Executive summary

- We broadly support the Government’s Better Regulation agenda and in particular their attempts to reform the regulatory policy making framework, remove unnecessary regulations from the statute book and simplify the ones that are still in place. We believe it is beginning to show results by delivering improvements in terms of both the quantity and quality of regulation that is emerging from Government. We believe there are signs that the cumulative effect of the Government’s reforms so far is leading to a slowdown in the rate at which regulations are brought in and when regulations are proposed they are often better thought through and more rigorously evidenced.

- We believe, however, that in order to ensure the UK continues along this trajectory the current changes need to be consolidated and strengthened through the implementation of a Regulatory Policy Committee (RPC) + model, which enshrines the RPC and/or the process in law. Only then can genuine consistency be achieved across Government.

- To complete the reform agenda of the regulatory policy making framework, the UK Government also needs to pursue changes at the EU level, where a considerable proportion of regulation derives from.

- In addition to changes to the regulatory policy making process we believe the Government needs to focus more on the ‘regulatory experience’ of small businesses. The danger is that deregulation by central government fails to feed through to the front line in a significant way because of how regulators interpret and interact with those they are regulating.

- We would urge the Government to build on the measures that are only just being implemented, such as the Regulators’ Code, Earned Recognition, ‘Small Business Champions’ and others in order to encourage regulators to move towards a ‘partnership’ model of regulatory compliance. The partnership model would, at its core, focus on facilitating compliance by small business through advice, information and a generally collaborative approach. We believe this model of regulation offers benefits for both regulators and small business as compliance will increase and best practice will spread.
Introduction

1. The FSB is the UK’s leading business organisation. It exists to protect and promote the interests of the self-employed and all those who run their own business. The FSB is non-party political, and with around 200,000 members, it is also the largest organisation representing small and medium sized businesses in the UK. Small businesses make up 99.3% of all businesses in the UK, and make a huge contribution to the UK economy. They contribute 51% of the GDP and employ 58% of the private sector workforce. The FSB’s members are subject to a wide range of regulation and have a strong interest in ensuring the best possible balance between necessary regulation and unnecessary burdens on business.

2. The FSB welcomes the Regulatory Reform Committee’s (RRC) inquiry into the Government’s Better Regulation agenda. The regulatory policy framework has undergone a number of significant changes over the life of the Coalition Government. Some build on the work of the previous Government and others are new.

3. The regulatory burden and the quality of regulation are both linked to the growth potential of the economy and to small businesses in particular. Therefore taking stock of the Better Regulation agenda and attempting to evaluate its overall impact is timely. This is especially so given the imperative of sustaining the current economic recovery in addition to the fact that we are approaching the end of the current Parliament, is a worthwhile exercise. The resulting report could offer regulatory policy makers and in particular the next Government a helpful checklist on progress and indicate areas where there is still some distance to go.

4. In this submission we attempt to offer an overview of the FSB’s perspective on both the strengths of the current framework and where we believe more reform is needed.

5. This submission is divided into two parts:

   a. The first aims to briefly ‘take stock’ of what has already been implemented by the Government and offer the FSB’s view on how effective we consider a number of the main elements of the current Better Regulation agenda to be; and

   b. The second looks forward and sets out the FSB’s thoughts on the issues which we consider the Government has yet to tackle sufficiently effectively.

Taking stock of the effectiveness of the Better Regulation framework

Systemic reform

6. In general terms the FSB considers the Better Regulation framework to have been, thus far, a relatively effective framework. Further, it is one that appears to be improving as time goes by.

7. As the FSB identified in its 2012 report ‘Better Regulation: where next?’ a systematic approach, through institutional reform of the regulatory policy making framework, is the only reliable way of ensuring both long-term reductions in the regulatory burden on small businesses and that the regulations which are implemented are of a high quality.²

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8. The Better Regulation agenda has seen the Government start to take a systematic approach. We support the Government going further. We urge the Committee in their report to call on the Government to move faster and further along this trajectory.

