasonability of Health and Safety requirements. Figure 18 compares SME views between the two jurisdictions on the reasonability of Taxation, Human Resource/Payroll, Employment, and Environmental regulations. To allow direct comparison in these four areas, the Canadian values from Figure 1 of this report have been condensed simply into those that either “agree” or “disagree” with the reasonability of these regulations, while the responses in the UK have been reduced from four potential ratings (“agree strongly”, “agree somewhat”, “disagree somewhat”, “disagree strongly”) into two ratings (“agree” and “disagree”).
Key Findings

Figure 18 reveals that:

- In both Canada and UK, a majority of SMEs agree that the regulations applicable to their organizations are reasonable;

- Views towards Taxation requirements are similar in both jurisdictions, while SMEs in the UK have a less favourable view of the requirements found under Payroll, Employment and Environmental regulations; and

- Employment standards are of least concern to SMEs in Canada while they are seen as the most troubling category of regulation for SMEs in the UK.

4.2 Factors Contributing to Regulatory Burden

A number of factors have been identified by CGA-Canada and the ACCA as potential impediments to SMEs and their ability to satisfy all relevant regulatory obligations. In assessing which factors contribute most to regulatory burden, both organizations questioned SMEs on the degree to which the issues of Complexity, Quantity, Change, Timing, Duplication, and Inequity are of concern to their organizations. The respective outcomes of this investigation are summarized in Figure 19.
**Key Findings**

The following can be inferred from Figure 19:

- Despite generally positive views regarding the reasonability of regulations, a majority of SMEs in both Canada and the UK are concerned with issues of Complexity, Quantity, Change, Timing, Duplication, and Inequity;

- Quantity, Inequity, Change, and Complexity are of highest concern in both jurisdictions, with Inequity the greatest concern in Canada and Quantity the greatest concern in the UK;

- The issue of Timing (i.e. whether regulatory requirements are in harmony with the business cycle) is of least concern in both jurisdictions; and

- Although all issues are of concern in both jurisdictions, the total percentage of SMEs that are either somewhat concerned or very concerned is significantly higher in Canada than in the UK for all issues evaluated.
4.3 External Accounting Assistance

Another area evaluated as part of this collaborative study involves SME views on the quality of service provided by external accountants. Obtaining information on the external assistance available to SMEs in meeting their compliance obligations is considered useful for assessing the degree to which SMEs are capable of satisfying existing requirements with internal resources. From the perspective of the accounting profession, such information is also deemed useful for improving the service provided to those organizations requiring assistance. Figure 20 compares SME perspectives on this issue in both Canada and the UK.

Figure 20: SME Rating of External Accounting Assistance – Canada and UK

![Figure 20: SME Rating of External Accounting Assistance – Canada and UK](image)

1 To allow comparison, blank and "don't know" responses have been removed.

Key Findings

The comparison in Figure 20 reveals that:

- External accountants and accounting firms rate highly in both jurisdictions with a majority of SMEs rating their external accountants as either excellent or good in each of the areas considered;

- The results are similar in both jurisdictions with Canadian accountants rating slightly higher for their Technical Understanding and UK accountants slightly higher for their Value of Service Provided;
Although rated positively overall, of the four areas evaluated, accountants in both Canada and the UK rated lowest for the Value of Service Provided.

4.4 Implications for Regulation in Canada

Although the unique survey populations used in the two studies may place some limits on the above comparisons, efforts to ensure consistencies between the two studies in all other areas still enables one to make the following comments about the regulatory environment in Canada as it relates to SMEs:

- Independently, Taxation, Human Resource/Payroll, Employment and Environmental regulations in Canada are fair and reasonable. Relative to other categories of regulation in Canada and in comparison to the experience in the UK, Employment standards represent the regulatory area requiring the least attention or adjustment by regulators in Canada;

- Concerns with issues of Quantity, Complexity, Inequity and Change are independently high in Canada and are higher than those in the UK. Considering the previous conclusion that regulations are more reasonable in Canada than they are in the UK, the issue of “cumulative burden” is considered to be a more significant issue in Canada.

With this added perspective and the findings in the previous sections, some general conclusions about the regulatory environment in Canada are now possible. This will be the focus of the following section.
Conclusions

The analysis in the preceding sections has provided insight into the impacts of regulation on SMEs in Canada. With this understanding, and by consolidating the views of SMEs and Practitioners in both Canada and the UK along with those of representatives from business, NGOs and government, a number of conclusions about this issue can now be made.

#1 With the exception of securities requirements, individual regulatory requirements applicable to publicly-traded SMEs in Canada are seen as reasonable and fair

SMEs and Practitioners agree that, when considered independently, taxation, human resource and payroll, employment and environmental regulations are reasonable and fair. The significance of this finding is strengthened further by the result that SMEs are not indifferent to the regulations they face. In fact, it has been revealed that a substantial majority of the SMEs in Canada consider the reasonability of these regulations an important issue for their organizations.

A comparison between SME views in Canada to those of the UK provides further evidence in support of this conclusion. As the analysis has revealed, SMEs in Canada are more likely to agree that the taxation, human resource and payroll, employment and environmental regulations applicable to their organizations are reasonable.

#2 The cumulative impact of regulation is a significant concern for SMEs in Canada

Although a majority of publicly-traded SMEs in Canada hold a favourable view of the individual regulatory requirements applicable to their organizations (securities regulations being the only exception), SMEs have expressed substantive concern with each of the factors considered to impact compliance with these requirements.

The most practical explanation for this apparently contradictory result is that regulations, while reasonable when considered independently, are seen as a burden when considered in aggregate. The presence of a “cumulative burden” in Canada, a view that was shared by the business and government experts attending the roundtable discussions and reinforced through comparisons to SME views held in the UK, is reflected in the large majority of SMEs that
consider the volume or quantity of regulations an issue for their organizations. However, the results have shown that it is not just the sheer volume of requirements that has created these concerns, but rather a combination of factors including the issues of inequity, complexity, change, and quantity, and to a lesser extent duplication and timing, that have all contributed to the regulatory burden experienced by SMEs in Canada.

Given this result, and conclusion above, it is clear that a government strategy to address the impacts of regulation on SMEs cannot only contemplate the individual impacts of specific regulations, but must also consider the cumulative impacts of all regulations throughout the various levels of government within the country.

#3 Relative to other regulatory areas, securities regulations are of the greatest concern to publicly-traded SMEs in Canada

Securities regulations represent the one area where publicly-traded SMEs are more likely to disagree than agree that the requirements applicable to their organizations are reasonable. As the analysis has shown, this concern also extends to the three specific regulations evaluated in this study: 51-102 Continuous Disclosure Obligations; proposed Multilateral Instrument 52-109 Certification of Disclosure in Issuers’ Annual and Interim Filings; and proposed Multilateral Instrument 52-111 Reporting on Internal Control Over Financial Reporting.

As was suggested during the roundtable discussions, this conclusion may be somewhat tempered by the fact that this study specifically targeted publicly-traded SMEs. It is argued that since publicly-traded firms are most familiar with and affected by securities regulations, their concern with these requirements may be overstated relative to other areas — a view supported by the more favourable opinion put forward by Practitioners in respect to these requirements. Although it is recognized that there may be some truth to this argument, the substantially less favourable view held by publicly-traded SMEs in Canada with respect to securities regulations, still leads one to conclude that securities regulations are the area of greatest concern. The almost unanimous agreement that the reasonability of securities regulations is an important issue for these organizations is seen as reinforcing this conclusion.

What this finding implies is that securities administrators may have gone too far in their response to the corporate financial scandals experienced earlier in the decade. In other words, while it is acknowledged by many, including securities administrators themselves, that prior to these financial scandals securities regulations may have been too lax, the results here suggest that the
pendulum may now have swung too far the other way. Those who hold this view will point to the recent decision of the Canadian Securities Administrators to withdraw proposed Multilateral Instrument 52-111 Reporting on Internal Control Over Financial Reporting and the continuing debate in the United States over whether smaller public companies should be exempt from section 404 of the Sarbanes-Oxley Act of 2002 (SOX) as providing further evidence in support of this perspective.

As these events illustrate, securities regulators are faced with the challenge of balancing the needs of the public, through investor protection and efficient securities markets, with the need to ensure SMEs remain competitive through simple and efficient regulation. However, as these recent events and the views toward securities regulation revealed by this study indicate, an opportunity still exists for Canada’s securities administrators to improve on this latter objective. In this regard, increased efforts are needed to lessen the impacts of securities regulation on publicly-traded SMEs in Canada.

**#3a Change and Inequity are the issues contributing greatest to SME concerns with securities regulations**

Given the concern expressed by SMEs in respect of their securities obligations, an attempt has been made to identify those issues most likely to contribute to this concern. To achieve this objective, those SMEs that only consider securities regulations unreasonable (i.e. SMEs who view securities regulations as important AND not reasonable and view all other requirements as reasonable) were isolated for their views on the various issues considered to impact compliance with regulations. These results, taken from Figures 1 and 5 in Section Two, are presented in Figure 21 (top graph) and are compared to the views of all respondents taken from Figure 5 (bottom graph).

