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BRRRA

BUSINESS REGULATORY REVIEW AGENCY

STANDARDS AND GUIDELINES ON REGULATORY IMPACT ASSESSMENT



9/24/2020

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### Outline of Presentation

- Introduction
- Issuance of RIA Standards & Guidelines
- Highlights from RIA Standards and Guideline
- Notice-and-Comment Guidelines
- Conclusion

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### INTRODUCTION

- BRRRA is a statutory body under the Ministry of Commerce, Trade and Industry
- Established under the Business Regulatory Act No. 3 of 2014
- Became fully operational in 2016
- Goal: Reduce the cost of doing business and create an environment conducive for business development and growth
- Outcome of the Private Sector Development Reform Programme (PSDRP)



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**Background to BRRRA**

- Private Sector Development Reforms are aimed creating a conducive business environment for private sector development and growth
- High level Business Licensing Reform Committee (BLRC) conducted comprehensive review of license regime in 2007 - report published in 2009
- BLRC identified factors that hindered Foreign Direct Investment after liberalization of the Zambia economy




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**Background to BRRRA Cont'd**

- Study findings:
  - Regulatory bodies were increasingly using licenses to raise revenue and not for legitimate regulatory purposes;
  - Competitiveness of businesses was being affected by inefficient, cumbersome licensing and regulatory framework;
  - Proliferation of regulatory authorities at national, provincial and local government levels with duplication of information requirements;
  - Information technology was not sufficiently harnessed in licensing processes.




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**Background to BRRRA Cont'd**

- Apart from PAC, which is responsible for harmonizing policy proposals, there was no specific mechanism to monitor regulatory transaction costs and risks, improve transparency and accountability and ensure that all new business licenses and regulatory measures proposed are of high quality and meet criteria set for a regulatory tool.
- Recommended establishment of Business Regulatory Unit with the purpose of ascertaining and vetting quality of new business licenses and regulatory measures to ensure that they meet criteria set for licensing as legitimate regulatory tool.
- Business Regulatory Unit to establish a system for Regulatory Impact Assessment (RIA) to ensure that Government systematically examines all potential and actual impacts arising out of proposed regulation and communicates information to decision makers and other stakeholders before being concretized into law.




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**7 FUNCTIONS**

Section 14 provides functions of the Agency as follows:

(1) The functions of the Agency are to provide an efficient, cost-effective and accessible business licensing system.

(2) Despite the generality of subsection (1), the Agency shall—

- (a) review a matter relating to business regulation or licensing on its own initiative or on a representation from a person or business;
- (b) advise Government on matters relating to business regulation and licensing;
- (c) issue guidelines and standards for regulatory impact assessments and public consultations to be undertaken by regulatory agencies;
- (d) manage and update the e-register;

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**8 FUNCTIONS – Cont’d**

- (e) approve regulatory frameworks submitted under this Act; (f) promote more accessible and systematic public consultation strategies and develop a website portal for public interventions on issues of business regulation;
- (g) advise regulatory agencies on the efficient and cost effective regulation and licensing of business activities;
- (h) monitor and report on the activities of regulatory agencies related to business regulation, quality control and compliance with this Act;
- (i) determine requests for licensing of business activities by a regulatory agency;
- (j) design an annual action plan for the implementation of regulatory services centres and a single licensing system and oversee and coordinate the implementation of the action plan; and
- (k) carry out, periodically, regulatory impact assessments on business regulation and licensing.

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**9 Issuance of RIA Standards and Guidelines**

- Section 14 (2)(c) specifically provides a function for issuance of standards and guidelines. It states that the Agency shall:  
 “issue guidelines and standards for regulatory impact assessments and public consultations to be undertaken by regulatory agencies”.
- The first version of standards and guidelines was issued in May 2017 which has been revised this year, 2020.

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### Issuance of RIA Standards and Guidelines

- The purpose of the Standards and Guidelines is to help public bodies and regulatory agencies understand the RIA requirements of the Business Regulatory Act, No. 3 of 2014 and to improve the quality of RIA Reports prepared in support of their regulatory proposals.
- These Standards and Guidelines stipulate expectations of the Business Regulatory Review Agency (BRRR) as to the content and quality expected in RIA Reports



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### Highlights from RIA Standards and Guideline

- PROPOSAL TO INTRODUCE A POLICY OR LAW REGULATING BUSINESS ACTIVITY
  1. A public body or regulatory agency that intends to introduce or review a policy or law regulating business activity shall conduct an Initial RIA identifying the problem and inquiring into the necessity for a regulatory intervention.
  2. The initial RIA shall inquire into and estimate the possible risks, benefits and costs, and assist in identifying areas where more information is needed.

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### Highlights from RIA Standards and Guideline

- PROPOSAL TO INTRODUCE A POLICY OR LAW REGULATING BUSINESS ACTIVITY
  1. Upon completion of the initial RIA Report and it is established that a regulatory intervention is required, a public body or regulatory agency shall notify the Agency, in writing, of the intention to introduce or review a policy or law regulating business activity, at least two months (2) before submitting it to Cabinet.
  2. Once the notification and initial RIA report has been received, the Agency may make a determination to:
    - approve or not to approve the proposal;
    - require a partial RIA to be undertaken; or
    - require a full RIA to be undertaken.

