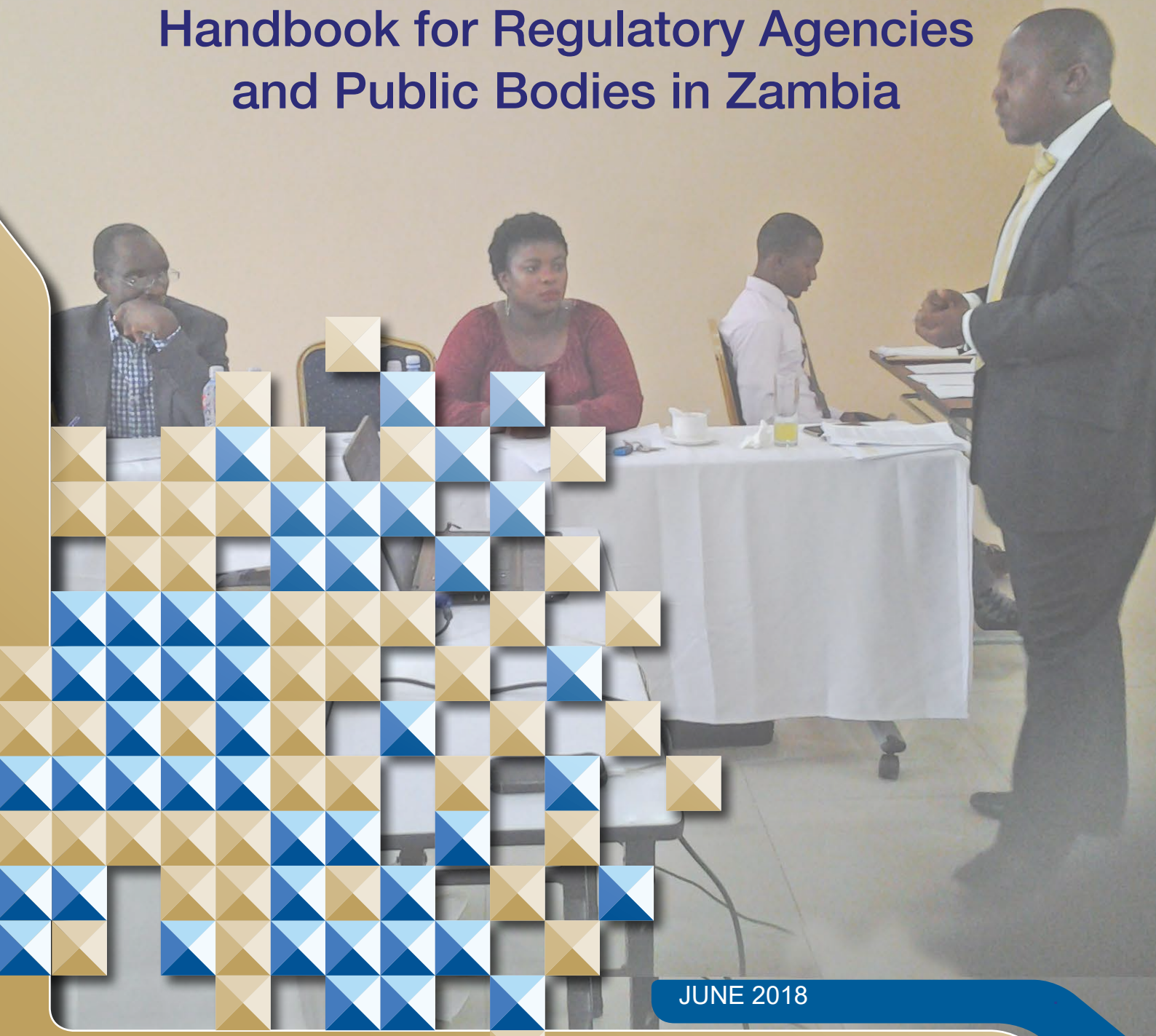
BRRA

Business Regulatory Review Agency

Regulatory Impact Assessment Handbook for Regulatory Agencies and Public Bodies in Zambia



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JUNE 2018

Table Of Contents

List Of Figures

List Of Tables

FOREWORD

The Government of the Republic of Zambia recognizes the private sector as an important player contributing to increased economic growth and improved social welfare. To this end, Government is committed to enhancing the quality of regulatory frameworks that govern the business environment so as to create an enabling environment that attracts increased investment and promotes business growth.

The policy and legislative making process in Zambia has over the years improved and led to the development of pieces of legislation that have contributed to the development process of the country. However, there has been no stringent mechanism for assessing the impact of legislation on business activity.

The main challenge arising from the current institutional arrangement includes lack of in-depth social- economic analysis and limited consultation. The above stated factors are not favourable for sustained economic growth and improved social welfare.
Poor regulation increases compliance costs for businesses and other groups; results in exorbitant enforcement costs for regulators; leads to unnecessary complexities and uncertainty in the business environment; reduces foreign and local investment opportunities and the ability of government to achieve its objectives. The above stated factors are not favourable for sustained economic growth and improved social welfare.

In order to create a conducive environment for private sector growth, Government has adopted Regulatory Impact Assessment (RIA) as part of the policy and legislation-making process through the enactment of the Business Regulatory Act, No. 3 of 2014. RIA is a rigorous framework for analysing the costs and benefits of policy and regulatory change in order to ensure that Government decisions are well informed and achieve intended goals with minimal negative impacts. In this regard, all regulatory agencies and public bodies are required to conduct RIA when considering any new regulatory proposals or amendments to existing policy and laws.

The RIA Handbook, therefore, provides a step by step guide to regulatory agencies and public bodies undertaking RIAs. The ultimate goal of implementing RIA in Zambia is to ensure that the business regulation is not burdensome and promotes sustainable business growth.

Sangayakula Sanga
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BUSINESS REGULATORY REVIEW AGENCY

WORKING DEFINITIONS

Business:	Includes any enterprise, corporate or non-corporate, trade, profession or occupation registered under the Companies Act or Registration of Business Names Act of Zambia.
Initial RIA:	An impact assessment conducted to determine whether there exists a problem requiring policy/ regulatory intervention.
Partial RIA:	A partial RIA is informed by and builds upon the initial RIA. It is augmented by more data and analysis and is produced prior to the consultation exercise. The partial RIA accompanies the consultation document.
Full RIA:	A Full RIA builds on the information and analysis from the Partial RIA and identifies potential impacts and risks of the proposed policy/ regulation. The Full RIA builds on the information and analysis in the partial RIA. It provides a more detailed analysis of the impacts of the preferred options, including a detailed summary of the consultation process. The full RIA includes a quantitative analysis or a matrix (qualitative and quantitative) to the greatest possible extent.
Public Body:	The Government, any Ministry or Department of the Government, a local authority, parastatal, board, council, authority, commission or other body appointed by the Government, or established by or under any written law, excluding a professional association or body.
Policy:	A statement of goals, objectives and courses of action outlined by the Government or any other public body to provide guidance for its intended actions.
Policy Process:	Refers to the collective procedures or mechanisms for effective policy formulation, adoption, implementation, monitoring and evaluation and the consultation that takes place at all stages.
Regulation:	A rule or order having the force of law, prescribed by a superior or competent authority, relating to actions of those under the authority's jurisdiction.
Regulatory Agency:	Any person or body, except a professional body which by law, is empowered to regulate business activity in any sector and includes a Minister.

Regulatory Framework:	A legal system for regulating business activity. Regulatory Frameworks include policies and legislative interventions (laws, regulations, Statutory Instruments, licenses, permits, certificates and authorisations) that have the effect of regulating business activity.
Regulatory Impact Assessment:	Regulatory Impact Assessment (RIA) is a process of systematically identifying and assessing the expected effects of regulatory proposals using a consistent analytical method such as benefit cost analysis *(SADC RIA Framework and Guidelines, 2015).*
Regulatory Intervention	Action taken by a public body or regulatory agency to impact the business environment.
Regulatory Reform:	A process of changing laws that aim to ensure public benefits from policies and regulations exceed their costs.
Regulatory Review:	A systematic process of assessing existing or proposed laws, and making recommendations aimed at improving the regulatory environment.
Business:	Includes any enterprise, corporate or non-corporate, trade, profession or occupation registered under the Companies Act or Registration of Business Names Act of Zambia.

LIST OF ABBREVIATIONS

BRRA	-	Business Regulatory Review Agency
BRRC	-	Business Regulatory Review Committee
CBA	-	Cost Benefit Analysis
CEA	-	Cost Effectiveness Analysis
CLC	-	Cabinet Liaison Committees
HIV/AIDS	-	Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
MCA	-	Multi Criteria Analysis
PAC	-	Policy Analysis and Coordination Division
RIA	-	Regulatory Impact Assessment
SCM	-	Standard Cost Model

CHAPTER ONE

1.0 INTRODUCTION

This Handbook has been developed to guide regulatory agencies and public bodies in undertaking Regulatory Impact Assessments (RIAs) in the policy and legislation-making processes.