9. The changes implemented by the Coalition, building on the work of the previous Government, have created structures which aim to improve the rigour of the assessment of the impact of proposed regulations and increase the level of ‘challenge’ which new regulatory proposals face. It has done this through increasing the influence of the Regulatory Policy Committee (RPC) and creating the Reducing Regulation Cabinet Sub-committee. The Government has also tried to embed a better regulation culture within Government Departments through the introduction of Board Level Champions and Better Regulation Units operating in those departments.

10. Despite these positive changes we believe there is scope for further reforms which will strengthen the capacity to scrutinise and challenge regulations across Government and help ensure only those regulations that are needed are implemented. We believe the Government should move towards what we have called an RPC+ model as the best way to embed a sustainable better regulation framework for the long-term. We outline more fully the kinds of changes we’d like to see in the second half of this submission.

11. For FSB members the current Better Regulation framework has three key elements that are most pertinent to their interests as owners of small businesses:

   a. Ensuring new regulations are properly scrutinised, proportionate, risk based and rigorously evidenced i.e. good quality and only introduced when necessary thus minimising the number of changes in regulation (‘churn’);
   b. Reducing the existing burden of regulations;
   c. Improving the ‘regulatory experience’ i.e. the approach of regulators to issues such as inspections and enforcement, through moving towards a partnership model of compliance built on the principle that the regulators can help businesses comply where they are found to be in breach of rules through greater consistency, better support and information provision while ensuring those breaching the law deliberately and maliciously are taken to task.

**Better scrutiny**

12. We believe the RPC, the Better Regulation Executive (BRE) and Government departments have made considerable strides in increasing both the amount and the quality of scrutiny they give to new regulatory proposals.

13. The RPC has developed into a respected body, which provides rigorous testing of the quality of Impact Assessments by Government Departments regarding new regulatory proposals. We believe that the work of the RPC and the high degree of transparency with which it carries it out has introduced a discipline and rigour to the IA process that has not always been evident in the past. We welcome the overall improvement in IAs to date and want to see it continue. We believe the RPC has earned access to more resources. This would enable it to expand its remit and for the Government to put RPC (or at least the RPC process) on a statutory footing.

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5 Between 2010 and 2012 the proportion of impact assessments judged to be ‘fit for purpose’ on first submission by the RPC increased from 65% to 81%. Source: BRE (2013). ‘Seventh Statement of New Regulation’. 

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14. The inclusion, in principle, of a specific element in IAs which focuses on the impact of regulation on micro and small businesses (SaMBA) is a further positive development. This requirement was only made compulsory for all IAs earlier this year. Consequently it is too early to evaluate its success or failure. However, it is a welcome recognition of the fact that regulations hit small businesses the hardest. Disparity in impact between larger and smaller businesses is particularly acute when regulations change i.e. when existing ones are reformed or new ones introduced. The consequent focus that SaMBA’s are likely to help encourage within Departments proposing regulations could, in time, produce some very positive results. In the long-run we want to see this element of IA’s become the key decision metric on whether regulations are taken forward or not.

15. Disappointingly the latest RPC report identified a small reduction in the quality and rigour of departmental IAs in 2013. It also highlighted the uneven performance between different departments. The report points out that some departments do not allow enough time for the scrutiny process as part of a poorly planned policy development process.

16. In addition there are areas that are currently excluded from RPC scrutiny or that do not receive full RPC scrutiny e.g. tax legislation from HM Treasury and EU regulation. These missing areas result in a considerable proportion of the total regulatory burden being excluded from systematic scrutiny. Tax administration in particular is considered the most burdensome of all the different domestic regulatory burdens FSB members face. We believe the deficiencies identified by the RPC help make a good case for the need to further reform the regulatory policy making process in order to consolidate the gains so far and ensure they spread as widely as possible.

Reducing the burden

17. Overall the Better Regulation agenda appears to have resulted in this Government on course to leave office with a small but welcome reduction in the net regulatory burden faced by businesses. We believe this is testament to the cumulative impact of the institutional reforms already implemented, the good policy work of the BRE and specific measures such as one-in-one-out (OIOO), the Red Tape Challenge (RTC) and others, which we briefly set out our views on below.