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**13** **Highlights from RIA Standards and Guideline**

**PROPOSAL TO INTRODUCE A POLICY OR LAW REGULATING BUSINESS ACTIVITY**

3. Perform a Regulatory Impact assessment

The RIA shall be undertaken by the public body or regulatory agency proposing the policy or law.

4. Submit RIA and Consultation Reports to BRRR for prior approval of policy or law.

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

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**14** **Highlights from RIA Standards and Guideline Cont'd**

**REGULATORY IMPACT ASSESSMENT REPORT**

- The enactment of the Business Regulatory Act No. 3 of 2014, brings new requirements for public bodies and regulatory agencies on preparing new regulatory proposals. These include elements such as performance measurement and evaluation, service standards, and more robust cost-benefit analysis (CBA).
- A policy or law regulating business activity shall, subject to guidance by the Agency, be subjected to a full RIA by the public body or regulatory agency proposing it. A RIA Report is the end document of a RIA process.
- The RIA Report provides a summary of the expected impact of a regulatory initiative that addresses each of the requirements of the Business Regulatory Act, 2014. The use of regulatory impact analysis has long been recognized as international best practice.

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**15** **Highlights from RIA Standards and Guideline Cont'd**

**Considerations when Undertaking a RIA**

- The RIA shall be undertaken by the public body or regulatory agency proposing the policy or law and inquire into:
  - the problem being addressed by the proposed policy or law, including -
    - (a) the causes of the problem;
    - (b) the extent of the problem;
    - (c) whether the problem is lack of policy or law;
    - (d) why the problem cannot be addressed by existing policies or laws; and
    - (e) what the situation would be in the absence of the proposed policy or law.
    - (f) the relevant regulatory and policy environment and why it cannot address the problem;

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**16** **Highlights from RIA Standards and Guideline Cont'd**

- **Considerations when Undertaking a RIA**
  - the purpose and objectives of the proposed policy or regulation and the context, including an analysis of how it aligns with the problem, its causes and Government programmes and strategies;
  - options to deal with the problem, including-
    - (a) 'the do nothing' which implies maintaining the status quo;
    - (b) indirect action including market measures, self-regulation and sensitisation;
    - (c) direct Government intervention including policies, licenses, levies and by laws;
    - (d) a combination of different options; or
    - (f) any other options deemed necessary.

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**17** **Stakeholder Consultations During RIA**

A licensing system shall only be established if it:

- "Has the input of relevant stakeholders".
- The public body or regulatory agency proposing a policy or law shall prepare a consultation document. The consultation document should:
  - Outline a plan for conducting consultation;
  - Explain who should be consulted;
  - Explain, where applicable, who does not need to be consulted;
  - Outline a strategy for the most efficient and meaningful consultation; and
  - Summary of the major topics to be covered and what issues might be raised.

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**18** **Stakeholder Consultations During RIA**

- The following should be used during consultations:
  - Partial RIA as it informs the regulator and stakeholders of the problem to be addressed, possible options and;
  - Set of specific questions for the stakeholders to consider;
  - A draft of proposed policy or law where applicable; and
  - Schedule of proposed fees or charges, where applicable.

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### Stakeholder Consultations During RIA

- A public body or regulatory agency shall institute cost effective and readily accessible means by which stakeholders should submit their comments on the proposed policy or law. Stakeholders may submit their comments through appropriate means.
  - Stakeholders shall be allowed to submit their comments for a period of at least thirty (30) days.
  - Stakeholder comments shall be consolidated into a report whose contents may be validated at a meeting involving stakeholders.
  - A consultation report shall contain:
    - comments from stakeholders as submitted and resolutions drawn;
    - List of stakeholders that were consulted and
    - Signed attendance list where applicable.

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### Notice-and-Comment Portal

The Notice and Comment portal is an online consultation platform on business regulations. The portal is open for use by public bodies and regulatory agencies to publicize regulatory proposals and conduct consultations in the process of developing policy and laws.

1. Public Bodies and Regulatory Agencies as well as the Agency have the following responsibilities for using the Notice-and-Comment Portal:
  2. Public bodies and regulatory agencies are responsible for uploading regulatory proposals onto the portal in the prescribed format.
  3. The Agency may assist in uploading regulatory proposals onto the portal whenever possible.

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### Notice-and-Comment Portal

4. Public bodies and regulatory agencies shall be responsible for providing feedback and clarifications to stakeholders.
5. The Agency will publish notifications and RIA Report on the Notice and Comment portal.
  - **NB:** Notice and Comment is a complementally mode of consultation and cannot be used in isolation. Public Bodies and Regulatory Agencies are advised to use this method along side others.

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## Conclusion

The enactment of the Business Regulatory Act, 2014, is important as it aims at improving the business regulatory environment, foster private sector growth and reduction of the cost of doing business in Zambia. Investors are risk averse and will only invest in an economy which is transparent, predictable and stable.

Your support by adhering to the provisions of this Act in the rule making process is important in order to achieve the objectives of the regulation.

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