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Malaysia’s Experience with Good Regulatory Practices
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Good Regulatory Practices (GRP) has been instrumental with regards to Malaysia’s goal in achieving high-income and developed status. Our regulatory reform journey started decades ago with a process of deregulation. As in many other countries, the focus of these reforms has moved from only reducing and simplifying existing regulations to establishing a sound regulatory management system that, through the implementation of GRP, ensures that new and current regulations are effective in addressing policy problems, and are kept fit-for-purpose.

Important milestones in Malaysia’s GRP journey include the strong and formal involvement of the private sector, through the creation of PEMUDAH - our Special Task Force to Facilitate Business. PEMUDAH brings together public sector officials with private sector representatives to improve the business environment in Malaysia, following principles such as proactive public-private sector collaboration, no more regulation than necessary, and zero tolerance for corruption. Another key achievement in our journey was the adoption of our National Policy on the Development and Implementation of Regulations (NPDIR), which provided the policy framework for the adoption of GRP in our policy and regulatory processes. More recently, our Malaysia Productivity Blueprint (MPB) calls for the enhancement of our whole-of-government approach to GRP, to ensure broader adoption by all regulators, and to establish metrics to monitor progress at the national and subnational level.

In relation to the National Policy on Good Regulatory Practice, other instruments that are currently being used to review existing regulations are Modernising Business Licensing (MBL), Reducing Unnecessary Regulatory Burden (RURB), and Cutting Red-tape (MyCURE). Compliance cost is being used to measure the effectiveness of the reform to push for higher productivity and economic growth.

We appreciate that the World Bank is documenting our progress and capturing lessons, and we hope this exercise can help other countries that are planning or implementing similar GRP reforms.

Looking back to what we have done is also helpful in defining our way forward. Because our journey over the last years has not been without challenges, we look forward to a continued collaboration with the World Bank on this important field for economic development and private sector-led growth.

Dato’ Mohd Ragali Hussain  
Director General  
Malaysia Productivity Corporation
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<th>Full Form</th>
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<tr>
<td>10MP</td>
<td>Tenth Malaysia Plan</td>
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<tr>
<td>11MP</td>
<td>Eleventh Malaysia Plan</td>
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<tr>
<td>9MP</td>
<td>Ninth Malaysia Plan</td>
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<tr>
<td>APEC</td>
<td>Asia-Pacific Economic Cooperation</td>
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<td>BIT</td>
<td>Bilateral Investment Treaties</td>
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<td>BPR</td>
<td>Business Process Re-engineering</td>
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<tr>
<td>CBA</td>
<td>Cost-Benefit Analysis</td>
</tr>
<tr>
<td>CEA</td>
<td>Cost-Effectiveness Analysis</td>
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<tr>
<td>CPTPP</td>
<td>Comprehensive and Progressive Agreement for Trans-Pacific Partnership</td>
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<tr>
<td>DB</td>
<td>Doing Business</td>
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<tr>
<td>EAP</td>
<td>East Asia and Pacific</td>
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<td>EPU</td>
<td>Economic Planning Unit</td>
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<tr>
<td>FDI</td>
<td>Foreign Direct Investment</td>
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<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
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<tr>
<td>GIRG</td>
<td>Global Indicators of Regulatory Governance</td>
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<tr>
<td>GRP</td>
<td>Good Regulatory Practices</td>
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<tr>
<td>KPI</td>
<td>Key Performance Indicators</td>
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<tr>
<td>MBL</td>
<td>Modernising Business Licensing</td>
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<tr>
<td>MITI</td>
<td>Ministry of International Trade and Industry</td>
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<td>MPB</td>
<td>Malaysia Productivity Blueprint</td>
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<td>MPC</td>
<td>Malaysia Productivity Corporation</td>
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<td>N&amp;C</td>
<td>Notice-and-Comment</td>
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<tr>
<td>NAFTA</td>
<td>North American Free Trade Agreement</td>
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<td>National Development Planning Commission</td>
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<td>NKEA</td>
<td>National Key Economic Areas</td>
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<td>NPDIR</td>
<td>National Policy on the Development and Implementation of Regulations</td>
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<td>NTP</td>
<td>National Transformation Program</td>
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<tr>
<td>OECD</td>
<td>Organization for Economic Co-operation and Development</td>
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<tr>
<td>PEMUDAH</td>
<td>The Special Task Force to Facilitate Business</td>
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<tr>
<td>PTA</td>
<td>Preferential Trade Agreements</td>
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<tr>
<td>RIA</td>
<td>Regulatory Impact Assessment</td>
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<td>RIS</td>
<td>Regulatory Impact Statement</td>
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<td>RNF</td>
<td>Regulatory Notification Form</td>
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<td>ROB</td>
<td>Regulatory Oversight Body</td>
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<tr>
<td>RURB</td>
<td>Reducing Unnecessary Regulatory Burdens</td>
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<tr>
<td>SCM</td>
<td>Standard Cost Model</td>
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<td>WBG</td>
<td>World Bank Group</td>
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<td>WEF</td>
<td>World Economic Forum</td>
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<td>Worldwide Governance Indicators</td>
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Executive Summary
Good Regulatory Practices (GRP) are a systematic application of tools, institutions, and procedures that governments can mobilize to ensure that regulatory outcomes are effective, transparent, inclusive, and sustained. Other terms used for GRP include “regulatory governance” and “better regulation.” Among the most common GRP tools used by governments are: public consultation, ex ante regulatory impact analysis (RIA), ex post review of existing regulations, administrative simplification, access to laws and regulations, forward regulatory planning, and regulatory oversight functions.

The use and sophistication of GRP instruments has increased dramatically since the early 2000s. Specifically, participatory and evidence-based rule-making has shown a great uptake by economies from all around the world. For instance, currently 34 OECD countries (OECD, 2018) and at least 20 non-OECD countries (Ladegaard et al, 2018) have RIA systems in place. Also, more than 120 countries in the world – including developed and developing nations – have regulatory agencies that – in one way or another – solicit comments from the general public on proposed regulations before they are adopted (GIRG, 2018).

This report focuses on GRP because by improving the regulatory environment, they can boost conditions for sustainable growth and investment. This is evidenced, among others, in the World Bank Group’s Global Investment Competitiveness Report 2017/2018, which surveyed 750 investors in developing and transition economies. The report found that next to “political stability and security”, the “legal and regulatory environment” was the most important consideration of senior executives when making investment decisions (WBG, 2018). Similarly, evidence shows a positive relationship between the improvement of the regulatory environment and aggregate investment (and economic growth), suggesting that countries stand to gain from a broad push for streamlining regulations and procedures affecting business (Eifert, 2009).

The report reflects on Malaysia’s formal experience with GRP because, although launched only relatively recently, results have been remarkable. Malaysia has demonstrated that more business-friendly regulations and a more favorable regulatory environment can contribute to economic growth and investment. Moreover, Malaysia’s regulatory reform success has been reflected in many international indicators, such as the Global Indicators of Regulatory Governance, Worldwide Governance Indicators, Doing Business, (all produced by the WBG) and those from the World Economic Forum that measure the burden of government regulations and transparency of the policymaking process. International indicators measuring GRP performance show that Malaysia is converging with high-income OECD countries.