In comparing the two graphs in Figure 21, we see that while the trend is similar for both groups (i.e. Inequity, Quantity, Change and Complexity are the issues of greatest concern and Timing the issue of least concern), the percentage of SMEs very concerned increases most significantly in the top part of the figure for the issues of Change and Inequity. As a result, it may be concluded from the analysis that Change and Inequity (followed closely by Quantity and Complexity), are the factors contributing greatest to the concerns of SMEs with respect to the securities regulations they face.
The concern expressed with changing securities requirements is seen as a direct reflection of the securities regulatory environment experienced in recent years, where the impacts of the corporate financial scandals and subsequent introduction of SOX in the United States have resulted in a number of changes to securities regulation in Canada (i.e. new requirements under NI 51-102, MI 52-109, and proposed MI 52-111). The recent decisions by the Canadian Securities Administrators to withdraw MI 52-111, and the proposed consequential amendments to MI 52-109\textsuperscript{10}, indicate that the securities regulatory environment

\begin{itemize}
  \item Upon the withdrawal of MI 52-111 it has been proposed that MI 52-109 be revised to include that the CEO and CFO of a reporting issuer, or persons performing similar functions, be required to "certify in their annual certificates that they have evaluated the effectiveness of the issuer’s internal control over financial reporting as of the end of the financial year and caused the issuer to disclose in its annual MD&A their conclusions about the effectiveness of internal control over financial reporting as of the end of the financial year based on such evaluation". This requirement will apply to all reporting issuers, other than investment funds, in all Canadian jurisdictions no earlier than financial years ending on or after December 31, 2007.
\end{itemize}
in Canada has yet to stabilize and that change will continue to be an issue for publicly-traded SMEs in this country for the foreseeable future. Recognizing that anticipated and actual change contribute to both regulatory burden and anxiety, it will be important for securities administrators to establish a new equilibrium that resolves this issue soon.

#3b Concern with the Inequity of securities regulations in Canada is not confined to just smaller organizations

As Figure 21 has just shown, the perceived Inequity of existing securities regulations has contributed to SMEs’ concerns with their securities obligations. Again, this result is believed to be consistent with the current securities regulatory environment in both Canada and the United States. As mentioned previously, requirements such as those under section 404 of SOX in the United States and its proposed equivalent in Canada (formerly proposed MI 52-111), have spurred debate on whether smaller public companies should be exempt from these requirements due to the disproportionate costs these requirements impose on smaller entities.

In essence, the root of this debate questions whether a “one-size-fits-all”
approach to regulation is fair to smaller entities. As one would expect, the collective views of SMEs in Canada support the conclusion that securities requirements are perceived to be disproportionately more burdensome for smaller entities. However, in breaking down these results by SME type (i.e. Micro, Small and Medium-sized SMEs), we see that the concern does not necessarily increase as the size of the SME decreases. In fact, the analysis has revealed that Micro SMEs and those listed on the TSX Venture Exchange, are equally likely to be concerned with the securities requirements that apply to their organizations. Therefore, while it may be concluded that smaller entities do perceive inequities due to the disproportionate burden of securities requirements, the same may also be said about their larger counterparts.

An explanation for this perhaps less intuitive result is that in reality Canada’s securities regulators do not always take a “one-size-fits-all” approach to regulating and that in many cases regulations are “tiered” based on organization size or on which exchange the organization is listed. For example, under National Instrument 51-102 Continuous Disclosure Obligations, TSX-listed companies are required to file an Annual Information Form (AIF) while issuers listed on the TSX Venture Exchange are not. This result raises a number of questions, including whether a “tiered” or a “one-size-fits-all” approach is best for enabling securities market efficiency. The results here, and the points raised during the roundtable debate suggest that although a “tiered” approach

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11 Requirements are the same for all companies affected by a regulation, regardless of size.
12 The varying of regulatory requirements according to firm size through exemptions and/or lighter regulatory requirements.
may be useful for relieving the burden of securities regulations on smaller entities, this approach must still be balanced with the need to ensure regulations provide a level playing field to encourage growth and effective competition. How Canada’s securities administrators achieve this balance will continue to be a challenge in the future.

#4 SME views toward regulation and the impacts of regulation vary between regions in Canada

It is evident from the responses of SMEs that attitudes toward regulation vary depending on where the SME locates its operations. In part, this variation may be attributed to differences in the types of organizations most common to each of Canada’s regions. For example, smaller-sized mining companies are more likely to locate their operations in British Columbia, while oil and gas companies are more common in Alberta and large financial service organizations tend to establish themselves in Ontario. Although these industry concentrations certainly contribute to dissimilar regional views, it is believed that the regional variation is also a reflection of the unique regulatory environments present in Canada’s many jurisdictions.

As the roundtable discussions served to isolate, companies are not only responsible for ensuring compliance with national requirements such as those present under federal tax or environmental regulations, but they are also subject to the municipal and provincial/territorial requirements applicable in the jurisdictions in which they operate. A number of areas were noted where these differences may have contributed to differences in regional views. For example, the more favourable view of taxation filing requirements in Alberta is considered to be a result of the province’s lower provincial tax rates and non-existent provincial sales tax. Participants at the public forum also discussed the securities regulatory environment in Canada and how provincial and territorial responsibility for establishing securities requirements has contributed to SMEs’ differing views towards securities requirements throughout the country (i.e. British Columbia was not a participating jurisdiction with proposed rule MI 52-111).

What the regional differences and related debate has revealed is that regulators must reconcile these jurisdictional differences when attempting to address the more general concerns of regulatory burden. Certainly a move towards more harmonized common requirements may help reduce regulatory burden, especially for those entities operating in more than one jurisdiction. Such a move may also be desirable from the perspective of avoiding the development of “have” and “have not” regions where regulation or the lack thereof, facilitates the movement of companies to more regulation-friendly jurisdictions. However, a strategy for harmonization must be balanced by the need of provinces and
municipalities to regulate in a manner that addresses the unique needs of the industries present in their respective jurisdictions. Finding an appropriate balance between a centralized and decentralized approach to regulation and the harmonization of those approaches will continue to be a significant challenge for regulators as they develop strategies to reduce the impacts of regulation on both small and large businesses in Canada.

#5 Accountants play a significant role in helping SMEs manage their regulatory obligations

Evaluating how SMEs satisfy their regulatory obligations provides further evidence and perspective on the regulatory burden of SMEs. The study has shown that external accountants and accounting firms play a significant role in assisting SMEs with their regulatory obligations, especially in the areas of taxation and securities regulation. Two conclusions may be inferred from this result. First, it may be contended that SMEs rely on the assistance of accountants in these two areas because accountants are knowledgeable with the requirements under taxation and securities regulations in Canada. The favourable rating of accountants in the areas of technical and business understanding offered by SMEs supports this conclusion. Second, it may be inferred that SMEs are overwhelmed with their regulatory obligations and do not have the resources or internal expertise to satisfy all requirements and, therefore, must seek external intermittent help with certain requirements. It is believed that this conclusion is also valid as SME concerns with issues such as Quantity and Complexity suggest that they lack the resources and internal expertise to comply with all of their regulatory obligations.

As both conclusions are considered reasonable, and given that regulation at some level is both inevitable and desirable from a social perspective, it can be claimed that external experts, such as accountants, will continue to play a part in helping SMEs manage the impacts of regulatory burden in this country. In order to effectively fulfill this role and help SMEs in those areas where specialized expertise is required (i.e. taxation and securities regulations), it will be necessary for professions, such as the accounting profession, to continue to maintain high professional standards in the areas of certification, continuing education, ethics and professional conduct.

External experts, such as accountants, will continue to play a part in helping SMEs manage the impacts of regulatory burden in this country.
One can appreciate the difficulties policy-makers and regulators experience when attempting to address the issue of regulatory burden in Canada. Not only has globalization added another layer of complexity to the regulatory setting process for domestic regulators, but society in general has become increasingly complex with the continued proliferation of new technologies, services and operating standards and growing public awareness and demands for safety and protection.

As a result of this change, regulators are faced with the challenge of balancing the need to develop and implement regulations that protect public interest and correct for the market failures of an increasingly complex marketplace, with the need to ensure Canadian companies remain competitive both domestically and internationally. As this study has illustrated, this challenge is further complicated by a desire to balance the unique needs and capabilities of SMEs with those of larger entities.

It is certain that regulators are aware of these pressures and challenges. It is also understood that regulators are familiar with the various initiatives and organizations that have examined these issues and the accompanying recommendations that have been put forward to reduce the regulatory burden and address the concerns of SMEs in Canada. However, the limited progress that has been made to date in this area indicates that further efforts are still needed.

As a result, it is hoped that through the perspectives offered by this study, a number of recommendations can be put forward to reinforce and build upon existing views and ideas. These recommendations, which speak to the issue of cumulative regulatory burden in general terms as well as to the specific concerns of SMEs, are organized and discussed under the following headings:

- Sustained Political Leadership
- Establishing Accountability
- A Change in Mindset — A New Approach to Regulating
- Addressing the Needs of SMEs
- Securities Regulations — A Harmonized Approach
- Non-regulatory Approaches
- Appropriate Enforcement
These interactive strategies, which taken together or introduced separately, can reduce pressures exerted on businesses in Canada, are expanded upon in more detail in the sections that follow.