The current institutional framework governing business regulation in Zambia is composed of a three tier institutional structure at national and sub-national levels as follows: Central Government; Local Government; and Statutory bodies. The Business Licensing Reforms Report of 2008 estimated that the cost of complying with over 86 Acts of Parliament, pieces of regulations, rules and by-laws regulating businesses as over two percent of the nation's real Gross Domestic Product. The main challenge arising from the current institutional arrangement includes lack of in-depth social- economic analysis and limited consultation.

The premise of the RIA process is to improve the regulatory environment and quality of policies and laws in order to lessen the regulatory burden for sustainable business development and private sector led growth. RIA will assist Government to avoid the pitfalls of unintended consequences when drafting policies, laws or regulations. The main objective of adopting RIA is to reduce policy and regulatory failure through improved understanding of the impacts of regulatory action, improved transparency, consultation and government accountability.

The RIA system in Zambia is provided for under the Business Regulatory Act, No. 3 of 2014 of the Laws of Zambia. The Act provides a set of principles and interventions to guide regulatory agencies when regulating and licensing business activities in accordance with their respective laws.

In this regard, regulatory agencies and public bodies are required to conduct RIA when considering any new regulatory proposals or amendments to existing policy and regulations. It is envisaged that RIA will help achieve high quality policies and regulations in the business environment by ensuring that proposals are subjected to careful and robust analysis.

1.1 PURPOSE OF THE HANDBOOK

This Handbook provides a step by step process of how RIA is conducted. It aims to assist in the policy and legislation-making process by providing detailed guidance on how to prepare high quality regulatory impact assessment reports.

The overriding objective of this Handbook is to ensure that any regulatory agency conducting a RIA does so in accordance with the Act and guidelines issued thereunder.

Specific objectives are to ensure that RIAs prepared by regulatory agencies are:

a) Consistent, impartial and objective;
b) Robust and of high quality, so that less burdensome regulatory frameworks are developed.

CHAPTER TWO

2.0 REGULATORY IMPACT ASSESSMENT

This Chapter explains what RIA is and answers why it should be undertaken and who should prepare it.

2.1 WHAT IS RIA?

Regulatory Impact Assessment is a detailed systematic appraisal of the potential impacts of a proposed regulation in order to assess whether the regulation is likely to achieve the desired objective and the costs of regulation are justified. It is a process that looks into the effectiveness and efficiency of different options and enables the most effective and efficient option to be systematically chosen. Regulatory Impact Assessment helps to improve the business environment by ensuring that policy and regulatory decisions are based on sound analysis supported by factual information.

Specifically, it is an evidence-based process of informing policy decision makers of the likely consequences of their actions as it involves a detailed analysis to ascertain whether or not different options, including regulatory ones, would have the desired impact.

2.2 PRINCIPLES OF REGULATORY IMPACT ASSESSMENT

A good RIA should include relevant information on the proposed policy, regulation or new legislation. It also explains how issues being proposed for regulation could cause specific problems if not addressed. Therefore, a good RIA should:

a) clearly outline the objectives of the proposed policy or law;
b) provide an in-depth analysis of the problem that is being addressed;
c) provide different options being considered and why the preferred option is the best approach;
d) provide details of who is affected by the problem and who is likely to be affected by the solution;
e) analyse whether the benefits justify the costs and what the likely costs for business and consumers are; and
f) satisfy the principles of:

i. **Transparency** - policy and regulatory proposals are transparent in that they are open, simple and user friendly;
ii. **Proportionality** - proposals are proportional to the risk being addressed;
iii. **Targeting** – the proposal being targeted and focused on the problem being solved and ensuring minimal side effects or distress;
iv. **Consistency** - proposals are predictable so that the affected parties know where they stand;
v. **Accountability** - policy and regulatory proposals satisfy the principle of accountability to Cabinet, National Assembly and other stakeholders; and
vi. **Simplicity** - be presented clearly and concisely using simple language with minimal use of technical terms.

2.3 WHY RIA SHOULD BE UNDERTAKEN

Conducting RIA with respect to a proposed policy/regulation is important in that it:

a) helps assess and bring out all potential impacts (social, economic and environmental), irrespective of whether positive or negative that can result from a proposed policy/ regulatory intervention;
b) helps examine the likely impacts on consumers, businesses and government that would arise from a proposed policy/ regulatory intervention, and communicate its findings and recommendations to decision makers;
c) helps determine whether the benefits justify the costs;
d) ensures that regulations are as effective and efficient as possible;
e) requires extensive stakeholder consultation in order to identify possible options and discuss benefits and costs associated with a proposed policy/ regulatory intervention;
f) helps consider non-regulatory options;
g) helps to assess if a proposed regulation impedes growth of businesses by being burdensome, overly bureaucratic or costly in terms of meeting compliance requirements; and
h) helps assess if the regulatory intervention overly adds to costs of a regulatory agency that would enforce it.

2.4 WHO SHOULD CONDUCT RIA

RIA should be conducted by regulatory agencies and regulatory agencies and regulatory agencies and public bodies proposing, amending or repealing a policy or regulatory framework. In conducting RIA, a regulatory agency may constitute a RIA Technical Committee to draft the RIA report.

2.5 REGULATORY FRAMEWORKS REQUIRING RIA

RIA must be prepared when introducing, amending and repealing:

a) a policy or regulation (including statutory instruments) that have an impact on the business environment;
b) a fee, charge or levy collected pursuant to the issuance of a licence, permit, certificate and authorisation as prescribed by any given law. A fee, levy or charge payable in respect of a licence, permit, certificate or authorisation shall be minimal, clearly fixed and imposed for the sole purpose of defraying administrative costs of licensing, except for a licence issued for high value or scarce national resources or which is aimed at protecting the environment, public health, safety and security.

2.6 WHEN SHOULD THE RIA PROCESS START?

The RIA process should start as early as possible when considering to introduce, amend or repeal a regulatory framework. RIA must be conducted before a decision to regulate is taken.

CHAPTER THREE

3.0 RIA PHASES

The RIA process has three phases namely: Initial RIA; Partial RIA and Full RIA.

a) **Initial RIA -** An initial RIA informs the institution on the merit and demerits of the proposed policy or regulation. It should be prepared as soon as a policy or regulatory idea is generated. The benefits and costs of the proposed option under the initial RIA are to be listed qualitatively.

a) **Partial RIA -** A partial RIA is informed by and builds upon the initial RIA. It is augmented by more data and analysis and is produced prior to the consultation exercise. The partial RIA accompanies the consultation document.

b) **Full RIA -** The Full RIA builds on the information and analysis in the partial RIA. It provides a more detailed analysis of the impacts of the preferred options, including a detailed summary of the consultation process. The Full RIA should include a quantitative analysis or a mix (qualitative and quantitative) to the greatest possible extent.

A Full RIA should be conducted where the Initial and Partial RIAs suggest that anyone of the following applies:

(a) there will be significant negative impacts on national competitiveness;
(b) there will be significant negative impacts on the socially excluded or vulnerable groups;
(c) there will be significant environmental damage;
(d) the proposals involve a significant policy change in an economic market or will have a significant impact on competition or consumers;
(e) there will be a significant impact on business enterprises;
(f) the proposals will disproportionately impinge on the right of citizens;
(g) the proposals will impose a disproportionate compliance burden; and
(h) the costs to the treasury or third parties are significant or are disproportionately borne by one group or sector.

3.1 STEPS IN CONDUCTING RIA

The steps to undertaking the above RIAs are basically the same. The only difference is the extent or depth of the analysis of the problem and the consultations.

The RIA process should include the following steps in their chronological order:

a) Prepare a preliminary schedule and outline plan of RIA process
b) Defining the problem and establishing the baseline
c) Setting the goals and objectives
d) Identification of options
e) Comparison of costs and benefits of options
f) Stakeholder consultations
g) Selecting the best option and making recommendations
h) An Implementation, monitoring and evaluation plan

The following is the detailed description of the steps:

Step 1: RIA ACTION PLAN

Prepare a preliminary schedule and outline the plan of the RIA process in the format shown in annex 1.

Step 2: PROBLEM DEFINITION AND BASELINE

This step of the RIA analytical process involves:

(a) Describing the problem broadly and clearly identifying a range of choices.

(b) Determining the extent of the problem (quantify it if possible). Questions that need to be answered here include: What is the problem? Who is affected and how? Consider who should resolve the problem. Consider the rationale for Government intervention.

(c) Determining the causes. What led to the problem? What events or behavior contributed to the problem?

(d) Outlining the baseline: The baseline predicts what the future will be if no intervention is taken to resolve the identified problem. What will happen in future if no action is taken? Does the problem get worse or better taking into account future changes that can impact the trend? If you see several reasonable futures because of different assumptions and uncertainties taken into account, you can create several baseline scenarios. Below are the three factors to consider in establishing a baseline.

i. Trends in the problem- does the problem trend go up, down or remain stable?

ii. Changes in the external factors that can change trends. These are factors for which we have no control.

iii. Changes in other policies or regulations that can affect the trend.