The GRP reform journey of Malaysia includes several key drivers that have contributed to its current success. First, the private sector has been active not only to influence but also to drive reforms of business regulation in Malaysia. PEMUDAH is a clear example of this. Second, Malaysia has put in place the necessary GRP building blocks to strengthen its regulatory management system. An important milestone was the establishment of a National Regulatory Policy, which embraced GRP from a whole-of-government perspective, as international good practices suggest. The Policy set the stage for a more participatory and evidence-based rulemaking process. Third, different institutions collaborate and intervene to make a more effective, transparent, and predictable regulatory process. Among them, MPC has had a leading role in the design and implementation of GRP in Malaysia. Finally, the regulatory reform agenda in Malaysia has been spurred by high-level strategic and political commitments. The latest Malaysia Development Plans, the Malaysia Productivity Blueprint, and the Government’s Manifesto continue to provide clear signals of this high-level commitment to GRP.

While the balance of Malaysia’s experience with GRP is largely positive, several challenges have arisen during this journey. First, in the absence
of a formal and legally binding mandate for GRP, Malaysia has focused on other approaches such as awareness-raising, developing GRP guidelines for regulators, capacity building, and interinstitutional coordination. This approach was probably the most adequate for the initial phases. However, after some years GRP implementation remains uneven, with a mix of a few regulators fully embracing it while others are still unaware about or unwilling to adopt it. This situation represents GRP implementation challenges that many countries face after their first wave of reforms. Second, Malaysia has yet to establish a formal monitoring and evaluation framework with key metrics and indicators that provide evidence on how the Regulatory Policy and GRP tools are being implemented. Third, although Malaysia shows progress in implementing different GRP tools, prominence has been given to two tools; namely, RIAs and public consultation. A similar emphasis should be given to other tools such as forward planning for new and revised regulation, access to existing laws and regulation, and systematic ex post review. In addition, the design of the RIA system lacks the necessary nuances regarding the filtering or decision to determine when RIA is required or not, and the different types of RIA to be developed, depending on the significance of the regulatory proposals. Finally, GRP adoption by subnational governments is still incipient, mainly due to lack of awareness and capacity. This is crucial as many countries find most regulatory burdens in subnational laws and regulation.

**After establishing GRP, Malaysia is well-positioned to embark on a new generation of GRP reforms focused on addressing implementation issues.** Some of the challenges mentioned above can be addressed by establishing formal and legally binding requirements for GRP; designing and implementing more effective oversight functions to “challenge” regulation not complying with GRP requirements; creating a monitoring and evaluation framework to track and assess GRP policy and tools implementation; a more nuanced design and implementation of GRP tools; and expanding adoption of GRP to sectoral and subnational government levels.

**Despite progress and success, a change of culture among regulators in Malaysia is required to transition to a more participatory and evidence-based regulatory process.** Malaysia may work in the near future on creating a stronger mandate for GRP implementation or providing more “teeth” to its regulatory oversight body. However, the mindset of ministries and regulators needs to be part of a change of culture process. According to YBhg. Tan Sri Saw Choo Boon, former private sector co-chair of PEMUDAH, not every ministry is at the same level on GRP adoption. In his view, some regulators are more committed than others, and some are just box ticking on GRP without making substantive changes.

**Finally, Malaysia also requires continued political support to sustain efforts and further advance its GRP agenda.** The “Buku Harapan” Manifesto of the Government points in the right direction by explicitly recognizing that MPC, as the lead institution supporting GRP implementation, requires the necessary funds and authority to expand this agenda.

Executive Summary

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**Executive Summary**

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CHAPTER 1

Good Regulatory Practices: A key enabler of successful regulatory reform in Malaysia
What is GRP?

The working definition of GRP is very similar to those used by academia and international organizations to describe “Regulatory Governance” or “Regulatory Management Systems”. There is no single unifying and exhaustive specification of what is covered by this agenda, but GRP generally refers to the “systematic application of tools, institutions and procedures which governments can mobilize to ensure that regulatory outcomes are effective, transparent, inclusive and sustained.” According to Jacobs and Ladegaard (2010), GRP consists of four distinctive core elements:

1. **Regulatory policy**—an overarching political statement about how a government will use its regulatory powers. Modern policies include statements about the quality of regulations and regulatory procedures.

2. **Regulatory institutions**—the administrative and political bodies through which regulations are made, implemented, and adjudicated.

3. **Regulatory quality tools and processes**—the administrative and political procedures through which regulations are developed, adopted, implemented, monitored, and reviewed. Such procedures include use of regulatory impact analysis (RIA), public consultation mechanisms, and benchmarking and review tools such as the Standard Cost Model and “guillotine” reviews.

4. **Regulatory policy instruments and outputs**—the legal instruments through which regulatory policy objectives are reached. They are found in the stock of existing regulations and the flow of new regulations adopted each year, and can include regulatory as well as alternative, nonregulatory policy instruments used to reach regulatory policy objectives. The policy instruments are outputs of the policies, institutions, and procedures.

There is a wide spectrum of GRP tools that aim at enhancing the quality of both, existing and new regulations (the stock and flow). Among the most popular GRP tools are public consultation, ex ante RIA, ex post review for simplification of existing regulations, registries of laws and regulations, forward regulatory planning, and regulatory oversight functions. The most common features of these tools include:

- Easy access to laws and regulations.
- Timely notification of new and proposed regulatory measures.
- Open and inclusive consultation processes for reform and new regulation.
- Assessment of impacts of proposed regulation.
- Consideration of alternatives to regulation.
- Efficient coordination inside government and between governments.
- Efficient mechanism for appeal and redress.
- Systematic review and monitoring of regulatory performance.
- Institutions responsible for driving and monitoring regulatory quality across government.
Malaysia’s economic development over the last several decades is remarkable. Since 2000, the average gross domestic product (GDP) annual growth rate has been above 5%, only with significant slowdowns related to global economic crises. Although still distant to GDP per capita levels of regional developed nations, such as Japan, the Republic of Korea, and Singapore, Malaysia has one of the highest GDP per capita levels among emerging economies in the East Asia and Pacific (EAP) region. Ideologically, economic growth in Malaysia has been mainly driven by the country’s goal to attain high-income status, while ensuring that growth is sustainable and inclusive. In practice, economic development has come from a proactive approach to commerce, international trade, and investment.

**FIGURE 1:** Malaysia’s GDP annual growth rate and GDP per capita (regional comparison), since 2000; and FDI inward stock and flows in US$ per capita (regional comparison) since 1980

Source: TCdata360, World Development Indicators.
Private sector development and regulatory reform has been at the core of Malaysia’s transition. In the early 1990s, Malaysia’s Prime Minister YAB Tun Dr. Mahathir Mohamad introduced “Wawasan 2020” (Vision 2020), in which he called on Malaysia to achieve developed nation status. Vision 2020 recognizes the private sector as the primary engine of growth, as the 1983 Malaysia Incorporated Policy also stated. While Vision 2020 advocates for a continual deregulatory process, it also acknowledges the importance of regulation and regulatory quality, calling for a distinction between laws and regulations that are productive for policy objectives and those that are not. This paved the way for a GRP focus on better regulation, not just less. A concrete example of this line of thinking was the Modernising Business Licensing (MBL) initiative. With a strong leadership and engagement by the private sector, the MBL reengineered and simplified 767 business licenses at the Federal level into 454 composite and 29 abolished licenses, with projected compliance cost savings around US$180 million.

