

Best Practice Regulation Report



2010 – 11

OFFICE OF BEST PRACTICE REGULATION (OBPR)

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Use of the Coat of Arms

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Acknowledgements

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Abbreviations

AASB	Australian Accounting Standards Board
ABCB	Australian Building Codes Board
ACBPS	Australian Customs and Border Protection Service
ACCC	Australian Competition and Consumer Commission
ACMA	Australian Communications and Media Authority
AFMA	Australian Fisheries Management Authority
AGD	Attorney-General's Department
AGVET	Agricultural and Veterinary
AHMC	Australian Health Ministers' Conference
AHWMC	Australian Health Workforce Ministerial Council
ANZFRMC	Australian and New Zealand Food Regulation Ministerial Council
APRA	Australian Prudential Regulation Authority
APS150	Australian Prudential Standard
ARS150	Australian Report Standard
ASIC	Australian Securities and Investments Commission
ATC	Australian Transport Council
AUASB	Auditing and Assurance Standards Board
BCC	Business Cost Calculator
COAG	Council of Australian Governments
COAG Guide	COAG Best Practice Regulation: A Guide for Ministerial Councils and National Standard Setting Bodies
Customs	Australian Customs and Border Protection Service
DAFF	Department of Agriculture, Fisheries and Forestry
DBCDE	Department of Broadband, Communications and the Digital Economy
DCCEE	Department of Climate Change and Energy Efficiency
DEEWR	Department of Education, Employment and Workplace Relations
Defence	Department of Defence
DHA	Department of Health and Ageing
DIAC	Department of Immigration and Citizenship
DIT	Department of Infrastructure and Transport
DPR	Director Penalty Regime
DRET	Department of Resources, Energy and Tourism
DSEWPC	Department of Sustainability, Environment, Water, Population and Communities

FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs
Finance	Department of Finance and Deregulation
FSANZ	Food Standards Australia and New Zealand
The Handbook	Best Practice Regulation Handbook
MCE	Ministerial Council on Energy
MEPS	Minimum Energy Performance Standards
NBN	National Broadband Network
NSSB	National standard-setting bodies
OBPR	Office of Best Practice Regulation
OECD	Organisation for Economic Cooperation and Development
PIR	Post-implementation Review
RIA	Regulatory Impact Analysis
RIS	Regulation Impact Statement
SCGR	Select Council on Gambling Reform
Treasury	Department of Treasury

Foreword

The Office of Best Practice Regulation (OBPR) is required to report annually on compliance with the Australian Government and the Council of Australian Government (COAG) best practice regulation requirements.

While the OBPR operates within the Deregulation Group of the Department of Finance and Deregulation, the decisions it makes in relation to compliance are independent of the Department and the Minister for Finance and Deregulation.

As in previous years, this report provides information on compliance by Australian Government departments and agencies, ministerial councils and national standard-setting bodies. The report is prepared by the staff of the OBPR, in cooperation with relevant agencies, authorised by the Executive Director of the OBPR and presented to the Minister for Finance and Deregulation as a final report. As an independent assessment by the OBPR of compliance, this report is an important element of best practice regulation processes by both the Australian Government and COAG. Its publication also aids public transparency.

From 1 July 2010, the OBPR has reported compliance on its website, Best Practice Regulation Updates (ris.finance.gov.au), meaning that non-compliance is now effectively reported 'live'. Regulation impact statements and other regulatory policy material is also published on the website. The OBPR will continue to prepare an annual report on compliance with the best practice regulation requirements, however our intention is to focus on live compliance reporting via the website and to publish a less detailed annual report in the future.

The OBPR is grateful for the extensive cooperation it has received during the year from Australian Government departments and agencies, ministerial councils and national standard setting bodies.

Jason McNamara
Executive Director
Office of Best Practice Regulation
December 2011

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Developments in best practice regulation



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Developments in best practice regulation

Implementing the Government's changes to the best practice regulation process has been a priority of the Office of Best Practice Regulation (OBPR) during 2010-11. The main initiatives involved rolling out the revised Best Practice Regulation Handbook, live reporting of compliance on the best practice regulation website, enhanced consultation requirements and the preparation of one page summaries for decision makers.

The number of regulations requiring post-implementation review (PIR) has increased. Consequently, the OBPR will increase its efforts in guiding and assisting agencies undertaking PIRs.

The OBPR has continued to offer training to policy officers advising the Australian Government, ministerial councils and national standard-setting bodies (NSSB).

A number of issues are appearing in Regulation Impact Statements (RIS) across a range of regulatory proposals. The issues related to consumer preferences, the consideration of environmental issues and the treatment of risk. These issues are discussed in further detail in this chapter and provide the focus of OBPR's ongoing policy research.

1.1 Implementing revisions to the best practice regulation process

Revised Best Practice Regulation Handbook

An updated version of the Best Practice Regulation Handbook (the Handbook) was released in June 2010. The changes to the RIS requirements outlined in the updated Handbook took effect on 1 July 2010.

An important aim of the update was to reduce compliance costs to departments and agencies by making the Handbook more user-friendly and streamlining certain aspects of the system. The clarity of the wording in the Handbook was improved to assist those using it. On the basis of anecdotal feedback and evidenced by the fact that the number of enquiries regarding RIS requirements has declined significantly compared to previous years, this aim appears to have been achieved.

Live reporting through the best practice regulation website

The RIS website, Best Practice Regulation Updates (<http://ris.finance.gov.au/>) (the website) is a 'blog-style' facility for publishing RISs and related best practice regulation material. The website started operation from 1 July 2010 but due to the caretaker arrangements preceding the 2010 federal election, full operation was delayed until October of that year. Since then the OBPR has published both Australian Government and Council of Australian Governments (COAG) RISs on the site as soon as practicable after public announcement of the relevant decision, or in the case of COAG consultation RISs, after their release by the policy-making body. Prime Minister's exemptions and non-compliance are also made public on the website as soon as practicable after a regulatory decision is announced.

The purpose of the website is to make all RISs assessed as adequate by the OBPR available in one location, thereby improving transparency surrounding regulatory decision making. The primary target audience is the regulated business and not-for-profit community. Anecdotally, the site has also become a resource for regulation policy makers who use it to identify best practice RISs when they in turn are preparing their own RIS. A usage survey is yet to be undertaken but visits to the site have increased steadily since full operation began.

As well as making RISs more accessible, the website invites stakeholder feedback through a public comment facility or blog. This is intended to help improve the quality of future RISs. Policy relevant feedback is referred to the policy maker and RIS-related feedback is used directly by the OBPR. Although it is still early days and little promotion has occurred, valuable feedback is being provided through this facility.

Consultation on Australian Government RISs

The OBPR has made a determined effort to improve the transparency and accountability of the Australian Government RIS consultation processes by ensuring agencies comply with best practice consultation principles. This is achieved by giving agencies direct feedback on the quality of consultation in each RIS and by ensuring confidential consultation processes are only used in circumstances where transparency would clearly compromise the public interest.

RIS one page summaries

A one page summary of the RIS must be prepared for decision makers. The OBPR will prepare the summary for proposals considered by the Cabinet or a committee of the Cabinet. The OBPR prepared 13 such summaries in 2010-11. For other proposals, the sponsoring agency will prepare the summary before it is approved by the OBPR. In such cases the one page summary needs to be approved by the OBPR as a fair, balanced and accurate summary of the adequate RIS.

The summary includes a brief description of the main points of the RIS, including the impacts of the preferred option, the affected stakeholders and the alternative options. It also assesses the extent to which the preferred option reduces business compliance costs and improves productivity growth. It is not necessary to publish the one page summary with the RIS and generally the briefing is a Cabinet-in-Confidence document.

Feedback to the OBPR indicates that one page summaries are particularly useful for decision makers needing to synthesise a large volume of material before reaching a decision.

1.2 Post-implementation reviews

Australian Government agencies are required to undertake a PIR of regulation that did not have a RIS, unless the impact was of a minor or machinery nature and the regulation did not substantially alter previous arrangements. The absence of a RIS may be because the RIS was not adequate or the Prime Minister granted an exemption for exceptional circumstances. The PIR is required to commence within one to two years of the implementation of the regulation.

A PIR will be very similar in substance to a RIS. The main difference is that the impact analysis for a PIR should include information about the actual impacts of the regulation, rather than just estimates. Stakeholder consultation should be viewed as essential and will form a key part of a PIR.

The PIR should conclude with an assessment, based on the available evidence, of how effective and efficient the regulation has been in meeting its original objectives. The OBPR allows more flexibility in relation to the form of the PIR, acknowledging that regulation is already periodically reviewed in a variety of manners that may already meet the PIR requirements.

PIRs were amongst the regulatory reforms implemented in August 2006. A PIR is required to commence within one to two years of the implementation of the regulation. As a result, the first PIRs have been completed, and many of the PIRs relating to the regulatory decisions which did not have an adequate RIS in 2007-08 and 2008-09 have commenced. A complete listing of all current PIRs by portfolio is included at Chapter 5.

The number of Prime Minister's exemptions and the number of non-compliant regulations has steadily increased since the introduction of the PIR requirement. In 2007-08 there were three Prime Minister's exemptions from the RIS process and four non-compliant regulatory proposals for which PIRs were required. In 2008-09, those figures increased to six exemptions and eight non-compliant proposals, while in 2009-10, there were fewer exemptions (four) but more non-compliant proposals (12). In 2010-11, the number of PIRs which will be required has increased further to 30 (14 exemptions and 16 non-compliant proposals). Table 1.1 shows PIR numbers by source for the period 2007-08 to 2010-11.

Table 1.1 PIR numbers 2007-08 to 2010-11

Source	2007-08	2008-09	2009-10	2010-11
Compliant - Prime Minister's exemption	3	6	4	14
Non-compliant	4	8	12	16
Total	7	14	16	30

The Government's Regulatory Impact Analysis (RIA) framework is designed to ensure that regulation has efficient outcomes and does not create an unnecessary burden of "red tape" on business or the not-for-profit sector. For this reason, it is crucial that those regulatory changes which were not subject to scrutiny under the RIS requirements are subject to a PIR to evaluate the efficiency and effectiveness of the regulation. With the number of PIRs set to increase over the next few years, the OBPR will be shortly providing further written advice to agencies to guide them in preparing PIRs and will be publishing a *Guidance Note on PIRs* on the OBPR website.

1.3 Regulatory best practice training

During 2010-11 the OBPR continued to provide regulatory best practice training to departments and agencies. This training is provided as a means of increasing awareness of the best practice regulation requirements and to improve the quality of regulatory analysis.

The OBPR offers an extensive range of training programs designed to increase understanding of the Australian Government and COAG best practice regulation requirements. General RIA training gives participants an outline of the RIA process. Comprehensive RIA training provides participants with an understanding of all aspects of the RIA process, including the preparation of a RIS, and an introduction to cost benefit analysis and the Business Cost Calculator. COAG RIA training is targeted to the needs of ministerial councils and NSSBs. In addition to the formal training sessions, an important day-to-day role of OBPR officers is to provide advice and assistance to policy officers who are actively involved in regulatory activity.

During 2010-11 the OBPR focussed its training effort to address agency specific issues. This tailored training approach included holding more sessions at the agency and, where appropriate, examining RISs previously completed by the agency.

The OBPR provided training to 404 officers during 2010-11, with training provided to 133 policy officers at the OBPR and 271 officers at in-house courses tailored to specific agencies (table 1.2).

Training in 2010-11 was generally well received. At the completion of each training session participants were asked to provide feedback by way of an evaluation form. Feedback was received from 69 percent of the 133 participants with 85 percent rating the training as 'good' to 'excellent' on a four scale rating system.

Table 1.2 RIA training provided in 2010-11

Course	Course length	Courses provided	Total attendance
Comprehensive RIA training seminar	4 hours	3	43
Overview of the Australian Government RIA requirements and RIS	2 hours	5	53
Overview of COAG requirements	2 hours	2	22
Overview of COAG requirements and RIS	4 hours	1	15
Tailored courses provided externally to various departments and agencies	2-4 hours	17	271
Totals		28	404

Source: OBPR

1.4 Emerging issues

Consumer preferences

Consumer preferences and the behaviour of consumers are important attributes to take into account when considering a regulatory change. In general, policy makers assume that consumers will behave in a way that is considered to be rational and to optimise an individual's utility. In the context of a RIS, this provides an economic framework for assessing the impact on consumers and the wider community from regulatory change.

However, in practice consumer preferences vary and consumers may value goods and services differently, resulting in alternative views or objectives about what is optimal or desired by consumers. Consumer behaviour may also be influenced by a lack of information, by too much information, or by consumers not behaving in a way that is consistent with standard economic theory. This is especially the case with the greater choice and complexity of certain products and services available to consumers, for example mobile telephone or internet services. Therefore, the actual impact on consumers may differ from the impact considered most likely when a regulatory change is considered or implemented.