Below is a graphical example of a baseline scenario. The graph depicts how the problem would trend in the future without any intervention. Use the past to predict the future.

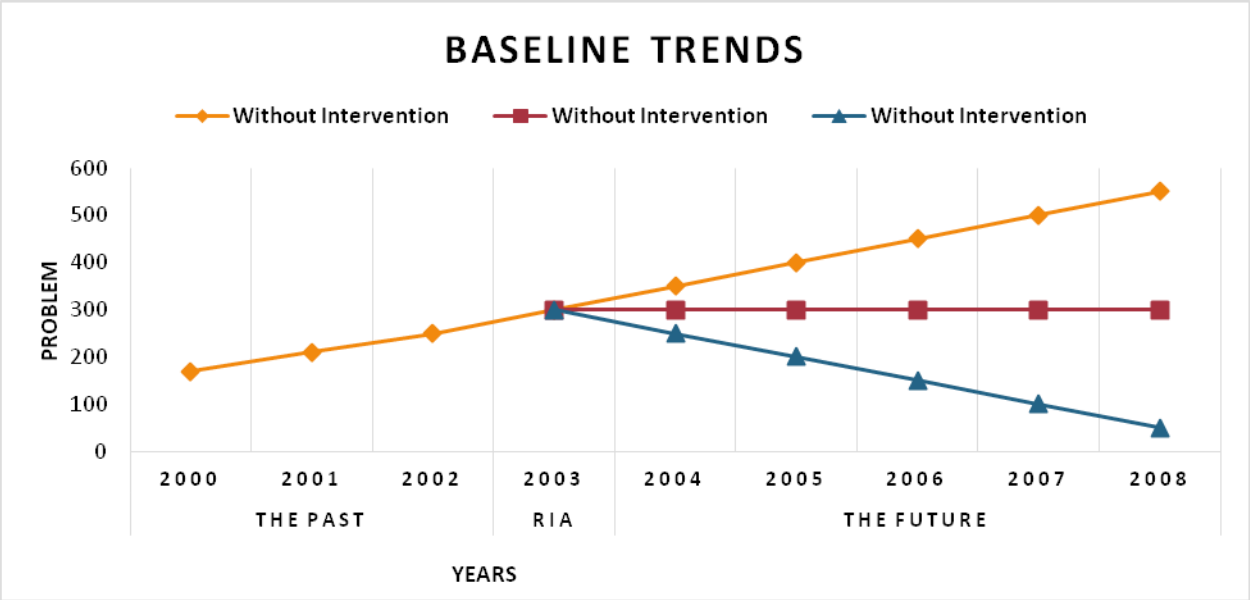

Figure 1: Baseline Scenarios

(e) Indicate why the problem cannot be resolved by existing regulatory framework;

(f) Risk assessment - Risk assessment involves evaluating the probability of detriment or harm as a result of existing policy/regulation, or posed by the identified problem that requires intervention.

Before commencement of the risk assessment process, it is necessary to establish the risk criteria against which the risks will be measured. In the case of Zambia and according to the Business Regulatory Act, the risk criteria in the regulatory making process relates to the governments mandate to regulate in the interests of:

i. Public health;
ii. Public safety or national security;
iii. Environmental protection;
iv. Consumer protection; and
v. Upholding of standards for goods, food, drugs and services.

In the RIA process, risk assessment involves risk identification, risk analysis and risk evaluation.

(a) Risk Identification - This is the process of finding, recognizing and describing risks relative to a particular issue or problem. Under this stage, identify the risks to health, safety, the environment, consumer protection or upholding standards for goods and services. It is important to consider government's mandate to regulate in the interest of the matters indicated above when proposing regulations.

(b) Risk analysis - This is the process of determining the nature and level of risk. In this stage, you look at the severity and likelihood of the risk. Assess and rate the risk by finding out its severity and likelihood of occurrence and the possible consequences or results.

(c) Risk evaluation - This is the process of comparing the results of risk analysis against risk criteria to determine whether the level of risk is acceptable/ tolerable or not. In this stage you assess if the risk can be eliminated entirely or identify what actions can be taken to reduce the risk to an acceptable level. A risk assessment form is provided for as annex 2.

In problem definition, there are common pitfalls that need to be taken into consideration and these include:

a) narrow definition of the problem, which limits the choice of options and leads to the selection of a specific alternative;
b) Lumping many problems into one because they are interrelated. If you have two problems that are interrelated, have two problem definitions;
c) describing the solution instead of the problem;
d) defining the problem as a strictly technical issue;

e) lack of insight into the incentives of the regulated subjects;
f) lack of information on the magnitude of the problem; and
g) relatively small problem inflated by the media (which creates political need for regulation).

Table 1: Examples of good and bad problem definitions

SN	Good problem definition	Bad problem definition
1.	Evidence shows that 90% of adults do less exercise than the recommended daily exercise for their age group. However, sales of fruit and healthy food products have increased by over 25% over the past 2 years. ***This definition recognizes the scale of the problem for better option design and solution identification.***	The public are eating too many foods that contain high levels of salt, fat and sugar which is leading to poor public health. ***This gives little information that is based on evidence.***
2	There has been an increase of accidents caused by speeding on newly built roads due to a lack of knowledge about the new speed restrictions. ***This definition recognizes the reason for speeding and hence may lead to better signage or an education campaign.***	There has been an increase of accidents caused by speeding on newly built roads. ***This is the symptom of the problem and hence this definition may lead to heavier enforcement and sanctions such as imprisonment or large fines for those speeding.***

Step 3: SETTING OBJECTIVES

Objectives should clearly stipulate the goal of the proposed intervention in concrete measurable terms, with a clear timeline for achieving the benefits. Ensure to state the general and specific objectives in the RIA.

Below are the key elements that should be considered in setting objectives:

a) Ensure that objectives correspond to the problem being addressed and its causes;
b) limit the number of objectives;
c) Clearly set priorities.
d) Set SMART objectives. This means they should be:
   i. **Specific** - objectives should be precise and concrete enough not to create ambiguity in interpretation.
   ii. **Measurable** - the objectives should be stated in a manner that makes measurement possible. This is important in order to enable verification of

whether the objective has been achieved or not. Such objectives should be either quantifiable, or based on a combination of description and scoring scales. This part is important as it forms the basis of monitoring and evaluation in the post implementation stage of the RIA.

iii. **Achievable** - the objectives should be achievable and therefore set with due consideration of the abilities of the persons responsible for achieving them.

iv. **Realistic** - Objectives and target levels should be realistic and formulated with due consideration to availability of resources. This does not necessarily mean that the process of setting objectives should be devoid of measured ambition.

v. **Time-bound** – objectives must be set for attainment within a fixed time frame or achievement date.

Table 2: Examples of good and bad objectives

SN	Good objective	Bad Objective
1	Reduce heart disease in adult's by10% within the next 5 years.	Improve public health.
2	Increase the production of Agriculture in Zambia by 10% by the year 2020.	Provide State Subsidies for Agricultural production in order to achieve a 10% increase in production by 2020.
3	Prevent accidents in manufacturing, specifically in the mining sector by 30%, caused by certain prescribed dangerous metals by 2021.	Ban the use of any dangerous metals in the mining sector.

Step 4: IDENTIFICATION OF OPTIONS

This step involves the identification and selection of the options to be considered and also answers the question of whether, non-regulatory measures rather than regulation, can be used to resolve the problem. This is because, the identification of a problem does not necessarily mean the need to introduce regulation. In such cases alternatives to regulation maybe used.

During this stage of the RIA process, you may start by firstly informally consulting sectoral experts to assist in validating the problem definition, baseline, objectives and to identify risks and potential options. Take note that the process of informal consultation is extremely important during this stage.

When identifying and selecting options, the following should be considered:

a. Ensure that the policy/ regulatory intervention options meet the objectives;

b. Consider regulatory and non-regulatory options; and
c. Narrow the number of options through screening for constraints, and measuring against pre-defined criteria.

Different options that could be taken to address a problem include:

a) The 'do nothing' option – This option entails maintaining the status quo. If the new intervention is to be adopted, it must be demonstrated as to why the status quo option is not the favorable option. Sometimes not taking action can have a favorable impact than taking action. For instance, when the expected benefits of the regulatory change are lower than costs then there is no need to regulate or amend the regulation. This is why the 'do nothing option' should always be considered in every RIA.

b) Direct Government intervention which may include;

i. Policy;
ii. Legislation;
iii. Statutory Instrument and By - Laws;
iv. Licencing;
v. Fees, Levies and Charges; and
vi. Other Legal Instruments.

c) Indirect interventions:

i. The administrative procedures simplification option;
ii. The self-regulation, co-regulation and market measures option;
iii. Information and education campaigns
iv. Other mechanisms e.g. public information registers, mandatory audits and quality assurance schemes.

For more details on the types of regulatory and non-regulatory interventions, see Annex 4.