The National Policy on the Development and Implementation of Regulations (NPDIR or Malaysia’s Regulatory Policy) marked a fundamental shift in Malaysia’s approach to regulatory reform. Launched in 2013, it established core principles and a framework for GRP implementation following a systemic and whole-of-government approach. Among the policy’s core principles for regulators are: justify government intervention and ensure that regulation represents the best alternative to solve problems and address policy objectives in question; participatory and evidence-based rulemaking; and avoid imposing unnecessary burdens and negative impacts on the economy. RIAs and public consultation are among the Good Regulatory Practice provisions in the Policy. While still recent, Malaysia’s adoption of GRP and the launch of its Regulatory Policy represented a very important step to gradually change the mindset of regulatory agencies toward a more transparent and inclusive policy and rulemaking process.
Why are Malaysia’s Good Regulatory Practice and Regulatory Reforms worth learning from?

Malaysia’s GRP journey is remarkable and characterized by several noteworthy features. First, Malaysia involved the private sector through a high-level task force known as PEMUDAH, with great success documented both by the process and the outcomes. Second, Malaysia has created a comprehensive institutional ecosystem supporting the adoption of GRP, which enabled meticulous implementation of various aspects of the reforms. Third, Malaysia’s long-term development vision, as well as the medium-term national development plans, have included GRP commitments for the last few decades. This provided high-level support and continuity to this agenda. Last but not least, Malaysia has moved, from a deregulatory approach to regulatory reform, toward a complementary focus on regulatory quality.

Strong role and participation of the private sector: PEMUDAH

Collaboration with the private sector has been fundamental to influence and drive regulatory reform in Malaysia. A successful example of this involvement is PEMUDAH, the Special Task Force to Facilitate Business. PEMUDAH was created in 2007, forming an effective partnership and collaboration between the public and private sector to oversee regulatory reforms that facilitate business. PEMUDAH brings together more than 20 highly respected members from the government and business communities. Currently, it is co-chaired by the Minister of Finance and the Minister of International Trade and Industry. PEMUDAH reports directly to the Prime Minister. It has been commissioned, among many other things, with identifying and benchmarking best practices in order to improve Malaysia’s ranking on the Doing Business Indicators. Among PEMUDAH’s stated core values are proactive public-private sector collaboration and “no more regulation than necessary.”

PEMUDAH’s contributions have made Malaysia an easier place to do business by creating a business-friendly regulatory policy and competitive economy. PEMUDAH has influenced and collaborated on the simplification of doing business procedures such as starting a business, business licensing, construction permits, getting electricity, paying taxes, resolving insolvency, and access to finance, among many others.
“Inside Perspectives”: Stakeholders’ views on the role of Malaysia’s private sector in regulatory reform

PEMUDAH – Successful engagement of the private sector

In 2007, PEMUDAH was established by the former Prime Minister Abdullah bin Ahmad Badawi. Since then, PEMUDAH has initiated and driven regulatory reforms to facilitate and improve the ease of doing business in Malaysia.

Key to PEMUDAH’s success is that it brings together senior Government officials and private sector business leaders who, through focus groups or task forces, collaborate to solve regulatory and service delivery issues in Malaysia, by introducing reforms to impact the business environment, competitiveness, and productivity of the nation.

“PEMUDAH is the spirit of GRP. The private sector’s demands and collaboration for clarity, predictability, guidance, and informed decisions are embraced in GRP.”

– Dato’ Abdul Latif Hj. Abu Seman, Deputy Director General of the Malaysia Productivity Corporation

“GRP is all about public-private collaboration... GRP introduction in Malaysia is a manifestation of this.” “In the old times, policies and regulations were made under the assumption that the Government knew the best way. However, today’s Government cannot ensure it knows everything. Therefore, it needs to consult the private sector and work together to develop better policies.”

“PEMUDAH advocated for the introduction of public consultation as a core element of the National Policy on the Development and Implementation of Regulations.”

– YBhg. Tan Sri Saw Choo Boon, former private sector co-chair of PEMUDAH
A strong ecosystem of mutually reinforcing institutions and processes

Malaysia has established and strengthened the institutional arrangements to drive regulatory reform and oversee implementation of GRP. At the highest political level, Malaysia's Regulatory Policy assigned the National Development Planning Committee (NDPC) to oversee the Policy's implementation. The NDPC is chaired by Malaysia's Chief Secretary to the Government, and comprises key heads of ministries and government agencies.

The Malaysia Productivity Corporation (MPC) is responsible for assisting NDPC with the implementation and coordination of the Regulatory Policy. Among its mandate on GRP issues, MPC has to: develop guidelines and programs to support implementation of the Regulatory Policy; build capacity of regulators and assist them to implement GRP; assist NDPC with review of RIA documents; review progress of the Policy's implementation; and ensure transparency of the RIA process.

In addition to the NDPC and MPC, other institutions have had an important role in shaping and implementing Malaysia's GRP agenda. They include the Ministry of Economic Affairs (MEA, formerly the Economic Planning Unit), the Ministry of International Trade and Industry (MITI), the National Institute of Public Administration (INTAN), the Attorney General's Chambers (AGC) and a network of Regulatory Coordinators (RCs) from each government agency. Figure 3 shows how they intervene in Malaysia's rulemaking process, and Table 1 summarizes their main roles and contributions.

![Figure 3: Different institutions involved in Malaysia's regulatory governance system](image)

Source: WBG with information from Malaysia's Regulatory Policy (NPDIR) and MPC.
Chapter 1: Good Regulatory Practices: A key enabler of successful regulatory reform in Malaysia

TABLE 1: Institutions supporting GRP implementation

<table>
<thead>
<tr>
<th>Agency or body</th>
<th>Role's description</th>
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<tr>
<td>NDPC</td>
<td>High-level committee in charge of overseeing the implementation of Malaysia’s Regulatory Policy.</td>
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<tr>
<td>MPC</td>
<td>Technical agency with formal regulatory oversight functions to support the coordination, awareness raising, capacity building, and monitoring related to the implementation of the Regulatory Policy and GRP tools.</td>
</tr>
<tr>
<td>MEA</td>
<td>Ministry responsible for developing Malaysia’s Development Plans, in which regulatory and GRP reforms have been advocated for as drivers of private sector-led growth. It is also the Secretariat of the NDPC.</td>
</tr>
<tr>
<td>INTAN</td>
<td>Designated in Malaysia’s Regulatory Policy as the responsible institution for training regarding RIA. MPC collaborates with INTAN to revise and update the training curriculum, share recent case studies and delivery of training sessions.</td>
</tr>
<tr>
<td>AGC</td>
<td>Advises the Cabinet on the regulatory quality of proposals. The NPDIR defines that AGC should advice on “regulatory solutions, drafting of regulations, harmonization of regulatory requirements, provisions on compliance and enforcement as well as compliance with obligations of international treaties and relevant agreements.”</td>
</tr>
<tr>
<td>RCs</td>
<td>Appointed by each regulatory agency. They are responsible for overseeing the implementation of Malaysia’s Regulatory Policy in their institutions, and act as focal point for their ministries’ communication with MPC. The RCs have been trained on GRP practices, with focus on RIA. More than 300 RCs from over 150 ministries and agencies have been registered with MPC.</td>
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<tr>
<td>MITI</td>
<td>As a regulator and the ministry to which MPC reports, MITI has been a champion not only in the advocacy of GRP with other agencies, but also on adopting GRP for its own policies and rulemakings.</td>
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</table>

High-level strategic and political commitments

Regulatory reform and GRP have been key elements of, and embedded in, Malaysia’s development agenda, including in the last three National Development Plans. The Ninth Malaysia Plan (9MP) recognized the need to continue and deepen regulatory reform, by reducing red tape and the cost of doing business, to encourage private investment, and positively influence investors’ perceptions about Malaysia as a place of destination to do business. Under this Plan, PEMUDAH was established. The Tenth Malaysia Plan (10MP) called the Government to conduct a comprehensive review of business regulations to remove unnecessary rules and compliance costs. The Plan proposed undertaking cost-benefit analysis (CBA) to assess the impact of new policies and regulations and improve the formulation of regulations. The major GRP milestone in this Plan was the launch of Malaysia’s Regulatory Policy in July of 2013. The Eleventh Malaysia Plan (11MP) called for the full implementation of Malaysia’s Regulatory Policy to cover also state and local governments. It also contemplated the creation of a regulatory portal to improve access and transparency of regulations.

