



Government
of Canada

Gouvernement
du Canada



Community of Federal Regulators

2018 Regulatory Conference

AGILE REGULATIONS

Ensuring Safety + Enabling Innovation

November 26-27, 2018

Summary Report



[INSTAGRAM.COM/CFR_CRF](https://www.instagram.com/CFR_CRF)



[TWITTER.COM/CFR_CRF](https://twitter.com/CFR_CRF)



[CA.LINKEDIN.COM/IN/CFR_CRF](https://www.linkedin.com/company/CFR_CRF)

https://wiki.gccollab.ca/Community_of_Federal_Regulators

Canada



The Report

This Summary Report is designed to highlight the key takeaways and messages that were developed during the November conference. Presentations, where available, have been uploaded to the conference website.

Major Areas of Focus

The major areas of focus during the conference hinged around the following themes:

- The trends demanding modern regulation and new regulatory instrument mixes;
- Responding to disruption of sectors and of the traditional regulatory system with more agile approaches like regulatory experimentation, engagement, and cooperation; and
- The role of technology, data and innovative tools in supporting modern regulation.

This Summary Report will focus in turn on each of these major themes and provide some reflections on the takeaways from the conference.

Trends that will demand the implementation of modern regulation

Throughout we heard that the world is changing and that the traditional regulatory models that rely on central actors, employ general rules, apply 'total' risk control management strategies, and use controls as deterrence method are increasingly unable to cope with the global innovation economy. Key global trends point to the need for a reform in the way we regulate:

- Regulatory burden more than taxes will determine the future economic development prospects of a region;
- Critical demographic shifts around the world (for example the rapid aging in the OECD and the large growth of the middle class in Asia) will impact the regulatory process in areas such as health care, agri-foods and consumer good;
- Emerging disruptive technologies are often associated with a 'do it first and then beg for forgiveness later' approach;
- Disruption often comes from actors who are not traditional players in the sector, making it harder to predict shifts and engage ahead of them.

At the same time, regulators will still have a duty to effectively protect citizens and the environment and this will require a shift in the way in which regulation is understood, designed, and implemented.

Responding to the disruption of the traditional regulatory system

As the previously trends become more evident, the regulatory landscape will need to change and be closely connected to the pace of these changes. Some of the frameworks that will be needed to respond to these disruptions will include:

- Risk-based regulation
- Agile & adaptive approaches
- Cooperative approaches premised on real stakeholders' engagement



These approaches will be very important to ensure that old-style regulation does not hinder unduly the pace of innovation and economic development. Alongside these considerations, some key messages were shared.

We are entering an increasingly agile world. This will impact how we plan our regulatory reforms. For example, attempting to reduce multiple standards or regulation to a single one is a process-based approach, which may actually create length delays. A better option may be to focus on outcomes by veering towards mutual recognition of standards, which are better choice than regulation. In fact, strict rules will seldom be the solution in a complex, diverse and quickly evolving space.

Modern regulators will need to be very mindful about the so-called tyranny of small differences: the outdated regulations and small irritants to SMEs. Tackling this area would send an important message to stakeholders about a change in the philosophy of regulation.

While Canada is a leader in risk-based regulation, we are not doing well in terms of global competition and have fallen behind in answering businesses' requests for regulatory change.



The role of technology, data and innovative tools

A critical outcome for modern regulation will be to provide better results for the public and this will pass through improved processes, the use of new technologies and better engagement with stakeholders and users.

However, the critical premise for the success of this approach is applying change and innovation within regulatory organizations themselves and in their relationship with other actors in that space.

This in turn will mean that an agile and adaptive regulatory approach will require different tools from the ones currently in place. These will include:

- Behavioural insights
- Data
- Algorithms
- Regulatory sandboxes
- New technologies

In this sense, the future of regulation will depend on regulators acknowledging that the unpredictability and risks associated with the future can be best tackled by supporting a flexible approach with modern technology and innovation.

Hence, as these new tools become critical, they will need to be treated appropriately. For example, for open data there will be an obligation towards transparency.



Reflections

Modern regulation will be different from today's models. It will be based on diverse approaches targeted to specific realities, it will need to focus on people rather than on norms, it will be agile and adaptive and it will require a shift in the underlying regulatory culture. This will require regulators to change the way in which they think, to constantly keep abreast of change and to become more comfortable with risk. Discussants

highlighted the major pillars of modern regulation as engagement, cooperation, and agile and adaptive approaches.

Engagement with stakeholders emerged as a key factor in many modern regulatory domains but especially for future technology since the latter changes at a pace that makes it almost impossible for governments to have all of the knowledge

required. They are beneficial to all parties involved. Engagement will not only allow regulators to understand the context in which they operate, but also to build a stock of credible information.

Cooperation will be very important not only because it promises to reduce or altogether eliminate regulatory duplication among jurisdiction, but especially because it will provide the foundation of agile regulation. Indeed, successful agile approaches require the very elements that provide the basis for cooperation:

- Transparency
- Accountability
- Good practices
- Trust

Agility and adaptiveness will be prominent features of the modern regulatory space and critical tools in implementing change. As a corollary risk will be present and regulators will need to become more comfortable with both risk and failure. In an agile framework this will mean that the old approaches based on hierarchical models of leadership will not succeed and will need to be replaced or at least complemented by bottom up and diffused hierarchy approaches. At a very practical level, agility will allow regulators to deploy sequences of incremental changes helping to reduce the inevitable risk involved in change.

