



How to implement President Trump's “One in, Two Out” Regulation Initiative

A five-step approach for agencies to lighten
the regulatory burden

Deloitte Center for
Government Insights

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A top priority for the President, regulatory reform takes center stage

Businesses and government officials alike seem to have been preparing for it since President Trump announced that regulation reform sits at the top of his priority list. From the campaign trail to his transition tweets, President Trump sent a clear message about his intent to cut red tape and make it less costly to do business in the United States. Shortly after the election, then President-elect Trump announced he would issue a "One In, Two Out" rule where "for every one new regulation, two must be eliminated." At a meeting with business executives after the inauguration, he said that regulation will be "just as strong and just as good and just as protective of the people as the regulation we have right now."¹

On January 30, 2017, the President signed Executive Order 13771 that introduced new requirements for federal Departments and Agencies to reduce the costs of regulation:

- "One-In, Two-Out": Agencies are required to identify two regulations for elimination when they bring in a new regulation
- "Net-Zero": Net additional costs of regulation in Fiscal Year 2017 must be zero. That means that for every dollar of additional cost imposed on society by regulations, there must be an equivalent reduction elsewhere.²

The President signed a second Executive Order on Enforcing the Regulatory Reform Agenda February 24 that required agencies to nominate a lead official for regulatory reform and establish a taskforce to drive efforts to identify regulations that could be streamlined. Agencies are to come up with an initial list of potential reforms within three months. It seems clear that the White House wants rapid progress in reforming regulation.

Cutting regulation and maintaining protections may seem like a contradiction — how can government do this? We can start by looking to other governments, because the United States is not the first country to accept this challenge. The United Kingdom, The Netherlands, Canada, Australia, New Zealand, and Denmark have implemented similar programs over the last decade. In the UK, for example, the government has taken out annual costs to business of approximately \$10 billion since 2005,³ according to the British government's reports on the reform programs (see "UK — Better Regulation"). Each of these countries found it useful to set numerical goals for the overall costs of regulation, which can be a powerful catalyst for change.

So how could the Trump administration realize its ambition? This study makes two assertions. First, how we regulate, not just what we regulate, will likely be the critical determinant of success or failure. Second, with new approaches and advanced technologies, it is possible to pursue a regulatory reform agenda that does not sacrifice protections. By skillfully applying new digital technologies like data analytics and crowdsourcing with innovative techniques like

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customer experience journey mapping, government agencies can make meaningful headway down the road of streamlining so-called red tape while maintaining protections.

This paper does not assess the merits of more or less regulation. In determining whether a new regulation is justified, agencies in the US are required to assess costs and benefits and seek to maximize net benefits (the difference between estimated benefits and costs). The White House has emphasized that the net benefits rule remains central to its approach to regulation. The new Executive Orders complement this by focusing on the cost of existing regulations and ask: How might we modify existing regulations to achieve the desired policy outcomes while reducing costs? Or put another way — *how can we make sure that whenever we implement new regulations, we also look at how to reduce the costs associated with existing regulations?*

A brief history of regulation in the US

The new administration's commitment to drive down the number of regulations and their costs on business is clear, but it's not altogether new. We've been trying this for a long time in the US.

A quick scan of US regulatory history reveals how political leaders shaped the political and economic landscape by issuing new rules. The American regulatory state dates back to President Grover Cleveland's establishment in 1887 of the Interstate Commerce Commission. The Pure Food and Drug and Meat Inspection Acts (1906) and the Federal Trade Commission Act (1914) followed. The creation of these new laws and regulatory bodies traced the rise of federalism in our political evolution and marked a moment in history when the public clamored for the federal government to step in to provide greater protections against risks in society.

The Great Depression brought the second wave of new regulation. The Banking Act of 1933 established the Federal Deposit Insurance Corporation to regulate state chartered banks; The Security and Exchange Act established the Securities and Exchange Commission; and the Communications Act of 1934 established the Federal Communications Commission, which licensed, examined and regulated interstate and international communications.