The Malaysia Productivity Blueprint (MPB) was launched to help achieve the 11MP targets. Initiatives under the MPB include the enhancement of a whole-of-government approach towards addressing regulatory constraints. This goal implies strengthening the development and utilization of GRP by all government agencies. The MPB also calls for strengthening Malaysia’s regulatory portal and mechanisms to track regulatory review implementation. To achieve this, the Blueprint proposes monitoring progress of the
Regulatory Policy’s implementation, as well as establishing a repository to find all regulations that apply to businesses at the state and local level. Finally, the MPB recommends establishing state-level benchmarking indicators to measure the ease of doing business.

**The Government has stated and renewed the commitment to pursue a stronger GRP agenda.** Through its “Buku Harapan” Manifesto, it committed to provide MPC with necessary funds and authority to expand GRP and reduce the burden of unnecessary regulations, for a more competitive economy that creates jobs. The Manifesto also contemplates the strengthening of MPC’s role as PEMUDAH’s Secretariat. The Government’s program further sets forward a review of the regulatory burdens of recent years’ legislation.
Outcomes reflected by international indicators

The establishment and implementation of GRP provisions and requirements in Malaysia’s Regulatory Policy have projected the country to a position comparable to high-income OECD countries. In the World Bank Group (WBG)’s Global Indicators of Regulatory Governance (GIRG), Malaysia scores 4.25 out of a maximum possible score of 5.0. The GIRG measure how governments put in place and practice GRP requirements that promote a more evidence-based and participatory rulemaking process. Malaysia does not only score significantly above the average of its region, but also scores closer to high-income OECD countries, which have a longer track record with GRP reforms. This good performance and convergence with high-income OECD countries contrast with lower performance and bigger gaps on international measures of public sector effectiveness and institutional quality, making Malaysia’s progress with GRP more remarkable.

Regulatory quality in Malaysia has also seen improvements over the last decade. As measured by the Worldwide Governance Indicators (WGI), regulatory quality in Malaysia has improved from the 61st-percentile rank in 2008 to the 75th percentile rank in 2017, reflecting an improved score from 0.32 to 0.68 (overall scores range from -2.5 to 2.5). Figure 6 shows Malaysia’s historical performance on the WGI (score and percentile rank, left illustration) and a current comparison with other countries in the region (right illustration).
Malaysia’s GRP have also contributed to major improvements in Malaysia’s regulatory performance over the last decade, especially on the ease of doing business index. According to the World Bank Group’s 2019 Doing Business (DB) indicators, Malaysia’s overall ranking is 15 among 190 economies, performing better than Japan and significantly above the average of countries in the EAP region. In the 2019 DB sub-indicators, Malaysia scores and ranks better in the following sub-indicators: protecting minority investors (2); dealing with construction permits (3); getting electricity (4); and registering property (29). Starting a business is the biggest challenge for Malaysia, according to DB data (122). Over the last decade, Malaysia has implemented 32 reforms, the vast majority of which have made easier to do business in the country.

**FIGURE 6: Malaysia’s regulatory quality, according to the WGI**

Source: WBG/TCdata360 with data from the WGI, info.worldbank.org/governance/wgi/

**FIGURE 7: Malaysia’s rankings on Doing Business topics – 2019 DB**

Source: Doing Business, WBG.
“Inside Perspectives”: GRP support Doing Business reforms

In 2012, Malaysia’s ranking on ‘Dealing with Construction Permits’ was 113. A total of 22 procedures and 172 days were required to get this type of permit. In the latest 2019 DB ranking, Malaysia was 3rd worldwide on this sub indicator. The number of procedures required to obtain a construction permit was reduced to 11 and the number of days to 54.

“GRP played a huge role on the construction permit reform. The methodological approach brought stakeholders together to discuss this regulatory reform and assess different solutions in a transparent, participatory, and evidence-based process.”

– Dato’ Latif, Deputy Director General of MPC

The construction permit reform was based on a study led by MPC with the participation of relevant stakeholders. The study integrated and leveraged several GRP tools such as public consultation and RIA, in order to assess and compare the different regulatory and non-regulatory options to reduce the burdens imposed on businesses soliciting construction permits.

The GRP-oriented approach to Doing Business reforms was first implemented in Kuala Lumpur, but was subsequently replicated to other Malaysian states’ constructions permit reforms.
Competitiveness data also shows that compliance with regulation is not perceived as a high burden on the private sector. A sub-indicator of the Global Competitiveness Index, developed by the World Economic Forum (WEF), shows that Malaysia ranks in 5th out of 137 economies in terms of “burden of government regulations.” On “transparency of government policymaking”, Malaysia ranks 23. Overall, Malaysia has experienced a positive improvement on most of the Global Competitiveness indicators over the past decades.

**FIGURE 8: Malaysia’s burden of government regulation, based on the WEF’s Global Competitiveness Index**

Source: WBG/TCdata360 with data from the WEF’s Global Competitiveness Index. Sub-indicator selected score from 1 (lowest) to 7 (highest).
CHAPTER 2

Zooming in: The building blocks of Malaysia’s GRP system
Effective regulation requires coordination and attentiveness throughout the regulatory governance cycle. When regulation is considered the preferred tool to achieve a given policy issue, it is necessary that the system ensures quality, effectiveness, and predictability during the design, implementation, and evaluation of regulation. This process can be depicted as a regulatory governance cycle, as illustrated in Figure 9. In practice, not every country has established the institutions, legal mandate, and GRP tools supporting the different elements of the cycle. However, when it is followed on a systematic and whole-of-government approach, the cycle provides a solid foundation to improve regulatory quality and outcomes.
The regulatory governance cycle can be accompanied by a number of distinct GRP tools or practices. The concept and image of the Regulatory Governance Cycle can serve as a starting point for visualizing the core elements of an efficient regulatory management system. However, further granularity may be required for a more detailed view of the actual building blocks of GRP, and how they can be strengthened. Figure 10 below breaks the regulatory governance cycle into a number of GRP tools and practices.