Recently, a number of RISs have taken into account consumer behaviour when designing regulatory options or recommending regulatory changes. For example, a RIS on minimum energy performance standards for air conditioners noted that consumers lacked the ability to interpret the available technical information in order to make optimal decisions regarding air conditioner efficiency and operating costs. The RIS concluded that there was no evidence that indicated consumers are predominantly selecting the most efficient products, even though this would be in their long term financial best interests.

The OBPR is interested in consumer preferences and how this issue is considered and applied in relevant RISs, including the impact analysis of a regulatory proposal.

Consideration of risk in regulatory reform

People's perceptions of risk can change over time and this affects their willingness to tolerate risk. Often there can be a mismatch between the level of risk people are willing to tolerate and the level of risk that may be achievable through regulation.

Although regulation is often an appropriate response to mitigate a potential risk and results in a net benefit to society, regulation can also be costly, unnecessary and inefficient with impacts on the economy and the community that are undesirable.

The relationship between risk and regulation is particularly relevant to the RIS process as it emphasises the importance of employing evidence based risk analysis when preparing a RIS. Risk analysis that addresses the potential magnitudes of unwelcomed events or results and the likelihood of their occurrence can help to determine if a risk needs to be addressed through regulation or if it is reasonable to expect businesses, individuals and the wider community to accept responsibility for managing personal risk. A case study is provided in box 1.1 where the issue of risks is integrated to the consideration of regulatory issues in a RIS on private bushfire shelter standards that was prepared in the wake of the Victorian bushfires in February 2009.

The OBPR aims to promote greater use of evidence based risk analysis by policy makers in the development of regulatory policy.

Box 1.1 Private bushfire shelters standards

Often regulation intended to reduce risk can have adverse consequences. For example, regulation designed to reduce one kind of risk can actually increase undesirable risk in other areas. Where this occurs the decision to proceed with a regulation will involve an examination of the tradeoffs between the risks being reduced and those being increased or created. An example of this ‘damned if you do, damned if you don’t’ scenario was examined in the COAG RIS: *Proposal to amend the Building Code of Australia to include requirements for private bushfire shelters*.

This RIS examined options for introducing a minimum standard for private bushfire shelters – to be used as a last resort if residents could not flee a bushfire early. The RIS explains how fire safety experts have considerable concerns about whether shelters (even if they are built to a high standard) provide a high guarantee of safety and whether having a government endorsed standard could alter a resident’s decision to flee a bushfire early and instead rely upon a shelter – potentially increasing their chances of death. On the other hand the RIS discussed whether, in the absence of a government standard, residents may build their own poorly constructed shelters therefore increasing the chance of death if the shelters were ever relied upon.

As stated in the RIS:

The analysis of the options shows that even with a well built shelter the chance of survival may still be low, due to the limited ability for residents to use them properly. Additionally the analysis describes the potential for shelters in some circumstances to be relied upon in place of more effective strategies to survive a bushfire. This problem is theoretically exacerbated through the provision of a government endorsed standard.

In introducing any regulation to the market for private bushfire shelters, this potential to affect residents’ perceptions of the risk of bushfire needs to be acknowledged. There is a risk that attitudes and preferences towards other risk reducing strategies (due to the presence of shelters) such as reducing fuel loads, preparing houses against bushfire assault and making decisions about when to leave may also be altered. This has the theoretical potential to increase the number of people who would be categorised as having an ineffective survival strategy.

The decision to implement mandatory standards for voluntarily constructed shelters is a judgement on the trade-off between whether the lives saved due to the avoidance of deaths in poorly constructed fire shelters is greater than the lives lost from the inefficient decision to stay and rely on a government-endorsed shelter.

In the end the RIS concluded that the risk from people dying from poorly constructed shelters was greater than the risk of people dying from the incorrect decision to rely upon a government endorsed shelter, when they really should have fled earlier. As stated in RIS:

On the basis that there is not great certainty over the extent government endorsement of shelters increases the number of stayers and the more certain knowledge that the chance of survival in a poorly constructed shelter is low, the provision of a minimum standard can be argued to be a less risky option than the option which discourages the use of shelters.

Best practice regulation and the environment

Assessing RISs that relate to regulatory proposals to protect the environment forms a large, and increasing, part of the OBPR's workload. In recent years the OBPR has noticed that an increasing proportion of the RISs it assesses have an environmental element and we expect this trend to continue. However, putting a value on environmental impacts is difficult. For example, unlike business compliance costs or product standards, the value that the community places on environmental issues is not readily observable; indeed the lack of an obvious 'price' for the environment contributes to the current level of environmental degradation.

However, this is beginning to change. Over the last 15-20 years, a sophisticated body of economic literature has developed looking at the value that the community places on the environment. There is also a growing realisation by government that assessing the value that the community places on the environment, and therefore the benefits from protecting the environment, is an important part of policy analysis. This is reflected in the Australian Government's draft Biodiversity Policy, which has as one of its principles that 'biodiversity be valued according to its real worth'.

Key regulatory proposals considered in 2010-11 that had a significant environmental element include the regulation of agricultural and veterinary chemicals, fishing area closure and monitoring arrangements and revised renewable energy regulations that brought forward the reductions in the annual solar credits multiplier.

Consistent with this trend the OBPR, together with relevant government agencies, is developing guidance on how best to incorporate environmental valuation into RIA. In this way, environmental policy decisions will be guided by the best available evidence.

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Compliance trends



two

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Compliance trends

Both the Australian Government and COAG have best practice regulation requirements in place to ensure that regulation is *effective* in addressing an identified problem, and *efficient* in terms of maximising the benefits to the community, taking account of the costs.

This chapter reports in aggregate on compliance by Australian Government departments and agencies and by COAG, ministerial councils and NSSBs with the best practice regulation requirements.

2.1 Role of the Office of Best Practice Regulation

The OBPR administers the Australian Government and COAG best practice regulation requirements. It has a dual role of assisting departments and agencies to meet the requirements and improve the quality of regulatory analysis, and in monitoring and reporting on compliance with the requirements.

In assessing the quality of the regulatory impact analysis, the OBPR does not endorse or support particular regulatory options or outcomes. Rather, its role is to assess whether good regulatory policy development has been followed, in accordance with the processes and requirements outlined in the Handbook or in the COAG *Best Practice Regulation: A Guide for Ministerial Councils and National Standard Setting Bodies* (COAG Guide).

The OBPR monitors government decision-making processes and seeks to ensure that all regulatory decisions are supported by an appropriate level of impact analysis. Under the revised best practice regulation arrangements that have applied from 1 July 2010 compliance for individual proposals is now reported on the OBPR website as soon as practicable after the decision is announced.

2.2 Australian Government's best practice regulation requirements

This publication reports on department and agency compliance with the best practice regulation requirements in 2010-11 and therefore primarily refers to the RIS requirements that commenced on 1 July 2010. However, the 2010-11 Report also includes outstanding regulatory issues assessed under the previous regulatory compliance regime in order to provide the full regulatory compliance picture. Future Australian Government and COAG RIS compliance details will be reported live on the OBPR website with financial year summaries also published online for archival purposes.

The OBPR, in its role of administering the Government's best practice regulation process and reporting on compliance with the requirements, assesses whether:

- a RIS was prepared to inform the decision maker at the policy approval stage and whether the analysis contained in the RIS satisfies the Government's adequacy criteria;
- the RIS prepared at the decision-making stage was published on the OBPR's website, tabled in the Parliament or otherwise made public (transparency stage);

- ‘exceptional circumstances’ were granted by the Prime Minister at the decision-making stage, and if an adequate RIS was not prepared, a PIR is required to commence within one to two years of the implementation date, and
- an Annual Regulatory Plan was published.

To be assessed as adequate, a RIS must contain a degree of detail and depth of analysis that is commensurate with the size of the potential impacts of the proposal. Subject to this overriding principle, the OBPR uses the criteria from the Handbook to assess whether each element of a RIS is adequate (the Handbook can be viewed on the OBPR website).

2.3 Australian Government compliance

Compliance with the Australian Government best practice regulation requirements is measured by compliance with the requirement to prepare and publish an adequate RIS, where the Prime Minister granted an exemption, where an adequate PIR was prepared (if required) and by publication of Annual Regulatory Plans.

Aggregate compliance

For regulatory proposals announced in 2010-11, of the 63 RISs required at the decision-making stage 47 RISs were prepared and assessed as adequate, giving a compliance rate of 75 per cent. The Prime Minister granted exceptional circumstances exemptions in 14 cases. A compliance rate of 84 per cent was achieved in 2009-10 (see table 2.1).

Table 2.1 RIS compliance 2007-08 to 2010-11

Stage	Type of RIA	2007-08		2008-09		2009-10		2010-11	
		ratio ^a	%	ratio ^a	%	ratio ^a	%	ratio ^a	%
Decision-making stage	– RISs	43/48	90	45/53	85	63/75	84	47/63	75
	– BCC reports	7/7	100	4/4	100	2/2	100	n/a ^c	
Transparency stage ^b	– RISs	41/45	91	41/49	84	59/74	80	45/63	71
	– BCC reports	6/7	86	4/4	100	1/2	50	n/a ^c	
Exceptional circumstances		3		6		4		14	

^a Ratio of adequate RISs and Business Cost Calculator (BCC) reports as a proportion of the total number of RISs and BCC reports required.

^b The number of RISs required at the transparency stage can be lower than at the decision making stage because some regulations were subject to multiple decision making processes. For example, RISs are required for treaties at two separate decision-making stages.

^c Under the best practice regulation requirements that apply from 1 July 2010, a RIS is required rather than a BCC report.

Source: OBPR

Exceptional circumstances

The Prime Minister granted ‘exceptional circumstances’ from the RIS requirements for 14 regulatory proposals. Although a RIS was not prepared for these matters the relevant departments and agencies have complied with the requirements but will need to commence PIRs within one to two years of the regulations being implemented (see table 2.2).

Table 2.2 Proposals granted Prime Minister's 'exceptional circumstances' 2010-11

Proposal	Agency
National Broadband Network implementation plan	DBCDE
Changes to the Anti-siphoning Scheme	DBCDE
Woomera protected area	Defence/DRET
Changes to corporate bond market	Treasury
Banning home loan exit fees	Treasury
Allow Australian ADIs to issue covered bonds	Treasury
Response to Super System (Cooper) Review	Treasury
Australia's Future Tax System Review - Abolish the entrepreneurs tax offset	Treasury
Australia's Future Tax System Review - Fringe benefit tax reform of the car fringe benefit rule	Treasury
Australia's Future Tax System Review - Expanding the definition of geothermal energy	Treasury
Australia's Future Tax System Review - Minerals Resource Rent Tax	Treasury
Australia's Future Tax System Review - Not-for-profit – better targeting not-for-profit tax concessions	Treasury
Australia's Future Tax System Review - Not-for-profit – introducing a statutory definition of 'charity'	Treasury
Australia's Future Tax System Review - Small business depreciation – accelerated initial deduction for motor vehicles	Treasury

Source: OBPR

Non-compliance

In the absence of 'exceptional circumstances' being granted by the Prime Minister, a regulatory proposal with more than a minor or machinery impact on business or the not-for-profit sector should not proceed to Cabinet (or another decision maker) unless it has complied with the RIS requirements. A PIR is required when a proposal proceeds to the decision maker without an adequate RIS.

In 2010-11, 16 proposals proceeded to the decision maker without the support of an adequate RIS (see table 2.3). Also included in table 2.3, are a further two proposals which were compliant at the decision-making stage but non-compliant at the transparency stage. Further details of RIS compliance by portfolio can be found at Chapter 3.

Table 2.3 Australian Government non-compliant proposals 2010-11

Proposal	Agency	RIS Status
Change to disclosure requirements around the transfer of financial assets	AASB	A RIS was not prepared for the decision
Telecommunications Service Provider Determination 2010	ACMA	A RIS was not prepared for the decision
Management arrangements for Gillnet, Hook and Trap sector of the Southern and Eastern Scalefish and Shark Fishery to protect sea lions	AFMA	A RIS was not prepared for the decision
Suspension of live cattle exports to Indonesia	DAFF	A RIS was not prepared for the decision
Budget - Renewable Energy Target – reduction of the solar credits multiplier.	DCCEE	A RIS was not prepared for the decision
Budget - Second decision to reduce the solar credits multiplier	DCCEE	A RIS was not prepared for the decision
Maritime Transport and Offshore Facilities Security Amendment Regulations 2010 (No.1)	DIT	A RIS was not prepared for the decision
Extension of tripartite deeds	DIT	A RIS was not prepared for the decision
Budget - Enhancements from the review of the Australian independent screen production sector	PM&C	A RIS was not prepared for the decision
Budget - Farm Management Deposits	Treasury	A RIS was not prepared for the decision
Budget - Taxation of Financial Arrangements – tax hedging rules	Treasury	A RIS was not prepared for the decision
Future of financial advice - Requirement for advisers to renew client agreement to ongoing advice fees every two years (opt-in regime)	Treasury	A RIS was prepared for the reform but was not assessed as adequate for the decision-making stage
Future of financial advice - Ban on soft dollar benefits over \$300 per benefit	Treasury	A RIS was prepared for the reform but was not assessed as adequate for the decision-making stage
Future of financial advice - Access to scaled financial advice	Treasury	A RIS was prepared for the reform but was not assessed as adequate for the decision-making stage

Table 2.3 continued

Proposal	Agency	RIS Status
Future of financial advice - Limited carve-out for basic products from the ban on certain conflicted remuneration structures and best interests duty	Treasury	A RIS was prepared for the reform but was not assessed as adequate for the decision-making stage
Future of financial advice - Prospective ban on up-front and trailing commissions and like payments for both individual and group risk insurance within superannuation	Treasury	A RIS was prepared for the reform but was not assessed as adequate for the decision-making stage
Registration of AGVET chemicals	DAFF	An adequate RIS was prepared but did not meet the publication requirement
Aviation Transport Security Amendments Regulation 2010 (No.2)	DIT	An adequate RIS was prepared but did not meet the publication requirement

Source: OBPR

Publication of Annual Regulatory Plans

Annual Regulatory Plans are designed to provide business and the not-for-profit sector with information about planned changes to Australian Government regulation and make it easier for stakeholders to take part in the development of regulation that is likely to affect them. These plans contain information about proposed regulatory activity, including a description of the issue, information about the consultation strategy and an expected timetable.