In the 1970's, a new wave of regulation responded to a growing awareness of the risks posed to public health and safety, the environment, and in the case of the Federal Election Commission (1975), democracy itself. Richard Nixon established the Environmental Protection Agency (1970) and the Occupational Safety and Health Administration (1971). Since then, Republican and Democratic presidents alike added to the regulatory system.

In parallel, they have tried to reduce regulatory burdens through executive actions. Ford established Economic Impact Statements for proposed regulations, and Carter called for a better understanding of the total burden imposed by regulation on the economy. Congress passed the Paperwork Reduction Act in 1980, with the goal of reducing paperwork burdens on society. In 1981, Reagan signed Executive Order 12291 requiring agencies to prepare a regulatory impact analysis for each "major rule." Clinton supported "common sense regulatory reform," focusing on cutting obsolete regulations and changing rulemaking procedures. George W. Bush established criteria for agencies' regulatory impact analyses. More recently, President Obama's Executive Order 13563 "Improving Regulation and Regulatory Review" focused on streamlining regulations and reducing burdens. While each of these approaches has had an impact, none have gone as far as President Trump's approach to place a numerical cap on the costs or number of regulations.

Look outward: lessons from other countries on how to make a difference to overall regulatory costs

Other countries, including Canada, Australia, Denmark, New Zealand, the United Kingdom, and the Netherlands have implemented effective large-scale regulatory reform initiatives.⁴ There is much to learn from their experiences. Here are five lessons the Trump administration can take away from the experience in other countries:

Measure what matters

Costs matter more than the number of regulations

Taken literally, Trump's "One In, Two Out" rule means that when a new regulation comes into force, two existing regulations should be removed. But it's not enough to just cross regulations off a list.

If a new regulation costs business \$1 billion, while the two eliminated regulations cost only \$1 million each, that hardly counts as a meaningful offset.

The second part of his Executive Order requires agencies to have a net zero increase in costs over a fiscal year. Meaning, if an agency implements new regulations with an estimated annualized cost of \$300 million, it would need to find the same amount of savings by streamlining the way existing regulations are implemented and enforced or by modifying or eliminating the regulations themselves. This part of the order gets much closer to an intended impact of reducing burden to businesses and citizens.

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UK — better regulation

In 2005 the United Kingdom (UK) government adopted a new approach to regulatory reform called Better Regulation with targets for reducing regulatory burdens alongside a requirement to only bring in regulation only where the benefits justify the costs. The government established a 25% reduction goal on administrative burdens over five years. In 2010, the government announced a "One-In, One-Out" requirement for new regulatory costs and now has a "One-In, Three-Out" rule.

Between 2005 and 2009, Jitinder Kohli, one of this article's authors and now a Managing Director in Deloitte Consulting LLP, served as the lead official responsible for implementing this initiative and experienced firsthand what worked and what didn't.

The effort to reduce regulatory burden in the UK has been praised by the OECD and other international commentators. Between 2005 and 2016, British government reports say that the various simplification measures from domestic regulatory reform have added up to £6.5 billion (\$10 Billion US) in lower annualized costs to UK businesses and non-profits.⁵

Don't fall victim to false choices

Focus on how you regulate, rather than just what is regulated

Reducing regulation or regulatory costs should not require gutting critical protections. Too often, commentators see a false choice where less regulatory burden can only be achieved by eliminating regulations and that reduces protections. That would not be desirable to those who want to maintain the level of protection we enjoy today, and so they resist regulatory change.

But regulation need not work that way — often it is possible to achieve regulatory cost reductions without removing protections. Rather than focusing on more or less regulation, policymakers should focus on smarter regulation. This will occasionally include eliminating outdated or superseded regulations with no impact on actual protections (see Canada — one-for-one). Speeding up a process that causes delays (and therefore costs), simplifying a form so that it is easier to use, moving transactions online, or making it easier for those affected to know what they need to do to comply with the law — these are all approaches that can reduce costs while maintaining protections.