Key points to note in selecting options:

a) Where resources are limited, it is necessary to consider the option that requires minimum investment and enables partial realisation of the goals.
b) If the number of options is large, it is necessary to perform a preliminary selection to reduce the number of options to three or four options. However, the status quo option must be maintained.
c) Options may be excluded at an early stage because:
   i. They are not feasible;
   ii. The costs and/or risks are too high; and/or
   iii. The benefits are too limited.
d) The main pitfall in the selection process is to consider only three options, that is, status quo, the already pre-selected option and an unrealistic option, leading to the selection of the preferred option as the final choice without adequate analysis being conducted. The preferred option should be identified after analysing the feasible options.

Step 5: COMPARISONS OF COSTS AND BENEFITS OF OPTIONS

Once options are identified, there is need to make a comparison of the negatives and positives of the proposed options. Comparisons can be either qualitative or quantitative. Quantitative comparisons require the use of RIA methodologies and these are discussed under this step.

RIA Methodology Analysis

RIA methodology analysis involves:

a) deciding on the methodology;
b) determining the scope and depth of analysis;
c) mapping of the data needs; and
d) collection of data on detailed benefits and costs of options through surveys and other data sources.

Whatever methodology is employed in the RIA, the core criteria and principle underpinning the RIA is that regulations should only take place where their benefits are greater than the costs. The preferred option should be the best way forward (e.g. maximise net gains) compared to other options considered in the RIA. See Annex 5 for more information on assessment of options.

Types of RIA Methodologies

There are four main RIA methodologies that can be used to analyse and compare options namely:

a) cost-benefit analysis;
b) cost-effectiveness analysis;
c) multi-criteria analysis; and
d) standard cost model.

a) Cost Benefit Analysis (CBA)

CBA is an approach which guides the decision making process as well as a specific methodology for conducting RIA. CBA is the most popularly used methodology in RIA and it involves quantifying costs and benefits into monetary terms. This allows the outcomes of a range of options to be easily compared in terms of their net gains and losses over a period of time and thus facilitating evaluation and decision making. CBA provides evidence to support the final recommendation and determine whether the benefits from the policy options justify the costs. The basic rule in this regard is that where the forecasted costs exceed the predicted benefits, the proposal should be refined or in certain circumstances abandoned. All decision makers must assess requests for new regulation by asking whether total benefits of the regulation are larger than the costs.

To determine whether the proposal is significantly beneficial, only additional costs and benefits to those which would have been incurred if no action were taken, are included when making the assessment.

When to Use CBA

It should be applied when:

i. There are many possible choices and you want to know ***which action should be taken***;
ii. Policy objective is uncertain, broadly defined; or contingent;
iii. Interactive effects and trade-offs are possible.

CBA Formula:

CBA = Benefits – Costs

Assessment of Costs under Cost Benefit Analysis

All costs generated by each option should be identified and where possible estimated and set out in a table. It may be necessary to prepare both a short summary table for inclusion within the RIA document and a more detailed cost breakdown which could be presented as an appendix to the RIA report. There are two major stages to follow in the assessment of costs under CBA approach.

Stage 1: Who Is Affected?

The first important step in cost assessment is the accurate determination of who is affected by the proposed policy or regulation. The distribution of costs and who bears them should be described (i.e. costs to the regulatory agency, businesses or consumers). An example is given below.

i. Total cost to all business entities including small business entities, and non-profit organizations;
ii. Total cost to households and,
iii. The total cost to regulatory agencies and regulatory agencies and public bodies or regulatory agencies.

Stage 2: Description and Estimates of Regulatory Costs

After the number and types of affected parties are determined, the types and amount of costs imposed on those parties by the proposed policy or regulation should be determined. These costs can be described as follows:

a) Incremental Regulatory Compliance Costs to Businesses:

   i. Capital costs - buying new equipment to comply with regulation. It is also important to consider the capabilities of businesses to either internally or externally finance these capital costs.

   ii. Recurrent or ongoing operational costs:

      a. labour- employing additional staff or engaging consultants and other sources of expertise to help with regulatory compliance.
      b. Indirect or overhead costs associated with additional labour identified.
      c. Changes in production processes made necessary by regulations e.g materials purchased.

   iii. Ongoing transaction costs - collecting and storing information that the policy or regulation requires, time and value to do paperwork and other administrative compliance activities.

   iv. Start-up compliance costs - costs not captured in any of the above categories.

b) Other costs:

   i. Competition related costs - An assessment should be conducted to determine if the proposed policy or regulation will adversely affect the cost, quality and ultimately the price of a product, good and/or service. A highly regulated market can increase the price of a product as a result of increasing product standards. Consumers may respond by buying less of that product and switching to other substitute goods. However, substitution effects can also result in unintended problems.

   ii. Barriers to market entrance or expansion - Effects of the proposed policy/ regulation on the ability of new enterprises to start-up, or for existing ones to expand should be analysed. Such barriers include, but are not limited to, additional licensing or educational requirements, new mandatory permits or regulatory procedures, and increased documentation or reporting requirements.

   iii. Indirect economic and distributional effects must also be assessed e.g. adverse effects on jobs within the affected regulated entities, opportunity costs etc.

c) Incremental Administrative Costs to Regulatory agencies and regulatory agencies and public bodies or Regulatory Agencies: These are costs to regulatory agencies and regulatory agencies and public bodies and regulatory agencies that have regulatory and enforcement oversight.

Table 3: Examples of Common Regulatory Costs

Affected group	Examples of costs
Business	Costs of familiarizing with the regulations and planning how to comply (may include purchase of external advice)
	Higher input costs due to regulatory impacts on the costs of materials
	Higher production costs due to changes to production, transport or marketing processes required by the regulations
	Costs of lost sales due to restricted access to markets
	License fees or other charges imposed by the regulations
	Cost of meeting reporting or record-keeping requirements imposed by the regulations
	Cost of internal inspections, audit fees etc. to ensure compliance is being achieved
Consumers	Increased prices for products or services
	Reduced range of products available
	Delays in the introduction of new products (e.g. due to the need for producers to meet regulated product testing requirements)
Government	Cost of administering the regulations: includes providing information to business, recruiting and training government staff, processing licenses or product approval applications.
	Cost of verifying compliance: includes conducting inspections and audits, monitoring outputs.
	Cost of enforcement: includes investigating possible non-compliance, conducting prosecutions.
Other	Costs of reduced competition – e.g. by favoring existing producers and making entry to a market more difficult. This may lead to both efficiency losses and higher prices.
	Distributional costs – e.g. if some costs are disproportionately borne by the poor, or vulnerable groups.
	Restrictions on innovation and the ability to develop and market new products and services.

Important points to note under cost assessment.

a) Extensive use of published and unpublished technical sources is encouraged, just ensure to state source of data.

b) Government experts, the regulated communities, and academic and the private sector are also strongly recommended for consultation so as to help develop accurate estimates of compliance costs.

c) If agency estimates of compliance costs substantially differ from estimates provided by regulated parties, such differences should be disclosed.

d) Assumptions made by regulatory agencies and regulatory agencies and public bodies or regulatory agencies and research sources used should be clearly cited and thoroughly documented. The existence of differing cost estimates that an agency chooses not to use in its analysis should also be noted.

e) Costs calculated in each category must be presented as an annual cost.

f) Aggregate costs of the proposed policy or regulation and present them as follows:

   i. Total monetary costs estimated for implementing the proposed policy/ regulation and its alternatives should be shown in a tabular format.

   ii. Any costs elements that have not been quantified, but which are significant, should be clearly stated and discussed. Where costs cannot be precisely annualised, time frames of when such costs will be incurred should be indicated.

Assessment of Benefits under Cost Benefit Analysis

The assessment of expected benefits is actually one of the most challenging aspects of using CBA approach. This is because it may not always be possible to establish the monetary value of certain benefits especially social benefits. However, a structured analysis of benefits facilitates a more robust comparison between options. To this effect, a 'soft cost-benefit analysis' can be used.

A soft cost-benefit analysis combines and presents systematically quantitative and qualitative metrics. Benefits and costs must be sufficiently clear for comparison purposes. It is important to identify whether changes in a proposed policy or regulation can reduce costs or increases benefits. It is therefore important for regulatory agencies and regulatory agencies and public bodies and regulatory agencies to clearly define and measure benefits. Below are the steps to follow in assessment of benefits.

Stage 1: Identification of types of Benefits

Many of the benefits from policy/regulation can be grouped into one of the following categories:

a) Public health and safety;
b) Occupational health and safety;
c) Environmental protection and natural resource management;
d) Economic and operational efficiency; and
e) Consumer protection benefits and personal rights.

Stage 2: Criteria for Quantification of Benefits

When proposed options affect public or occupational health, safety, or environmental protection, regulatory agencies and regulatory agencies and public bodies can express the benefits as follows:

a) Human health and safety - Number of lives saved or deaths avoided, number of lives prevented from severe illness, increase in standard of living or quality of life;

b) Market-related economic productivity of environmental systems - for example, values associated with agriculture and forestry;

c) Other Impacts on humans - recreational uses of environmental goods such as fishing activities and game viewing including non-use values such as conservation of game for present and future generations;

d) Environmental stability and biodiversity – How much pollution might be prevented, of what kinds and in what places, species protection; number of trees saved, protection of public and private capital infrastructure such as land.

e) Economic and Operational efficiency – Benefits expressed in money terms such as revenue, cost savings etc.