Annual Regulatory Plans are published on the website of each agency and the OBPR also publishes the plans on its website.

In 2010-11 all departments and agencies complied with the Annual Regulatory Plan requirements.

2.4 COAG best practice regulation requirements

Regulation making also occurs at a national or inter-jurisdictional level among some 40 ministerial councils and NSSBs. In 1995, COAG agreed on a set of principles and guidelines for such activities. In 2007, COAG strengthened these requirements and released the COAG Guide. The major element of the COAG Guide is the preparation of RISs for those national regulatory decisions that:

‘... would encourage or force business or individuals to pursue their interests in ways they would not otherwise have done.’ (COAG Guide, p.3).

COAG requires a RIS to be prepared at two stages: the first for community consultation with parties likely to be affected by the regulatory proposal; and the second or final RIS, reflecting feedback from the community, to assist the decision maker. The final RIS should be made public as soon as possible after the decision is announced. At each stage, the OBPR is required by COAG to assess whether:

- the COAG RIS guidelines have been followed;
- the type and level of analysis in the RIS is adequate and commensurate with the potential economic and social impacts of the proposal; and
- the RIS demonstrates that the preferred option results in a clear net benefit to the community.

2.5 COAG compliance

The OBPR identified ten proposals that required the preparation of a RIS under the COAG requirements in 2010-11 (see Chapter 4 for more detail).

At the consultation stage, eight adequate RISs were prepared resulting in a compliance rate of 89 per cent — compared with 71 per cent in 2009-10 (see table 2.4). At the decision making stage, nine adequate RISs were prepared resulting in an overall compliance rate of 90 per cent — compared with 78 per cent in 2009-10. As table 2.4 indicates, the number of COAG RISs in 2010-11 is significantly lower than in previous years, due to elections in some jurisdictions. Further commentary on these proposals is provided in Chapter 4.

Table 2.4 Compliance with the COAG RIS requirements, 2005-06 to 2010-11

Stage	2005-06 ^a		2006-07 ^a		2007-08 ^a		2008-09 ^b		2009-10		2010-11	
	ratio	%	ratio	%	ratio	%	ratio	%	ratio	%	ratio	%
Consultation stage	30/34	88	29/33	88	26/27	96	22/25	88	29/41	71	8/9	89
Decision-making stage	26/34	76	31/33	94	25/27	93	24/25	96	32/41	78	9/10	90

^a Reported on RISs required for decisions made for the period 1 April to 31 March.

^b Transitional period reports on RISs required for decisions made during the period 1 April 2008 to 30 June 2009.

Source: OBPR

three

Australian Government compliance by portfolio



three

three

Australian Government compliance by portfolio

Compliance with the Australian Government's best practice regulation requirements for proposals announced during 2010-11 is reported in this Chapter by portfolio.

In 2010-11, 21 departments or agencies were required to prepare RISs. Of these, 14 departments and agencies complied with the requirements and seven did not comply in full. Included in these figures were two joint proposals for which RISs were required, both of which were compliant.

The OBPR conducts a comprehensive compliance checking process whereby all regulatory proposals that have been announced, made or tabled (via ComLaw or agency websites) are examined to ensure that the regulation-making requirements were met. Departments and agencies assisted the OBPR with this process by providing information twice yearly on their compliance with the requirements. Departments and agencies are invited to comment on the OBPR's assessment of their compliance results prior to the results being published in this report.

As noted earlier, a RIS is mandatory for all decisions by the Australian Government and its agencies that are likely to have a regulatory impact on business or the not-for-profit sector, unless that impact is minor or machinery in nature and does not substantially alter existing arrangements. OBPR's compliance assessment and the RIS are published on OBPR's website as soon as practicable after the announcement. The RIS is also required to be tabled with the explanatory material in the Parliament.

Compliance with the requirements at the decision-making stage for each department and agency is illustrated in table 3.1. Detailed compliance results by department and agency follows.

Table 3.1 RIA compliance by department or agency 2010-11 (decision-making stage)

Department/ Agency	Regulation Impact Statements		Exceptional circumstances
	Compliant	Non-compliant	
Department of Agriculture, Fisheries and Forestry	2	2	
Attorney-General's Department	2		
Australian Accounting Standards Board		1	
Australian Communications and Media Authority	3	1	
Australian Competition and Consumer Commission	2		
Australian Customs and Border Protection Service	1		
Australian Prudential Regulation Authority	2		
Australian Securities and Investments Commission	2		
Department of Broadband, Communications and the Digital Economy	5		2
Civil Aviation Safety Authority	1		
Department of Climate Change and Energy Efficiency		2	
Department of Education, Employment and Workplace Relations	2		
Department of Families, Housing, Community Services and Indigenous Affairs	1		
Department of Health and Ageing	2		
Department of Infrastructure and Transport	4	2	
Department of Innovation, Industry, Science and Research	3		
Department of the Prime Minister and Cabinet		1	
Department of Resources, Energy and Tourism	2		
Department of Sustainability, Environment, Water, Population and Communities	1		
The Treasury	11	7	11
Department of Defence/ Department of Resources, Energy and Tourism			1
Department of Education, Employment and Workplace Relations / Department of Infrastructure and Transport	1		
Total	47	16	14

3.1 Annual Regulatory Plans

At the beginning of 2010-11, departments and agencies responsible for regulatory changes that may have a significant impact on business were required to prepare an Annual Regulatory Plan and publish it on their website. In response to the *OECD 2009 Review of Regulatory Reform: Australia*, the Government has decided to strengthen the requirement for agencies to demonstrate that effective consultation has been undertaken for a RIS to be assessed as compliant. Therefore, a consultation plan must be developed and included in the Annual Regulatory Plan of a department or agency. The following departments and agencies published an Annual Regulatory Plan for 2010-11:

- Attorney-General's Department
- Auditing and Assurance Standards Board
- Australian Accounting Standards Board
- Australian Communications and Media Authority
- Australian Competition and Consumer Commission and Australian Energy Regulator
- Australian Customs Service
- Australian Maritime Safety Authority
- Australian Prudential Regulation Authority
- Australian Radiation Protection and Nuclear Safety Agency
- Australian Safeguards and Non-Proliferation Office
- Australian Securities and Investments Commission
- Civil Aviation Safety Authority
- Department Agriculture, Fisheries and Forestry
- Department of Broadband, Communications and the Digital Economy
- Department of Climate Change and Energy Efficiency
- Department of Education, Employment and Workplace Relations
- Department of Families, Housing, Community Services and Indigenous Affairs
- Department of Finance and Deregulation
- Department of Foreign Affairs and Trade
- Department of Health and Ageing
- Department of Immigration and Citizenship
- Department of Infrastructure and Transport
- Department of Innovation, Industry, Science and Research
- Department of Resources, Energy and Tourism
- Department of Prime Minister and Cabinet
- Department of Sustainability, Environment, Water, Population and Communities
- Department of Veterans' Affairs
- Great Barrier Reef Marine Park Authority
- Office of Renewable Energy Regulator
- Private Health Insurance Administration Council
- Reserve Bank of Australia
- Department of the Treasury

3.2 Detailed compliance results by portfolio

3.2.1 Agriculture, Fisheries and Forestry

Title of regulatory proposal			
<i>Description of regulatory proposal</i>	RIS adequate	RIS published	PIR required
Ginger industry research and development levy			
<i>Introduces a new statutory research and development levy on ginger payable to the Rural Industries Research and Development Corporation</i>	Yes	Yes	No
Better regulation of agricultural and veterinary chemicals			
<i>Reforms include implementing a public risk framework for the assessment of chemicals, establishing time limits for the regulator to complete assessments and introducing a chemical re-registration process</i>	Yes	No	No
Suspension of live cattle exports to Indonesia			
<i>Suspends the export of live cattle to Indonesia until new safeguards are established</i>	No	No	Yes
Fishing area closure and revised monitoring arrangements (AFMA)			
<i>Changes to management arrangements for the gillnet, hook and trap sector of the southern and eastern scalefish and shark fishery, including closure of fishing areas</i>	No	No	Yes

Within the Agriculture, Fisheries and Forestry portfolio, the Department of Agriculture, Fisheries and Forestry (DAFF) and the Australian Fisheries Management Authority (AFMA) were required to undertake regulatory impact analysis in 2010-11.

DAFF did not comply in full with the Australian Government's best practice regulation requirements in 2010-11. DAFF was responsible for three proposals for which RISs were required at the decision making stage.

The Department complied in full with the best practice regulation requirements for the ginger industry research and development levy.

DAFF complied with the best practice regulation requirements at the decision-making stage, but not at the transparency stage, for the better regulation of agricultural and veterinary chemicals proposal. The RIS was not published as soon as practicable after the announcement.

An adequate RIS was not prepared for the decision-making stage for the suspension of live cattle exports to Indonesia announced on 8 June 2011. A post-implementation review is required to commence within one to two years of the implementation of a non-compliant regulatory proposal.

AFMA did not prepare an adequate RIS for changes to the management arrangements for the gillnet, hook and trap sector of the southern and eastern scalefish and shark fishery, including closure of certain fishing areas. A post-implementation review will be required by June 2013 for this proposal.

3.2.2 Attorney-General's Department

Title of regulatory proposal			
<i>Description of regulatory proposal</i>	RIS adequate	RIS published	PIR required
Fee for registration as a marriage celebrant			
<i>Imposition of a cost recovery fee on marriage celebrants to contribute to the administration of the program</i>	Yes	Yes	No
Combating the financing of people smuggling and other measures (alternative remittance dealers)			
<i>Strengthens the regulation of the remittance dealers sector, including more stringent registration requirements and requiring remittance networks to undertake some compliance activities on behalf of their agents</i>	Yes	Yes	No

The Attorney-General's Department (AGD) complied in full with the best practice requirements in 2010-11. AGD prepared adequate RISs for two proposals:

- Fee for registration as a marriage celebrant; and
- Combating the financing of people smuggling and other measures (alternative remittance dealers).

Under previous best practice regulation requirements in 2009-10, AGD prepared a business cost calculator report on proposed changes regarding the remuneration of bankruptcy trustees, which the OBPR assessed as adequate. The subsequent regulations, the Bankruptcy Amendment Regulations 2010, were tabled in 2010-11.

3.2.3 Australian Accounting Standards Board

Title of regulatory proposal			
<i>Description of regulatory proposal</i>	RIS adequate	RIS published	PIR required
Amendments to Australian Accounting Standards AASB 1 & 7			
<i>Amendments to disclosure requirements around transfers of financial assets</i>	No	No	Yes

The Australian Accounting Standards Board (AASB) did not comply in full with the Australian Government's best practice regulation requirements in 2010-11.

An adequate RIS was not prepared for the decision-making stage for amendments to Australian Accounting Standards AASB 1 & 7. The AASB is required to commence a post-implementation review of this proposal within one to two years of the date of implementation.

3.2.4 Australian Communications and Media Authority

Title of regulatory proposal			
Description of regulatory proposal	RIS adequate	RIS published	PIR required
Telecommunications Service Provider (Mobile Premium Services) Determination 2010 (No. 2)			
<i>Empowers ACMA to issue a temporary Do Not Bill order to stop suspect content providers from charging customers while it investigates a service</i>	No	No	Yes
Telecommunications Numbering Plan Variation 2011 (No. 1)			
<i>Updates the rules for recent changes in technology, most notably the consumer uptake of Voice over Internet Protocol services</i>	Yes	Yes	No
Future arrangements for the 2.5GHz radiofrequency spectrum band and long term arrangements for electronic news gathering			
<i>Enables sale of new spectrum licences in the 2.5GHz band to help address the increasing demand for mobile broadband and to convert apparatus licences currently held by free-to-air commercial television broadcasters for electronic news gathering</i>	Yes	Yes	No
Clearing the Digital Dividend – Planning principles for restacking digital television channels			
<i>Completes switchover to digital television, clearing digital television services from the identified digital services band and configuring and allocating the cleared spectrum to new users</i>	Yes	Yes	No

The Australian Communications and Media Authority (ACMA) did not comply in full with the Australian Government's best practice regulation requirements in 2010-11.