The UK focused on *how* it regulated, rather than just what was regulated, and the government achieved billions in cost savings. During the first five years of its efforts, the UK focused on identifying net annual savings in administrative burdens without sacrificing protections. It undertook more than 300 simplification measures, including the creation of web-based tools, improved guidance, and switching paper-based processes to electronic routes. As one example, the UK allowed publicly traded companies to issue electronic versions of their annual reports saving British business over £180 million annually.⁸

Limit exemptions

A sound regulatory regime should not have special cases.

Other countries have found that requirements across government to reduce the overall costs of regulation can be powerful. That is because they incentivize agency staff to look at ways to streamline the burdens associated with existing regulations. But to be effective, they need to have broad coverage. If large parts of government are exempt, then the incentives on other agencies are muted. Worse, agency staff who remain in the system feel that the system is inequitable because it unfairly targets their agencies.

Canada — one-for-one

Launched in 2012, Canada's "One-for-One Rule" applied to new regulations that created an administrative burden on businesses. For each such regulation introduced, Cabinet Ministers had to find equal burden cost reductions elsewhere and remove at least one regulation.

One Ministry's experience in identifying regulations for repeal is telling. The Ministry of Transportation in one 2016 order identified 12 regulations that could be repealed without affecting protections.⁶ They included seven regulations for differing rail lines regarding passenger safety where six of those rail lines no longer operated or offered passenger services and the rules and regulations could be found in other legislation (e.g., the Railway Passenger Handling Safety Rules). Of the remaining five regulations the Minister identified for repeal: three had been made obsolete by more up-to-date rules codified elsewhere; one, the Heating and Power Boilers Regulations, applied to a technology no longer in use; and one governed submission requirements to an agency that no longer existed.⁷

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President Trump's Executive Order does provide exemptions for the military, national security, or foreign affairs.⁹ Of course, there will be genuine instances where government needs to act quickly in the interests of national security and it could be impractical and illogical to identify savings before taking action. Yet, so much of what the government does has a bearing on national security — and to exclude everything that has an impact on national security could significantly undermine the goals of the new requirements. All areas of government could benefit from looking for ways to achieve regulatory protections in more effective ways — reducing burdens while maintaining essential protections.

Similarly, within agencies, it is important that no part of the agency sees itself as so special that it does not need to look at ways to reduce regulatory costs associated with existing rules. For all regulations, it is worth exploring ways to streamline to make life easier for businesses and citizens while maintaining protections.

Regulations and enforcement should be designed logically and in a way that balances protection with prosperity.

In the early 2000s, when the UK and the Netherlands first embarked on their journey to reduce administrative burdens by promising a 25 percent reduction over five years, they were careful to provide few exemptions. Every agency was expected to contribute to the cross-governmental commitment to simplify regulations. In the UK, after five years, more than half of government agencies had surpassed the original 25 percent target.¹⁰

Focus on small business

Small businesses face 36 percent higher regulatory costs than large firms

Small businesses face a proportionally higher regulatory burden than large firms and have fewer resources available to analyze, comply with, and then report on the myriad of regulations. A 2010 study commissioned by the US Small Business Administration reported that "small businesses, defined as firms employing fewer than 20 employees, bear the largest burden of federal regulations." As of 2008, small businesses face an annual regulatory cost of \$10,585 per employee, which is 36 percent higher than the regulatory cost facing large firms (500 or more employees).¹¹ For startup companies, the situation is exacerbated. A "compliance department" for a small business is often the entrepreneur herself, struggling to navigate complex regulations and keep the lights on at the same time.

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business hires a new employee — the savings add up quickly, even if the changes are modest. To comply with the Executive Order, agencies can get a head start by prioritizing those regulations that impact small businesses.

Where a government agency is required to identify reductions in the costs of regulation, it makes sense to look first in places where regulation affects the largest number of businesses.