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8 A report by the Small Business Service (SBS), found that costs for small businesses with less than 20 employees are proportionately at least 35% more than for businesses with over 500 staff. Source: SBS (2002) ‘Developing Better Regulation and Policy’. Graham Turnock, Chief Executive of the BRE, is quoted in the report ‘Roads to Success: SME Exports’ published by the Select Committee on Small and Medium Sized Enterprises as stating that ‘...regulation clearly falls disproportionately on smaller businesses’. Source: Select Committee on Small and Medium Sized Enterprises. (2013). ‘Roads to Success: SME Exports’.

9 A 2006 survey found that over half (51%) of business owners were dissatisfied with the ‘rate of change’ in regulation. Source: Carter, S., Mason, C. and Tagg, S. (2006). ‘Lifting the Barriers to Growth in UK Small Businesses’.

7 The proportion of ‘fit for purpose’ IAs reduced from 81% in 2012 to 75%. Source: RPC (2014). ‘Improving the evidence base for regulation: Regulatory Policy Committee scrutiny in 2013’.

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12 46% of FSB members reported that tax administration is the most burdensome area of domestic regulation according to the FSB’s latest survey. The second and third most frequently cited was Employment Law and Health and Safety respectively. Source FSB/RBD (2013). ‘FSB ‘Voice of Small Business’ Survey Panel’.

13 In January the Prime Minister David Cameron’s announced that the government would be the first to reduce the overall burden of domestic regulation and that government measures (such as OIOO and OITO) to reduce ‘red tape’ had saved businesses £1.2 billion a year. It was also suggested that the RTC had saved £300 million a year so far. The expectation is that it will result in over £850 million per annum of savings for business ‘...once all measures have been implemented’. Source: BIS (2014). ‘3,000 regulations to be reformed or slashed’, it can be accessed at: https://www.gov.uk/government/news/3000-regulations-to-be-reformed-or-slashed
18. The Government’s policy of OIOO was supported by the FSB when it was announced. We believe the evidence in the RPC’s annual reports and the regular Statements of New Regulations illustrate the benefits of this measure in combination with the work of the RPC scrutinising IAs. In the FSB’s view the OIOO policy helped create greater discipline in policy design, making departments think harder about regulatory solutions and the overall regulatory burden.

19. The later shift to a one-in-two-out (OITO) policy has helped consolidate that trajectory established by OIOO. The increased requirement of OITO has and will, we believe, further improve the discipline within departments with regards to regulation i.e. the need for new regulation and removing ineffective or disproportionate regulations.

20. Running alongside the OIOO and OITO policies has been the RTC. This is has resulted in over 800 repeals or reforms to date.14 Useful improvements in regulations brought about by the RTC include introducing a new system of Waste Transfer Notes.15 The RTC has helped the Government achieve its OIOO and OITO objectives. Tools such as ‘fast track repeal’, while causing some concern for some groups (as noted by the RPC) have made the removal of those pieces of legislation swifter than might otherwise have been the case.16 It is our view that on balance ‘fast track repeal’ has helped minimise the chances of repeals becoming bogged down and in the worst case scenario grinding to a halt. To add further rigour to the ‘fast track’ process we welcome the move by the RPC towards publishing validation statements about ‘fast track’ measures.17

21. One of the worst aspects of regulation for small businesses is change to existing regulations or change through the introduction of new ones in addition to the current stock.18 Adaptation can cost considerable amounts of time and money as firms learn how to comply with changes to an existing regulation or the introduction of a new one. The moratorium on new disproportionately burdensome domestic regulations, introduced by the Government in April 2011, will have spared start-ups and micro firms some of that burden. We therefore welcome the extension of this moratorium to smaller businesses.19 However, we urge the Committee to recommend to Government that a thorough study of the actual impact of the moratorium be undertaken. It should in particular examine the effects of policy stability on perceived regulatory burdens, to help policy makers get a deeper understanding of how start-ups and micro businesses have gained.