The ACMA complied in full with the best practice regulation requirements for the following proposals:

- Telecommunications Numbering Plan Variation 2011 (No.1), which updates the rules for recent changes in technology, most notably the consumer uptake of *Voice over Internet Protocol* services;
- Future arrangements for the 2.5GHz radiofrequency spectrum band and long term arrangements for electronic news gathering; and
- Clearing the digital dividend – planning principles for restacking digital television channels.

An adequate RIS was not prepared for the decision-making stage for the following proposal:

- Telecommunications Service Provider (Mobile Premium Services) Determination 2012 (No. 2), which enables temporary *Do Not Bill* orders to stop suspect content providers from charging customers while the ACMA investigates a service.

The ACMA is required to commence a post-implementation review of this proposal within one to two years of the date of implementation.

3.2.5 Australian Competition and Consumer Commission

Title of regulatory proposal			
<i>Description of regulatory proposal</i>	RIS adequate	RIS published	PIR required
Trade Practices (Consumer Product Safety Standard) (Motor Vehicle Recovery Straps) Regulations 2010			
<i>Introduces a product safety standard for motor vehicle recovery straps</i>	Yes	Yes	No
Trade Practices Act 1974 – Consumer Protection Notice No. 28 of 2010 – Consumer Product Safety Standard: Moveable Soccer Goals			
<i>Introduces a product safety standard for moveable soccer goals</i>	Yes	Yes	No

The Australian Competition and Consumer Commission complied in full with the best practice requirements in 2010-11. The ACCC prepared adequate RISs for two proposals:

- Trade Practices (Consumer Product Safety Standard) (Motor Vehicle Recovery Straps) Regulations 2010; and
- *Trade Practices Act 1974* – Consumer Protection Notice No. 28 of 2010 – Consumer Product Safety Standard: Moveable Soccer Goals.

3.2.6 Australian Customs and Border Protection Service

Title of regulatory proposal			
<i>Description of regulatory proposal</i>	RIS adequate	RIS published	PIR required
Changes to Australia's anti-dumping and countervailing system			
<i>The amendments improve timeliness of decisions, increase compliance with the anti-dumping regime, and make accessing the system easier for smaller businesses</i>	Yes	Yes	No

The Australian Customs and Border Protection Service (Customs) complied in full with the best practice requirements in 2010-11. Customs prepared an adequate RIS prior to announcing the Australian Government's response to the Productivity Commission report on Australia's anti-dumping and countervailing system.

3.2.7 Australian Prudential Regulation Authority

Title of regulatory proposal			
<i>Description of regulatory proposal</i>	RIS adequate	RIS published	PIR required
Banking (prudential standard) determination no. 3 of 2011			
<i>Revocation of Basel II transition requirements APS 150 and ARS 150</i>	Yes	Yes	No
Enhancements to Basel II framework			
<i>Higher capital requirements, higher risk weights for various exposures and requirements in relation to valuation practices for off-balance sheet activities</i>	Yes	Yes	No

The Australian Prudential Regulation Authority (APRA) complied in full with the best practice requirements in 2010-11. APRA prepared adequate RISs for two proposals:

- Revocation of Basel II transition requirements APS 150 and ARS 150; and
- Enhancements to the Basel II framework in Australia.

3.2.8 Australian Securities and Investments Commission

Title of regulatory proposal			
<i>Description of regulatory proposal</i>	RIS adequate	RIS published	PIR required
Regulatory Guide 220 – Early Termination Fees for Residential Loans			
<i>Provides guidance on unconscionable conduct in relation to early termination fees for residential loans</i>	Yes	Yes	No
ASIC Market Integrity Rules (Competition in Exchange Markets) 2011			
<i>Implements market integrity rules to provide the framework for the introduction of competition in equity exchange markets</i>	Yes	Yes	No

The Australian Securities and Investments Commission (ASIC) complied in full with the best practice requirements in 2010-11. ASIC prepared adequate RISs for the following proposals:

- Regulatory Guide 220 – Early Termination Fees for Residential Loans; and
- ASIC Market Integrity Rules (Competition in Exchange Markets) 2011.

3.2.9 Broadband, Communications and the Digital Economy

Title of regulatory proposal	RIS adequate	RIS published	PIR required
Changes to the anti-siphoning system			
<i>Changes that will affect television coverage of key sporting events in Australia</i>	E/c	..	Yes
Government response to NBN implementation review			
<i>Decisions in response to the NBN implementation review</i>	E/c	..	Yes
Government response to media access review			
<i>Measures to improve access to electronic media for people with hearing and vision impairment</i>	Yes	Yes	No
National Broadband Network Companies Bill 2010 & Telecommunications Legislation Amendment (National Broadband Network Measures – Access Arrangements) Bill 2010			
<i>Defines the entities to which NBN Co Limited's wholesale-only obligations apply</i>	Yes	Yes	No
<i>Regulates access to NBN Co Limited's services (standard access obligations) and the equivalence obligation imposed on NBN Co Limited</i>	Yes	Yes	No
<i>Provides greater legal certainty regarding allowable and prohibited discrimination</i>	Yes	Yes	No
<i>Facilitates the provision of superfast broadband</i>	Yes	Yes	No

E/c Exceptional circumstances were granted by the Prime Minister

.. Not applicable

The Department of Broadband, Communications and the Digital Economy (DBCDE) complied in full with the best practice requirements in 2010-11. DBCDE prepared adequate RISs for five proposals:

- changes to improve access to electronic media for people with hearing and vision impairment as the result of a media access review; and
- the National Broadband Network Companies Bill 2010, which:
 - defines the entities to which NBN Co Limited's wholesale-only obligations apply;
 - regulates access to NBN Co Limited's services (standard access obligations) and imposes the equivalence obligation on NBN Co Limited;
 - provides greater legal certainty regarding allowable and prohibited discrimination; and
 - introduces measures to facilitate the provision of super-fast broadband.

During 2010-11 Prime Minister's exceptional circumstances exemptions were granted for two proposals:

- changes to the anti-siphoning system that will affect television coverage of key sporting events in Australia; and
- decisions in response to the National Broadband Network (NBN) implementation review.

Post-implementation reviews are required for these proposals.

3.2.10 Civil Aviation Safety Authority

Title of regulatory proposal			
Description of regulatory proposal	RIS adequate	RIS published	PIR required
Civil Aviation and Civil Aviation Safety Amendment Regulations 2010 (No.1) [CASA]			
<i>Introduces new aircraft maintenance regulations into the Civil Aviation Safety Regulations 1998 and Civil Aviation Regulations 1988</i>	Yes	Yes	No

The Civil Aviation Safety Authority (CASA) complied in full with the best practice requirements in 2010-11. CASA prepared an adequate RIS for one proposal which introduced a suite of new aircraft maintenance regulations.

3.2.11 Climate Change and Energy Efficiency

Title of regulatory proposal			
Description of regulatory proposal	RIS adequate	RIS published	PIR required
Renewable Energy (Electricity) Amendment Regulations 2010 (No. 8)			
<i>Bringing forward of the scheduled annual reductions in the Solar Credits multiplier</i>	No	No	Yes
Renewable Energy (Electricity) Amendment Regulations 2011 (No. 2)			
<i>Bringing further forward the scheduled annual reductions in the Solar Credits multiplier</i>	No	No	Yes

The Department of Climate Change and Energy Efficiency did not comply in full with the Australian Government's best practice regulation requirements in 2010-11. The Department was responsible for two proposals for which RISs were required but not prepared:

- the decision to bring forward the scheduled annual reductions in the Solar Credits multiplier, which was announced on 1 December 2010 and implemented through the *Renewable Energy (Electricity) Amendment Regulations 2010 (No. 8)* made on 8 December 2010; and
- the decision to bring further forward the scheduled annual reductions in the Solar Credits multiplier, which was announced on 5 May 2011 and implemented through the *Renewable Energy (Electricity) Amendment Regulations 2011 (No. 2)* made on 16 June 2011.

The Department is required to commence a post-implementation review for these decisions by December 2012. The OBPR has approved the Department's request to conduct this review as part of the statutory review of the *Renewable Energy (Electricity) Act 2000* and the *Renewable Energy (Electricity) Regulations 2001*. The review will commence in mid-2012.

3.2.12 Education, Employment and Workplace Relations

Title of regulatory proposal			
Description of regulatory proposal	RIS adequate	RIS published	PIR required
Enhanced scrutiny of the financial viability of large long day care providers			
<i>Imposes financial reporting requirements on large operators of long day care centres</i>	Yes	Yes	No
Fortnightly payment of child care rebate			
<i>Implements the election commitment to allow families to receive child care rebate payments fortnightly, and allows payment via child care services as a fee reduction</i>	Yes	Yes	No

The Department of Education, Employment and Workplace Relations (DEEWR) complied in full with the best practice requirements in 2010-11. DEEWR prepared adequate RISs for two proposals:

- Enhanced scrutiny of the financial viability of large long day care providers; and
- Fortnightly payment of child care rebate.

3.2.13 Families, Housing, Community Services and Indigenous Affairs

Title of regulatory proposal			
Description of regulatory proposal	RIS adequate	RIS published	PIR required
Reform of the Equal Opportunity for Women in the Workplace Act 1999			
<i>Introduces a suite of reforms to the Equal Opportunity for Women in the Workplace Act and Agency, following the Government's 2010 election commitment to retain and improve the Act and Agency</i>	Yes	Yes	No

The Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) complied in full with the best practice requirements in 2010-11. FaHCSIA prepared an adequate RIS for the reform of the *Equal Opportunity for Women in the Workplace Act 1999*.

3.2.14 Health and Ageing

Title of regulatory proposal			
Description of regulatory proposal	RIS adequate	RIS published	PIR required
Tobacco Advertising Prohibition Amendment Bill 2010			
<i>Regulation of advertising of tobacco products over the internet or by other electronic means</i>	Yes	Yes	No
Aged Care Amendment Bill 2011			
<i>Strengthened consumer protection for accommodation bonds paid to aged care services</i>	Yes	Yes	No

The Department of Health and Ageing (DHA) complied in full with the best practice requirements in 2010-11. DHA prepared adequate RISs for two proposals:

- regulation of advertising of tobacco products over the internet or by other electronic means; and
- strengthened consumer protection for accommodation bonds paid to aged care services.

The decision to regulate advertising of tobacco products over the internet was decided prior to 1 July 2010. Under the previous best practice regulation requirements that applied at the time, compliance is reported when the regulation is introduced which occurred in 2010-11.

3.2.15 Infrastructure and Transport

Title of regulatory proposal	RIS adequate	RIS published	PIR required
<i>Description of regulatory proposal</i>			
Aviation Transport Security Amendment Regulations 2010 (No.2)			
<i>Creates a maximum weight of an aircraft as the primary determinant for an aircraft to be a cleared for takeoff</i>	Yes	No	No
Aviation Transport Security Amendment Regulations 2010 (No.5)			
<i>Enhances the Aviation Security Identification Card Scheme</i>	Yes	Yes	No
Maritime Transport and Offshore Facilities Security Amendment Regulations 2010 (No.1)			
<i>Enhances the Maritime Security Identification Card Scheme</i>	No	No	Yes
Minor Amendments to Vehicle Standard (Australian) Design Rule 42/04 – General Safety Requirements) 2005			
<i>Amendments to Vehicle Standards to accommodate environmentally friendly gearboxes and remote opening of windows</i>	Yes	Yes	No
New Pollution Standards for Light Vehicles			
<i>Proposed standards are based on a review of European “Euro 5” and “Euro 6” emission standards for light vehicles</i>	Yes	Yes	No
Tripartite Deeds for 12 Australian privatised airports			
<i>Extend the existing tripartite deeds for the 12 Australian privatised airports from 20 to 50 years</i>	No	No	Yes

The Department did not comply in full with the Australian Government’s best practice regulation requirements in 2010-11. The Department was responsible for six proposals for which RISs were required at the decision making stage.

The Department complied in full with the best practice regulation requirements for the following proposals:

- Aviation Transport Security Amendment Regulations 2010 (No. 5) – enhancing the aviation security identification card scheme;
- New pollution standards for light vehicles; and
- Minor amendments to Vehicle Standard (Australian Design Rule 42/04 – General Safety Requirements) 2005 – regarding environmentally friendly gearboxes and remote opening of windows.

Under the previous requirements (before July 2010), the Department prepared an adequate RIS for the regulation to use the maximum weight of an aircraft as the primary determinant for it to be cleared for takeoff, but failed to publish the RIS.

Adequate RISs were not prepared for the decision-making stage for the following proposals:

- Extension of existing tripartite deeds for 12 Australian privatised airports from 20 to 50 years; and
- Maritime Transport and Offshore Facilities Security Amendment Regulations 2010 (No.1) - enhancing the maritime security identification card scheme.