In the UK, regulatory reform leaders made an effort to understand the different effects of regulation on small businesses. They spent time in the field, talking to business owners. They discovered that small business owners didn't always want less protection from regulation. What they wanted was a way to more easily comply. They wanted clearer guidance on how to implement regulation, fewer conflicting regulations and greater stability. A common refrain: "We understand the importance of regulation, but why do you keep changing it and why can't you just tell me what to do?" Their solution? A twice-yearly update to small businesses that captures what's new and how to comply, written in easy to understand language. Think of it as a "quick-start guide" similar to those that come with consumer electronics.

In addition, where a government agency is required to identify reductions in the costs of regulation, it makes sense to look first in places where regulation affects the largest number of businesses. Simplifying a regulation that imposes high costs on a small number of businesses won't contribute much to the objective of finding overall cost reductions. But when agencies simplify regulations that affect large number of businesses — for example, whenever a

Embrace necessity of culture change

Regulators and enforcers alike should re-imagine their roles.

Implementing any or all of the above changes isn't hard, but getting the change to stick requires a shift in mindset. Regulatory policymakers should see their jobs as more than just adding to the regulatory rulebook, and the enforcement community should see their job as helping businesses and citizens succeed and align with regulatory aims, as much as catching those business that are non-compliant.

Let's take a closer look: The cumulative book of regulations measured at a given point in time is often referred to as the stock. Interest groups raise new issues to leaders in the Legislative and Executive branches who then concern themselves with converting

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those interests into new requirements — flow, or the incremental additions or subtractions to the stock. In most countries the focus of regulatory agencies tends to be on identifying new regulations. What do you spend more time doing — buying new clothes for your wardrobe or going through your closet to get rid of what no longer fits? Top-down mandates to review regulatory stock will likely only go so far — we need a mindset shift whereby regulators consider caretaking of regulatory stock and flow equally. This may require adjusting the incentives for agencies to spend time managing their inventory. Creating digital tools that can scan and sort through data to find relationships and overlaps in regulatory stock can also help.

Now, let's turn to the enforcement community. Enforcement staff who work for regulators may think their job is to catch bad behavior. That is part of their role, for sure. But the key objective is to encourage businesses and citizens to do the right thing. Often businesses and citizens fail to comply due to a lack of understanding of what is needed. Small businesses in particular, can be overwhelmed by the number of different regulatory regimes they are required to comply with. Coaching them to better understand regulation and more easily comply breaks with the "catch-bad-behavior" model of enforcement. But ultimately, it contributes to the goals of regulation — better compliance that leads to greater protections.

Devising ways for regulatory policymakers to observe first-hand the impact of regulations on the ground and interact with their "customers" could do much to bridge the distance between

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regulations written in Washington and implemented in Wichita. There are many cost-effective ways to do this: organize learning delegations to visit with small businesses, listen in on call centers,

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and develop journey maps that trace the experience of regulated entities (e.g., entrepreneurs or small manufacturing businesses) as they interact with government. Bottom line: walk in your customer's shoes. This may be new territory for much of the federal government, but without a deep understanding of the customers' experience interacting with government, changes are likely to remain short-lived.

A five-step approach for agencies to lighten the regulatory burden

1. Assign leaders for regulatory reform in your agency

A new focus calls for a new role

The Trump administration's commitment to regulatory reform places significant new expectations on federal agencies. Instead of focusing primarily on new regulatory ideas, agencies are expected to look for ways to reduce the costs of existing regulations. This will require concerted leadership in agencies who will need to set up teams to drive regulatory reform efforts.

The second Executive Order creates a new post of Regulatory Reform Officer in each agency — and tasks them with leading this effort working

with other senior officials from across their agency. This builds on the experience of other nations. For example, in the United Kingdom, agencies have Better Regulation Units responsible for driving regulatory reform, and there are board-level champions in each agency (at approximately Under or Assistant Secretary level).

Agencies should start by identifying officials who can take a leadership role — most likely a senior official with a broad perspective on the agencies work. In addition, in many complex agencies, assigning leaders at the next level will be important. For example, there may be a need for a lead official in the Department for Health and Human Services as well as nominated leaders in the key operating divisions such as the Food and Drug Administration and the Centers for Medicare and Medicaid Services.