Table 4: Examples of Common Regulatory Benefits

Affected group	Examples of benefits
Business	Reduction in workplace accidents and injuries, associated productivity gains
	Improved availability of market information, hence efficiency gains in production or distribution.
	Increased productivity and efficiency due to regulatory prohibitions on anti-competitive behaviours.
Consumers	Reduced prices for products or services (e.g. through regulatory restrictions on anti-competitive behaviours)
	Improved safety of goods and services
	Provision of better information about goods and services, leading to better choices being made.
	Increased minimum quality standards for goods or services.
Government	Improved public health, resulting in reduced health care costs
	Improved availability of information to government, allowing for better decision-making.
Other	Benefits of improved competition – e.g. by regulating to restrict or prohibit anti-competitive behaviour.
	Distributional benefits – if regulation benefits poor or groups in regional or rural areas disproportionately.
	Improved status of the environment and natural resources

Important points to note under assessment of benefits

a) Regulatory agencies should describe and quantify the expected incremental benefits that would result from implementation of proposed regulations. These incremental benefits are both the quantifiable and non-quantifiable benefits.

b) If the regulations have distinguishable components, each element's expected benefits also should be separately tabulated.

c) Thorough documentation and analysis describing the recipients of any expected direct or indirect benefits should be provided in the benefits discussion. To the greatest extent possible, this data should include the number and type of entities expected to benefit from the regulation, categorized appropriately.

Example of Cost Benefit Analysis

Accidents have increased in the last two years on the Great North road from 10 fatal accidents per annum to 25 accidents per annum. The cause of the increase in accidents is the rapid degradation of the road constructed 15 years ago which has been accelerated by the use of poor road materials by the road contractor, limited funds allocated to maintaining the road by government, increase in motor vehicles on the roads especially trucks and the heavy rains experienced in the southern region of Africa in the last 5 years.

The National Road Agency proposes three solutions to address the problem of increased fatal accidents.

Option one: Do nothing Approach (Status quo) – Keep the road as a single carriage way and continue patching up the potholes. This will mean only maintenance costs will be incurred by the regulator, for businesses and households it will be high motor vehicle insurance and life assurance costs due to increased road accidents. Benefits to the regulator are toll fees, to businesses their sales proceeds and to household's availability of goods locally which they would pay three times for to travel and purchase from Lusaka.

Option two (Non regulatory) – Fix the entire road and expand it to a duo carriage way. This will increase costs for the regulator as they face capital expenditure to expand the road and build a new drainage. For businesses, the detour road to be used in the next eight months is gravel and will increase their time on the road, drivers will need to be paid over time and other allowances; the vehicles will wear and tear quickly (tyres and frequent servicing) and frequent road breakdowns costs. Insurance costs will remain fairly stable as the road speed limit on the detour road will be 20km per hour. For the household, goods will be expensive. In the long run when the road is constructed, there will be fewer accidents and costs related to delays breakdowns and frequent vehicle servicing will reduce by 90%.

Option three (Regulatory) – Ban the movement of public vehicles between 21hrs and 05hrs. This will cost the regulator additional administrative costs to retreat and develop the SI as well as decrease in toll gate fees due to closing of some businesses. Benefits to the regulator are that few staff and response vehicles dedicated to road traffic response team. Businesses will be unable to timely deliver goods for sale, will need to pay overtime and other allowances to drivers for their route stops. Households will experience erratic supply of goods and will pay for the goods at a high price due to increased costs.

Table 5: COST BENEFIT ANALYSIS

	Costs	Benefits	CBA= B - C
Options	Total (3 years) Cost	Total (3 years) benefit	
Option 1: Do nothing/Status Quo			
Businesses	23,000,000.00	18,000,000.00	(5,000,000.00)
Households	2,700,000.00	2,000,000.00	(700,000.00)
Public Body or Regulatory Agency	13,000,000.00	20,000,000.00	7,000,000.00
Total	**38,700,000.00**	**40,000,000.00**	**1,300,000.00**
Option 2:			
Businesses	56,000,000.00	105,000,000.00	49,000,000.00
Households	4,000,000.00	12,000,000.00	8,000,000.00
Public Body or Regulatory Agency	300,000,000.00	350,000,000.00	50,000,000.00
Total	**360,000,000.00**	**467,000,000.00**	**107,000,000.00**
Option 3:			
Businesses	43,000,000.00	15,000,000.00	(28,000,000.00)
Households	7,000,000.00	6,000,000.00	(1,000,000.00)
Public Body or Regulatory Agency	20,000,000.00	15,000,000.00	(5,000,000.00)
Total	**7,000,000.00**	**36,000,000.00**	**(34,000,000.00)**

CBA ranks the option with the highest benefit as the best. In the above example***, option 2*** is the preferred option as it has the highest net benefit.

It should be noted that costs and benefits could be discounted to their net present value using the inflation rate as the discount rate or nominal values could be used. The regulator should clearly indicate which values are used in the analysis.

Shortcomings of Cost Benefit Analysis

a) The most common difficulty resulting from using CBA is that, it can be difficult to establish money values of some non-marketed impacts.
b) Relevant data may not be available or maybe too expensive to collect.
c) It may not be possible to present some impacts in a way that people are able to make reliable trade-offs against money.

b) Cost Effectiveness Analysis

Cost Effectiveness Analysis (CEA) involves the comparison of the cost of different regulatory options. It is applied primarily when considering regulatory options in areas where the benefits cannot be expressed in monetary terms. These areas include health, safety, transportation and education. Measurement of impact, in these cases may be expressed in physical units such as fewer deaths or better education system.

CEA establishes the costs for reaching desired physical volume units and enables the ranking of options according to the costs per observed efficiency unit.

When to use CEA

CEA is primarily applied when:

a) it is difficult to express benefits brought by regulatory options in monetary terms;
b) when there are a very limited number of benefit categories that can be quantified, and costs can be expressed in monetary terms;
c) where there is a fixed budget and the key question is which of the considered options generates the most benefits for a certain amount of costs or which action has the least cost; and
d) prices do not fully reflect all costs and benefits of the regulatory options considered.

CEA Formula:

CEA = Cost___ (monetized)
Benefits (metric such as lives saved)

Table 6: Example of Cost-Effectiveness Analysis

Cost-effectiveness analysis of 3 health Independent programmes.

Option	Cost (ZMW)	Health effect (Life-years gained)	Cost-effectiveness ratio [C/E], (ZMW/Life years gained)
Option 1	150,000.00	1,850.00	81.08
Option 2	100,000.00	1,200.00	83.33
Option 3	120,000.00	1,350.00	88.89

Cost effectiveness analysis employs a ratio analysis approach for ranking options. In the above example, Option 1 with a ratio of 81.08 is the most effective. The lower the ratio the better.

Shortcomings of Cost-Effectiveness Analysis

a) CEA is most useful for comparing programmes that have similar goals, for example, alternative medical interventions or treatments that can save a life or cure a disease.
b) It is less easily applicable to programmes with multiple categories of benefits, such as those reducing ambient air pollution, because the cost-effectiveness calculation is based on the quantity of a single benefit category.

c) Multi Criteria Analysis

Multi Criteria Analysis (MCA) is a generic term for a wide range of technics having the aim of covering a range of positive and negative impacts into a single framework to allow easier comparison of scenarios.

When to use Multi Criteria Analysis

MCA should be applied when there are multiple policy goals or constraints that cannot be practically quantified, and the processes are in place to ensure evenness and transparency.

MCA Formula:

"max" $q=f(x) = \{f1(x),\ldots..,fk(x)\}$ subject to

$q \in Q = \{f(x): x \epsilon X, X \subseteq Rn\}$

q= benefits (maximize benefits subject to x) where x= to the budget or available resources.

Figure 3: Example of Multi Criteria Analysis

Summary of overall Impact of each specific option to address a problem

Options	Options	Impacts on households	Impact on Sector Employment	Potential Economic Impact
Option 1	No change: existing flexibility			
Option 2	Scope focused on consumers/SMEs			
Option 3	No change: Current standards remain community minimium	 to		 to
Option 4	No change: Current standards remain community minimium rules, but uniform tariff permitted for single items			

Key

Positive Impact	
No Impact/ change	
Negative impact	

Criteria for ranking options are defined as:

a) Effectiveness- the extent to which the options achieve the main objective.
b) Competitiveness- the extent to which the options improve competition.
c) Efficiency- normally measures the extent to which the objectives can be achieved at least cost. The cost of any proposed measure would include administrative, compliance costs (e.g cost of implementing regulatory measures and any expected losses. For options where existing data and evidence allows for quantitative modelling of costs and benefits, a full cost benefit analysis will be performed and the criterion will measure the difference between costs and benefits in terms of the overall social welfare.
d) Consistence- the extent to which the options provide for a harmonized outcome.
e) Coherence- the extent to which the options are coherent with the general principles of the sector under which the regulation being reviewed falls.