**FIGURE 10. Building blocks of a good regulatory management system**

Malaysia has progressed well on most aspects of the full regulatory governance cycle. The following sections provide a brief overview of Malaysia’s progress and results on each of the GRP “building blocks” illustrated above. The overview will show that Malaysia has demonstrated progress and innovation mostly on all fronts, but that there are still opportunities for further improvement.
GRP in Malaysia: Overview of main building blocks

Regulatory Policy

Malaysia’s Regulatory Policy (NPDIR) from 2013 marks an important milestone in creating a regulatory regime that supports the country’s aspiration to achieve high-income and developed status. The Policy aimed to transform Malaysia’s rulemaking process by establishing GRP following a whole-of-government approach, based on international best practices. The Policy’s provisions are intended to apply to all federal government regulators, while its adoption is voluntary to state and local governments. The Policy sets institutional responsibilities for GRP implementation and requirements for regulators to conduct regulatory impact analysis and public consultation. On these specific GRP tools, the introduction of the Policy, in the form of a Government Circular from the Chief Secretary to the Government of Malaysia, was followed by the issuance of a Best Practice Regulation Handbook, a Quick Reference of Best Practice Regulation Handbook, and a Guideline on Public Consultation Procedures, all of which provide guidelines for ministries and agencies on the implementation of the Regulatory Policy and its GRP provisions.

Forward planning

Regulators in Malaysia are required to notify MPC at the beginning of each year about their plans to review existing regulation. Forward planning is a good regulatory practice through which regulators announce a public list of regulatory proposals to be prepared, modified, reformed, or repealed, usually six to twelve months in advance. Malaysia’s Regulatory Policy does not include forward planning provisions. However, the Best Practice Regulation Handbook, stipulates that regulators must communicate to MPC regulations subject to review in the next 12 months. This information must be submitted in January of each year. In practice, however, regulation not on this list can be introduced. In addition, the Handbook does not clarify about what regulators should do with upcoming new regulations. As a complement to forward planning, MPC is required to publish on an annual basis all regulatory activities undertaken by regulators during the previous year.
Government coordination

When introducing or reviewing regulation, regulatory agencies in Malaysia must coordinate with other regulators and government entities. As part of its public consultation requirements, Malaysia’s Regulatory Policy asks regulators to also consult with other agencies or departments involved or having a stake in the field of the regulation being proposed or amended. In addition, the Policy calls for government coordination when new regulation is produced, to avoid duplication and inefficiencies.

Public consultation

Chapter 26 of the 9MP provides a reference to public consultation in rule-making, in the context of public-private sector collaboration. The chapter mentions that “the Government will, wherever possible, publish and make available to the private sector proposed policy initiatives and draft legislation for comments and inputs.” Years after, Malaysia’s Regulatory Policy embraced stakeholder consultation as one of its principles and required public consultation as part of the RIA process. The national Policy advises that consultation efforts should be proportionate to the impact of the proposed regulation.

Following the introduction of Malaysia’s Regulatory Policy, MPC published the Guideline on Public Consultation Procedures, with the purpose of guiding regulators with the implementation of this GRP. The Guideline provides an overview, principles, key requirements, and examples of public consultation. The
As an evolution of its public consultation practices, some regulators have established online public consultation in rulemaking. A first step was the introduction of Circular No.2 from 2012 (Surat Pekeliling Am Bilangan 2 Tahun 2012), which required all agencies to conduct online public consultation for all draft proposals and amendments to laws and regulations. Unfortunately, this Circular expired in 2014. Nonetheless, some regulatory agencies, such as MITI, have established and maintained good online consultation practices, as Figure 12 below shows. On this dedicated portal for MITI’s online public consultations, users can find information about GRP as well as relevant information on ongoing and previous consultations, with an opportunity to share comments via email.
Malaysia is now preparing a Unified Public Consultation (UPC) portal for all public consultations at the federal level. The unified portal provides businesses and citizens with a single online source to get notice and access to relevant information on regulations being proposed or amended, to provide comments on rulemakings in a transparent and interactive dialogue, and to receive public responses that explain how the comments were used or not by the regulators. The UPC does not substitute other types of traditional “offline” consultation. However, it will serve as a “minimum standard” for public consultation which all draft regulatory proposals must follow. With that, the UPC portal will bring uniformity to the public consultation process in Malaysia, following good international practice. It will also provide capacity to regulators that do not have enough resources to establish online consultation practices on their own.

**FIGURE 13: Screenshot from Malaysia’s upcoming Unified Public Consultation Portal**

Source: http://upc.mpc.gov.my/
Regulatory Impact Analysis

One of the key achievements of Malaysia’s Regulatory Policy was the formal introduction of requirements for evidence-based rulemaking. Undertaking the RIA process during the design or review of regulations is at the core of Malaysia’s Regulatory Policy. It outlines the steps of the RIA process, as well as the different elements comprising the RIA document (called RIS or Regulatory Impact Statement). Institutionaly, MPC is responsible for determining whether RIA is required or not, for reviewing a RIS before it is submitted to NPDC, and for publishing the final RIS. The NDPC, supported by MPC, examines and endorses the adequacy of the RIS and provides recommendations when needed. The RIS template defined in the NPDIR and the RIA guidelines is consistent with global best practice, as it incorporates core elements of RIA documents.

RIA is required for all regulatory proposals or amendments with a significant impact on businesses and consumers. Malaysia’s Regulatory Policy mentions that RIA is required for all new regulations and regulatory changes. The Best Practice Regulation Handbook (RIA guidelines) is more specific and determines that all Government decisions with impact on businesses require RIA, unless the impact is minor or does not alter significantly the current regulatory arrangement.

To determine whether RIA is required or not, regulators have to notify MPC about any new regulatory proposal or amendment to existing regulations. Notifications are required using a Regulatory Notification Form (RNF), which requests information such as description of the proposal, expected impact, and costs. The RNF describes briefly what is considered impact on businesses and consumers as well as compliance costs. Between January 2016 and May 2018, MPC received 185 RNFs.

**FIGURE 14: RIA process in Malaysia – simplified**

Source: WBG with information from MPC’s Annual Report on Modernisation of Regulations 2016.
Elements that regulators in Malaysia must cover in their RIA document

SEVEN RIS ELEMENTS IN MALAYSIA

Following best global practices, Malaysia’s Best Practice Regulation Handbook requires that regulators conducting RIA on their proposed regulation must include in the RIS document the following seven elements:

1. The problem or issues that need to be addressed and that give rise to need for action;
2. The desired policy objectives that are sought in relation to the identified problem or issue;
3. Regulatory and non-regulatory alternatives – including the status quo or no action – that may constitute feasible means for achieving the desired policy objectives;
4. A comprehensive assessment of the impact of these alternatives (in terms of costs, benefits and risks, when relevant) for consumers, businesses, government, and the community;
5. A consultation statement, regarding consultation with relevant stakeholders affected by the proposal, including businesses, NGOs, communities, regulators, and other government agencies;
6. A conclusion and recommended option, based on the comprehensive impact analysis; and
7. A strategy to implement the preferred option as well as an ex post review or evaluation approach.

RIS documents in Malaysia follow a template that incorporates all seven elements mentioned above and reflects requirements from the NPDIR. The RIS template must be used by all regulators conducting RIA, and it is available in the Best Practice Regulation Handbook (or RIA guidelines).