Agencies will likely need dedicated staff to drive change. In building these teams, it is important to look for a range of skillsets including knowledge about the stock of regulations, expertise in change management, and an ability to think creatively about ways to reduce regulatory burdens whilst maintaining protections.

2. Assess where the burdens lie

Undertake a scanning and diagnostic exercise at the agency level to identify opportunities for cost offsets

Under the first Executive Order, agencies are required to eliminate two regulations every time they implement a new one. And they are required to reduce the costs of existing regulations by an amount equivalent to the costs of any new requirements.

Human-centered design could help develop a field-based, real-world perspective of the true burden imposed by regulations.

To comply with the new requirements, agencies need to know what is coming down the pipeline. They should begin by looking at the expected dollar

burden associated with all significant, new regulations that are in the rulemaking pipeline, but not yet issued as of January 20th, 2017. This will help determine the target amount of burden they will need to offset to yield a net-zero cost increase for the fiscal year. It will also establish how many regulations need to be identified to comply with the "One-In, Two-Out" requirement. Agencies should also try and plan for the future — looking at significant regulations that are likely to be finalized over the next few years.

Once you have a sense of what is coming, look for offsets — existing regulatory requirements that are candidates for streamlining or elimination. Through an initial scan, agencies should identify which regulations and procedures impose the highest financial impacts on businesses and citizens. This scan can incorporate both quantitative and qualitative analysis. The number of individuals, businesses and sites affected, and the frequency of compliance actions, are part of the quantitative analysis. In this way, regulations with cumbersome and extensive requirements will be identified and those that impact a broad population such as small businesses will be highlighted.

The qualitative analysis should take a lesson from the field of human-centered design, which is a way to identify and solve problems building out from the experiences of affected individuals.¹² Human-centered design could help develop a field-based, real-world perspective of the true burden imposed by regulations. The paperwork burden represents a well-recognized cost. But factors such as delays, a lack of transparency in the approval process,

Digitizing regulatory transactions as much as possible can yield higher satisfaction and lower costs to those affected (as well as lower costs for regulators).

duplication of information requirements, complexity, and a lack of consistency are all additional pain points for businesses dealing with government regulators.¹³ Seek input and create ways to listen to citizens, businesses, staff, and your enforcement community, whether through direct contact ("get out of the building" field visits), crowdsourcing or more traditional outreach activities like surveys. When listening to businesses, be careful not to be captured by the loudest voices. Remember that sometimes businesses may want to retain regulations that act as barriers to new entrants.

Together the quantitative and qualitative analyses yield potential targets of opportunity for finding offsets to the expected costs associated with new regulations.

3. Build a portfolio of possible reductions

And have them ready to show political leaders early

Each offset opportunity identified above can be tested for the applicability of tried and tested approaches to reducing costs. This allows for a portfolio of potential solutions and savings to be specified, ranging from the simple to the more complex. Start with the ones that are easier such as redesigning forms or simplifying agency guidance. Some solutions, with varying levels of complexity, include:

Redesigning forms. In recent years, a great deal has been learned about how to simplify, clarify and construct a natural and logical flow when capturing information. Much of that learning was driven by the desire to make digital device interfaces intuitive. Little of that learning has been applied to some of the older forms that govern regulatory interactions. Time can be saved and errors and costs reduced by working closely with those who fill out forms to understand and seek input on how forms could be simplified and made more user-friendly.

Improving agency guidance. Enhanced guidance can make it easier and clearer for citizens and businesses, especially small businesses, to comply. Many industries, such as commercial tax form preparation services, have been built in part by providing an easier to use guide for responding to rules and regulations.

Digitizing transactions. The scope and capabilities of digital technologies continue to expand. As digital transaction technologies become more ubiquitous, more intuitive, and more intelligent, they can accomplish a fuller range of regulatory transactions from registration to reporting, inquiries to certification, and applications to approvals. Digitizing regulatory transactions as much as possible can yield higher satisfaction and lower costs to those affected (as well as lower costs for regulators).