Shortcomings of Multi- Criteria Analysis

a) MCA is a useful tool to assess non-monetised aspects. However, while helpful, it is still a second best methodology.
b) It requires obtaining inputs from a variety of professionals and the implementation of the methodology to be monitored and routinely reviewed by independent experts.

d) Standard Cost Model

The Standard Cost Model (SCM) is a method for measuring administrative burdens imposed by regulations on primarily businesses. The SCM considers the informational requirements imposed on businesses in the form of procedures and activities that must be undertaken, and calculates “administrative costs” based on both the time and cost required to comply.

When to use Standard Cost Model

SCM should be used as a sub RIA when red tape requirements are substantial across a large number of businesses.

SCM Formula:

SCM = Hours to comply **X** cost per hour **X** frequency per year **X** number of businesses affected.

Table 7: Example of Standard Cost Model

Cost	Time taken	Hourly cost	Frequency (per year)	Firms affected	Total cost
Monitoring emissions	2 hours	ZMW75	Monthly = 12	2,000	2 x ZMW 75 x 12 x 2,000 = ZMW 3.6 million per year
Reporting to government	2 hours	ZMW50	Twice	2,000	2 x ZMW 50 x 2 x 2,000 = ZMW400,000 per year
Recalibrating machinery to maintain emissions performance	3 hours	ZMW100	Twice	2,000	3 x ZMW100 x 2 x 2,000 = ZMW1.2 million per year

The above example illustrates how to measure administrative burdens of a regulation imposed on businesses. In practice when comparing options you will need to consider a minimum of three options. The Option with the lowest administrative burden is the preferred option under Standard Cost Model.

Shortcomings of Standard Cost Model

a) Does not consider benefits
b) Does not consider costs to citizens or government.
c) Does not consider costs other than information obligations
d) Does not consider other costs created by reducing administrative burdens (government enforcement)
e) Assumes 100% compliance

Step 6: STAKEHOLDER CONSULTATIONS

Consultation is a central component of RIA and must be conducted at each stage. Public consultation procedures with affected interest groups (ranging from informal discussion to formal procedures) are needed to ensure the widest possible input into regulatory decision-making and to ensure transparency of the process.

What is the Purpose of Consultation?

Consultation helps to establish the legitimacy of regulation, by allowing people to raise concerns and participate in the regulatory process before the regulation is implemented. This in turn, can improve the extent of voluntary compliance with regulation. Consultation also provides information not only about the anticipated costs and benefits of a regulation, but also of the opinions on the possible improvements that can be made to the planned regulation.

Consultation ensures:

a) Better policy making based on evidence
   i. Measure actual consequences and assess impacts
   ii. Gather data effectively
b) Public interest and involvement
   i. Highlight potential problems and oppositions
   ii. Raise awareness about future regulation
   iii. Increase legitimacy of final proposal
   iv. Build trust
c) Creation of ownership and boost compliance
d) Improved legitimacy of proposal

Who should be consulted?

a) Persons or proprietors of business enterprises who shall be affected by the proposed regulatory framework;
b) Persons or proprietors of business enterprises who shall benefit from the proposed regulatory framework;
c) Regulatory agencies and other public officers who will implement the proposed regulatory framework; and
d) All other relevant stakeholders which are not included above.

How should consultation be conducted?

Various consultation techniques exist. Each of the techniques has different advantages and disadvantages. A combination of different consultation techniques can be used at different stages in the RIA process. These may be passive or active.

a) Active Consultation

i. Advisory groups, committees, public hearings;
ii. Informal consultation;
iii. Panel and focus group discussions;
iv. Peer reviews; and
v. Surveys.

b) **Passive Consultation**

i. Notice and comments (prepublication);
ii. Circulation for comment, notice and comment; and
iii. e-consultation.

i. **Notice and Comment** - This involves publishing a notice (e.g. in newspapers) informing people of the intention to regulate and inviting their comments. Usually, a discussion paper or other documents will be provided which explain the policy or regulatory

proposal and sets out some particular issues on which comments are sought. Notice and comment is a very open form of consultation, which allows all members of the public to participate. It may, however, not be very effective at obtaining specific data, although it includes a set of specific questions as part of the written material provided which may assist in this respect.

ii. **Circulation for Comment** - This differs from Notice and Comment in that consultation materials (the draft regulations, RIA, etc.) are circulated for comments, to a selected group of stakeholders, rather than being openly advertised. Circulation for Comment is often used early in the RIA process of developing a regulation, to get a clear understanding of the views of the groups most directly affected. More than one round of comment can be sought, as the policy or regulatory proposal (and the impact analysis) are fine-tuned.

iii. **Public Hearings** - Public Hearings allow people to comment on a proposed policy or regulation in-person. This can make it easier for some kinds of stakeholders such as people affected by the policy orregulation who are unlikely to draft a written submission. Public Hearings also allow for dialogue. By discussion, the regulator can clarify issues, ask follow-up questions and potentially form a better understanding of stakeholder views. On the other hand, the presence of many stakeholders with widely differing views can make it very difficult to conduct a logical and dispassionate discussion of complex and/or emotional issues at a Public Hearing. Many important stakeholders may be unable to attend public meetings for various reasons. This makes it important to consider carefully where such meetings should be held and at what times.

iv. **Focus Group** – A focus group consisting of technical experts is a powerful consultation technique that can be used when conducting a risk and impact assessment. It can also be used as a preliminary research technique to explore people's ideas and attitudes. Normally a group of 6 to 10 people meet in a conference room or any appropriate place with a trained facilitator. The facilitator explains the process and objectives, leads the group's discussion and keeps the focus on the areas under investigation. Focus Groups can be arranged within a week but their disadvantage is that the sample is small and may not be representative of the population.

Selecting Focus Group participants

a) Similar experiences or backgrounds
b) Preferably between 6 and 10 participants
    - To make everybody participate
c) Not statistically sampled but representative of the population of interest
    - Relevant characteristics
d) Deciding how many Focus Groups are needed

Checklist for a Focus Group Discussion

a) Usually lasts from 1 to 2 hours.
b) A skilled moderator.
c) A record of responses.
d) An interview guide (e.g. checklist) with key points to cover.
e) A conducive environment preferably sitting around a table and with refreshments.

Analysing Focus Group data

a) Summary of discussions
   i. Verbatim transcription of the recording
   ii. Notes taken from listening to the recording
   iii. Notes written during the Focus Group by the moderator and/or assistant moderator
b) Identification of overarching themes related to the questions and the range of perspectives expressed by the participants.

v. **Questionnaire surveys** - Carefully designed questionnaires are able to provide more precise and easy-to-use data. By designing a questionnaire, you can ask for specific information on major elements of a proposed policy or regulation. A well-designed survey of affected groups can provide a good basis for estimating the costs of compliance. However, care is needed in several areas:

a) The survey should be sent to a representative group of affected parties. You should try to ensure all of the main groups who will have to comply with the proposed policy or regulation are included.
b) The questionnaire must be realistic. This means the questions should be carefully considered to ensure that it is feasible for respondents to provide meaningful answers. Conducting a trial with a very small number of respondents can help to identify problems with your questionnaire.
c) The sample size must be carefully considered. On one hand, you need enough feedback to give confidence that the answers received are meaningful. On the other hand, you must ensure that the scale of the exercise is not too demanding of scarce resources.
d) You should try to guard against biased answers: those who must comply will have an interest in over-stating the costs of compliance. Careful design of your questions can guard against this problem.
e) Where compliance cost issues are complex, you may wish to consider direct interviews as a way of improving the quality of the data received.
f) Remember that surveys covering relevant issues may have been completed previously, either by government or by other bodies. You should try to identify relevant survey results that are already available to improve existing knowledge and reduce the costs of data collection on government and businesses.

vi. **Other consultation techniques** include: electronic-consultation which may include emails, online surveys, social media and personal interviews including by telephone.

How to improve the effectiveness of consultation

a) Make Information available to stakeholders – Information made available to stakeholders must be as detailed as necessary and as simple as possible. While consultation is an important way of obtaining data to help you conduct RIA, it is also necessary to give out information to support the consultation process. People will participate more effectively in consultation if they have a clear understanding of the proposed policy or regulatory proposal and of the underlying problems it is trying to resolve. Written material that addresses these issues should usually be made available before consultation is conducted.

b) Draft specific questions for discussion - It is often advisable to set out specific questions that help to identify what information you are seeking as part of the consultation. Consultation must remain sufficiently open to allow participants to raise their own concerns. This will make the process more acceptable to participants but will also, in many cases, alert you to issues and problems that you may not have considered.

c) Before starting the consultations, a list of goals to be achieved from the consultations to be conducted should be compiled. Examples of consultation targets include:

   i. Finding new solutions (brain storm);
   ii. Gathering data on the selected issues;
   iii. Verification of the proposed assumptions;
   iv. Explanation of selected issues to public opinion; and
   v. Winning or increasing the acceptance and support for the proposed policy/regulation among the community or the interested circles.