### 6.1 Sustained Political Leadership

It is apparent from this study and similar studies that the cumulative burden of regulation on businesses in Canada is a significant concern throughout the country. It is also apparent from the ensuing discussion and analysis that the success of any solution aimed at addressing this issue will require effective political leadership. Whether this solution involves a change in how government is structured to regulate or represents a change to the regulatory process itself, this leadership must also be sustained over time. In fact, according to many experts in the field, the reason why most efforts to date to address Canada’s regulatory burden have made little difference, despite the best of intentions, is that they lack ongoing vigilance and accountability required to ensure ultimate success. As some have pointed out, this shortfall is a result of a lack of political will created by the belief that regulatory reform is not an attractive issue for politicians; or at least not one that can be at the heart of a public government platform.

### Making Regulatory Efficiency a Priority

From a political standpoint, regulatory reform can be an attractive prospect. However, politicians must recognize that steps to lessen the burden of the regulatory process on firms can have positive impacts on Canada’s innovation and productivity. In other words, regulatory reduction and efficiency must not be looked at in isolation, but rather seen as part of a comprehensive government strategy for improving the competitiveness of Canada’s economy. It must also receive the same attention and political importance currently given to the government’s activities around spending and taxation.

However, this shift in thinking requires a tone at the top from the most senior levels to make regulatory reform a priority throughout all levels of government. It also requires the political fortitude to recognize that the benefits of such an initiative are often realized in the long-term. Once regulatory reform attracts this political support, only then can the fundamental cultural change required throughout government to make substantive reductions in administrative burden and the consequential impacts on the productivity and competitiveness of Canada’s economy, be achieved.

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13 The 2005 World Bank study *Doing Business in 2005: Removing Obstacles to Growth* estimated that a 15% reduction in red tape in the UK, the Netherlands, Sweden, Norway and Belgium would result in a 1.2 to 1.8% reduction in total government expenditures, or half of the public health budget, in these countries.
Examples of Effective Political Leadership

The regulatory reduction initiatives in British Columbia and the Netherlands, discussed at some length during the roundtable discussions, demonstrate how political leadership can make a difference when it comes to addressing concerns of administrative burden (see Table 1 for more details on both of these initiatives). In both jurisdictions, a high-profile office was tasked with championing the regulatory reduction initiative. In British Columbia, the Liberal government demonstrated its commitment to regulation reduction through the appointment of a Minister of State for Deregulation, while in the Netherlands the Minister of Finance has been given responsibility for achieving the government’s administrative burden reduction target. The success of these initiatives, illustrated by the substantial reduction in regulatory requirements in British Columbia and the reduced cost of regulation in the Netherlands, can serve as examples of how effective leadership on a national scale in Canada could lead to substantial reductions in the costs of administering regulation in the country.

Table 1: Examples of Political Leadership in British Columbia and the Netherlands

<table>
<thead>
<tr>
<th>BRITISH COLUMBIA – Regulatory Reform Initiative</th>
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<tbody>
<tr>
<td><strong>The Initiative</strong></td>
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<tr>
<td>In 2001, the British Columbia government introduced the Regulatory Reform Initiative. The 5 key elements of this reform program are as follows:</td>
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<tr>
<td>1. measure regulatory burden</td>
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<td>2. review existing regulation</td>
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<td>3. control new regulation</td>
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<td>4. measure and report performance progress</td>
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<tr>
<td>5. structure of regulatory office to lead initiative</td>
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<tr>
<td><strong>Measurement Approach</strong></td>
</tr>
<tr>
<td>A comprehensive count of all regulatory requirements contained in legislation, as well as its accompanying regulations and interpretative policies, was taken. Using this baseline measurement, a central database is maintained, updated as changes occur, and monitored closely to track progress towards regulatory reform. Monthly progress is reported to Cabinet and quarterly progress is posted and made available to the public.</td>
</tr>
<tr>
<td><strong>Targets and Objectives</strong></td>
</tr>
<tr>
<td>When the program began in 2001, the government committed to reducing the burden by 1/3 in 3 years. Having now met this goal, the British Columbia government has since committed to maintaining a zero net increase in regulatory requirements through until December 2008.</td>
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<tr>
<td><strong>A Continued Commitment</strong></td>
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<tr>
<td>Although not listed as a priority in the government’s 2005 election platform, and although the responsibilities of the Minister of State for Deregulation have since been assumed by the Regulatory Reform Office under the Ministry of Small Business and Economic Development, the British Columbia government’s commitment to regulatory reduction is sustained through ongoing requirements for all ministers in the province to include a three-year regulatory reform plan in their ministry’s three-year service plan. In addition, the British Columbia Cabinet has approved the Regulatory Reform Policy that sets out “10 Criteria” that must be applied when assessing all proposed legislation and regulations.</td>
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<tr>
<td><strong>Results</strong></td>
</tr>
<tr>
<td>In 2004, the British Columbia government surpassed its initial target of reducing the regulatory burden by 1/3 and, by the end of March 2006, the total regulatory reduction progress had reached 40.75%.</td>
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**NETHERLANDS – Reduction in Administrative Burden Initiative for Citizens Programme (AB Citizen)**

**The Initiative**
The Dutch government launched the AB Citizen initiative in 2000 with the goal of reducing the administrative burden by a quarter by 2007. The key elements of this initiative are as follows:

1. Measurement of the burden
2. Political commitment to a target
3. Organizational structure to achieve that target

**Measurement Approach**
The Dutch government has used the Standard Cost Model (SCM) to measure all national legislative areas. Each government department is responsible for measuring the administrative burden that they impose on businesses through their regulatory activities. Using this baseline measure, reduction progress is tracked and reported regularly to both Parliament and the public.

**Targets and Objectives**
Using 2002 as its baseline, the Dutch government has committed to reducing the administrative burden by 25% by 2007.

**A Continued Commitment**
The government has set ministerial annual net burden ceilings for 2005-2007, forcing ministries to compensate for any increases in regulation using a “One In, One Out” approach. In addition, “help structures” and mechanisms that were used in the first phase of implementation to create rapid reduction are being embedded into normal operations in order to maintain a long-term focus on regulatory reform. ACTAL, the Dutch Advisory Board on Administrative Burdens, is conducting research to determine the degree to which the focus has been fully internalized by the ministries.

**Results**
To date the Dutch approach to regulatory reduction has been highly successful. At the end of 2005, regulatory requirements had been reduced by 18% - amounting to an estimated 3 billion euros gross savings. Total reduction is expected to reach 4 billion euros by 2007.

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**Shortfalls of Canada’s Current Approach**
Governments throughout Canada have taken steps to address concerns of regulatory burden in the country. Included are initiatives such as the British Columbia Regulatory Reform Initiative just described, the Red Tape Commission in the City of Winnipeg14, as well as a number of other examples within federal and provincial/territorial government departments and agencies15. There is no shortage of good ideas or lack of appreciation of the importance of this issue. However, what has been absent to date is a coordinated national vision to address the accumulated effects of regulatory burden throughout all levels of government rather than just the specific requirements in one jurisdiction or under a single regulation or program.

The Smart Regulation initiative, launched in March 2005, has promised to be a coordinated national approach for reforming the regulatory process in Canada. Although this initiative has had some moderate success to date, it has not become the political priority that was originally envisioned by the External Advisory Committee on Smart Regulation (EACSR) in its September 2005 report titled *Smart Regulation: Report on Actions and Plans* and the Advisory Committee on Paperwork Burden Reduction’s 2005 Progress Report on the Paperwork Burden Reduction Initiative titled *A Strategy to Reduce Paperwork Burden for Small Businesses in Canada* for examples of these departmental and provincial/territorial initiatives.

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14 In 2005, the Winnipeg Red Tape Commission released an action plan that included 30 detailed recommendations for the reduction of red tape in the region. The plan committed to organization-wide change within government including how business is conducted with smaller firms. For more details consult the Final Report of the Mayor’s Red Tape Commission at: http://www.winnipeg.ca/interhom/RedTape/.

2004 report\textsuperscript{16}. In fact, a review of the Smart Regulation initiative’s website (www.regulation.gc.ca) shows that the initiative has seen little progress since the release of a semi-annual Actions and Plans report in the fall of 2005.

Although the current federal government has indicated that it is disposed to making government regulation “more efficient and less intrusive on the valuable time of businesses”\textsuperscript{17}, the government’s limited progress with the Smart Regulation initiative or an equivalent initiative, suggests that the active political agenda needed to make regulatory reform a fundamental part of the Canadian landscape is still lacking.

To address this issue, it is recommended that the current government commit to making regulatory reform one of its priorities, providing the same support and sense of urgency that it has shown with other key priorities such as the introduction of the Federal Accountability Act and the one percent cut to the goods and services tax.

To demonstrate its commitment, the government should appoint a high-profile minister or ministry to oversee the transformation similar to what has occurred in British Columbia and the Netherlands. Relying on the lessons learned from these other initiatives, while basing reform on the recommendations offered here and those put forward by the EACSR and the Advisory Committee on Paperwork Burden Reduction (ACPBR) in its 2005 Progress Report on the Paperwork Burden Reduction Initiative (see Table 2), will prove useful for the transformative change required to tackle regulatory burden in Canada.

\textsuperscript{16} The External Advisory Committee on Smart Regulation (EACSR) was established to provide external advice to the federal government on how the government could redesign its regulatory system to better serve the needs of Canadians and Canada in the 21st century. In carrying out its mandate, the EACSR presented its recommendations to the Prime Minister in a report submitted on September 23, 2004. The EACSR’s report can be found at http://www.pco-bcp.gc.ca/smartreg-regint/en/index.html.