22. Finally, Government reviews, such as that carried out by Professor Lofstedt (which focussed primarily on health and safety) have also been welcome developments.20 A number of sensible measures have emerged out of Professor Lofstedt’s report, which should further simplify some of the health and safety framework. Implementing the measures should result in reduced burdens on business.21 Some of Professor Lofstedt’s proposals are currently in the Deregulation

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18 An FSB sponsored study of nearly 19,000 business owners found that large proportions of respondents were either ‘dissatisfied’ or ‘very dissatisfied’ with a range of aspects of regulation. Notably over half (51%) were dissatisfied with the ‘rate of change’ in regulation. Source: Carter, S., Mason, C. and Tagg, S. (2006). ‘Lifting the Barriers to Growth in UK Small Businesses’.
19 Business Minister Michael Fallon announces the extension of the freeze exempting small businesses from burdensome new regulations. The announcement can be accessed at: https://www.gov.uk/government/news/fallon-red-tape-freeze-extended-to-more-small-businesses
21 FSB research shows that health and safety rules are the regulations that the majority of businesses have to deal with most frequently. Source FSB/RBD (2013). ‘FSB Voice of Small Business’ Survey Panel’.
Bill before Parliament, such as the removal burdens on self-employed individuals working in non-risky occupations. However, the full impact of the reduction in the burdens on the self-employed of such a change will not be known for a considerable period of time.

23. The evidence on the impact that the attempts to reduce the overall burden and minimise the ‘churn’ around regulations, has had is offers a mixed picture e.g. there appears to be some divergence between what smaller businesses experience compared to larger businesses.

24. Showing an improving picture is data recently published by the BRE. It found a continued small but noticeable fall in the proportion of businesses citing the overall level of regulation as an obstacle to the growth of their business. A fall was also identified in the proportion of businesses ‘agreeing’ that a number of activities associated with compliance are a burden. These activities included: ‘finding information about the regulations the business has to comply with’, ‘finding guidance and advice...’, ‘keeping up with new regulations’, ‘preparing reports and facts and figures’ and ‘providing information more than once’.

25. The same survey found that nearly six in ten respondents agreed that the balance between burdening businesses and protecting the public through regulation had improved compared to a few years earlier. The proportion of businesses agreeing that the Government’s approach to regulation was ‘fair and proportionate’ was also relatively high at 61%.

26. This evidence collected by the BRE suggests that the policies briefly surveyed above are having a noticeable (if gradual) effect, both slowing the rate at which new regulations are brought forward and helping to achieve the ambition of a net reduction in the total regulatory burden effecting businesses by the end of this current Parliament.

27. However, the same survey found that 43% of small businesses expected the regulatory burden to increase in the forthcoming twelve months. Further, international evidence continues to paint a somewhat unfavourable picture regarding the regulatory burden in the UK e.g. in the WEF’s World Competitiveness Report 2012-13 the UK ranks 72nd out of 144 in the ‘Burden of Government Regulation’ ratings. A considerable number of countries perform better on this measure than the UK including the Netherlands, a country that has made a sustained effort (for approximately a decade and a half) to reduce their overall regulatory burden. The Dutch are 34th in the WEF rankings.

28. In addition to the international perspective, further evidence of a mixed picture for small businesses at least comes from the FSB’s own research. Data we collected in our last member...
survey into regulatory burdens showed that the overall regulatory burden remains high, with around two thirds of respondents saying there was too much regulation.  

29. Similar to the BRE survey, the FSB research found the expectation among our members to be that the regulatory burden is likely to remain high. Nearly half of respondents stated that regulation had become either more burdensome or had remained as burdensome as it had been previously. Significant proportions of members reported increases in both the time required to deal with regulation and the financial cost of compliance. Specifically:

   a. Nearly a third of respondents stated that they had to spend more time on dealing with regulations over the year 2012/13;
   b. Four in ten respondents had seen the financial cost of regulation increase in the period 2012/13.