Source: Malaysia’s Best Practice Regulation Handbook.
Access to laws and regulations

Although significant progress has been made in making laws and regulations available online, Malaysia does not have a single repository with free access to all existing laws and regulations. Malaysia has a range of publicly available registries for laws and regulations. A concrete example is the Laws of Malaysia series from the Attorney General’s Chambers of Malaysia, which is an online compilation only of primary laws in the country. Also, the Malaysia National Trade Repository provides a single source of information on laws, regulation, procedures, and non-tariff measures related to trade. However, the access, transparency, and comprehensiveness of these sources are not fully comparable with that of a number of neighboring countries and international good practices. In most cases, repositories are owned by the private sector, which imposes fees to access this information. While Malaysia is publishing regulation on an ongoing basis, there is no systematic codification taking place. Creating a single online source for business and citizens to search for existing regulation will reduce transactions costs and increase predictability of the regulatory environment. Moreover, an authoritative registry of laws and regulations could be the base for the Government of Malaysia to plan for future regulatory reforms.

Ex post review and simplification

The review of the stock of regulations in Malaysia is addressed in Malaysia’s Regulatory Policy and in the Best Practice Regulation Handbook. The Policy calls on regulators to ensure that their rulemakings are reviewed once every five years, with the aim of removing outdated regulations and compliance costs. The Handbook is more specific, as it stipulates that the review should target regulations with a significant impact on business. It also outlines that the ex post review should consider the nature of the regulation in question and its perceived performance. The Handbook requires an ex post review within one to two years of implementation for regulatory proposals that proceeded in the rulemaking cycle without a RIS, and for regulations enacted and implemented with a RIS that was determined to be inadequate. The Regulatory Policy also has provisions for its own periodic review. It requires MPC to initiate its review five years after, or earlier if the need arises, to account for successes, constraints, and changes in the national and business environment.

REDUCING UNNECESSARY REGULATORY BURDENS

The 10MP called for a comprehensive review of existing business regulations, with an initial focus on regulations impacting Malaysia’s 12 National Key Economic Areas (NKEAs). MPC has carried out this type of review with the goal of improving the ease of doing business in Malaysia by reducing unnecessary rules and compliance costs affecting the private sector. To conduct the regulatory review of the NKEAs, MPC developed a methodology called Reducing Unnecessary Regulatory Burdens (RURB).

The RURB is a problem-solving methodology to improve the quality of existing regulation and its administration through ex post reviews. This tool targets regulations that have had significant consequences on productivity of firms and the cost of doing business. The RURB requires participation from businesses to identify regulatory burdens, and provides options and recommendations for regulators to simplify or eliminate unnecessary and burdensome, outdated regulations. The 8-step RURB methodology includes quantitative approaches, such as Standard Cost Model (SCM), to measure compliance costs, as well as qualitative and quantitative assessment, such as cost-effectiveness analysis (CEA) and cost-benefit analysis (CBA) to determine the best solution to minimize or eliminate the regulatory burden in question.
FIGURE 15: MPC’s RURB Solutioning Methodology

1. Address Specific Unnecessary Regulatory Burdens (Case Study Approach)
2. Validate the Regulatory Burden in Detail
3. Develop Solution Objectives
4. Develop Solution Option 1
4. Develop Solution Option 2
4. Develop Solution Option 3
4. Develop Solution Option 4
5. Decide on an Effective Solution
6. Implement Pilot Study, M&E the Result
7. Improve the Solution
8. Apply the Solution to other Stakeholders

Source: with information from MPC’s report “Leading Successful Change through RURB Solutioning”.

MPC reports that between 2014 and 2017, 40 RURB reviews were conducted, with recommendations that – if implemented – will represent compliance cost savings of approximately RM4.5 billion. Some of the sectors and industries targeted in these reviews include: healthcare; education; oil and gas; construction; processed food; air freight services; cargo transportation; and SME ICT services. An example of a RURB is the review of landing permits for charter flights. This RURB review found that simplification and streamlining of this permit could lead to potential compliance cost savings of RM180 million per year, based on an average 15 applications per month and reduction of processing time from seven to three days.

1 For more information on the RURB program and results, visit http://www.mpc.gov.my/reducing-unnecessary-regulatory-burdens-rurb-2/
RURB applied in tourism home sharing economy

ADDRESSING SHARING ECONOMY CHALLENGES THROUGH GRP

Sharing economy platforms provide innovative and more cost-effective solutions to services such as transportation, hospitality, and many others. At the same time, they present regulatory challenges, as they usually operate outside of the existing regulatory framework. In most cases, this represents unfair competition to established businesses, and higher risks with regards to consumer protection and public safety.

With the objective of addressing concerns and growth of short-term accommodation through sharing economy platforms, the Government of Malaysia conducted a RURB, applying GRP tools to:

- Understand the problem;
- Analyze regulatory and non-regulatory options and their impact;
- Conduct consultations with key stakeholders; and
- Propose recommendations to address existing issues.

The identified problems were an uneven playing field that threatened traditional service providers and public safety and nuisances. Different regulatory responses by countries in the region were analyzed.

Recommendations to address the identified issues included regulatory options on issues such as: allowed locations for operation; maximum length of stay and occupancy; taxation; registration and licensing requirements; type of property that could be used for these services; season or periods for operation; and security deposit requirements.

Consultations (online and focus groups) on these options were conducted with relevant and affected stakeholders, to understand what options are better for Malaysia, what other challenges were overseen and learn about different ideas and solutions.

Recommendations to regulate included business registration requirements for hosts; approvals to operate from community managers/committees; maximum days of operation per year, and utility rates depending on this; and data-sharing requirements for platforms, operators, and users.

While actions on this exercise are yet to be implemented, the methodology approach is already considered for other sharing economy platforms.

Source: WBG with information from MPC.
**MODERNISING BUSINESS LICENSING**

Under the leadership of PEMUDAH, the Modernising Business Licensing (MBL) program was established to simplify existing business regulations and thus facilitate private sector investment. In 2010, it was reported that over 3,000 regulatory procedures affecting the business climate were administered by 896 agencies at the federal and state levels. Between 2011 and 2014, PEMUDAH’s Focus Group on Business Process Re-engineering (FGBPR) and MPC as Secretariat reviewed business licenses through a “guillotine” approach, where a large number of regulatory instruments are reviewed against certain criteria, such as legality, necessity, and efficiency. Simplification of licenses was conducted following a 4-stage business process re-engineering (BPR) process. The MBL reengineered and simplified 767 business licenses at the federal level, consolidating most of them into 454, while 29 were eliminated. The projected compliance cost savings from this exercise is around RM729 billion (US$180 million). The simplified licenses were automated and integrated into an online one-stop-shop for license information and application. A similar review was conducted at the state level, in which 2,659 licenses were simplified and reduced to 1,915, with potential compliance cost savings of RM1.7 billion. More recently, MPC has collaborated with subnational governments to develop a Business Licensing Manual and Guidelines of Business Licensing Application and Regulations.

**FIGURE 16: BPR process for simplification of business licensing**

![BPR process for simplification of business licensing](image_url)


**Regulatory oversight functions**

Malaysia’s Regulatory Policy provides the National Development Planning Committee with formal regulatory oversight functions. The Policy frames NDPC’s responsibilities as: overseeing implementation of the Regulatory Policy, assessing its effectiveness, and recommending improvements; and examining RIS for adequacy, making appropriate recommendations as needed. Through these oversight functions, the NDPC is entrusted with the role of improving the quality and process to design new or amend existing regulations.