6.2 Establishing Accountability

A political commitment of the magnitude just described is believed to be a precondition for a successful effort to reduce the regulatory burden in this country. However, such a commitment will not succeed unless governments are also held accountable to ensure effective delivery on that commitment. This view, held by a number of participants at the CGA-Canada public forum and shared by the ACPBR, was present in the reduction initiatives in both British Columbia and the Netherlands. As these latter examples have shown, accountability, established through regulatory measurement, reduction targets and public disclosure, is a critical ingredient to effectively addressing regulatory burden.

Measuring Regulatory Burden

In short, what gets measured gets managed. Without a full appreciation of the current regulatory environment in Canada, issues of regulation creep and the concerns of accumulated burden identified throughout this study are likely to persist. Therefore, it is important to establish a measure that effectively captures the extent of regulatory burden at a particular point in time. Once in hand, this measure can serve as a benchmark for evaluating the progress of

### Table 2: Paperwork Burden Reduction Initiative (PBRI)

<table>
<thead>
<tr>
<th>The Initiative</th>
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<tbody>
<tr>
<td>The PBRI was launched in February 2005 in response to the Government of Canada's 2004 Budget commitment to measure the impact of regulatory compliance on businesses and make measurable reductions in paperwork burden. The initiative has 3 key components:</td>
</tr>
<tr>
<td>1. The Advisory Committee on Paperwork Burden Reduction (ACPBR) to bring objective professional judgment to matters. The ACPBR consists of 14 members from the private and public sectors and is currently co-chaired by Industry Canada's Assistant Deputy Ministry and a senior executive from the Canadian Federation of Independent Business;</td>
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<tr>
<td>2. The Survey of Regulatory Compliance Costs, which will be conducted every 3 years to measure the time and money spent by small and medium-sized businesses complying with obligations;</td>
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<tr>
<td>3. Annual Progress reports submitted to the Minister of Industry each year on progress made in measuring and reducing paperwork burden, including analysis of the ACPBR, advancement on projects, and priorities for the future.</td>
</tr>
<tr>
<td>Progress to Date</td>
</tr>
<tr>
<td>• The ACPBR released its first Annual Progress Report in March 2006. Building on the efforts of the External Advisory Committee on Smart Regulation (EACSR), the report outlines 10 recommendations for reducing the paperwork burden in Canada. Among its recommendations, the ACPBR has called for a burden reduction target of 20 percent;</td>
</tr>
<tr>
<td>• The first Survey of Regulatory Compliance Costs has been completed with preliminary results expected for release at the end of 2006;</td>
</tr>
<tr>
<td>• Officials of the PBRI have been working with several provinces in order to further reduce the overall paperwork burden. British Columbia, New Brunswick, Newfoundland &amp; Labrador, Nova Scotia, Ontario, and Quebec are among the provinces that have started individual red tape reduction programs in accordance with the PRBI.</td>
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</table>
any regulatory reduction initiative overtime. The challenge, however, is in accepting a common measure or set of measures that help achieve this objective.

A number of approaches have been used to measure regulatory burden. These measures vary from a simple count of all regulatory statutes or number of pages of regulation in force at a particular point in time, to measures that require the identification of all regulatory requirements18 or information obligations19, to more detailed models such as the Standard Cost Model (SCM) employed in a number of jurisdictions in Europe. These approaches each attract their own costs and benefits that result from trade-offs between simplicity of implementation and accuracy. Of these measures, the SCM is felt to be the most comprehensive approach to measuring regulatory burden (see Table 3 for more details on this model). Although this may be an ambitious approach for Canada given the country’s relatively complex regulatory system, the ability of the Netherlands to apply this model in a relatively short timeframe demonstrates that such an approach, given appropriate leadership, is achievable in Canada20.

Regardless of which measure is applied in Canada, it must be multi-jurisdictional in nature and must involve a collective assessment of all requirements throughout the country. As the Netherlands Minister of Finance has indicated, “if you want to identify systematically where and how administrative burdens can best be reduced, you basically have to measure all national legislative areas”21. Therefore, if at first a truly national account of the regulatory burden in Canada requires a more simplistic measurement technique than that associated with the SCM approach, then a simpler model (i.e. a count of all “regulatory requirements”) is recommended and preferred. Such an approach is still attractive as it provides a full account of the current regulatory situation, forcing regulators to take a fresh look at all requirements to assess their necessity and/or where improvements can be made. Over time, this model could intentionally become more sophisticated to overcome the shortfalls of the simpler approach22.

It should be noted that a process to measure the impact and burden of existing regulation has already begun in Canada under the PBRI through Statistics Canada’s Survey of Regulatory Compliance Costs. Although this measurement

18 This is the approach used in British Columbia where a regulatory requirement is a “compulsion, obligation, demand, or prohibition placed on an individual, entity or activity by or under the authority of a provincial Act, regulation or related policy”.
19 Defined by the Standard Cost Model (SCM) Network as “obligations arising from the requirement to provide information to the public sector and/or third parties”. An information obligation is not only an information obligation that is transferred to a public authority or private persons, but may also include a duty to have information available for inspection or supply on request.
20 According to the Government Offices of Sweden, it only took a “couple of months” for all the departments in the Netherlands to measure their administrative burden. For further details, please see http://www.regeringen.se/content/1/c6/03/46/24/373998653.pdf
22 This may involve a ranking of “regulatory requirements” or “information obligations” into categories based on their relative impacts and/or costs to society. Priority would then be given to reducing the burden of those requirements or obligations with the greatest impact or cost.
The technique provides valuable information on the relative impacts of important requirements including payroll remittances, tax filings and workers’ compensation remittances, it falls short of the comprehensive approach needed to obtain a full inventory of the regulatory burden in Canada. Expanding this initiative to obtain a more comprehensive assessment in the future will be necessary to ensure that this initiative has the desired impacts on the regulatory burden currently envisioned by the PBRI and this study.

Table 3: Standard Cost Model (SCM)

<table>
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<th>The Model</th>
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The Standard Cost Model (SCM) was introduced in the Netherlands in 2003 as part of the Dutch initiative to reduce administrative burden. With its success in the Netherlands, the model has since been adopted in a number of other countries in Europe including Denmark, Norway, Sweden, the UK, Czech Republic, France, Estonia and Italy. In recognition of its growing popularity, the International SCM Network, under the administration of the OECD, has recently published a manual outlining the approach taken under the SCM. According to the SCM Network, the SCM contains 3 key steps:

A. Breaking down regulation into manageable components that can be measured
B. Measuring administrative burdens on the basis of cost parameters
C. Simplifying regulation based on the results

A. Measurable Components of Regulation
To measure the costs of administrative burden, regulatory requirements are first broken down into the following three categories:

1. Information obligations – obligations arising from the requirement to provide information to the public sector and/or third parties
2. Data requirements – elements of information that must be provided in complying with an information obligation
3. Administrative activities – measurable activities that can be performed internally or externally

B. Measuring the Administrative Burden
Once the components of a regulation are identified, the model then estimates the costs of completing each activity on the basis of price (labour cost of person performing activity), time (frequency and time required to perform activity), and quantity (number of organizations to which the requirement applies) using the following formula:

Cost per administrative activity (or data requirement) = Price x Time x Quantity (population x frequency)

C. Five Routes to Simplification
The goal of the SCM is to identify areas where administrative burdens can be eliminated, reduced or simplified. The SCM identifies the following five ways to simplify regulation:

1. Remove, reduce, merge or improve regulations
2. Simplify the process to comply with regulations
3. Data-sharing and improved coordination within government
4. Develop Information and Communication Technology (ICT) solutions and services
5. Provide better guidance and information

Establishing a Reduction Target
Upon completion of an initial inventory of the regulatory burden using one of the measurement tools described, the next step of a successful initiative aimed at addressing cumulative regulatory burden in Canada, is to establish a reduction target. This target is necessary to ensure that the government remains vigilant in its efforts to control and reduce the regulatory burden over time, and that it can also be held accountable for those efforts throughout the course of the initiative.
Regardless of which measurement approach is applied in Canada, a reasonable reduction target, either in the number of regulatory requirements or obligations or in the administrative cost of those requirements or obligations, is considered to be in the range of 20-30% over three to five years. This estimate is based on the experiences in British Columbia (1/3 reduction of “regulatory requirements” in three years) and the Netherlands (commitment of a 25% reduction in administrative burden between 2002 and 2007). Such a target is believed to be achievable, and if realized, would have a substantial positive impact on Canada’s productivity and GDP\textsuperscript{23}.

In recommending a national target in this range it is implied that such an approach would be created in a manner to encourage reductions or improvements in areas found to have the greatest effect on economic competitiveness. In addition, restrictions would have to be placed on new regulations or requirements to ensure that reductions in existing areas are not offset by the new requirements. The “one-for-one” approach, where every new requirement necessitates the elimination of an existing requirement, is a useful approach provided that consideration is given to ensure that the end result is a net reduction in compliance requirements. Finally, to create a culture that encourages reduction and innovation throughout government, it is recommended that every department and agency of government be given its own regulatory target that reconciles to the national target.