30. The FSB research highlights the areas where the increases in burdens have been felt most acutely by our members. Of those who said that the time and financial costs were increasing:

   a. Nearly three quarters said this was because the time/ work hours required to implement, record and report existing regulation had increased;
   b. Nearly as many said that it was because the amount of time/ work hours required to implement, record and report on new regulations had risen;
   c. Half cited that the fees/ charges applied by regulators as a key reason that financial costs had climbed higher;
   d. Nearly half said that the cost of hiring outside advisors was also a reason that financial costs had increased; and finally
   e. A third said that purchasing equipment/ the installation costs of equipment accounted for part of the rise in financial costs.

31. The BRE data appears to paint a somewhat more positive picture than the FSB data. It suggests a situation in flux. Therefore making a clear and confident statement about the future direction of the regulatory burden and how that will be felt by small businesses is difficult at this time. The hope is that, as a result of the cumulative impact of the changes we have surveyed in this submission, the expectation in Government that there is likely to be a net overall reduction in the regulatory burden by the end of this Parliament and the encouraging BRE data, we may be reaching a turning point, which will see future surveys consistently pointing towards regulation becoming less of a burden and on small businesses in particular. Therefore we eagerly await the next tranche of surveys on the regulatory burden to help clarify things.

32. However, in addition to the current successes taking time to feed through we believe there may be some other factors at play as to why the data appear to be showing two slightly different pictures. In the FSB’s view the reasons include:

29 In contrast only 15% of our members believed the current balance of regulations were ‘about right’ and a mere 3% felt there was too little regulation. Source: FSB/RBD (2013). ‘FSB ‘Voice of Small Business’ Survey Panel’.
30 The FSB survey identified the types of regulation which most impacted on FSB members: health and safety came top with over two thirds of respondents saying they need to comply with such rules. Only slightly behind was data protection rules, over half highlighted employment law as an area of regulations they have to account of, while around four in ten have to take account of fire, consumer legislation and waste management and a third environmental regulations. Source: FSB/RBD (2013). ‘FSB ‘Voice of Small Business’ Survey Panel’.
31 Only 26% felt there had been an improvement of some sort (ranging from a few improvements to significant improvements). Source: FSB/RBD (2013). ‘FSB ‘Voice of Small Business’ Survey Panel’.
32 Nearly half said that the time dedicated too complying had remained the same. Only 3% said that they had been able to reduce the time they spent dealing with regulations. Source: FSB/RBD (2013). ‘FSB ‘Voice of Small Business’ Survey Panel’.
33 A similar number said that the financial cost had remained constant, while only 1% had said that it had decreased. Source: FSB/RBD (2013). ‘FSB ‘Voice of Small Business’ Survey Panel’.
a. The net reduction in the regulatory burden is likely to be relatively small and thus not noticeable too any significant degree by a considerable proportion of the small business community;
b. Different regulations impact different sectors to differing degrees. Consequently any noticeable reduction is likely to be unevenly distributed;
c. Changes in regulations are as burdensome as the total stock of regulations. Therefore while the total stock may not have altered, changes to an existing regulation or a new regulation will mean a small business owner taking time to adapt to the changes crating a burden and possibly obscuring any small overall net reduction;
d. As the FSB research showed some of the financial burdens associated with compliance have increased e.g. hiring consultants to advise on compliance or the fees required to be paid to regulators. Therefore, even though the body of regulation itself may not have increased or indeed may have fallen, the cost of complying with that body of regulation has grown; and finally
e. There is often a difference between what the regulatory requirements are on paper and the ‘regulatory experience’ of the small business e.g. when it comes to interacting with the regulator, when the inspector comes to evaluate a business or advise is sought on compliance. In such circumstances perceptions, interpretations and procedures can create an entirely different experience of regulation.

The ‘regulatory experience’ for small businesses

33. Overall, many regulators appear to have shifted more towards a risk based approach to regulation,\(^{34}\) which we welcome. We support initiatives such as ‘Earned Recognition’ e.g. in the area of food standards, which help reduce the burden on businesses who have a track record of compliance. We believe these are important steps towards what the FSB would like to see: a partnership based approach to regulation, where regulators act as facilitators of compliance through support for those businesses who they regulate.