MPC, as the institution supporting NDPC to implement its functions and responsibilities, also performs regulatory oversight functions. While MPC lacks strong institutional power or “teeth” to ensure compliance of regulators with GRP requirements, it plays other important oversight functions that also
Contribute to the implementation of GRP in Malaysia. The Regulatory Policy provides MPC with the role of: developing guidelines and programs to implement the NPDIR; ensuring availability of capacity-building programs for regulators; assisting NPDC in the assessment of RIS; guiding and assisting regulators on RIA; conducting periodic reviews of progress; and promoting transparency of RIS. MPC also performs GRP awareness-creation functions, to spread the knowledge about the importance of GRP among regulators. MPC is the host and administration of a GRP portal with relevant information about regulatory governance in Malaysia.

### TABLE 2: Core regulatory oversight functions present in Malaysia’s regulatory management system

<table>
<thead>
<tr>
<th>Core oversight functions</th>
<th>Present in Malaysia?</th>
<th>Responsible institution</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Quality control</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.1 Scrutinize evaluations</td>
<td>YES</td>
<td>NDPC, MPC</td>
</tr>
<tr>
<td>1.2 Challenge unsatisfactory tools or processes</td>
<td>NO</td>
<td>-</td>
</tr>
<tr>
<td>1.3 Review legal quality</td>
<td>YES</td>
<td>AGC</td>
</tr>
<tr>
<td><strong>2. Identifying areas of policy where regulation can be made more effective</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.1 Gather opinions from stakeholders in areas in which regulatory costs are excessive</td>
<td>YES</td>
<td>MPC, PEMUDAH</td>
</tr>
<tr>
<td>2.2 Reviews of existing regulation</td>
<td>YES</td>
<td>MPC, PEMUDAH</td>
</tr>
<tr>
<td>2.3 Analysis of the stock and/or flow of regulation</td>
<td>YES</td>
<td>MPC</td>
</tr>
<tr>
<td>2.4 Advocate for particular areas of reform</td>
<td>NO</td>
<td>-</td>
</tr>
<tr>
<td><strong>3. Systematic improvement of regulatory policy</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.1 Institutional relations (cooperation with international fora)</td>
<td>YES</td>
<td>MPC</td>
</tr>
<tr>
<td>3.2 Coordination with other oversight bodies</td>
<td>YES</td>
<td>MPC</td>
</tr>
<tr>
<td>3.3 Monitoring and reporting to track success of implementation of regulatory policy</td>
<td>YES</td>
<td>NDPC, MPC</td>
</tr>
<tr>
<td><strong>4. Coordination of regulatory tools</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.1 Encourage the smooth adoption of the of the different aspect of the regulatory policy at every stage of the policy cycle</td>
<td>YES</td>
<td>MPC</td>
</tr>
<tr>
<td><strong>5. Guidance and training</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.1 Issues guidelines</td>
<td>YES</td>
<td>MPC</td>
</tr>
<tr>
<td>5.2 Provide assistance and advice to regulators for performing assessments</td>
<td>YES</td>
<td>MPC, INTAN</td>
</tr>
</tbody>
</table>

CHAPTER 3

Lessons and recommendations from Malaysia’s GRP Journey
Malaysia’s GRP journey has many lessons for countries embarking on similar reforms. As referenced earlier, success factors include: strong links between regulatory reforms commitments and broader economic and development goals; the establishment of a whole-of-government regulatory policy and GRP guidelines focused not on less but better regulation; and the deep engagement with the private sector. Remaining challenges include the absence of a framework to monitor the implementation of the Regulatory Policy and GRP; the lack of a formal or binding requirement for regulators to use GRP when proposing or reviewing regulation; ineffective quality assurance functions in the rulemaking process; and still-nascent adoption of GRP by subnational governments.

**TABLE 3: What has worked and not worked during Malaysia’s GRP journey**

<table>
<thead>
<tr>
<th>Successes</th>
<th>Remaining challenges</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Establishing a whole-of-government regulatory policy that includes core GRP building blocks.</td>
<td>• Lack of formal framework to monitor implementation of the national policy and GRP tools.</td>
</tr>
<tr>
<td>• Equipping the regulatory oversight body (MPC) with adequate resources.</td>
<td>• Lack of codified/binding mandate for regulators to comply with GRP requirements.</td>
</tr>
<tr>
<td>• Developing GRP guidelines (RIA and public consultation) to support implementation by regulators.</td>
<td>• Absence of effective gatekeeper function to strengthen MPC’s oversight function.</td>
</tr>
<tr>
<td>• Conducting other oversight functions, such as awareness raising, coordination, and capacity building around GRP.</td>
<td>• RIA system without enough nuances to determine when RIA is required and the type of RIA to be developed.</td>
</tr>
<tr>
<td>• Keeping the reform momentum by linking regulatory and GRP reforms with national development and productivity plans.</td>
<td>• Lack of emphasis on other GRP tools, such as forward planning for new regulation, access to existing laws and regulation or systematic ex post review.</td>
</tr>
<tr>
<td>• Engaging deeply the private sector as a co-driver of reforms.</td>
<td>• Low levels of adoption of GRP at the subnational level.</td>
</tr>
</tbody>
</table>

**Lessons from success factors**

Malaysia’s main driver of regulatory reform and catalyst of GRP implementation has been the country’s development goals. This started with the strategic vision to reach developed nation status. As mentioned in chapter 1, this vision called for a continued process of deregulation to phase out unproductive regulation and keep only those that are aligned with the country’s social and economic policy objectives. This approach evolved over time from a focus on reducing the quantity of regulation to a greater focus on regulatory quality through the establishment of a more systematic approach to regulatory management. This process took place over a relatively short period of time, underpinned by the realization that developed-nation status requires a high-quality and predictable regulatory environment that can enable private sector-led economic growth.

Another key factor of Malaysia’s GRP journey is PEMUDAH and the active role of the private sector on regulatory reform. PEMUDAH has been instrumental not only in advocating for reforms but also in driving change processes to improve the quality of existing regulations. It has also been effective in advocating for the introduction and adoption of GRP. According to YBhg. Tan Sri Saw, former private sector co-chair of PEMUDAH, since the Malaysia Incorporated Policy was introduced in the 1980s, consultation and public-private collaboration have grown.
As many other countries, Malaysia has achieved quick wins in less-technically-complex reform areas such as simplification and reduction of burdens, which have immediate impact on business activities. Reform efforts conducted under the MBL and RURB programs have delivered positive results. In the case of MBL the scope has expanded to the subnational level.

In addition to quick wins, Malaysia’s initial GRP focus was on core tools such as RIA and public consultation. These two GRP tools are central to any regulatory management system, and they function in a mutually reinforcing and interlinked way. Considering that Malaysia has made significant efforts to improve the stock of existing regulation, focusing on the flow of new regulation is key to prevent future “regulatory inflation” or “contamination” of a cleaner stock.

Institutionally, MPC as the agency with main regulatory oversight functions has had adequate resources to promote and implement GRP. In many emerging economies, the GRP and better regulation agenda does not have a specific institution leading its implementation. Instead, small teams – either at a center of government, in a line ministry, or part of a body in charge of private sector development – operate on an often-underfunded mandate that is inadequate to implement a whole-of-government regulatory reform approach. Malaysia’s strong institutional anchoring of GRP, and the adequate funding of the reforms, therefore warrants an honorable mention.

In the absence of a legally binging requirement for GRP, political commitment and support to regulatory reform has been instrumental to sustain reform efforts. This has been possible because of a public leadership mindset that is open for collaboration with the private sector and that has created deep commitment to regulatory reform across government institutions, even when changes in political leadership happen.