**Public Disclosure**

The last element required for a fully accountable reduction initiative that addresses the cumulative burden of regulation in Canada, is the regular public reporting of progress towards the prescribed reduction target. This is important as average citizens may have limited awareness of the costs that regulation can place on society. With greater public awareness of these costs and an appreciation of the efforts taken by governments to address this issue, the public would be in a better position to hold governments accountable for how efficiently they regulate. In addition, this transparency should help the public make a more comprehensive evaluation of the full impact of the government’s decisions and programs on society.

In this regard, it is recommended that the government, through the use of a standard measure, consistently report on its progress towards the objectives of a regulatory reduction initiative. In making a commitment to report on a consistent basis like what is currently the case with taxation and spending initiatives, an expectation for disclosure arises. As the public becomes accustomed to these disclosures, it is more likely to continue to demand this information, increasing the chances that the initiative will survive beyond that of the mandate of the government that initially introduces the initiative. As

\textsuperscript{23} The Dutch Centraal Bureau estimates a 1.5% improvement in GDP growth should the Netherlands meet its 25% reduction target.
stated earlier, the success of a regulatory reduction initiative relies on a sustained commitment over the long term.

It may be argued that additional disclosure in the manner just described is risky from a political standpoint as it opens up governments to greater scrutiny of their activities. However, it is believed that with meaningful and sincere objectives, such transparency will help build public trust, which in turn will enhance its chances of survival rather than damage them. As discussed in the next section, this change in mindset is not only required for developing a more effective structure for addressing regulatory burden, governments also have to change the way they approach the actual implementation and management of the regulatory process to ensure that objectives are met under any regulatory reduction initiative.

6.3 A Change in Mindset —
A New Approach to Regulating

Once a commitment for change is adopted, the next reasonable step for government to take is to improve the way it regulates. This involves looking at methods for reducing the burden of existing regulation in addition to reviewing how it creates new regulation. Suggestions on how governments can make improvements in this area abound. The reports of the EACSR and ACPBR certainly offer a number of recommendations, while the 10 Criteria for proposed legislation in British Columbia serve as a good guide for fostering the creation of effective new requirements (see Table 4). Given these existing ideas, this section will focus primarily on recommendations related to the issues raised by this study.

Table 4: BRITISH COLUMBIA –
10 Criteria for All New Proposed Legislation

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<tr>
<td>1. Reverse onus:</td>
<td>Need for regulation is justified</td>
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<tr>
<td>2. Regulatory design:</td>
<td>Regulation is results-based</td>
</tr>
<tr>
<td>3. Transparency:</td>
<td>Transparent development of regulatory requirements</td>
</tr>
<tr>
<td>4. Cost-benefit analysis:</td>
<td>Completed for requirements</td>
</tr>
<tr>
<td>5. Competitive analysis:</td>
<td>Completed for requirements</td>
</tr>
<tr>
<td>6. Harmonized:</td>
<td>Requirements are harmonized with other jurisdictions avoiding duplication</td>
</tr>
<tr>
<td>7. Timeliness:</td>
<td>Response time is considered</td>
</tr>
<tr>
<td>8. Plain language:</td>
<td>Plain language is used</td>
</tr>
<tr>
<td>9. Sunset review and expiry provisions:</td>
<td>Evaluation of regulation has been considered</td>
</tr>
<tr>
<td>10. Replacement principle:</td>
<td>Additional regulatory requirements have been avoided</td>
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24 Although not seen as an explicit reason why the Liberal government was re-elected in British Columbia in 2005, the generally positive public opinion towards the Regulatory Reform Initiative that it had introduced in 2001 likely did not hurt its prospects for re-election. In fact, the initiative’s expected contribution to the province’s recent economic growth and improving financial position (factors considered by many as the primary reasons for the re-election) suggests that the Burden Reduction Initiative may have played an indirect role in the Liberal government’s 2005 victory.

**Client Focus**

It is important for regulators to keep in mind that, ultimately, their purpose is to regulate in the best interests of society. Although this deduction may be obvious, it is believed that regulators can often lose this broader perspective, getting caught up in the minutiae of how to stop or prevent certain behaviours. As a consequence of this inclination, it is suggested that regulators filter all new requirements and changes to existing requirements through a test of whether a desired social, economic and/or environmental outcome is achieved at the most efficient cost to society, and that this cost is equal to or less than the estimated benefits. Although this is difficult given the challenges of identifying and quantifying all costs and benefits, maintaining this perspective will hopefully reduce the introduction of unnecessary or inefficient requirements. Methodologies for performing impact assessments and cost benefit analyses, such as the Regulatory Impact Analysis model used in Ireland described in Appendix A, are considered useful tools for implementing this approach.

With the interests of society in mind, it is important that governments are especially sensitive to the impacts of regulation on business, as businesses represent the stakeholder group most directly affected by their regulatory activities. This requires open communication with the business community throughout the regulatory process from the design of requirements through to end-user feedback required for continuous improvement. Business impact assessments and the testing of requirements before implementation are considered useful for getting requirements right the first time. This is considered particularly important to reduce the negative consequences of ever-changing requirements identified earlier.

A business focus includes information requirements that mimic company processes for capturing and reporting information rather than those established by an external regulator. Aligning requirements in this manner should help reduce the costs of reporting, as businesses do not have to alter existing information systems to satisfy these information requirements. An example of this approach currently exists in financial reporting where firms are permitted to report their segment information\(^{26}\) on the same basis used to segment information internally for top management. Not only does this approach result in more relevant information for external users of financial statements, it also lowers the cost of compliance for these firms.

A business focus also includes information requests by government that are sensitive to the cost of producing information for compliance, as well as efforts to simplify the compliance process for businesses. Establishing a central

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\(^{26}\) Under Section 1701 of the *CICA Handbook*, in certain circumstances, companies applying Generally Accepted Accounting Principles are required to disclose financial results on the basis of product lines, subsidiary companies, or geography.
location where businesses can go to easily identify all of their compliance obligations at all levels of government, as well as satisfy those obligations, is considered important for simplifying the compliance process. Efforts such as those intended with BizPal\(^{27}\) and The Regulations Cluster\(^{28}\) under the Canada Business program are considered steps in the right direction to help reduce the compliance costs of business.

**Results-Oriented Regulation**

Another factor believed to contribute to the concerns of regulatory burden is the view that regulatory requirements are often too prescriptive in nature. It is felt that businesses, and not governments, are in the best position to determine how best to satisfy their regulatory obligations. Given the freedom, businesses will choose the method that is most cost effective for their organizations. In doing so, the same social outcome can be pursued at a lower cost to society.

An example of what may be called “decentralized regulation”\(^{29}\) is the creation of a greenhouse gas emissions target. In this example, the regulator would simply establish a target it feels is needed to satisfy an environmental objective. Rather than prescribing one method for compliance (i.e. limits on energy consumption), companies falling under the regulation can choose the tactic or methods most suitable for their particular circumstances (i.e. reduced fuel consumption, carbon credit purchase, carbon sequestration etc). In the end, the same environmental outcome may be achieved at a lower overall cost to society.

As one can see from this example, it is important under a results-oriented approach that regulators clearly define the desired outcomes. It is also important for regulators to provide guidance and examples to signal to businesses the appropriate methods for compliance. Finally, as will be discussed later, intended outcomes will only be realized when appropriate enforcement is in place to monitor compliance.

**Rewarding Good Behaviour**

Regulation often arises to prevent certain unwanted behaviours or actions. A concern with this approach is that in attempting to prevent these undesirable behaviours, which are often exhibited by only a few “bad companies”, all companies are penalized through a blanket increase in compliance requirements. The introduction of the *Sarbanes-Oxley Act of 2002* (SOX) in response to the

\(^{27}\) A pilot project by Industry Canada in partnership with various governments that provides online service to Canadian businesses to simplify the business permit and license process by creating one-stop access to information for all levels of government.

\(^{28}\) A web portal offered through the Canada Business website (http://canadabusiness.gc.ca/gol/cbec/site.nsf) intended to assist businesses in identifying and understanding the obligations with which they must comply.

\(^{29}\) While there is a regulation in place the method of compliance is decentralized to the internal decisions of management of the business.
financial scandals in organizations such as Enron and WorldCom may be considered an example of this reaction. Although, it is agreed that regulations such as SOX and the equivalents in Canada are necessary in some circumstances to protect the public interest, their impacts on “good companies” could be viewed as disproportionate.

To address this concern, it is recommended that, where possible, regulators take steps to reward “good companies” for their good behaviours. This reward may involve a reduction in requirements (i.e. the frequency of GST filings) or less frequent compliance reviews or inspections (i.e. audit practice inspections) once an organization establishes a reputation for satisfactory compliance. Employing a more risk-based approach, where questionable companies are subject to more stringent reporting requirements and monitoring activities as compared to their “good” counterparts, enables regulators to efficiently shift their limited resources to areas where they are most needed.

Technological Solutions

An opportunity exists for regulators to take great strides to improve the regulatory process and reduce the regulatory burden in Canada through the use of technology. The time spent by businesses sifting through guides and forms to identify which information obligations are pertinent to their organizations is no longer necessary. The technology is now available to educate and direct organizations, through electronic means, to the requirements and information obligations applicable to their organizations. All non-relevant information can easily be filtered out reducing the time required to satisfy these administrative requirements. The use of online forms may also save time as static information from previous submissions may be carried forward, requiring businesses to only update the forms when new information arises.