34. The vast majority of small businesses want to comply and try their best to comply. However, on occasion their limited capacity means that they may need assistance. Therefore the regulators have a vital role in bolstering small businesses’ compliance capability. We urge the Committee to press for regulators to continue to build on Earned Recognition and risk based regulation and move decisively towards a comprehensive partnership approach. We consider such an approach, generalised across all regulators, will have positive consequences for both regulators and businesses. We believe such an approach would increase compliance. It would also result in more businesses employing best compliance practice thus impacting positively on their bottom line.

35. Despite the progress so far we believe that we are some way off achieving this partnership approach. With the real progress that has been made in central government regarding the regulatory policy process we consider the implementation of regulation i.e. the ‘regulatory experience’ of small businesses, to be the place where the Government needs to focus next. We believe the Committee should recommend that Government build on what it is already doing to improve the ‘regulatory experience’ and look at ways of encouraging improvement in:

   a. The general approach to regulation by regulators;
   b. The conduct of inspections;

\(^{34}\) The Hampton Review found that regulators failed to take a risk based approach and recommended this approach was more widely used. Source: Hampton, P (2005). ‘Reducing Administrative Burdens: Effective Inspection and Enforcement’. 
c. The provision of information and in the advice provided by regulators; and

d. The decision making by regulators, and its consistency.

36. A number of measures already implemented or in the pipeline are helping consolidate the shift towards risk based regulation and encourage early moves towards the partnership approach to compliance. These include:

a. The newly statutory Regulators’ Code;

b. The plans (currently under consultation) on information sharing to help reduce duplication and the time spent on regulatory activity by business owners who have limited capacity;

c. The proposal for ‘Small Business Champions’ in non-economic regulators;

d. Undertaking research into the experiences of businesses being regulated, through the Focus on Enforcement programme being carried forward by the Better Regulation Delivery Office;\(^\text{35}\)

e. The planned growth duty to be placed on regulators.\(^\text{36}\)

37. The FSB welcomes these measures in principle. We believe they will help encourage regulators to be more open and accountable to those they are regulating, take a more problem solving and cooperative approach where appropriate and improve consistency in regulation, one of the key problems which make the ‘regulatory experience’ for small businesses particularly burdensome.\(^\text{37}\) However, as with the SaMBA, it is too early to get any kind of picture of the likely impact of these measures. The Regulators’ Code only came into force in April, the Small Business Champions, the information sharing and the growth duty have not yet been made into law while the Focus on Enforcement is currently ongoing.

**Improving the regulatory environment: next steps**

**The general direction of future reform**

38. As indicated in the first part of this evidence submission, if the regulatory burden faced by small businesses is to be reduced significantly there are still a number of outstanding issues which need to be tackled more vigorously. This is despite the positive progress also described in the first part of this submission.

39. Those issues where we believe further progress can be made, can be divided into two broad categories:

a. Policy making;

b. Enforcement.

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\(^{35}\) According to the Seventh Statement of New Regulation since 2012 six reviews have been carried out under the Focus on Enforcement project, including into fire safety and care homes with measures deriving from these now starting to come into force. Source: BRE (2013). ‘Seventh Statement of New Regulation’.


\(^{37}\) Both ‘vertical and horizontal inconsistency between national and local regulators has been identified by the NAO as a particular problem. Source: NAO (2008). ‘Regulatory Quality: how regulators are implementing the Hampton review’.
Further structural changes to regulatory policy

40. In terms of policy making we believe that the good work of the RPC and the improvements in departmental IAs need to be taken further. In our 2012 paper ‘Regulatory Reform: where next?’ the FSB outlined a comprehensive set of proposals for reforming the regulatory policy framework, building on a survey of international good practice. 38 We believe the next steps for any Government should be to take forward those proposals for an RPC+ system and implement them.