Reducing data collection duplication. In meeting regulatory requirements, those affected are sometimes called upon to re-enter the same information on multiple occasions when the technology exists for them to opt into a "remember me" approach needing only a one-time signup. This can potentially offer savings on subsequent interactions, or across a set of requirements within an agency, or, in coordination with others, across agencies.

Eliminating redundant regulations.

The stock of regulations may be reduced without affecting protections through the elimination of redundant, superseded and obsolete regulations (See the earlier Canada — one-for-one example). These regulations may once have provided real protections. But they have remained fixed while the world evolved to a point where they add little value and are thus candidates for elimination to meet the President's "One-In, Two-Out" requirement. Rules that can be eliminated with low risk of affecting protections include those where the original purpose of the rule has been achieved; the rules have been rendered unnecessary or obsolete by changing practices or technologies; the rules are ineffective at achieving their purposes; or the rules overlap, duplicate, or conflict with other federal, state, or local rules. Some agencies may have a number of these ready-made "Two-Out" candidates, though in some cases their lack of current impact or application may mean they represent little actual reduction in burden costs.

Shaping behaviors. Opportunities for savings can be found by understanding and acting on what is experienced by those affected by regulation. A holistic understanding of the "customer's experience" can be captured through tools such as journey maps that can highlight where costs are incurred without significant impact on protection and provide a platform for rethinking requirements and interactions. Equipped with this understanding and armed with the tools of behavioral economics, agencies may be able to pinpoint opportunities to "nudge" individuals toward compliant and cost saving behaviors.¹⁴

Building a plan and business case for each action identified will allow tracking of the expected cumulative reductions that can be applied to offset the cost burdens of new regulation. The business case should focus on the extent an action will: a) reduce burdens; b) be implemented quickly and inexpensively; and, c) maintain protections. If you can do all three, then it is unambiguously worth doing.

New Zealand — better for business

The New Zealand government undertook a holistic approach with the overarching aim to make compliance easier through a reform program called Better for Business.

Better for Business introduced more than eighty reforms across government unleashing "accelerator teams" of experts—each including an entrepreneur—to make government transactions simpler. Federal agency databases were linked up so that businesses need to submit basic information and changes only once. Each New Zealand company was assigned a single identification number to use in all registrations, applications and filings. An online "wizard" was created so contractors could track their permitting applications through the review process.

Four years after Better for Business was launched, business compliance costs in New Zealand have dropped 12 percent. Businesses report a 23 percent reduction in effort when dealing with the Inland Revenue Department. An astounding 98 percent of intellectual property applications receive a response in less than 15 working days from the Intellectual Property Office of New Zealand. And New Zealand has risen to the No. 1 spot on the World Bank's ranking of countries according to ease of doing business.¹⁵

4. Look at innovative ways to reduce costs associated with inspection and enforcement

New tools can ease regulatory implementation costs while reducing burdens and maintaining protections

By thinking out-of-the-box, one can explore possible reductions focused on the costs associated with inspection and enforcement. Being inspected, preparing to be inspected and failing to be in compliance all bring significant costs to those affected; however, recent innovations offer new approaches to the options available for models of inspection and enforcement. Agencies may consider:

- **Complaints-based systems:** New data streams are available from social media and other potential access points that could allow for complaints-based interventions. By collecting and analyzing customer complaints one can identify trends that could help determine inspection priorities.
- **TSA-Pre Check model:** Pre-check works by utilizing data to certify low-risk flyers who are then subjected to a lower level of scrutiny and inspection. A risk-based system could be applied in similar ways regarding regulatory enforcement allowing for an alternative mode and/or frequency of inspection for pre-certified businesses. A similar practice has been in place in some assembly plants in the US for decades. Parts vendors who, among other requirements, have demonstrated a highly reliable level of process control, are pre-certified to ship their components directly to the shop floor without an incoming inspection.