Technology not only allows governments to communicate in a more timely manner with businesses to inform them of new requirements or provide guidance on existing regulations, it also allows the various levels of government to better coordinate their own activities. As a result, it is possible for governments to create the one-stop interface recommended earlier where all interactions between a business and the government take place through one centralized location.

With the advantages offered by technology, CGA-Canada encourages governments to continue their efforts to develop electronic solutions that improve the regulatory process. Building on initiatives such as BizPal and the Government On-Line initiative30 is seen as a key part of any strategy aimed at reducing the burden regulations pose for businesses in Canada.

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30 The Government On-Line Initiative is a program which began in 1999 to make the most commonly used government services available on-line in both official languages. Currently a list of 130 government services can be found by using the Government of Canada main website www.Canada.gc.ca.
Harmonization of Standards and Regulations

It is clear that the multi-jurisdictional regulatory environment in Canada has contributed to the concerns of regulatory burden in the country. Although there are benefits for maintaining a decentralized authority to set regulation due to regional differences, globalization has made arguments in support of a decentralized approach increasingly less practical. In addition, for the most part, the pace at which this globalization has taken place has exceeded the rate at which regulation has adapted to reflect the new global environment. As a result, the need for a more harmonized approach to regulating between the three levels of government within the country, and between these authorities and the international community, is becoming increasingly urgent.

Through an inventory of the current regulatory environment using one of the measurement approaches introduced earlier, and through efforts to create a central “one-government” interface for businesses, governments within Canada should be able to identify redundancies and inconsistencies in how regulations are delivered. These governments can then take steps to harmonize terminology, definitions and thresholds, and eliminate redundancies in information requirements between their respective jurisdictions and within their internal departments and agencies. This harmonization of requirements and elimination of unnecessary requirements will help improve the efficiency of how regulation is delivered in Canada.

As stated during the roundtable discussions, the Agreement on Internal Trade (AIT) is viewed as a mechanism to help eliminate some of the inter-jurisdictional differences. However, to improve the AIT’s effectiveness, CGA-Canada has formally recommended that the AIT improve its dispute resolution process so that it is more accessible and transparent to the public and governments are held more accountable for their AIT obligations. Strengthening the AIT in this manner will not only improve its effectiveness in terms of removing trade barriers, it will also help with the realization of a more integrated regulatory environment within the country.

As globalization continues, the harmonization of standards and regulations in Canada with those in other nations and those developed at the international level will become increasingly important for maintaining Canada’s economic competitiveness. While this convergence has its drawbacks in terms of lost autonomy to set domestic standards or to enact regulation to achieve domestic policy outcomes, the migration to international standards and regulations is becoming increasingly important especially as the number of Canadian companies that compete in international markets, both large and small, increases. A number of examples of global convergence in this area are already in

31 See CGA-Canada’s paper Making Trade Dispute Resolution in Canada Work for more details on these recommendations. An electronic copy of this paper is available at www.cga-online.org/canada
progress. In terms of accounting standards, the International Accounting Standards Board has developed International Financial Reporting Standards (IFRSs) to which Canada has agreed to adopt as its standards for financial reporting. With respect to regulatory reduction, in 2004, the Finance Ministers of the Netherlands, Luxembourg, Ireland and the UK set out shared plans to place regulatory reform at the center of their EU Presidencies and presented joint proposals for the EU regulatory framework. In 2005, Austria and Finland joined this 6 Presidencies’ Initiative.

This harmonization does not necessarily mean that municipalities, provinces or territories in Canada will acquiesce their regulatory powers. Rather, smaller jurisdictions can still retain their authority to set standards, but should do so with a view towards establishing or influencing an integrated standards platform which satisfies the national and international regimes. An example of this approach is currently afforded in British Columbia. In British Columbia, in addition to representing the province’s interests at the federal, province and territorial levels, the Regulatory Reform Office also represents British Columbia on regulatory reform initiatives in other countries and at organizations such as the Organization for Economic Cooperation and Development (OECD) and the Asia-Pacific Economic Cooperation (APEC).

6.4 Addressing the Needs of SMEs

The recommendations made to this point have focused on broad-based approaches to address the concerns of cumulative regulatory burden. For the most part, the anticipated burden reduction associated with these recommendations should benefit all firms, including SMEs. However, as this study has found, regulations often place a disproportionate burden on smaller entities and as a result, greater consideration must be given to the impacts of regulation on SMEs. This is particularly important as the migration to international standards, as discussed above, can place a substantial burden on smaller entities as these requirements are often designed solely with the needs of large companies in mind. And while it is ultimately concluded that the best method to address the regulatory burdens placed on businesses in Canada, including smaller businesses, is through a coordinated effort to address the overall
burden, the disproportionate costs facing SMEs suggest that efforts to address the specific concerns of SMEs are still appropriate.

Private SMEs are important to Canada’s economy representing over 97% of the businesses in Canada while accounting for roughly half of the country’s GDP and over half of the total employment in Canada. As a barometer of economic growth, it is important to limit the impacts of regulation on SMEs, especially given that these entities typically have fewer resources than their larger competitors and counterparts. In this regard, regulators must take steps to simplify the compliance process, taking advantage of the technological solutions introduced earlier to educate and effectively inform SMEs of their information obligations. Providing flexibility in terms of how SMEs meet their obligations through outcome-based requirements is also considered important for assisting smaller entities.

In creating regulation, the Canadian government should follow the lead of the UK with its *Think Small First* initiative, filtering all new requirements through an assessment of their impacts on SMEs. Continued efforts to reduce the frequency of requirements and provide exemptions in areas where reduced requirements are appropriate, will also help address concerns of disproportionate burden for smaller entities.

When appropriate, the proposed “tiering” of requirements based on entity size is considered important to the competitiveness of Canada’s smaller companies. However, this approach must be balanced with other factors, including the desire to maintain a fair and efficient market that encourages growth among Canada’s smaller entities. As mentioned above, it is believed that concerns of regulatory burden for smaller entities are best alleviated through an overall effort to reduce the total burden for all entities, while the “tiering” of requirements, when appropriate, would be used as a secondary method for relieving burdens.

As the following section reinforces, an approach that achieves reductions in overall burden rather than just those of SMEs, is especially preferred when addressing the regulatory burdens of Canada’s publicly-traded entities.

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34 In the report *Prosperity Restricted by Red Tape*, the Canadian Federation of Independent Business (CFIB) has found that businesses with less than 5 employees pay $5,317 per employee per year in compliance costs while businesses with greater than 100 employees pay $1,104 per employee per year. A similar study conducted by the OECD and presented in its paper *Business Views on Red Tape: Administrative and Regulatory Burdens on Small and Medium-sized Enterprises*, found that companies with less than 20 employees have to endure more than five times the administrative burden per employee than larger firms.


36 Launched in 2001, the *Think Small First* initiative sets out three priorities that the UK government will focus on in order to help small companies grow and succeed. The three priorities are: (1) to ensure that the needs and interests of small business are taken fully into account when formulating policy, including macro-economic stability; (2) to simplify and streamline the regulatory framework for business; and (3) to provide support for business at each stage of the business life cycle, including people, skills, advice, workspace, IT and finance.
6.5 Securities Regulations — A Harmonized Approach

It has been found that publicly-traded SMEs in Canada are particularly concerned with the securities regulations applicable to their organizations. As a consequence of this concern and of the importance of securities regulations to these SMEs, this section focuses specifically on issues related to securities regulation in Canada.

It has been suggested that Canada’s Securities Administrators (CSA) may have gone too far with the new continuous disclosure reporting requirements and CEO and CFO certifications introduced in response to the corporate scandals earlier this decade. As mentioned earlier, the recent decision to withdraw Multilateral Instrument 52-111 Reporting on Internal Control Over Financial Reporting (MI 52-111), supports this conclusion. Strictly from the perspective of reducing regulatory burden, this decision is applauded. In addition, it is believed that the measured approach taken in Canada to evaluate the merits of MI 52-111 rather than pushing it through without an appropriate assessment of its potential impacts (as was the case in the United States with section 404 of the Sarbanes-Oxley Act of 2002\textsuperscript{[37]}), is appropriate and consistent with the recommendations above. Whether or not the absence of this rule will hurt investor confidence in Canada’s securities markets remains to be seen.

The recent events surrounding the withdrawal of MI 52-111 and the proposed transfer of some elements of this rule to MI 52-109 also raises the question of whether a “tiered” approach or “one-size-fits-all” approach to regulating securities markets in Canada is the most appropriate approach for the country. As MI 52-111 was to apply only to entities listed on the TSX and was to be phased in over time for smaller entities listed on this exchange, it served as an example of a “tiered” perspective to regulating. This “tiered” approach is consistent with other securities requirements where “Venture Issuers”\textsuperscript{[38]} are sometimes exempt or have reduced disclosure obligations. In contrast, the withdrawal of this rule and proposed revisions to MI 52-109 is more consistent with a “one-size-fits-all” approach to regulating and suggests a reversal in perspective by Canada’s securities administrators as the consequential amendments to MI 52-109 will apply to entities listed on both the TSX and TSX Venture exchanges.