The Department is required to commence a post-implementation review of the decision to extend existing tripartite deeds for the 12 Australian privatised airports from 20 to 50 years by May 2013. An adequate post-implementation review has already been prepared, assessed as adequate and published for the maritime security identification card scheme.

3.2.16 Innovation, Industry, Science and Research

Title of regulatory proposal			
<i>Description of regulatory proposal</i>	RIS adequate	RIS published	PIR required
<p>Export of Patented Pharmaceuticals to Countries Experiencing a Health Crisis</p> <p><i>Enables the Australian Federal Court in limited circumstances to grant a license to export patented medicines to countries experiencing a serious epidemic, in cases where negotiations with patent owners have failed</i></p>	Yes	Yes	No
<p>Exemptions to Patent Infringement: Experimental Use</p> <p><i>Provides exemptions to patent infringements for the purpose of experimental use</i></p>	Yes	Yes	No
<p>Exemptions to Patent Infringement: Exemptions for Regulatory Studies</p> <p><i>Provides exemptions to patent infringements for the purposes of regulatory studies</i></p>	Yes	Yes	No

The Department of Innovation, Industry, Science and Research was not required to undertake regulatory impact analysis for decisions or proposals introduced during 2010-11.

IP Australia, a prescribed agency operating with a degree of autonomy within the Department, complied in full with the best practice requirements in 2010-11. IP Australia prepared adequate RISs for the following three proposals:

- enabling the Australian Federal Court in limited circumstances to grant a license to export patented medicines to countries experiencing a serious epidemic, in cases where negotiations with patent owners have failed;
- providing exemptions to patent infringements for the purpose of experimental use; and
- providing exemptions to patent infringements for the purposes of regulatory studies.

3.2.17 Prime Minister and Cabinet

Title of regulatory proposal			
<i>Description of regulatory proposal</i>	RIS adequate	RIS published	PIR required
Enhancements from the Review of the Australian Independent Screen Production Sector			
<i>Implements a package of enhancements to the film tax offsets program</i>	No	No	Yes

The Department of the Prime Minister and Cabinet did not comply in full with the Australian Government's best practice regulation requirements in 2010-11.

The Department was responsible for one proposal for which a RIS was required at the decision making stage. An adequate RIS was not prepared for the decision-making stage for the package of enhancements to the film offsets program.

The Department is required to commence a post-implementation review of this proposal within one to two years of the date of its implementation.

3.2.18 Resources, Energy and Tourism

Title of regulatory proposal			
<i>Description of regulatory proposal</i>	RIS adequate	RIS published	PIR required
Final Response to the Report of the Montara Commission of Inquiry			
<i>Confirms the establishment of a single regulator for all offshore activities in Commonwealth waters; establishment of an administrator for all titles and data administration for offshore petroleum; and agrees a further suite of initiatives</i>	Yes	Yes	No
Extension of Energy Efficiency Opportunities to Electricity Generators			
<i>Requires large users of energy to identify and publicly report on potential projects to improve their energy efficiency</i>	Yes	Yes	No

The Department of Resources, Energy and Tourism (DRET) complied in full with the best practice requirements in 2010-11. DRET prepared adequate RISs for two proposals:

- Final response to the report of the Montara Commission of Inquiry; and
- Extension of energy efficiency opportunities to electricity generators.

DRET also had joint responsibility for a proposal for which a Prime Minister's exemption was provided (see joint proposals).

3.2.19 Sustainability, Environment, Water, Population and Communities

Title of regulatory proposal			
<i>Description of regulatory proposal</i>	RIS adequate	RIS published	PIR required
Water Charge (Infrastructure) Rules 2010			
<i>Amends water infrastructure charge rules</i>	Yes	Yes	No

The Department of Sustainability, Environment, Water, Population and Communities (DSEWPC) complied in full with the best practice requirements in 2010-11. DSEWPC prepared an adequate RIS for the Water Charge (Infrastructure) Rules 2010.

3.2.20 Treasury

Title of regulatory proposal			
<i>Description of regulatory proposal</i>	RIS adequate	RIS published	PIR required
Competitive and Sustainable Banking – anti-competitive price signalling			
<i>Prohibitions under the Competition and Consumer Act 2011 in relation to certain price disclosures</i>	Yes	Yes	No
Competitive and Sustainable Banking – key facts document			
<i>Key facts sheet for new home loan customers, including interest, fees and lowest competitor rate</i>	Yes	Yes	No
Improving Contractor Compliance with Taxation Obligations			
<i>The introduction of a reporting regime that provides a framework for improving contractor compliance</i>	Yes	Yes	No
Countering phoenix activities by strengthening director's obligations			
<i>Extension of Director Penalty Regime (DPR) to include unpaid Superannuation Guarantee Charge and automation of DPR process</i>	Yes	Yes	No
Fairer, Simpler Banking – fairer, simpler credit cards			
<i>Various obligations on credit card providers to better assist borrowers to manage debt</i>	Yes	Yes	No

3.2.20 continued

Title of regulatory proposal		RIS adequate	RIS published	PIR required
Fairer, Simpler Banking – equity release products				
<i>Extend protections for older Australians accessing the equity in their homes via reverse mortgages and home reversion schemes</i>	Yes	Yes	No	
Investment in infrastructure – taxation incentives				
<i>Taxation incentives for investment in infrastructure projects – treatment of losses and business continuity tests</i>	Yes	Yes	No	
Establishment of the Australian Charities and Not-for-Profits Commission				
<i>Statutory body taking over the roles of a number of government bodies in relation to Charities and Not-For-Profits</i>	Yes	Yes	No	
Investment partnership between Australia and New Zealand				
<i>Lifting the threshold under which New Zealand investment will not require screening</i>	Yes	Yes	No	
Financial services disclosure reform – simplified Product Disclosure Statements				
<i>Product Disclosure Statements for certain products limited to four pages</i>	Yes	Yes	No	
Investment Manager Regime				
<i>Greater certainty of tax treatment for funds under management sourced from offshore investors</i>	Yes	Yes	No	
Government Response to Australia's Future Tax System review				
<i>Abolition of the entrepreneurs' tax offset</i>	E/c	..	Yes	
<i>Fringe benefit tax: reform of the car fringe benefit rule</i>	E/c	..	Yes	
<i>Expanding the definition of geothermal energy</i>	E/c	..	Yes	
<i>Mineral Resource Rent Tax - adoption of the recommendations of the Policy Transition Group</i>	E/c	..	Yes	
<i>Better targeting of not-for-profit tax concessions</i>	E/c	..	Yes	
<i>Introducing a statutory definition of charity</i>	E/c	..	Yes	
<i>Small business depreciation - accelerated initial deduction for motor vehicles</i>	E/c	..	Yes	

3.2.20 continued

Title of regulatory proposal			
<i>Description of regulatory proposal</i>	RIS adequate	RIS published	PIR required
Competitive and Sustainable Banking System			
<i>Develop a corporate bond market</i>	E/c	..	Yes
<i>Ban home loan exit fees</i>	E/c	..	Yes
<i>Allow banks to issue covered bonds</i>	E/c	..	Yes
Government's Response to the Super System Review (Cooper Review)			
<i>Suite of measures excluding those subject to subsequent RIS</i>	E/c	..	Yes
Farm Management Deposits primary producer relief			
<i>Early access for primary producers suffering natural disasters and improved administration arrangements</i>	No	No	Yes
Taxation of Financial Arrangements – amendments to Tax Hedging Rules			
<i>Taxation of Financial Arrangements – amendments to Tax Hedging Rules to ensure they operate as intended and to provide further certainty and reduce compliance costs for affected taxpayers</i>	No	No	Yes
Future of Financial Advice			
<i>Prospective ban on up-front and trailing commissions and like payments for both individual and group risk insurance within superannuation</i>	No	No	Yes
<i>Requirement for advisers to renew client agreement to ongoing advice fees every two years (opt-in regime)</i>	No	No	Yes
<i>Ban on soft dollar benefits over \$300 per benefit</i>	No	No	Yes
<i>Access to scaled financial advice</i>	No	No	Yes
<i>Limited carve-out for basic products from the ban on certain conflicted remuneration structures and best interests duty</i>	No	No	Yes

E/c Exceptional circumstances were granted by the Prime Minister

.. Not applicable

The Treasury did not comply in full with the Australian Government's best practice regulation requirements in 2010-11.

Treasury complied in full with the best practice regulation requirements for the following 11 proposals:

- Competitive and Sustainable Banking System – anti-competitive price signalling;
- Competitive and Sustainable Banking System – 'key facts' document;
- Improving contractor compliance with taxation obligations;
- Countering fraudulent *Phoenix* activities by company directors;
- Fairer, Simpler Banking – fairer, simpler credit cards;
- Fairer, Simpler Banking – equity release products;
- Investment in infrastructure (taxation incentives);
- Establishment of the Australian Charities and Not-for-Profit Commission;
- New investment partnership between Australia and New Zealand;
- Financial services disclosure reform – simplified Product Disclosure Statements; and
- Investment Manager Regime.

There were 11 further compliant proposals that were granted exceptional circumstances exemptions by the Prime Minister:

- Australia's Future Tax System Review:
 - abolish the entrepreneurs' tax offset;
 - fringe benefit tax: reform of the car fringe benefit rule;
 - expand the definition of geothermal energy;
 - Mineral Resource Rent Tax - adopt the recommendations of the Policy Transition Group;
 - better target not-for-profit tax concessions;
 - introduce a statutory definition of charity; and
 - small business depreciation - accelerate initial deduction for motor vehicles;
- Competitive and Sustainable Banking System:
 - develop a corporate bond market;
 - ban home loan exit fees;
 - allow banks to issue covered bonds; and
- Australian Government's Response to the Superannuation System (Cooper) Review.

The Treasury is required to commence post-implementation reviews of these 11 proposals within one to two years of the date of implementation.

The Treasury was responsible for the following seven non-compliant proposals for which RISs were required but not prepared:

- Farm Management Deposits – early access for primary producers suffering natural disasters and improved administration arrangements;
- Taxation of Financial Arrangements – amendments to Tax Hedging Rules; and
- Future of Financial Advice – the non-complying elements being:
 - requirement for advisers to renew client agreement to ongoing advice fees every two years (opt-in regime);
 - ban on soft dollar benefits over \$300 per benefit;
 - access to scaled financial advice;
 - limited carve-out for basic products from the ban on certain conflicted remuneration structures and best interests duty; and
 - prospective ban on up-front and trailing commissions and like payments for both individual and group risk insurance within superannuation.

The Treasury is required to commence post-implementation reviews for these seven proposals within one to two years of the date of implementation.

3.3 Joint Proposals

3.3.1 Defence / Resources, Energy and Tourism

Title of regulatory proposal	RIS adequate	RIS published	PIR required
<i>Description of regulatory proposal</i>			
Government's response to the Review of the Woomera Prohibited Area			
<i>Implements a new framework for managing Department of Defence and non-defence use of the Woomera prohibited area</i>	E/c	..	Yes

E/c Exceptional circumstances were granted by the Prime Minister

.. Not applicable

The Department of Defence and DRET were jointly responsible for a proposal which was granted a Prime Minister's exemption. The proposal involved the Government's response to the review of the Woomera Prohibited Area which implemented a new framework for managing Defence and non-defence use of the Woomera Prohibited Area. A post-implementation review will be required within one to two years of implementation.

3.3.2 Education, Employment and Workplace Relations / Infrastructure and Transport

Title of regulatory proposal			
<i>Description of regulatory proposal</i>	RIS adequate	RIS published	PIR required
Maritime Labour Convention <i>Sets minimum requirements for seafarers to work on ships, conditions of employment, access to accommodation, recreational facilities, food and catering, and access to medical care</i>	Yes	Yes	No

DEEWR and DIT were jointly responsible for one proposal involving the Maritime Labour Convention which set minimum requirements for seafarers to work on ships that required a RIS. An adequate RIS was prepared at the decision-making stage and was published.

four

Compliance by ministerial council



four

four

Compliance by ministerial council

The OBPR is required to report on compliance by ministerial councils and NSSBs with the COAG Guide. The reporting requirement flows from the COAG *Agreement to Implement the National Competition Policy and Related Reforms* (COAG 1995).

The COAG Guide states that:

If regulatory options are being considered (such as self-regulation where governments expect businesses to comply, quasi-regulation, co-regulation and 'black letter law') then ministerial councils must subject these options to a regulatory impact assessment (RIA) process through the preparation of a draft [consultation] and final [decision] Regulation Impact Statement (RIS). (COAG Guide, p. 7)

In this context, the COAG Guide defines regulation as:

The broad range of legally enforceable instruments which impose mandatory requirements upon business and the community, as well as those government voluntary codes and advisory instruments for which there is a reasonable expectation of widespread compliance. (COAG Guide, p. 3)

As required in the COAG Guide, the OBPR assesses RISs at two stages: consultation and decision. The OBPR advises the decision making body at each decision-making stage whether the analysis contained in the RIS meets COAG's adequacy criteria. The OBPR in making its assessment considers the seven elements specified under COAG's RIS guidelines – problem, objectives, options, impact analysis, consultation, evaluation and conclusion, and implementation and review.