By making effective compliance intuitive, businesses will be more likely to do what's necessary to comply, and, as a result, society will be more likely to benefit from effective protections.

- **Using predictive analytics and sharing data across regulators:**

This could help regulators identify common offenders and target inspection resources at businesses that are most likely to be out of compliance

- **Sensors:** The development of new and lower priced sensors as well as new secure and confidential data exchange capabilities opens up possibilities for continuous monitoring rather than periodic inspections. Coupled with enhanced data analytics, these data streams could even provide early warning systems.

In each of these examples, agencies will need to determine applicability based on technologies available, risk factors, and availability of specific data inputs. Similar to the step above, creating a business case that focuses on the ease of implementation while reducing burdens and maintaining protections, will help agencies prioritize activities.

5. Embrace a coaching and empowerment mindset

Leaders can take actions to change the culture within regulatory agencies

Costs can be minimized when compliance comes naturally and leading practices are shared. By making effective compliance intuitive, businesses will be more likely to do what's necessary to comply, and, as a result, society will be more likely to benefit from effective protections. This requires a mindset shift within agencies with implications for recruiting, training and incentives:

- Develop the mindset that inspections should be about helping people succeed
- Reduce overlap by partnering with inspectors from other agencies, where appropriate
- Facilitate appropriate information sharing between agencies and between businesses
- Empower agency employees to identify and implement new ideas

Most businesses want to comply with regulations. But there will always be those who will need to be forced to comply. The existence of these two populations calls for a segmented approach. Data analytics can be a powerful way to identify and manage different types of businesses.

It is difficult to change the mindset of an organization. Developing new training programs, creating the right incentives, and utilizing proactive data analytics are just some of the actions leaders can take to change the culture within regulatory agencies to embrace coaching and encourage empowerment, while pursuing rigorous enforcement where needed.

In summary: *Assign leaders; Assess where the burdens lie; Build a portfolio of possible reductions; Look at innovative ways to reduce costs of inspection and enforcement; and Embrace a coaching and empowerment mindset.* These five action steps can help agencies find the offsets needed in the existing stock of regulations to allow new regulations to be implemented in compliance with current White House requirements. But these same steps can be fruitfully applied to new regulations as well. The proactive application of cost-saving and innovative approaches for new regulations will reduce their impact on society's costs. This, in turn, will reduce the offsets that agencies will be required to find going forward.

Agencies can reduce burdens without reducing protections

The Presidential January 2017 Executive Order on Reducing Regulation and Controlling Regulatory Costs represents a challenge to the regulatory status quo. At initial glance, it may seem to back agencies into a corner where they must choose between costs or protection. Other countries, however, have shown that it is possible to reduce the burden on businesses and citizens without reducing protections. We believe the US can do so too. Experience suggests that there is a way out of the corner, but it will require changes to the status quo. This study has touched on five key lessons from the experience of other countries that the administration should consider and four steps for agencies who want to get out ahead of the challenge. It will not be an easy road ahead. But even in these contentious times, we can all agree that a road that leads to reduced burdens without reducing protections is a road worth traveling.

UK — beyond mystery shopping

A useful example of shifting from enforcing to coaching comes from the UK and the issue of underage alcohol purchases. Historically, "mystery shopping" served as the common enforcement approach to this problem. Inspectors asked underage volunteers to drop in to liquor stores and try to purchase alcohol. Regulators found that mystery-shopping data demonstrated no real change in the compliance rate. Moreover, it revealed a pattern. Large businesses were largely compliant, but small shops were not. Instead of imposing higher fines or increasing the number of mystery shoppers sent to inspect, the UK enforcement officials did something radical — they asked the shop owners why they weren't complying. What they learned surprised them. Shop owners admitted to feeling scared to say no to customers they suspected of being underage. They didn't know how to turn them down effectively. So, the enforcement officials came up with a plan to pair owners of large liquor shops with small-shop owners to teach them how to say no.¹⁶

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End notes

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2. "Society" here includes all relevant parties including businesses, private citizens, non-governmental organizations and so on.
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