\textsuperscript{37} It is felt by some that Section 404 may have been introduced too hastily in 2002, and that in a rush to restore public confidence in the capital markets, this rule was implemented without proper assessment of its impacts on businesses, particularly smaller entities. Since this time, substantial debate has ensued with a number of proposed extensions and exemptions for smaller entities and the eventual commissioning of an Advisory Committee in 2005 to assess the issue. Although the SEC has finally settled on a solution that will include a more suitable controls framework for smaller companies and better advice to company managers on how to apply Section 404, it may be argued that the ensuing debate and uncertainty of the final outcome may have done more to hurt investor confidence than improve it.

\textsuperscript{38} A reporting issuer that does not have any of its securities listed or quoted on any of the Toronto Stock Exchange, a U.S. marketplace or a marketplace outside of Canada and the U.S.
There are arguments in favour of both approaches. A “tiered” approach is attractive as it attempts to address the disproportionate burden smaller entities face with a uniform standard, encouraging smaller entities to remain listed on Canada’s exchanges. On the other hand, a “tiered” approach is less attractive because it may raise fears of a double standard that weakens investor protection and ultimately lowers public confidence in Canada’s securities markets. To date, it appears that Canada’s securities regulatory authorities have used both approaches, maintaining for the most part uniform requirements with some flexibility for smaller entities.

From a theoretical standpoint and based on the findings of this report, it is believed that a tendency toward a “one-size-fits-all” approach is most appropriate for establishing securities requirements in Canada.

Theory suggests that to maintain the efficiency of the securities market, firms competing for finite capital on the market should adhere to the same standards. Introducing variation in standards reduces investor confidence in the integrity of the market and may discourage firm participation in the securities markets or remove incentive for growth out of fears of increased or escalating regulation. In addition, it can be argued that in the case of disclosure, less is known about smaller firms given that these firms are more closely held. As a result of this information asymmetry, it is the public’s interest and the interests of market efficiency to require at least the equivalent amount of information from these organizations.

The results of the surveys in this study support the view that priority should be given to regulations that are consistent with a “one-size-fits-all” approach to regulating. It has been shown that that concerns of inequity over securities regulations, at least on an overall basis, are equally as high with larger SMEs as they are with the smallest SMEs. As a result, it appears that from the perspective of administrative burden reduction, more will be gained from strategies that reduce the overall burden rather than those that only reduce the requirements of smaller publicly-traded entities.

In keeping with this philosophy and views shared earlier, harmonization of securities regulations throughout the country would help reduce this burden. As a result, the creation of a common securities regulator, or at the very least, augmented efforts to harmonize requirements and improve cooperation between the 13 provincial and territorial securities administrators, are seen as positive steps for achieving improved harmonization of securities regulations in the country.
6.6 Non-regulatory Approaches

Throughout this study it has been recognized there are both social benefits and costs to regulation. From a theoretical standpoint it is the objective of regulators to come to the optimal level of regulation that provides the greatest net benefit to society. However, determining this optimal level in reality is not possible given the difficulties of accurately quantifying all costs and benefits. In this regard, governments should first look at the ability of private incentives and market forces to regulate activities in the manner that is best for society before turning towards regulation. Although not perfect in some areas, these non-regulatory forces are more effective and efficient at encouraging behaviour towards socially desired outcomes.

Typically these private incentives and market forces are driven by societal pressure on organizations to act responsibly in order to maintain their “license to operate” while attracting and retaining key employees, maintaining customer relationships, and managing their public reputation. An example of how stakeholder pressures can drive socially responsible behaviour is apparent in the rise of corporate sustainability reporting in the last decade\(^3\). Companies are voluntarily reporting on their social, environment and economic performance in order to maintain positive relationships with their most important stakeholders. Although this external pressure may not necessarily translate into business practices that are most sustainable or socially optimal, the presence of these forces certainly influence behaviours towards a more socially desirable end.

The important thing for regulators is to recognize that these forces are in place and that regulators can encourage these practices through supporting guidance. In the example of sustainability reporting, the development of international Sustainability Reporting Guidelines by the Global Reporting Initiative\(^4\) serves as an example of how guidance is useful in supporting the voluntary reporting on sustainability performance.

Other voluntary initiatives that are driven by market forces include the development of standards, codes and principles by industry associations for their member companies such as those under the Responsible Care program developed by the Canadian Chemical Producers’ Association. The increase in voluntary adoption of more comprehensive corporate governance practices seen in recent years serves as another example of this trend\(^5\).

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39 See CGA-Canada’s paper Measuring Up: A Study on Corporate Sustainability Reporting in Canada for further background on this topic including evidence behind the rise of corporate sustainability reporting in Canada and the factors driving its continued growth. The paper is available on CGA-Canada’s website at www.cga-onlne.org/canada.


41 To support this activity, the Canada’s securities regulatory authorities have released National Policy 58-201 Corporate Governance Guidelines to provide guidance on corporate governance practices.
Recognizing that these market forces are present, regulators must then focus their regulating efforts on those areas where market failures are most common. For example, it can be argued that certain environmental regulations are more justified given that environment resources such as clean air and water, are more susceptible to problems of externalities and free riding\(^{42}\). In contrast, regulations are not as necessary to encourage what may be considered socially ethical or moral behaviours such as those related to issues of corporate governance. As one participant in the roundtable discussion stated “it is difficult to make a dishonest person honest with rules”.

Shifting resources to those areas where market forces are less efficient away from those where desired outcomes can be achieved primarily through private incentives and market forces is considered a useful way to avoid unnecessary regulation. In addition, the resources that are saved can then be used for other objectives including the effective enforcement of essential regulations as discussed in the next section.

6.7 Appropriate Enforcement

As just mentioned, regulation at some level will always be needed to correct for the market imperfections that prevent regulators from achieving desired social outcomes. In those areas where regulation is deemed necessary, it is important that in addition to ensuring that the regulations are implemented and managed effectively and efficiently as possible, proper enforcement be put in place to ensure that these regulations achieve their desired outcomes. Without appropriate enforcement, resources dedicated to creating and implementing regulation will not be optimized; perhaps even counter-productive.

Previously indicated, inspection and enforcement activities are most efficient when they are concentrated in those areas considered most at risk for non-compliance. It is therefore recommended that a risk assessment approach become embedded in all inspection and enforcement activity in Canada in a manner similar to that which has been recommended in the UK through the 2005 Hampton Report (see Table 5). Rewarding “good companies” for compliance through reduced requirements and dedicating resources to monitor and penalize those few marginal performers more likely to sidestep their regulatory obligations, is seen as an efficient way to maximize the use of limited regulatory resources.

\(^{42}\) An externality is action taken by a firm or an individual where the individual is not charged for the cost that the action (i.e. air pollution) places on others (i.e. reduced air quality), or does not receive revenue for the benefit it confers on others. Free-riding is the receipt by a firm or an individual of a benefit resulting from an externality.
Appropriate enforcement is seen as the last and vital step of an efficient regulatory process. It is a method for signalling to the public the government’s priorities and desired social objectives, and it is integral to “results-oriented” compliance. Although enforcement has its costs, provided it is performed with dedicated purpose and equity as presented herein, the net benefit to society is seen as worthwhile. Moreover, it validates the sought outcome, the process, and the perseverance of the participant stakeholders.

Table 5: The Hampton Report: Principles of inspection and enforcement

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<tr>
<td>Regulators, and the regulatory system as a whole, should use comprehensive risk assessment to concentrate resources on the areas that need them most;</td>
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<td>Regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take;</td>
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<tr>
<td>All regulations should be written so that they are easily understood, easily implemented, and easily enforced, and all interested parties should be consulted when they are being drafted;</td>
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<tr>
<td>No inspection should take place without a reason;</td>
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<td>Businesses should not have to give unnecessary information, nor give the same piece of information twice;</td>
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<tr>
<td>The few businesses that persistently break regulations should be identified quickly, and face proportionate and meaningful sanctions;</td>
</tr>
<tr>
<td>Regulators should provide authoritative, accessible advice easily and cheaply;</td>
</tr>
<tr>
<td>When new policies are being developed, explicit consideration should be given to how they can be enforced using existing systems and data to minimise the administrative burden imposed;</td>
</tr>
<tr>
<td>Regulators should be of the right size and scope, and no new regulator should be created where an existing one can do the work; and</td>
</tr>
<tr>
<td>Regulators should recognise that a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection.</td>
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43 Taken from Philip Hampton’s March 2005 report Reducing administrative burdens: effective inspection and enforcement found online at http://www.hm-treasury.gov.uk/media/A63/EF/bud05hamptonv1.pdf (10 Sept. 2006).
It is apparent from this, and similar works that the cumulative burden of regulation on businesses in Canada is an important issue. It is not so hard to imagine the day that individual Canadians will simply abandon the notion of growing an already successful business or of going into business altogether. Some say the day has arrived!

Historically, one could conceivably start a business very modestly, and factors permitting, grow to employ say up to five people (a typical private SME). In time, these ventures could expand to become relatively large private or publicly-listed SMEs of up to 250 employees; and in some instances morph into large private or publicly-listed entities having in excess of 250 employees. Most of us know of examples of successful ventures that have gone through some or all stages of such a metamorphosis.