It is expected that the level of analysis in a draft [consultation] RIS would be lower than the level of analysis in the final [decision] RIS. This is because the impacts of options are sometimes unclear. The community consultation process is designed to allow interested parties and stakeholders to help identify such impacts. In such cases the OBPR may focus its assessment primarily on the first three parts of the draft [consultation] RIS, the problem, objectives and options section of the RIS. (COAG Guide, p. 8)

The COAG Guide emphasises transparency by requiring RISs to be made public.

After a decision is taken, the final RIS, which should be of a standard suitable for publication, will generally be made public. (COAG Guide, p. 9)

On 16 August 2010, COAG agreed that COAG RISs will be published on the OBPR website after being assessed for compliance against the COAG RIS adequacy criteria.

4.1 Compliance by ministerial council and national standard setting bodies

During 2010-11, seven ministerial councils and NSSBs made decisions which triggered the COAG best practice regulation requirements. Six ministerial councils and NSSBs were fully compliant, while the Select Council on Problem Gambling was not (see table 4.1).

This chapter also contains information on consultation RISs that have been made public but for which no regulatory decisions have been made.

Table 4.1 Compliance with COAG's RIS requirements 2010-11 consultation, decision-making and publishing stage

Ministerial Council/ NSSB	Consultation Stage		Decision Stage		Published	
	Compliant	Non-compliant	Compliant	Non-compliant	Compliant	Non-compliant
Australian Building Codes Board	1		1		1	
Australian Health Ministers' Conference	1		1		1	
Australia and New Zealand Food Regulation Ministerial Council	1		1		1	
Australian Transport Council	2		2		2	
Food Standards Australia and New Zealand	1		1		1	
Ministerial Council on Energy	2		3		3	
Select Council on Gambling Reform		1		1		1
Total	8	1	9	1	9	1

Source: OBPR

4.1.1 Australian Building Codes Board

Regulation				
Description of regulatory proposal	Date of decision	Compliant at consultation	Compliant at decision	Final RIS published
Private bushfire shelters				
<i>Amends the Building Code of Australia to provide mandatory standards for private bushfire shelters</i>	31 January 2011	Yes	Yes	Yes
Design and construction in cyclone affected regions				
<i>Amends the Building Code of Australia to reduce the risk of cyclone damage to buildings in cyclone affected regions</i>	*	Yes	..	..
Reducing the risk of slips, trips and falls in buildings				
<i>Amends the Building Code of Australia to reduce the risk of people slipping, tripping and falling in buildings</i>	*	Yes	..	..
Mitigating against the effects of saline soils on buildings				
<i>Amends the Building Code of Australia to reduce the potential for saline soils to weaken building structures</i>	**	Yes	..	..

* A decision had not been made as at 30 June 2011

.. Not applicable

** Not applicable, as a decision was made not to proceed with consideration of this proposal

The Australian Building Codes Board (ABCB) complied in full with the COAG best practice regulation requirements in 2010-11.

The ABCB prepared a RIS at both the consultation and decision-making stage for a proposal on private bushfire shelters which met the COAG requirements.

The ABCB also prepared and published adequate consultation RISs for the following three regulatory proposals:

- amending the Building Code of Australia to reduce the risk of cyclone damage to buildings in cyclone affected regions;
- mitigating against the effects of saline soils on buildings; and
- reducing slips, trips and falls in buildings.

The ABCB decided not to proceed to a final decision with the proposal on mitigating against the effects of saline soils on buildings and a decision RIS was therefore not required. Decisions on the other two proposals were not made in 2010-11.

4.1.2 Australian Health Ministers' Conference

Regulation				
<i>Description of regulatory proposal</i>	Date of decision	Compliant at consultation	Compliant at decision	Final RIS published
National Safety and Quality Health Service Standards				
<i>Adoption of National Safety and Quality Health Service Standards in a Model National Accreditation Scheme for health services</i>	12 November 2010	Yes	Yes	Yes

The Australian Health Ministers' Conference (AHMC) complied with the COAG best practice regulation requirements in 2010-11. The AHMC made one decision in the reporting period for which a RIS was required – adoption of National Safety and Quality Health Service Standards in a Model National Accreditation Scheme for health services. Adequate RISs were prepared at the consultation and decision-making stages. The final RIS was also made public. However, the following decisions made in 2007-08 for this proposal were not compliant with best practice regulation requirements operating at the time, which require that they are reported in the period that implementation occurs:

- AHMC agreed in principle to a draft concept plan for the reform of the current safety and quality accreditation system being used as a model and for stakeholder consultation on 24 July 2007; and
- AHMC endorsed recommendations for implementation of reforms to safety and quality accreditation on 18 April 2008.

4.1.3 Australian Health Workforce Ministerial Council

Regulation				
<i>Description of regulatory proposal</i>	Date of decision	Compliant at consultation	Compliant at decision	Final RIS published
Unregistered Health Practitioners				
<i>Options for the Regulation of Unregistered Health Practitioners</i>	*	Yes	..	..

* A decision had not been made as at 30 June 2011

.. Not applicable

The Australian Health Workforce Ministerial Council (AHWMC) complied in full with the COAGs' best practice regulation requirements for 2010-11. The AHWMC undertook consultation on one proposal in the reporting period for which a RIS was required – options for the regulation of unregistered health practitioners. An adequate RIS was prepared at the consultation stage and was published. A decision had not been made by the end of the reporting period.

4.1.4 Australia and New Zealand Food Regulation Ministerial Council

Regulation				
<i>Description of regulatory proposal</i>	Date of decision	Compliant at consultation	Compliant at decision	Final RIS published
Prohibited infant formula products				
<i>Policy Guideline for the Regulation of Infant Formula Products</i>	6 May 2011	Yes	Yes	Yes

The Australia and New Zealand Food Regulation Ministerial Council (ANZFRMC) complied in full with the COAG best practice regulation requirements in 2010-11. The ANZFRMC made one decision in the reporting period for which a RIS was required – approval of a Ministerial Council policy guideline for the regulation of infant formula products. An adequate RIS was prepared for the decision-making stage and was published. A RIS for consultation had previously been prepared for this matter in 2008-09.

4.1.5 Australian Transport Council

Regulation				
<i>Description of regulatory proposal</i>	Date of decision	Compliant at consultation	Compliant at decision	Final RIS published
National Standard for Commercial Vessels Part F Section 2 Leisure Craft				
<i>Introduces a performance based standard for leisure craft</i>	24-September 2010	Yes	Yes	Yes
National Standard for Competencies for Trainee Marine Pilots				
<i>Introduces a new standard to provide a pathway for trainee marine pilots in Australia</i>	24-September 2010	Yes	Yes	Yes
Heavy Vehicle National Law				
<i>Examines a new national law governing heavy vehicles</i>	*	Yes	..	..
National Standard for Commercial Vessels - Part C Section 1 – Arrangement, Accommodation and Personal Safety Consultation				
<i>Examines technical requirements for the design and construction of domestic commercial vessels</i>	*	Yes	..	..
National Standard for Commercial Vessels - Part C Section 7A - Safety Equipment				
<i>Examines extension of safety standard to existing domestic commercial vessels not currently required to comply</i>	*	Yes	..	..

4.1.5 continued

Regulation				
<i>Description of regulatory proposal</i>	Date of decision	Compliant at consultation	Compliant at decision	Final RIS published
National Standard for Commercial Vessels - Part C Section 1 – Watertight and Weathertight Integrity				
<i>Examines a performance based standard for the watertight and weathertight integrity of vessels</i>	*	Yes	..	..

* A decision had not been made as at 30 June 2011

.. Not applicable

The Australian Transport Council (ATC) complied in full with the COAG best practice regulation requirements in 2010-11. For two proposals, adequate RISs were prepared, assessed as adequate and published at the consultation and decision-making stage: The proposals involved:

- National Standard for Commercial Vessels Part F Section 2 Leisure Craft which introduces a performance based standard for leisure craft; and
- National Standard for Competencies for Trainee Marine Pilots which introduces a new pathway for trainee marine pilots.

Consultation RISs were prepared, assessed as adequate and published for four proposals:

- Proposed new national heavy vehicle laws;
- National Standard for Commercial Vessels, Part C Section 1 – Arrangement, Accommodation and Personal Safety Consultation, which examines the extension of safety standards to existing domestic commercial vessels that are not currently required to comply;
- National Standard for Commercial Vessels - Part C Section 7A - Safety Equipment, which also examines the extension of safety standards to existing domestic commercial vessels that are not currently required to comply; and
- National Standard for Commercial Vessels - Part C Section 1 – Watertight and Weathertight Integrity, which examines a performance based standard for the watertight and weathertight integrity of vessels.

For these four proposals a decision had not been made by the end of the reporting period.

4.1.6 Food Standards Australia New Zealand

Regulation				
<i>Description of regulatory proposal</i>	Date of decision	Compliant at consultation	Compliant at decision	Final RIS published
Primary production and processing standard for eggs and egg products				
<i>Requirements for egg producers to identify and control the food safety hazards associated with the production of eggs and egg products</i>	22 March 2011	Yes	Yes	Yes
Primary production and processing standard for seed sprouts				
<i>Options to address food-borne illness caused by seed sprouts</i>	*	Yes	..	..

* A decision had not been made as at 30 June 2011

.. Not applicable

Food Standards Australia New Zealand (FSANZ) complied in full with the COAG best practice regulation requirements in 2010-11.

FSANZ prepared and published an adequate RIS for the decision-making stage for the primary production and processing standard for eggs and egg products. A RIS for consultation had previously been prepared for this matter in 2009-10.

FSANZ also prepared an adequate RIS for consultation on the primary production and processing standard for seed sprouts and this was published. A decision had not been made by the end of the reporting period.

4.1.7 Ministerial Council on Energy

Regulation				
<i>Description of regulatory proposal</i>	Date of decision	Compliant at consultation	Compliant at decision	Final RIS published
Phase-out of greenhouse-intensive water heaters				
<i>Phase-out of greenhouse-intensive water heaters in class 1 buildings through prohibiting the installation of electric water heaters in existing Australian homes</i>	10 December 2010	Yes	Yes	Yes
Increase in Minimum Energy Performance Standards (MEPS) for air conditioners				
<i>Increases the MEPS for air conditioning units. Generally, MEPS will increase by an average of 10%, and multi-split air conditioners will be required to meet the same MEPS as other non-ducted split systems</i>	10 December 2010	Yes	Yes	Yes
<i>Changes implementation dates for some models</i>	June 2011	..	Yes	Yes
Computers and computer monitor MEPS				
<i>Examines whether to regulate information and communications technology equipment under the MEPS program to improve existing levels of energy efficiency and performance</i>	*	Yes	..	..
Mandatory disclosure of residential building, energy greenhouse and water performance				
<i>Examines introduction of mandatory disclosure of building energy, greenhouse and water performance at the point of sale or lease for residential properties</i>	*	Yes	..	..
Electricity distribution transformers				
<i>Examines whether to introduce revised MEPS for electricity distribution transformers to improve existing levels of energy efficiency and performance</i>	*	Yes	..	..

.. Not applicable

* A decision had not been made as at 30 June 2011

The Ministerial Council on Energy (MCE) complied in full with the COAG best practice regulation requirements in 2010-11.

RISs were prepared, assessed as adequate and published at the consultation stage and the decision-making stage for the following proposals:

- Phase-out of greenhouse-intensive water heaters; and
- Increase in Minimum Energy Performance Standards (MEPS) for air conditioners (including subsequent changes to implementation dates for some models).

Consultation RISs were prepared, assessed as adequate and published for three proposals:

- MEPS for computers and computer monitors;
- Mandatory disclosure of residential building energy, greenhouse and water performance; and
- Revised MEPS for electricity distribution transformers.

For these three proposals a decision had not been made by the end of the reporting period.

4.1.8 Primary Industries Ministerial Council

Regulation				
Description of regulatory proposal	Date of decision	Compliant at consultation	Compliant at decision	Final RIS published
AGVET chemicals				
<i>A national scheme for the assessment, registration and control of use of agricultural and veterinary chemicals</i>	*	Yes	..	..

* A decision had not been made as at 30 June 2011

.. Not applicable

The Primary Industries Ministerial Council (PIMC) complied in full with the COAG's best practice regulation requirements for 2010-11. The PIMC undertook consultation on one proposal in the reporting period for which a RIS was required – a national scheme for agricultural and veterinary chemicals. An adequate RIS was prepared at the consultation stage and was published. A decision had not been made by the end of the reporting period.