Note: Answering the question about the purpose of consultation allows not only to complete the list of issues for discussion, but It also helps to establish which subjects should take part in the consultation.

d) Engage stakeholders for consultation early in the RIA - Timing is another important issue for consultation. Firstly, you should consult as early as possible and if possible at various stages of the process of preparing regulation so that the results can be used effectively in RIA and, potentially, lead to changes in your regulatory proposals. Secondly, you should make sure that you allow enough consultation time for the groups you are consulting to participate effectively.

e) Include all information gathered from stakeholders in the consultation paper - In the longer term, people will only continue to participate in consultation if they see it as

worthwhile. This means that they must be able to see that their views have been considered seriously in reaching regulatory decisions. Likewise, providing feedback to people who have participated in consultation can be helpful too. The consultation document and the public responses should be published on all possible media channels together with details of the regulatory agency's or public body's reactions to the issues raised. Another option is to circulate the consultation document to the stakeholders after compiling it.

Checklist for Effective Consultation

a) Specify objectives for the consultation exercise.

b) Identify the outputs you will need for policy development and feedback to your audiences.

c) Assemble a team with the necessary skills to conduct the consultation.

d) Identify the stakeholders for your consultation and consider how to involve them (including groups at risk of exclusion from your consultation and take steps to remedy this).

e) Review previous consultation and research activity on the topic.

f) Seek advice from internal and external experts at the earliest opportunity.

g) Use external stakeholders to assist you at the earliest stage of your exercise in establishing the broader picture and in identifying the issues.

h) Establish appropriate consultation method(s) based on your objectives and audience.

i) Consider and budget for alternative consultation methods and the translation of material into other languages.

j) Ensure that you set realistic timescales for planning and conducting your consultation, including at least 4 weeks for responses to your consultation paper.

k) Ensure your paper is concise and clearly laid out in plain English.

l) Ensure your consultation paper includes: a summary discussion of the issues; outlines the options; relevant views and information; assessment of impact on different groups; proposed timetable; list of those being consulted and how responses will be used.

m) Ask probing questions that will elicit as much information as possible on the subject.

n) Advertise your forthcoming consultation and alert key stakeholders.

o) Ensure you are maximizing ICT opportunities.

p) Make arrangements to receive and process responses.

q) Establish a system for dealing with complaints.

r) Acknowledge all responses.

s) Analyse responses, publish a summary and full report of the analysis in hard copy and soft copy.

t) Provide feedback as soon as possible to all respondents and other stakeholders.

u) Non-written methods can be used to achieve effective consultation with your target audience, either on their own or in conjunction with a written consultation paper. They are especially useful for targeting groups less likely to respond to a written consultation paper.

Important points to note during consultation

a) According to the Business Regulatory Act No.3 of 2014, a regulatory agency must hold public consultations for at least thirty (30) days with relevant stakeholders.
b) Consult widely to avoid enforcing vested interests of a specific group.
c) Take into account comments collected through a consultation process to avoid the risk of regulatory failure.
d) Be strategic about who to consult and how, and engage them early so as to help identify and avoid any unintended consequences of your policy or regulatory proposals; and identify alternatives to legislation. Early engagement will help develop a good consultation plan. Good consultation leads to better policymaking.
e) Consultation should be done at the problem definition stage, analysis of options stage and at the draft report stage.

Step 7: SELECTING THE PREFERRED OPTION AND MAKING RECOMMENDATIONS

This step involves selecting the recommended option which will produce the best result. The preferred option should be selected on the basis of evidence. Therefore, under this step, the RIA is structured as follows:

a) Firstly, point out the recommended option.
b) Secondly, provide a justification for the selected option by:
    i. outlining any qualifications, assumptions and evidence for selecting that option taking into account costs and benefits (options with the highest benefit should be recommended); and
    ii. describing what was learnt from consultation. Is the preferred option supported or are there going to be problems during implementation?

Step 8: IMPLEMENTATION, MONITORING AND EVALUATION PLAN

It is important to state the implementation plan and also indicate how the policy or regulation will be evaluated as there is no point in having a regulation that cannot be enforced. It must be possible to test its effectiveness and ongoing relevance periodically. The implementation plan should cover and address the following:

a) which organisation or department will be responsible for enforcement?

b) how will conformity be assessed and by who? How will you ensure compliance?

c) indicate how transparency, consistency and accountability will be achieved under enforcement;

d) does the regulatory agency have sufficient resources – skilled manpower, equipment and finances?

e) what are the implementation challenges anticipated (obstacles to compliance and enforcement);

f) clearly outline the transitional arrangements in moving from one policy or regulation to another;

g) timeframes and project phases if any;

h) clear capacity building plan;

i) outline the awareness strategy;

j) indicate the means of monitoring. How will success be measured or how will measurements be done and where will the data to be used come from? what indicators will be used?; and

k) state the responsible parties for action to be undertaken in the plan.

CHAPTER FOUR

4.0 MAINSTREAMING RIA IN THE POLICY AND LEGISLATIVE MAKING PROCESS

RIA should be viewed in the context of better policy or regulation. This is because better policy or regulation is critical for wealth and job creation as it removes unnecessary red tape in order to encourage economic growth. RIA is therefore, an essential part of the policy making process.

The institutional framework for RIA implementation comprises:

(a) the Cabinet, which is the highest policy making body and considers the proposed policy, regulation and legislation;

(b) Parliament for passing the necessary legislation for the implementation of the new intervention;

(c) Policy Analysis and Coordination Division (PAC) for providing quality control and oversight functions to the Cabinet Liaison Committees (CLC) under Ministries. Further, PAC is responsible for vetting RIA reports before being submitted to Cabinet or Cabinet Committees for approval.

(d) Ministry responsible for legal matters providing legal advice and drafting legislation to effect government intervention;

(e) BRRA for receiving, reviewing and providing feedback on the RIA reports related to business in order to determine whether the proposed regulation or measure under that framework is necessary or justified; and

(f) Ministries responsible for initiating and conducting the RIA in their respective jurisdictions.

4.1 PROCEDURE FOR POLICY AND REGULATORY MAKING PROCESS

In carrying out its mandate, BRRA closely works with Policy Analysis and Coordination (PAC) Division of Cabinet which is responsible for the National policy process. The policy process is highlighted in the *Cabinet Handbook* and the *Guide to Preparing Policy Documents and Cabinet Memoranda.*

In integrating RIA in the policy and regulatory making process, the following shall apply:

(a) All proposals for policy and legislation are initiated by a public body or regulatory agency which identifies and defines the policy issue;

(b) The regulatory agency or public body will submit the notice to introduce business-related policy and regulation to BRRA prior to submission to Cabinet;

(c) A regulatory agency or public body shall, at least two months before the introduction of a policy or regulatory framework regulating business, notify the BRRA, in writing, of the intention to introduce the framework or policy;

(d) For interventions that relate to introduction or review of a legal instrument, the Ministry responsible for legal matters should be consulted before submissions are made to BRRA;

(e) Following the review of the initial RIA, the regulatory agency or public body will be advised as whether to undertake a Partial or Full RIA;

(f) Once finalized, all RIA reports will be submitted to BRRA for review and determination; and

(g) BRRA will convey its decision on the RIA Report to the regulatory agency or public body and copy Ministry responsible for Justice and PAC.

CHAPTER FIVE

5.0 CONCLUSION

In conclusion, RIA is an important process that many countries have adopted in their policy and regulatory making process. RIA avails the decision maker sufficient information with regards to the benefits, costs, challenges and any unintended consequences that would arise from implementation of proposed policy or regulation. RIA can also be applied to already existing regulatory frameworks and policies to assess their effectiveness in achieving their prescribed objectives. RIA is able to deliver all this information as it is a systematic evidence based process. RIA ensures only the necessary policies or regulations are formulated and implemented thereby contributing to the reduction in the cost of doing business. This RIA Handbook has been developed so as to assist regulatory agencies in their quest to conduct RIAs.

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ANNEX 1: RIA ACTION PLAN

REGULATORY IMPACT ASSESSMENT ACTION PLAN FORM

SUBJECT MATTER					
Type of intervention (*tick*)	Policy	Law	Regulation	License	Process
	Others specify ……				
I. Background					
II. Problem Statement and Baseline					
III. Objectives of the intervention					
IV. Proposed Options	1. Status quo (do nothing)				
	2.				
	3.				
	4.				
	5.				
V. WORKPLAN					

Activity	**Inputs**	**Outputs**	**Cost estimates**	**Time frame**	**Responsible Persons/ Institutional**
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8. Consultation with Public Sector					
9. Consultation with Private Sector					
10. Consultation with Others					

Annex 2: Risk Assessment Form

RISK ASSESSMENT FORM

Date:……

Proposed Regulatory Intervention:……

Identification			Analysis and Evaluation			
Risk	**Cause**	**Result**	***Severity**	***Likelihood**	**Existing Controls**	**Proposed Controls**

*See key below

Key

Severity Levels	Likelihood levels
Catastrophic	Almost certain
Critical	Likely
Major	Possible
Moderate	Unlikely
Minimal	Remote

ANNEX 3: RIA TEMPLATE

Title of proposal

- In full
- Table of contents
- List of tables and figures
- Acronyms and definitions

Document summary

- Program name
- Goal
- Purpose and intended effect of measure
- Key outcome
- Other key results
- Program duration
- Budget for the program
- Financing
- Priority Areas
- Implementation Management

Summary

- Executive summary of the RIA

The background

- Give a brief summary of the problem, the current legislative framework and why it needs to change.
- Baseline scenario. What the problem will look like in future without intervention, with non- regulatory intervention and with regulatory intervention.