Challenges from implementing the GRP building blocks

Malaysia’s National Regulatory Policy was a very good step to launch a systematic approach to regulatory reform, but it did not include provisions or references to other GRP tools required for a more comprehensive regulatory management system. The Policy’s focus was narrowed to two tools that address the regulatory flow (i.e. RIA and public consultation), and did not address other GRP measures like forward planning; transparency and access to a single repository of laws and regulations; as well as stronger oversight functions. Nevertheless, MPC’s work to support the implementation of the National Policy has subsequently contributed significantly to advance and promote implementation of these other GRP tools.

RIA production suggests low and uneven levels of compliance, evidenced by the number of RIS prepared compared to the total number of RIA that should have been conducted. Between January 2016 and May 2018, MPC received 185 RNFs. In this almost year-and-a-half period, MPC reported that 105 proposals were undertaking RIA. However, MPC also reports – for the same period – that only 53 RIS were submitted, and that 12 are still in progress. This represents a gap of 40 regulations, or almost 40% of non-compliance with RIA requirements. This outcome is probably a combination of limited capacity to enforce regulators’ adoption and compliance with RIA requirements, and uncertainty from regulators of when and how to conduct an adequate RIA.

Despite efforts, implementation of forward planning in Malaysia is still not aligned to international best practice. According to data reported by MPC, between July 2014 and December 2015, 16 ministries
and their agencies reported 120 planned regulatory proposals. Out of this total, only 19 RNFs were submitted. Moreover, in the same period MPC received 76 RNFs that were not part of the 120 proposals from the agencies’ regulatory plans. These numbers show a lack of consistency in regulators’ practices to report (and consult) on forthcoming regulations with enough time in advance. In addition, the publication of the information available – in the Annual Regulatory Plan – is not timely as it takes place after most of the regulatory interventions took place.

There is no single repository with free access to all existing laws and regulations. While there are different sources that provide access to laws and regulations in Malaysia, they are not comprehensive. A single and authoritative registry on laws, regulations, and administrative procedures will provide transparency and reduce transaction costs to access this information, and it will reduce discretion and uncertainty about which rules apply to citizens and the private sector. Many countries that have these systems in place have also created provisions that deem regulations not present in these unified repositories illegal.

Efforts to improve existing regulation through ex post review are yet to be complemented with a formal and consistently applied approach. The National Regulatory Policy and Handbook have provisions on this, but their general uptake remains low. A more systematic ex post review system may include tools such as automatic “sunset clauses” that terminate the effect of a regulation after a specific date, unless a review of further decision to extend it are taken, or 1-in X-out mechanisms, through which regulators are required to eliminate ‘X’ number of regulations for any new regulation they want to introduce, considering at least an offset of costs eliminated and introduced.

Malaysia’s regulatory oversight functions still lacks an effective challenge function to flag or reject regulatory proposals which do not fulfil GRP requirements. In the absence of a legal mandate to challenge GRP compliance, Malaysia has seen an uneven adoption of GRP requirements.

Non-compliance with GRP requirements can be also partially attributed to lack of knowledge and capacity by regulators. A survey conducted by MPC in 2014 reflects that regulators are very well-aware of the National Policy. However, only slightly more than 10% of this group reported having good knowledge about RIA and other GRP tools. While not reported in the survey, it is recognized that some regulators still see RIA and GRP as an additional burden or bureaucratic requirements that are not mandatory. Lessons from initial RIA pilots showed that implementation challenges relate to issues such as lack of awareness and support, low capacity and resource commitment, and limited out-reach and training program for regulators. For YBhg. Datuk Isham Ishak, former Secretary General of MITI, “there is a need to educate and do more GRP awareness programs for everyone to understand it... there is also a need to train more people, so they can then train others on GRP.”

Recommendations on the way forward

Uneven implementation and adoption of GRP in Malaysia can be improved by establishing formal and legally binding requirements. So far, Malaysia’s approach has relied mainly on raising awareness among regulators about the benefits of GRP and supporting them with their adoption by providing guidelines, capacity building, and coordination. This approach was adopted because there was limited capacity, experience, and knowledge of GRP when the Regulatory Policy was established in 2013. While this was a good approach during the first few years, results have proven to be mixed, with a handful of regulators
openly embracing GRP, while others are still unaware of it or unwilling to implement what they perceive as voluntary and an additional burden. Introducing more binding GRP requirements may ensure a more coherent observation of GRP.

**A formal GRP mandate should be complemented with effective oversight functions to “challenge” regulation that do not comply with GRP requirements.** NDPC, as a body comprising high level government officials, and MPC will benefit from having more “teeth” to perform an effective quality regulatory quality oversight function during the rulemaking process.

**Establishing a formal framework to monitor and assess Malaysia’s Regulatory Policy implementation can also provide the right incentives for better GRP compliance.** This recommendation follows the idea that what “gets measured, gets done”. Malaysia could benefit from identifying a monitoring and evaluation framework to assess its Regulatory Policy’s implementation and performance and compliance with GRP requirements by regulatory agencies. MPC is already making some progress in this area. However, timely reports with relevant metrics on GRP implementation should be more frequent and publicly available to benchmark regulators, recognizing good performers while identifying agencies lagging behind. Dato’ Latif, Deputy Director General of MPC, agrees that for this, Malaysia needs to have clear KPIs and numbers to speak about where the country is and have evidence to guide future direction.

**Malaysia’s GRP building blocks can still benefit from better design and implementation.** Malaysia’s RIA system in Malaysia can be strengthened by clearer definitions and requirements, including for the prioritization of RIA efforts. The Best Practice Regulation Handbook established that regulators should conduct RIA when MPC determines that the proposed regulation will have a “significant impact” on businesses, and that the level of analysis in RIA should be proportional to the level of impact. However, there is no clear methodology about how the significant impact of a proposed regulation is determined. Moreover, even though Malaysia’s Handbook mentions the different levels for analysis depending on the impact of the regulation in question, there is no clear distinction on the different requirements for different types of RIA. Some countries require regulators to conduct light, intermediate, or full RIA for the proposed rulemakings, based on the different levels of significant impact. A system with these nuances could strengthening the implementation of RIA in Malaysia. In addition, other GRP tools require more detail in their design and application. This includes improvements on how forward planning, government coordination and systemic ex post reviews are conducted.

**While economy-wide GRP systems are necessary, key to successful implementation rests on good practices at the sectoral and subnational government levels.** GRP in sectors is of salient importance because line ministries and sectoral regulators have different capacities and incentives to implement GRP, providing uneven results across sectors. Moreover, GRP in the sectoral government level becomes relevant because major regulatory reforms efforts are driven at the sectoral level. Mainstreaming GRP at the state and local government level is needed, as evidence from other countries has shown that the highest regulatory burdens and costs imposed to the private sector and citizens come from subnational regulation.

**Malaysia’s regulatory and GRP reforms have progressed and played a key role in the country’s move towards the achievement of high-income and developed nation status.** The building blocks of a sound GRP system are in place. Strong collaboration with the private sector and political commitment have contributed to the current success. The next steps include third-generation reforms to make this system work better. In addition to the recommendations above, for Malaysia to bring more transparency, accountability, and predictability to the regulatory process, regulators’ awareness about GRP must be improved.
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