4.1.9 Select Council on Gambling Reform

Regulation				
<i>Description of regulatory proposal</i>	Date of decision	Compliant at consultation	Compliant at decision	Final RIS published
Gaming machine pre-commitment functionality				
<i>All new gaming machines will be required to have pre commitment functionality from a date to be agreed</i>	10 December 2010	No	No	No

The Select Council on Gambling Reform (SCGR) did not comply with the COAG best practice regulation requirements in 2010-11. The SCGR made one decision in the reporting period for which a RIS was required; Gaming Machine Pre-commitment Functionality. Adequate RISs were not prepared at the consultation or decision-making stages.

five

Post-implementation review status by portfolio



five

five

Post-implementation review status by portfolio

This chapter provides a description of regulations that require a post-implementation review. Information on the proposed date of the commencement of the PIR, its status and compliance is also provided. Post-implementation reviews from previous years are also flagged.

There were a total of 61 post-implementation reviews in process during 2010-11, of which two were non-compliant (both for not being started within two years of the regulation being introduced). Of the 59 compliant post-implementation reviews, in four cases the regulation has not yet been implemented, 42 post-implementation reviews have not been started, eight have started, four were completed but not published and one was completed and published.

Table 5.1 Post-implementation review status and compliance

PIR Status	Compliant	Non-compliant	TOTAL
Not implemented	4		4
Not started	42	1	43
Started	8	1	9
Completed - not published	4*		4
Completed - published	1		1
TOTAL	59	2	61

* Three of these PIRs have been published in 2011-12

There are 16 departments or agencies that are required to undertake post-implementation reviews. Treasury has the great majority of this workload and is required to undertake 33 post-implementation reviews. A further three departments - Broadband, Communications and the Digital Economy, Climate Change and Energy Efficiency and Education, Employment and Workplace Relations are each required to undertake three post-implementation reviews. The remaining twelve agencies are only required to undertake one or two post-implementation reviews.

The two departments with non-compliant post-implementation reviews are Health and Ageing, in relation to the restriction on the use of certain lead compounds under the Australian inventory of chemical substances; and Infrastructure and Transport, in relation to the inspection of all airport staff, goods and vehicles entering and leaving airside at Australian airports.

There are 17 post-implementation reviews due to commence in 2011-12, with Treasury responsible for 11 of these reviews.

Table 5.2 Post-implementation review compliance by department or agency

Department/Agency	Compliant	Non-compliant
Department Agriculture, Fisheries and Forestry	2	
Attorney General's Department	1	
Australian Accounting Standards Board	2	
Australian Communications and Media Authority	1	
Australian Customs and Border Protection Service	1	
Australian Securities and Investments Commission	1	
Department of Broadband, Communications and the Digital Economy	3	
Department of Climate Change and Energy Efficiency	3	
Department of Defence	1	
Department of Education, Employment and Workplace Relations	3	
Department of Health and Ageing	2	1
Department of Infrastructure and Transport	2	1
Department of Families, Housing, Community Services and Indigenous Affairs	1	
Department of Prime Minister and Cabinet	2	
The Treasury	33	
Department of Defence/ Department of Resources, Energy and Tourism	1	
TOTAL	59	2

5.1 Status by department or agency

5.1.1 Agriculture, Fisheries and Forestry

Title of regulatory proposal					
<i>Description of regulatory proposal</i>	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Fishing area closure and revised monitoring arrangements (AFMA)					
<i>Changes to management arrangements for the gillnet, hook and trap sector of the southern and eastern scalefish and shark fishery, including closure of fishing areas to protect sea lions</i>					
	Non-compliant	27 April 2011	April 2013	Not started	Compliant
Suspension of live cattle exports to Indonesia (DAFF)					
<i>Suspends the export of live cattle to Indonesia until new safeguards are established</i>					
	Non-compliant	8 June 2011	June 2013	Completed* published	Compliant

* Completed in 2011-12

5.1.2 Attorney-General's Department

Title of regulatory proposal					
<i>Description of regulatory proposal</i>	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Marriage Amendment Regulations 2009 (No.1) and Marriage Amendment Regulations 2009 (No.2)					
<i>Implements minimum training and registration requirements for marriage celebrants</i>	Non-compliant	3 February 2010	February 2012	Not started	Compliant

Post-implementation reviews from previous years

The Marriage Amendment Regulations 2009 (No.1) and (No.2) relate to the decision to introduce higher qualification requirements to become a marriage celebrant. Specifically, the requirement is that all new celebrants have a Certificate IV in Celebrancy from February 2010. The new celebrant qualification requires around 13 units of training whereas prior to February 2010 just one unit could have sufficed.

AGD is required to undertake a post-implementation review for the Marriage Amendment Regulations 2009 (No.1) and Marriage Amendment Regulations 2009 (No.2). The post-implementation review is required to commence in February 2012.

5.1.3 Australian Accounting Standards Board

Title of regulatory proposal					
Description of regulatory proposal	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Amendments to Australian Accounting Standards AASB 1 & 7					
<i>Amendments to disclosure requirements around transfers of financial assets</i>	Non-compliant	November 2010	November 2013	Not started	Compliant
Reducing the Financial Reporting Burden: a second tier of requirements for general purpose financial statements					
<i>Provides a second tier of requirements for general purpose financial statements to reduce the financial reporting burden</i>	Non-compliant	June 2010	June 2012	Not started	Compliant

Post-implementation reviews from previous years

AASB is required to undertake a post-implementation review for a regulatory proposal from a previous year - Reducing the financial reporting burden: a second tier of requirements for general purpose financial statements.

5.1.4 Australian Communications and Media Authority

Title of regulatory proposal					
<i>Description of regulatory proposal</i>	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Telecommunications Service Provider (Mobile Premium Services) Determination 2010 (No. 2)					
<i>Empowers the ACMA to issue a temporary Do Not Bill order to stop suspect content providers from charging customers while it investigates a service</i>					
	Non-compliant	Nov 2010	Nov 2012	Not started	Compliant

5.1.5 Australian Customs and Border Protection Service

Title of regulatory proposal					
<i>Description of regulatory proposal</i>	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Prohibited Imports Amendments					
<i>Customs (Prohibited Imports) Amendment Regulations 2008 (No. 3), to restrict the importation of hand held laser pointers</i>					
	Non-compliant	July 2008	July 2010	Started	Compliant

Post-implementation reviews from previous years

Customs is required to undertake a post-implementation review for the Customs (Prohibited Imports) Amendment Regulations 2008 (No. 3), which restricted the importation of laser pointers. The post-implementation review has commenced.

5.1.6 Australian Securities and Investments Commission

Title of regulatory proposal					
<i>Description of regulatory proposal</i>	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Interim bans on covered and naked short selling (Class Orders 08/751, 08/752, 08/753, 08/763, 08/764, 08/801, 08/824)					
<i>Implements decisions made in 2008-09 relating to class orders which imposed restrictions on short sales of securities</i>					
	E/c	September 2008	September 2010	Started	Compliant

E/c Exceptional circumstances were granted by the Prime Minister

Post-implementation reviews from previous years

ASIC is required to undertake a post-implementation review of various decisions made in 2008-09 relating to class orders which imposed restrictions on short sales of securities. These proposals were granted an exemption by the Prime Minister from the RIS requirements at the time the decisions were made. The post-implementation review has commenced.

5.1.7 Broadband, Communications and the Digital Economy

Title of regulatory proposal					
<i>Description of regulatory proposal</i>	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Changes to the anti-siphoning system					
<i>Changes that will affect television coverage of key sporting events in Australia</i>	E/c	Not implemented	..	Not started	Compliant
Government response to NBN implementation review					
<i>Decisions in response to NBN implementation review</i>	E/c	12 April 2011	April 2013	Not started	Compliant
Improved competition in telecommunications markets					
<i>Proposes structural or functional separation of Telstra wholesale and retail operations</i>	E/c	June 2016	June 2018	Not started	Compliant

E/c Exceptional circumstances were granted by the Prime Minister

.. Not applicable

Post-implementation reviews from previous years

DBCDE is required to undertake a post-implementation review in relation to improved competition in telecommunications markets, involving structural reform of Telstra, which was granted a Prime Minister's exemption in 2009-10. The post-implementation review is to commence by no later than April 2018, which is the likely date when the effects of structural separation, through the migration of customers from Telstra to the NBN, can expect to be observed.

5.1.8 Climate Change and Energy Efficiency

Title of regulatory proposal					
<i>Description of regulatory proposal</i>	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Renewable Energy (Electricity Amendment Regulations 2010 (No. 3))					
<i>Extends safety and quality requirements for small-scale renewable energy generation systems</i>	Non-compliant	18 June 2010	July 2012*	Not started	Compliant
Renewable Energy (Electricity) Amendment Act 2009 and Renewable Energy (Electricity) (Charge) Amendment Act 2009					
<i>Expands the renewable energy target from 9,500 GWh to 45,000 GWh by 2020 as announced on 1 December 2007</i>	Non-compliant	1 December 2010	July 2012*	Not started	Compliant
Renewable Energy (Electricity) Amendment Regulations 2010 (No. 8) & Renewable Energy (Electricity) Amendment Regulations 2011 (No. 2)					
<i>Brings forward the scheduled annual reductions in the solar credits multiplier</i>	Non-compliant	8 December 2010 & 16 June 2011	July 2012*	Not started	Compliant

* This PIR will be conducted together with the statutory review of the Renewable Energy (Electricity) Act 2000 and the Renewable Energy (Electricity) Regulations 2001

Post-implementation reviews from previous years

The DCCEE is required to undertake post-implementation reviews for the following proposals from previous years:

- Renewable Energy Target expansion from 9,500 GWh to 45,000 GWh by 2020 covered by the following acts: Renewable Energy (Electricity) Amendment Act 2009 and Renewable Energy (Electricity) (Charge) Amendment Act 2009; and
- Extending safety and quality requirements for small-scale renewable energy generation systems—Renewable Energy (Electricity Amendment Regulations 2010 (No. 3)).

The post-implementation reviews were required to commence in September 2011 and June 2012 respectively. The OBPR has approved the Department's request to conduct these post-implementation reviews as part of the statutory review of the *Renewable Energy (Electricity) Act 2000* and the *Renewable Energy (Electricity) Regulations 2001*. The review will commence in mid-2012.

5.1.9 Defence

Title of regulatory proposal					
<i>Description of regulatory proposal</i>	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Defence Trade Cooperation Treaty with the United States					
<i>Removes the administrative delays associated with the existing Australian and US export licensing systems, while ensuring that sensitive defence technology is appropriately protected</i>					
	Non-compliant	Not implemented	..	Not started	Compliant

.. Not applicable

Post-implementation reviews from previous years

Defence is required to undertake a post-implementation review for the following proposal:

- Defence Trade Cooperation Treaty with the United States. The treaty is yet to be implemented, however a media release from the Minister for Defence has noted that the treaty will be implemented in late 2011. A post-implementation review will be required within one to two years of implementation.

5.1.10 Education, Employment and Workplace Relations

Title of regulatory proposal					
Description of regulatory proposal	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Australian Government Procurement Statement (DEEWR/Finance)					
<i>Requires government contractors and suppliers in the textile and clothing industry to be accredited or seek accreditation with the Homeworkers' Code of Practice</i>					
	Non-compliant	July 2009	July 2011	Started	Compliant
Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008 and Fair Work Act 2009					
<i>Creates a new industrial relations system with a focus on collective bargaining in the workplace</i>					
	E/c	January 2010	January 2012	Not started	Compliant
Migration Amendment Regulations 2009 (No. 15) (DEEWR/DIAC)					
<i>Amends the job skills test requirements for onshore applicants for permanent visas</i>					
	Non-compliant	January 2010	January 2012	Not started	Compliant

E/c Exceptional circumstances were granted by the Prime Minister

Post-implementation reviews from previous years

DEEWR is required to undertake post-implementation reviews for the following proposals:

- Australian Government Procurement Statement, for which DEEWR and the Department of Finance and Deregulation were found jointly non-compliant. The post-implementation review has commenced;
- *Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008 and Fair Work Act 2009*, which were granted a Prime Minister's exemption from the RIS requirements in 2007-08. The post-implementation review is due to commence in January 2012; and
- *Migration Amendment Regulations 2009 (No. 15)*, which amended the job skills test requirements for onshore applicants for permanent visas, and for which DEEWR and the Department of Immigration and Citizenship were found jointly non-compliant. The post-implementation review is to commence in January 2012.

5.1.11 Health and Ageing

Title of regulatory proposal					
<i>Description of regulatory proposal</i>	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Australian Inventory of Chemical Substances restriction on the use of certain lead compounds					
<i>Restriction on the use of certain lead compounds in industrial surface coatings and inks</i>	Non-compliant	5 February 2008	February 2010	Not started*	Non-compliant
Tax Laws Amendment (Medicare Levy Surcharge Thresholds) Bill 2008					
<i>Increase in Medicare Levy Surcharge Threshold</i>	Non-compliant	1 July 2008	July 2010	Started	Compliant
Fifth Community Pharmacy Agreement					
<i>Retention of pharmacy location rules</i>	Non-compliant	1 July 2010	July 2012	Not started	Compliant

* DHA has advised that it has now commenced planning for the post-implementation review on the restriction of the use of certain lead compounds, with consultations commencing in the second half of 2011.