Risk assessment

- What risk is the regulation addressing? Can it be quantified, e.g. how many people are affected, and how?

The objective

- State clearly what the proposal or proposed regulation intends to do. What effects will it have and on whom?
- General and specific objectives.

Methodology

- State methodology to be used to analyse options and for stakeholder consultation.

Options

- Option 1: Do nothing
- Option 2: (e.g.) Get the industry to impose a voluntary code of practice/self-regulation

- Option 3: …
- Option 4:….
- Highlight **Benefits, Costs** and **potential risks** associated with each options describing the likelihood of them occurring and their effect if they were to occur (if any).
- Under Costs consider; **Implementation costs, direct costs** to government, compliance costs by those affected by the intervention and **other costs** (Indirect costs that may occur due to the new measure).

Consultation

- **Within government:** List those departments and agencies consulted
- **Public consultation**: Describe consultation process and list stakeholders

Implementation Plan

- Enforcement and sanctions **-** Which organization or department will be responsible for enforcement?
- How will conformity be assessed and by who? How will you ensure compliance?
- Resources- Does the regulatory agency have sufficient resources – skilled manpower, equipment and finances?
- Challenges- What are the implementation challenges anticipated (obstacles to compliance and enforcement);
- Transitional arrangements - Clearly outline the transitional arrangements in moving from one policy or regulation to another;
- Timeframes and project phases if any;
    - Clear capacity building plan;
    - Outline the awareness strategy;
    - And state the responsible parties to action to be undertaken in the plan.

Monitoring and review

- How is the effectiveness of the legislation to be measured and when?
- How will success be measured or how will measurements be done and where will the data to be used come from? What indicators will be used?

Summary and recommendation

- Explain in a paragraph or two which option is recommended and why. Be careful that this summary does not introduce any new thoughts that have not been explained elsewhere in the document.

Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed ……..
Date
Name, title, department
Contact Point
All RIAs should also give a contact point for enquiries and comments. This should consist of a name, address, telephone number and email address.

ANNEX 4: REGULATORY INSTRUMENTS ALTERNATIVE TO LEGISLATION:

1. **Refraining from regulation -** keeping the *status quo* unchanged. For instance, Market solution which needs no intervention.
2. **Self-regulation-** allowing businesses, public partners, organizations, associations, or non-government organizations to adopt among themselves their own policies, especially codes of practice or sectoral agreements.
3. **Autoregulation -** concerns the broad range of behaviours, joint principles and rules, codes of conduct and voluntary agreements defined by business units, public partners, non-governmental organizations, and any other organized groups, in order to provide basis for regulation, organization of their activity, autoregulation does not imply a legislative act.
4. **Co-regulation** - a mechanism used by the legislative act to delegate reaching the goals defined by the law-maker to competent parties in a given area (such as, enterprises, public partners, associations or non-government organizations). In the co-regulation process, the law-making authority determines the main aspects of a proposed legislation: its goals, mechanisms, implementation period, implementation controls, and potential sanctions. It also defines to which extent the definition and implementation methods employed for the proposed solutions are related to the decision of the interested parties (this will depend on their experience, among other things). The implementation of the goals defined by the law-maker is done using the means specified by the involved parties whose right to take part in implementing a given legislative issue is recognized by the law-maker.
5. **Sensitisation campaign** – Sometimes educating citizens or stakeholders could have the desired outcome and behavioural change in people.

Figure 5: Summary of Regulatory and Non-Regulatory Options

Traditional approach	•Regulations followed by implementation and monitoring of implementation, as well as the application of appropriate sanctions by Government authorities •Obligatory instructions and standards
Co-regulation	•Transfer of authority to representative associations •Codes and standards supported by regulatory body
Self-regulation	•Voluntary codex and standards
Economic instruments	•Fiscal and financial instruments (taxes, subsidies, fees for usage of resources, and other incentives) •„Transferable“ rights
Informational approach	•Informational and educational campaigns
No regulation	•Market solution - no need for any intervention

Every option within the spectrum above has its advantages and disadvantages. This information is described in figure 14 below.

Options Advantages and Disadvantages

REGULATORY AND NON-REGULATORY OPTIONS	ADVANTAGES	DISADVANTAGES
TRADITIONAL APPROACH	• quick imposition of regulation which prescribes some activities as illegal; • sending a message that an issue is considered very important for a regulator; • relatively precise control over how regulated activities are conducted; • in situations when sanctions are necessary	• requires additional legislation and new bureaucratic procedures • incentives for interest groups to influence regulatory bodies; • Imposes inflexible solutions, which can be problematic when the regulated field is characterized by quick changes that lead to accelerated obsolescence, non-enforcement, or in the worst case, obstacles to the development of the sector. • Encourages the search for "creative" solutions or interventions; • High implementation costs (supervision).
CO-REGULATION AND SELF-REGULATION	• Lower implementation costs for the state – costs are transferred to regulated subjects in the form of their representative associations; • Rules adjusted to the specific needs of a particular sector; • Possibility for the application of innovative and flexible solutions; • Thorough adoption where there is a common interest in the control of regulated subjects; • Better understanding of technological developments and specialized practices	• Risk that interest groups take over the legislative process through creation of obstacles for the entry of new participants to the market, by imposing unnecessarily high standards; • Inexpedient and inefficient sanctions in cases of non-compliance, • Insufficient resources for adequate implementation of regulation; • Inadequate representation of bodies which implement self-regulation or carry out co-regulation

ECONOMIC INSTRUMENTS	• Less discretion on the part of state authorities because incentives (both positive and negative) function automatically; • Freedom of regulated subjects to choose whether they want to use the incentives; • Lower administrative burden and costs of supervision; • Greater level of flexibility and possibility to adjust to current circumstances.	• Often mean very complex rights assignment systems; • Supervision systems must often be complex if tax evasion and other abuses are to be avoided; • Effects of incentives are not certain, and their forecasting requires lengthy analysis and significant resources; • Could send the wrong signal that certain levels of undesired behaviour are acceptable.
SENSITISATION CAMPAIGNS	• Good for situations where the implementation of regulations is very costly or very complex; • Provides superior information to the regulated subjects; • Does not impose single solutions for all subjects; • Simple application.	• Potentially high campaign expenses; • It is difficult to establish the relationship between campaigns and changed behaviour of regulated subjects

ANNEX 5: ASSESSMENT OF OPTIONS

At this stage of the RIA process, the different options including the "do-nothing" option are listed and considered taking into account the advantages and disadvantages of each. The "do nothing" option provides a reference point for the assessment of all other options and an opportunity to consider whether the policy objective(s) can be achieved without introducing new policy or regulatory framework.

To conduct an assessment of the options, the following steps must be taken:

a) List the positives and negatives as well as direct and indirect impacts of each option;

b) Estimate the likely economic, social and environmental impact of each option;

   i. Economic Impacts- How will the proposal impact on economic growth? Will the option promote or reduce internal or international competitiveness?

   ii. Social Impacts - what are the direct and indirect impacts of the options on poverty levels, health and unemployment?

   iii. Environmental impacts- what are the direct and indirect Impacts on natural resources and environmental quality?

c) Conduct an assessment of the expected administrative burden for compliance on businesses; also find out if the option will lead to a proportionately higher increase in administrative costs for small firms than for large firms.

d) Assess the impact on business expansion or market entry.

e) Conduct an assessment of the enforcement cost on the regulatory agency. What are the current levels of compliance? What enforcement methods are proposed?

f) Apply relevant methods to calculate costs and benefits, try to provide quantitative and monetary impacts if possible. Quantitative estimates are easier to use in making comparisons. Always ensure that consultations are made to verify the quantitative impacts.

g) Specify which social groups, economic sector or particular regions are affected. For example, does the option have a differential impact on a region or regions?

   Are some groups not able to access benefits of the proposed option because of their vulnerable status? Some of the vulnerable groups that might be relevant for consideration include: women; child-headed households; girls and boys; refugees and asylum seekers; persons living in rural areas; persons living in informal settlements; homeless persons; low-income groups; persons with disabilities; older persons;

persons living with HIV/AIDS; persons affected by HIV/AIDS. The intention of the analysis is to ensure that the chosen option does not impact negatively on vulnerable groups in society or alternatively that any negative impacts of the option on vulnerable groups can be mitigated

h) Consider implementation risks, uncertainties and obstacles to compliance and enforcement and, consider contingency plans to combat these risks.

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