

RIA IMPLEMENTATION CHALLENGES AND CAPACITY BUILDING

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INTRODUCTION

- The National Water Supply and Sanitation Council (NWASCO) is in the process of reviewing its principal legislation-the Water Supply and Sanitation Act, No. 28 of 1998.
- The Act was promulgated in 1997 and has to date only undergone one amendment process which took place in 2005 (under Act No. 10 of 2005).
- As per the requirements set under the Business Regulatory Act, No. 3 of 2014, (section 6), NWASCO sought the approval of the review process from BRRA.
- Following the approval of the process, a legislative matrix (on the proposed legislation) and the Gap-Analysis on the existing framework were subjected to stakeholder scrutiny and input (consultation process).

INTRODUCTION

- NWASCO commenced a regulatory impact assessment of the process with the consultation and guidance from BRRA.
- A draft RIA Report has been developed and being finalised.

IMPLEMENTATION CHALLENGES

- Upon the promulgation of the Business Regulatory Act in 2014, the policy or legislative review or development framework for the country changed.
- A new piece of legislation (i.e. the Business Regulatory Act) was placed on the Zambian Statute Book and hence making it mandatory that all the policy and legislative review process are subject to the requirements of this Act.
- The most prominent challenge that has been noted is how the review processes that started before and were incomplete at the time of promulgation of the Act needed to be reviewed for ensuring compliance to the requirements of the Business Regulatory Act.
- The issue of willful avoidance vs. actual compliance started taking root, i.e. some institutions developed *a willful blindness syndrome* to this requirement.

IMPLEMENTATION CHALLENGES-CONTD

- Lack of awareness on the requirements of the Business Regulatory Act is also another challenge being faced by institutions- leading to commencement of review processes without seeking the approval from BRRA.
- Section 6 of the Business Regulatory Act has made it mandatory that an institution intending to develop or review a policy or legislation need to:
 - ✓ Notify the Agency of that intention;
 - ✓ Ensure that public consultations on the process are held;
 - ✓ Ensure that a RIA is performed.
- For institutions that proceeded with their processes and unaware of these requirements face challenges in rolling back the processes and ensure that the same are in line with these requirements.
- Challenges in this regard may be due to time constraints or the thematic approach that has been undertaken.

IMPLEMENTATION CHALLENGES-CONTD

- Scoping of stakeholders, presentation of issues/ findings to them and receipt of submissions therefrom is also another factor that poses a challenge to the effective implementation of the Regulatory Impact Assessment.
- The depth of scrutiny by third parties and the input received from them is critical to the RIA process.
- More often than not, few stakeholders provide their input to the process.

IMPLEMENTATION CHALLENGES-CONTD

- Incomprehensive utilization of the existing legal framework:
 - ✓ By the implementing institution- having not adequately put in place other requisite regulatory tools or subsidiary legislation
 - ✓ By the regulated entities- by either not being aware of what is required of them
 - ✓ By other end-users
- The framework has not been stress-tested enough to give other findings that will provide a complete outcome of the process.
- It is in that regard very difficult to discount some of the options that you have to consider in the assessment process.

CAPACITY BUILDING PRIORITIES

- Owing to the frequency in developing various, subsidiary legislation, regulatory and other administrative supervisory tools by a number of public institutions which merit to undergo RIA (e.g. fees, fines), on-going training and awareness programs by BRRA should be considered.
- Peer-review arrangements among related institutions should also be encouraged on matters that are of common concern.
- Dissemination of best Practices and Guidelines on RIA from BRRA will be of great benefit.

Thank you



Water Supply

Sanitation

Balancing Interests