Post-implementation reviews from previous years

DHA is required to undertake post-implementation reviews for the following proposals:

- Australian inventory of chemical substances restriction on the use of certain lead compounds;
- *Tax Laws Amendment (Medicare Levy Surcharge Thresholds) Bill 2008*; and
- Retention of pharmacy location rules.

5.1.12 Infrastructure and Transport

Title of regulatory proposal					
<i>Description of regulatory proposal</i>	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Aviation Transport Security Amendment (Additional Screening Measures) Act 2007; Aviation Transport Security Amendment Regulations 2007 (No. 4)					
<i>Inspection of all airport staff, goods and vehicles entering and leaving airside at Australian airports</i>	Non-compliant	September 2007	September 2009	Started	Non-compliant
Maritime Transport and Offshore Facilities Security Amendment Regulations 2010 (No.1)					
<i>Enhances the Maritime Security Identification Card scheme</i>	Non-compliant	December 2010	..	Completed published	Compliant
Tripartite Deeds for 12 Australian privatised airports					
<i>Extend the existing tripartite deeds for the 12 Australian privatised airports from 20 to 50 years</i>	Non-compliant	May 2011	May 2013	Not started	Compliant

.. Not applicable

Post-implementation reviews from previous years

The Department is required to undertake a post-implementation review for a proposal implemented prior to 2010-11 - Aviation Transport Security Amendment (Additional Screening Measures) Act 2007 and Aviation Transport Security Amendment Regulations 2007 (No. 4). Although the post-implementation review was required to commence in September 2009 the review has not been completed in a reasonable time and is therefore being assessed as non-compliant. The Department is still required to complete the post-implementation review.

5.1.13 Families, Housing, Community Services and Indigenous Affairs

Title of regulatory proposal					
Description of regulatory proposal	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Northern Territory National Emergency Response Measures					
<i>Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Act 2007</i>					
<i>Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007</i>					
<i>Northern Territory National Emergency Response Act 2007</i>					
<i>Northern Territory National Emergency Response Amendment (Alcohol) Act 2007</i>					
	E/c	2007	2009	Completed not published	Compliant

E/c Exceptional circumstances were granted by the Prime Minister

Post-implementation reviews from previous years

FaHCSIA is required to undertake a post-implementation review for the following legislation:

- Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Bill 2007 (tabled 7 August 2007);
- Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007 (tabled 7 August 2007);
- Northern Territory National Emergency Response Bill 2007 (tabled 7 August 2007); and
- Northern Territory National Emergency Response Amendment (Alcohol) Act 2007.

The OBPR has agreed that these changes can be reviewed in a single post-implementation review. FaHCSIA has prepared an adequate post-implementation review which is expected to be published shortly. The post-implementation review has been combined with the RIS undertaken for certain measures considered in the Stronger Futures in the Northern Territory policy process, but the Government is yet to announce the action it is proposing to take.

5.1.14 Prime Minister and Cabinet

Title of regulatory proposal					
<i>Description of regulatory proposal</i>	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Resale Royalty Right for Visual Artists Bill 2008					
<i>Establishes an inalienable resale royalty right for visual artists</i>	Non-compliant	9 June 2010	June 2012	Not started	Compliant
Enhancements from the Review of the Australian Independent Screen Production Sector					
<i>Implements a package of enhancements to the film tax offsets program</i>	Non-compliant	Not implemented	..	Not started	Compliant

.. Not applicable

Post-implementation reviews from previous years

PM&C is required to undertake a post-implementation review on the *Resale Royalty Right for Visual Artists Bill 2008* - which establishes an inalienable resale royalty right for visual artists. The post-implementation review is to commence in June 2012. Responsibility for this post-implementation review was transferred to PM&C from the Department of Sustainability, Environment, Water, Population and Communities as the result of a machinery of government change.

5.1.15 Treasury

Title of regulatory proposal					
Description of regulatory proposal	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Financial Claims Scheme and Other Measures Bill 2008					
<i>Financial Claims Scheme for a three-year 100 percent guarantee of deposits in ADIs, covering deposits under \$1 million. Also implements a policyholder compensation facility in relation to general insurance</i>					
	Non-compliant	October 2008	October 2010	Completed* published	Compliant
Guarantee Scheme for Large Deposits and Wholesale Funding Appropriation Act 2008					
<i>Temporary emergency arrangement providing a guarantee for deposits over \$1 million and wholesale debt in exchange for a fee. The initiative closed to new liabilities on 31 March 2010</i>					
	Non-compliant	October 2008	October 2010	Started	Compliant
Financial Claims Scheme (ADI) Levy Bill 2008					
<i>Provides for the imposition of a levy on ADIs in the event of the activation of the Financial Claims Scheme</i>					
	Non-compliant	October 2008	October 2010	Completed* published	Compliant
Financial Claims Scheme (General Insurers) Levy Bill 2008					
<i>Provides for the imposition of a levy on general insurers in the event of the activation of the Financial Claims Scheme</i>					
	Non-compliant	October 2008	October 2010	Started	Compliant
Tax Laws Amendment (2009 Budget Measures No. 1) Bill 2009					
<i>Limits tax concessions for income earned by Australians working overseas</i>					
	Non-compliant	July 2009	July 2011	Started	Compliant
Tax Laws Amendment (2009 Budget Measures No. 2) Bill 2009					
<i>No longer allowing offsetting deductions from non-commercial activities for high income earners</i>					
	Non-compliant	July 2009	July 2011	Started	Compliant
Fairer Private Health Insurance Incentives Bill 2009 (Treasury/DHA)					
<i>Private health insurance incentive tiers</i>					
	Non-compliant	July 2009	July 2011	Not started	Compliant

5.1.15 Treasury continued

Title of regulatory proposal					
Description of regulatory proposal	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Foreign Investment In Housing					
<i>Reinstates requirements for temporary residents to seek FIRB approval before purchasing residential property</i>					
	Non-compliant	July 2009	July 2011	Not started	Compliant
Corporations Amendment (Improving Accountability on Termination Payments) Bill 2009					
<i>Reforms to regulatory framework dealing with payment of termination benefits to company directors and executives</i>					
	Non-compliant	November 2009	November 2011	Not started	Compliant
Trade Practices (Industry Codes – Unit Pricing) Regulations 2009					
<i>Mandatory industry code for the retail grocery industry – display of unit prices for grocery items for which selling prices are displayed</i>					
	Non-compliant	November 2009	November 2011	Not started	Compliant
Tax Laws Amendment (2009 Budget Measures No. 2) Bill 2009 & Income Tax (TFN Withholding Tax (ESS)) Bill 2009					
<i>Reforming taxation of employee share schemes</i>					
	Non-compliant	December 2009	December 2012	Not started	Compliant
Foreign Acquisitions and Takeovers Amendment Bill 2009					
<i>Ensure that any foreign investment irrespective of the way it is structured is treated equally under the Foreign Acquisitions and Takeovers Act</i>					
	Non-compliant	February 2010	February 2012	Not started	Compliant
Excise Tariff Amendment (Tobacco) Bill 2010 and Customs Tariff Amendment (Tobacco) Bill 2010					
<i>Increase the excise tariff applying to tobacco products by 25 percent and increase of rates of duty applying to tobacco products imported into Australia by 25 percent</i>					
	Non-compliant	April 2010	April 2012	Not started	Compliant

5.1.15 Treasury continued

Title of regulatory proposal					
Description of regulatory proposal	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Foreign Acquisitions and Takeovers Regulations 2010 (no. 2)					
<i>Remove and exemption that applied to temporary residents buying residential real estate in Australia</i>					
	Non-compliant	May 2010	May 2012	Not started	Compliant
Regulation of Litigation Funding					
<i>Clarifying that class actions are not managed investment schemes</i>					
	Non-compliant	May 2010	May 2012	Not started	Compliant
Farm Management Deposits					
<i>Early access for primary producers suffering natural disasters and improved administration arrangements</i>					
	Non-compliant	May 2010	May 2012	Not started	Compliant
Future of Financial Advice					
<i>Prospective ban on up-front and trailing commissions and like payments for both individual and group risk insurance within superannuation</i>					
	Non-compliant	1 July 2013	July 2015	Not started	Compliant
<i>Requirement for advisers to renew client agreement to ongoing advice fees every two years (opt-in regime)</i>					
	Non-compliant	1 July 2012	July 2014	Not started	Compliant
<i>Ban on soft dollar benefits over \$300 per benefit</i>					
	Non-compliant	1 July 2012	July 2014	Not started	Compliant
<i>Limited carve-out for basic products from the ban on certain conflicted remuneration structures and best interests duty</i>					
	Non-compliant	1 July 2012	July 2014	Not started	Compliant
<i>Access to scaled financial advice</i>					
	Non-compliant	1 July 2012	July 2014	Not started	Compliant

5.1.15 Treasury continued

Title of regulatory proposal					
<i>Description of regulatory proposal</i>	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Taxation of Financial Arrangements – amendments to tax hedging rules					
<i>Amendments to ensure rules operate as intended and provide clarification</i>					
	Non-compliant	May 2011	May 2013	Not started	Compliant
Government's Response to the Super System Review (Cooper Review)					
<i>Amendments to ensure rules operate as intended and provide clarification</i>					
	E/c	December 2010	December 2012	Not started	Compliant
Competitive and Sustainable Banking System					
<i>Develop a corporate bond market</i>					
	E/c	Not implemented	..	Not started	Compliant
<i>Ban home loan exit fees</i>					
	E/c	1 July 2011	July 2013	Not started	Compliant
<i>Allow banks to issue covered bonds</i>					
	E/c	17 October 2011	October 2013	Not started	Compliant
Government Response to Australia's Future Tax System review					
<i>Abolition of the entrepreneurs' tax offset</i>					
	E/c	May 2011	May 2013	Not started	Compliant
<i>Fringe benefit tax: reform of the car fringe benefit rule</i>					
	E/c	May 2011	May 2013	Not started	Compliant
<i>Expanding the definition of geothermal energy</i>					
	E/c	May 2011	May 2013	Not started	Compliant
<i>Mineral Resource Rent Tax - adoption of the recommendations of the Policy Transition Group</i>					
	E/c	May 2011	May 2013	Not started	Compliant
<i>Better targeting of not-for-profit tax concessions</i>					
	E/c	May 2011	May 2013	Not started	Compliant

5.1.15 Treasury continued

Title of regulatory proposal					
<i>Description of regulatory proposal</i>	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Government Response to Australia's Future Tax System review - continued					
<i>Introducing a statutory definition of charity</i>					
	E/c	May 2011	May 2013	Not started	Compliant
<i>Small business depreciation - accelerated initial deduction for motor vehicles</i>					
	E/c	May 2011	May 2013	Not started	Compliant

* Published in 2011-12

E/c Exceptional circumstances were granted by the Prime Minister

.. Not applicable

Post-implementation reviews from previous years

Treasury is required to undertake post-implementation reviews for the following 16 non-compliant regulatory proposals from previous years. Descriptions of the proposals are provided in the previous table. They include:

- Financial Claims Scheme and Other Measures Bill 2008;
 - (PIR completed in August 2011 and published in November 2011);
- Guarantee Scheme for Large Deposits and Wholesale Funding Appropriation Act 2008;
- Financial Claims Scheme (ADI) Levy Bill 2008;
 - (PIR completed in August 2011 and published in November 2011);
- Financial Claims Scheme (General Insurers) Levy Bill 2008;
- Tax Laws Amendment (2009 Budget Measures No. 1) Bill 2009;
- Tax Laws Amendment (2009 Budget Measures No. 2) Bill 2009;
- Fairer Private Health Insurance Incentives Bill 2009;
- Foreign Investment in Housing;
- Corporations Amendment (Improving Accountability on Termination Payments) Bill 2009;
- Trade Practices (Industry Codes - Unit Pricing) Regulations 2009;
- Tax Laws Amendment (2009 Budget Measures No. 2) Bill 2009 and Income Tax (TFN Withholding Tax (ESS)) Bill 2009;
- Foreign Acquisitions and Takeovers Amendment Bill 2009;
- Excise Tariff Amendment (Tobacco) Bill 2010 and Customs Tariff Amendment (Tobacco) Bill 2010;
- Foreign Acquisitions and Takeovers Regulations 2010 (No. 2);
- Regulation of litigation funding; and
- Farm management deposits.

The post-implementation reviews are required to commence within one to two years of the date of implementation.

5.2 Joint Proposals

5.2.1 Defence / Resources Energy and Tourism

Title of regulatory proposal					
<i>Description of regulatory proposal</i>	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Government's response to the Review of the Woomera Prohibited Area (Defence/DRET)					
<i>Implements a new framework for managing Department of Defence and non-Defence use of the Woomera Prohibited Area</i>					
	E/c	3 May 2011	May 2013	Not started	Compliant

E/c Exceptional circumstances were granted by the Prime Minister

On 3 May 2011 the Minister for Defence and the Minister for Resources, Energy and Tourism jointly announced a new framework for managing the Woomera Protected Area. The proposal was in response to the Final Report of the Review of the Woomera Protected Area. The proposal required a RIS but the Prime Minister granted an exemption on the basis of exceptional circumstances.