41. This would require the Government to:

   a. Place the RPC and/or the associated process of rigorously reviewing Departmental Impact Assessments on a statutory footing. Such a reform will embed the improvements in processes and culture that we have already seen, helping give them long-term durability;
   b. Bring within the remit of the statutory RPC (and associated processes) areas which currently do not get the scrutiny they need e.g. tax legislation, the regulatory powers of individual regulators and EU rules;
   c. Put incentives in place which encourage regulatory bodies to pursue a deregulatory agenda;
   d. Introduce ‘Challenge Panels’ (run by the RPC) for all areas of regulation and regulatory enforcement;
   e. Build on the recent proposals for ‘Small business champions in non-economic regulators’ and the statutory Regulator’s Code by endowing the RPC with the role of regulatory policy ombudsman. The RPC should act as a single point of contact should problems arise with regulators and take up issues identified by the ‘Small business champions’, trade associations and business groups. In order to do this the RPC would need the right investigatory powers and the resources.

42. In addition the FSB supports ‘caps’ or targets for de-regulation for all Government Departments. 39 These are more likely to succeed if they span a Parliament. Such an approach would embed an element of flexibility in case of unforeseen circumstances as well as allowing more time for planning and consideration. 40 We believe that such an approach would help cement in place the nascent success of the OIOO and OITO models.

43. However, changes at the UK level are not enough. A sizeable proportion of business regulation originates at EU level. Small businesses struggle to know whether burdens arise at national, EU or at local level and therefore the UK Government needs to tackle UK and EU regulatory burdens together. We support the findings of the Prime Minister’s EU Business Burdens Taskforce and urge them to continue to build support for the COMPETE principles.

44. We welcome the progress that has been made in Brussels to tackle burdensome EU regulation, notably through the European Commission’s ‘REFIT’ Programme. However, there is much further to go, particularly in encouraging Members of the European Parliament to consider the impact of their own amendments.

38FSB (2012). ‘Regulatory Reform: where next?’
39 The Dutch experience suggests net-reduction (de-regulation) targets can work relatively well, in terms of catalysing serious attempts to reduce the burdens if regulation. By the end of 2007 the Dutch has largely met the 25% net regulatory reduction target. Source: OECD (2009). ‘Better Regulation in the Netherlands’.
40 The Dutch experience suggests that targets set to be achieved over a defined but relatively lengthy period are likely to work better than annual ones.
45. The first step in tackling the stock and flow of EU regulation should be to follow the RPC model at the EU level i.e. establishing a fully independent EU Impact Assessment Board (IAB) to scrutinise the costs and benefits of EU proposals.\(^{41}\) While the current IA Board sitting within the Commission is effective, it lacks the teeth to advise and challenge throughout the whole political cycle – both at decision making level in Brussels and at implementation stage by the Member States. While the European Parliament has now set up its own IA Unit, an independent body at the disposal of all the institutions would save duplication, could assess political amendments and scrutinise implementation by the Member States.

46. An independent body would ensure regulations which emanate from the EU are properly assessed for their proportionality and that they are risk based, aimed at resolving an identified problem with the minimum burden possible for small firms. We urge the UK Government to continue to argue strongly for such reforms in the EU.

47. In addition, a number of other changes to EU regulatory policy and the UK Government’s approach to EU regulation would result in further significant improvements on the current state of affairs. These changes should include:

   a. Ensuring stricter adherence to the principles of proportionality and subsidiarity in regulatory policy;
   b. Pushing the EU harder to ‘Think Small First’ through the whole policy cycle and across the EU institutions and move away from ‘one-size-fits-all’ measures;\(^{42}\)
   c. Strict adherence by the Commission to their commitment to consider how the smallest businesses are affected by a proposal and whether legislation can be adapted, as part of a rigorous micro and SME test in every impact assessment;
   d. Building on the EU Taskforce report and argue vigorously for the COMPETE principles;
   e. Improving domestic scrutiny of EU proposals, including social partner negotiations, through relevant Departmental Select Committees scrutinising EU legislation at an earlier stage as well as better liaison between relevant MPs and MEPs;\(^{43}\)
   f. Supporting small businesses by enabling them to more easily find out about and adapt to, new EU measures;\(^{44}\)
   g. Getting more directly involved in the Commission’s reviews of the existing acquis and ensure the Commission maintains its ‘evaluate first’ principle, whereby new legislation is not introduced until there is a full understanding of how effective existing law is.\(^{45}\)