At the risk of being alarmist, the survey and roundtable discussion hosted by the Certified General Accountants Association of Canada (CGA-Canada) have revealed that entrepreneurship is threatened by the current regulatory penchant and that the current landscape is ripe for change. Mired in an atmosphere of apprehension over the inequity, change, complexity, quantity and duplication of compliance, the reasonableness of Canadian regulation is being challenged.

If Canadians are to weather this challenge, decisive steps are required. Undeniable to the success of any regulatory reform, the renewed directions and actions of government must be anchored in effective and sustainable political leadership. Recognizing that some efforts to date have made little difference because of a lack ongoing vigilance and accountability, this shortfall, at least in considerable part, results from a lack of political will or attraction, such a commitment requires that regulatory efficiency be made a priority and that political leaders recognize the desirability to lessen the burden in the spirit of accentuating innovation and productivity. The regulatory reduction initiatives of British Columbia and the Netherlands can serve to demonstrate some prospective options. Shortfalls of Canada’s current approach such as the absence of a coordinated national vision must be confronted and mitigated while the appointment of a Minister to exclusively oversee the portfolio warrants serious consideration. As a precondition for successful outcome, political commitment will be most successful if accompanied by the establishment of accountability through regulatory measurement, the establishment of reduction targets and increased reporting and public disclosure.
With these commitments firmly in place, the government can **undertake to change its mindset** and explore the way that it regulates. With a view to reducing the burden, it can examine existing and prospective regulation with more of a *client focus*. Articulated on balanced principles which reconcile societal interest with the real impact on business, a cost/benefit methodology, strengthened by a consultative orientation, can emerge. Within this approach, the government can likewise **consider results-oriented regulation** which is less prescriptive in nature and intends to complement the cost-containment behaviour of commercial venture. Inherent to such an outlook, is the need to reward *good behaviour* by relying on modern risk-based techniques which do not generalize entire industries or inflict undesirable universal applications. As a value-provider to business, government and regulators can concurrently **pursue technological solutions** which streamline the regulatory process and reduce confusion, duplication and overall energy. In the same spirit, regulators should be empowered to **harmonize or otherwise align standards and regulations** across jurisdictional boundaries. This will serve Canada well, both in reducing immediate domestic compliance demands and in engineering its preparedness for inescapable global influence.

Taken in tandem, all of the aforementioned tactics should benefit all firms inclusive of SMEs. As this study has however found, regulation often places a disproportionate burden on smaller entities. This can reasonably be expected to worsen as Canada is forced to embrace international norms. And while it is ultimately concluded that the best method to address overall regulatory burden in Canada is through coordinated comprehensive effort, the disproportionate costs facing SMEs suggests that **addressing the unique needs of SMEs** is tantamount to survival. Private SMEs are imperative to Canada’s economy representing over 97% of the businesses in Canada while accounting for roughly half of the country’s GDP and over half of the total employment in Canada. As a barometer of economic growth, it is important to limit the impacts of regulation on SMEs; especially given that these entities typically have fewer resources than their larger counterparts. In this regard, regulators must account for potential challenges and afford some relief by taking fuller advantage of educational mediums, technological solutions, outcome and risk-based orientations, and scaled application as discussed earlier.

In the development of this paper, CGA-Canada has identified that publicly-traded SMEs in Canada are particularly concerned with securities regulation. It has been suggested that securities regulation has exerted undue pressure on SMEs and has gone too far. As contained in earlier sections of this paper, there are pros and cons to both a “tiered” approach and a “one-size-fits-all” approach to the regulation of securities markets and both appear to have been used in Canada, maintaining for the most part uniform requirements with some flexibility for smaller entities. A “tiered” approach is attractive in that it
attempts to address the disproportionate burden smaller entities face with a uniform standard; encouraging smaller entities to remain listed on Canada’s exchanges. Conversely, a “tiered” approach may be less attractive because it may raise fears of the existence of a double standard; that weakens perceived investor protection and ultimately lowers public confidence in Canada’s securities markets. Based on the findings of this study, it is believed that a “one-size-fits-all” or harmonized approach to securities regulation, although imperfect, is most appropriate. It has been shown that concerns of inequity over securities regulations, at least on an overall basis, are equally as high with larger SMEs as they are with the smallest SMEs. As such, it is reasonable to conclude that more will be gained from reducing the overall regulatory burden on all companies than from reducing only the requirements of smaller publicly-traded entities.

Highlighted throughout this paper, regulation is necessary to correct market imperfections, which if unmitigated, prevent optimal achievement of desired social outcomes. Where regulation is deemed necessary, it is imperative that in addition to ensuring that regulation is implemented and managed effectively, that appropriate enforcement be enabled. Such enforcement activity, inclusive of inspection, needs to be concentrated to the highest-risk areas. Rewarding of “good companies” for compliance through reduced requirements or other inducement and dedicating resources to monitor marginal performers is seen as an efficient way to maximize the use of limited resources. Appropriate enforcement is the last and vital step of an efficient regulatory process and signals to the public the government’s priorities and desired social objectives. Moreover, it is integral to “results-oriented” compliance and accountability.

Lastly, it is deemed beneficial to consider reliance on non-regulatory approaches to corporate behaviour. Seeing that the establishment of an optimal level of regulation is, in reality, not possible, governments should first look at the ability of private incentives and market forces before turning towards formal regulation. Although limited, these non-regulatory forces are oftentimes more effective and efficient at encouraging desired outcomes. Typically these private incentives and market forces are driven by societal pressure to act responsibly in order to maintain their “license to operate” while attracting and retaining key employees, maintaining customer relationships, and managing public reputation. Increasingly, companies are voluntarily reporting information on their social, environmental and economic performance in order to maintain positive relationships with their key stakeholder groups. Although this external pressure may not necessarily translate into business practices that are most sustainable or socially optimal, the presence of these branding forces certainly influence behaviours towards a more socially desirable end than might otherwise be possible. The important thing to recognize
is that these forces are in place and that regulators can encourage these practices through supporting guidance. In turn, regulatory efforts can be directed to those areas where market failures are more common or likely.

Finally, as an adjunct interest to CGA-Canada, our study has revealed that accountants are heavily relied upon to satisfy regulatory obligations. Given that accountants received an overall positive rating by the businesses they serve and are deemed by those businesses to possess substantial technical and business understanding, CGA-Canada expects that this trend will persist.

These and related subjects shall continue to be areas of great interest to accountants, other professionals, regulators and government over the years to come. The season for change is upon us and there is great opportunity to influence the regulatory arena. Canada must however act swiftly if it is to safeguard its business community; its way of life. With each passing day comes the reality of a global economy which unintentionally or otherwise causes our window of opportunity to contract.
The following approach for conducting a Regulatory Impact Analysis (RIA) on new regulations was prepared by the government of Ireland in 2005, with the goal of reducing the unnecessary use of regulation through an examination of possible alternatives. It is used in conjunction with the EU Commission Impact Assessment, since this latter initiative only takes into account cross-national impacts and not the differential impacts on individual member states.

Currently the RIA model is required for all EU directives and significant primary regulations before they are passed in Ireland. However, due to its comprehensive nature, it is suitable for international use on all newly proposed regulations.

The RIA process is illustrated in the following diagram:

Source: Department of the Taoiseach, Ireland (2005) RIA Guidelines: How to conduct a regulatory impact analysis
As the model reveals, two approaches to regulatory impact analysis are possible depending on the significance of the regulation. These two approaches are as follows:

**Screening RIA** — a preliminary analysis for regulations with relatively low impact

**Full RIA** — more extensive and detailed evaluation for regulations of greater impact

**Screening RIA**

1. Description of policy context, objective and options (i.e. different forms of regulation)
   - Background to the issue, the policy problem and why it should be addressed now
   - Explicit statement of objectives and differentiation between ultimate and immediate objectives - focus on the immediate
   - International guidance indicates that objectives should be SMART (specific, measurable, accepted, realistic, time-dependent)

2. Identification of costs, benefits and other impacts of each option considered including the following areas: (when significant impacts are identified under any of these categories, a Full RIA must be conducted)
   - national competitiveness
   - consumers
   - socially excluded and vulnerable groups
   - the environment
   - whether there is a significant policy change in an economic market, including consumer and competition impacts
   - the rights of citizens
   - compliance burden
   - other economic, social and environmental costs and benefits

3. Consultation
   - Informal consultation with key stakeholders — summarize all views expressed

4. Enforcement and compliance
   - Describe enforcement arrangements and bodies responsible for enforcement — detail how the principles of consistency and accountability will be achieved

5. Review
   - Specify performance indicators
Full RIA

1. Statement of policy problem and objective
2. Identification and description of options
3. Impact analysis including costs and benefits of each option
4. Consultation
5. Enforcement and compliance of each option
6. Review
7. Summary of merits/drawbacks of each option and identification of recommended option where appropriate

As alluded to above, a Full RIA is conducted when there are significant impacts on national competitiveness, consumers, socially excluded groups, the environment, policies, the rights of citizens, the compliance burden and any other economic, social and environmental cost and benefits.

The steps under the Full RIA are similar to the Screening RIA, except the Full RIA involves a more detailed analysis at every stage of the RIA. For instance, when analyzing the costs and benefits of each alternative, a more inclusive and accurate quantification is required using proper mathematical procedures. In addition, the Full RIA has an additional step that requires a summary of the pros and cons of each option considered along with a formal recommendation on which option is preferred.
References