**Improving the ‘regulatory experience’**

48. The second area in need of improvement concerns the ‘regulatory experience’ i.e. the approach of the regulators themselves to implementing the rules, inspection and enforcement. Inefficient and badly conducted interaction with those being regulated not only undermines the objectives of getting maximum compliance but does so by causing unnecessary burdens for businesses who are subject to that enforcement.\(^{46}\)

\(^{41}\) FSB (2014). ‘Be the voice of small business: FSB manifesto European elections 2014’.

\(^{42}\) FSB (2014). ‘Be the voice of small business: FSB manifesto European elections 2014’.

\(^{43}\) FSB (2014). ‘Be the voice of small business: FSB manifesto European elections 2014’.

\(^{44}\) We would like the Government to publish a list of upcoming EU measures awaiting transposition with an implementation deadline to help small firms prepare for changes.

\(^{45}\) For example, the ongoing review of the health and safety ‘acquis’

\(^{46}\) A 2006 survey of 19,000 business owners found that 48% of those surveyed were either ‘dissatisfied’ or ‘very dissatisfied’ with the ‘interpretation of legislation’ and 31% with the enforcement regimes. Source: Carter, S., Mason, C. and Tagg, S. (2006). ‘Lifting the Barriers to Growth in UK Small Businesses’. 
49. Therefore, while we want to see the current risk based approach continue it is our view that there is still some way to go before the ‘regulatory experience’ can be described as coming close to our ideal of the partnership model. Under the partnership model regulation becomes more about enabling compliance and is a consistent and minimally invasive experience which small businesses can have a high degree of confidence in.

50. We believe the first step towards improving the ‘regulatory experience’ and moving towards the partnership model needs to be to get a better understanding of the problems with the current situation. Therefore, while there is a growing body of research on the regulatory burdens small businesses face e.g. regarding the total cost of regulation, we believe there is a lack of detailed evidence about the more intangible elements i.e. how regulators interact with those businesses that they regulate, how they go about enforcement and the scope for following the partnership approach more extensively.

51. We would support more research which tried to widen and deepen the evidence base to better understand what behavioural economics insights, the role organisational culture and the incentive structures of the various regulators can tell us about the reality of regulation.

52. The Focus on Enforcement initiative can be seen as a potentially useful first step in this direction but we would like to see something more systematic, utilising both qualitative and quantitative research. With more extensive evidence in place some of these more subtle and nuanced aspects of the regulatory burden can be better understood. Consequently a more complete picture of the regulatory experience of small businesses could be built up. This would provide an even better foundation for future policy decisions.

53. The second step towards improving the ‘regulatory experience’ is to make sure that changes to the way regulators and the regulatory system work do not create perverse incentives which could worsen the ‘regulatory experience’ and move it away from a more partnership based approach. We believe that since its introduction the Fees for Intervention (Ffi) policy employed by the HSE has contributed to an undermining of the open and collaborative approach to compliance which, we believe the HSE had been trying to move towards and that the FSB wants to see more of. It has begun to drive a ‘wedge’ between some small businesses and the regulator. Therefore, we consider that if it is not to be abolished, there is at least a strong case for reform.

54. The third step needs to focus on improving uniformity in the ‘regulatory experience’, e.g. through better coordination between regulators and the development of methods for spreading good consistent practice and information. While information sharing between regulators may offer some opportunities for this, we consider that the Committee should look explicitly at the idea of a college of regulators. We believe such a forum could reduce some of the vertical disconnects and inconsistencies between national and local regulators and horizontally between local regulators covering different areas and sectors.

55. A college would provide a formal space for discussing issues pertinent across several (or indeed all) regulators. It would offer a route through which knowledge about existing best practice and developing new best practice can be pooled and exchanged. In time, in our view, the benefits which might flow from this approach include more consistent interaction with businesses encompassing greater coordination of messaging and the dissemination of clear, consistent and credible information.