TICG

KUWAIT INVESTMENT AUTHORITY,
KUWAIT FUND FOR ARAB ECONOMIC DEVELOPMENT &
OLIVER WYMAN JOINT COMPANY

# THE BENEFITS OF BETTER REGULATORY INFRASTRUCTURE FOR KUWAIT

**AUTHORS**
GREG RUNG, JEFF YOUSSEF AND IBRAHIM GHOUL

# EXECUTIVE SUMMARY

Kuwait's economy is at a crossroads. Persistently low oil prices and other socio-economic factors highlight the need to create the right environment for the private sector in order to increase economic growth. Several studies indicate that Kuwait has been underperforming in this regard, one of the key drivers being its lack of a strong regulatory infrastructure. The need for regulatory reform has been made even more urgent because of Kuwait's current push towards privatization.

In many areas Kuwait has already taken first steps in setting up the regulatory infrastructure to serve its purposes, having: established CITRA to serve as an independent regulatory authority before liberalizing the fixed telecom services; setup the anti-trust regulatory body and designed legislation for intellectual property rights; developed the legal and regulatory framework for privatization; initiated drafting of the conflict of interest law; and so on.

These initiatives; however, have been developed independently and without addressing the systemic underpinning infrastructure. We believe that Kuwait's regulatory institutions, as well as the manner in which regulations are created and adherence to them is supervised and enforced need immediate reform. Failure to do so will result in risking the near-term sustainability of Kuwait's public finances and the weakening of its GDP growth. In this report, we set out a framework, built on publicly available global indicators and best practices that plot Kuwait's regulatory performance relative to other countries across five design principles. Based on the results of this analysis, our proposed action plan for the required reforms starts by establishing a joint body with the responsibility and accountability for leading the required change.

# 1. CHALLENGES TO KUWAIT'S ECONOMIC AMBITIONS

Kuwait needs to create a more diverse economy that moves it away from its heavy dependence on oil (at 59% of GDP and 90% of government revenue) and state expenditures. While a vibrant private sector is beneficial during good times, it is even more important today to ensure resilient and sustained growth. The specter of persistently low oil prices means that there is an urgent need to cultivate the private sector in Kuwait. This takes on extra significance with the move to privatization.

Historically, political forces have been a strong determinant of oil prices. However, there has been a paradigm shift in global energy market dynamics towards economic forces. The economic slowdown in China, coupled with policies by other traditional major demand centers promoting cleaner energy and long-term energy independence, has led to a sustained fall in demand for conventional energy. On the supply side, there has been increased production of unconventional sources and conversion of alternative energy resources to liquid fuels. These factors, along with the lifting of the embargo on Iranian crude and the continued high production levels of OPEC, have led to a flood in supply. Importantly, output from US unconventional oil sources has proven to be very flexible in its response to these market dynamics. In the current scenario, this ability to quickly scale production up or down is likely to place a ceiling on the price of oil.

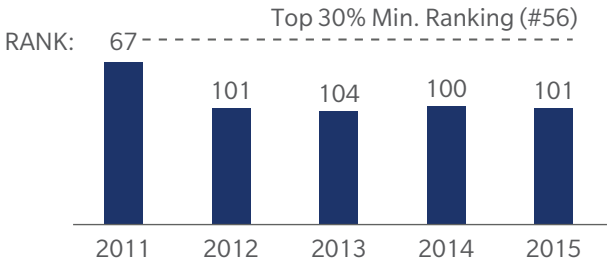
Maintaining the WTI crude oil price current at the time of writing (43 USD/bbl) is likely to lead to a budget deficit of KD 8 billion for Kuwait in 2016 (as well as deficits in the rest of the GCC).

This budget deficit occurs in an environment where Kuwait's public expenditure has been growing by 7% annually, driven primarily by increases in public sector wages and subsidies. Given the budget deficit projection and growing expenditure, increased economic growth has become a necessity in order to ensure sufficient state revenue generation. Boosting economic growth will not only help Kuwait to balance its budget but will enable it to reduce government spending by reining in the need for subsidies.

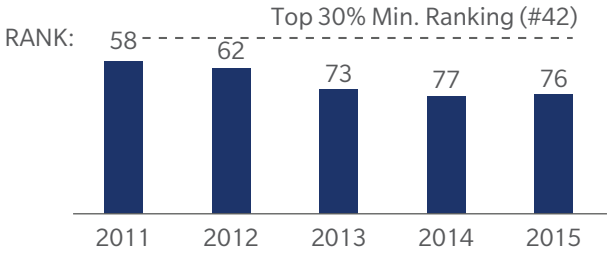
The key to boosting Kuwait's economic growth is to create an environment in which the private sector can flourish, a philosophy Kuwait has shown strong support for through its recent drive to privatization. This will encourage increased foreign investment, which is necessary to further stimulate economic growth and create a sustainable economy. The Kuwaiti government tracks performance across a range of key global indicators in order to monitor its progress to this end. An aspirational target is for Kuwait to reach the top 30% of the rankings by 2025 and the top 20% by 2035. This is no easy task, however. Kuwait's performance on some of the most critical economic growth indicators has stagnated or been in decline over the past five years (see Exhibit 1).

## EXHIBIT 1: GLOBAL RANKINGS OF KUWAIT – SELECT INDICATORS

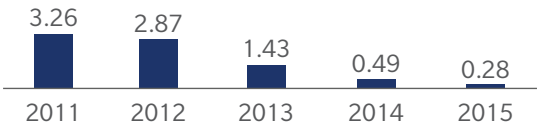
**Ease of doing business** (WB rank of countries)




**Business sophistication** (GCI rank of countries)




**Foreign direct investment** (WB, US$BN.)




**DRIVERS OF KUWAIT'S DECLINE (NOT EXHAUSTIVE)**

- This is a key indicator used to assess the regulatory burden on establishing a business
- Kuwait's rank is affected by low investor protection, the difficulties in resolving insolvency, and the lengthy time required to access basic utilities

- Measures efficiency of the production of goods and services
- Drop in Kuwait's performance due to several key drivers, including the failure to delegate authority, leading to critical inefficiencies

- FDI in Kuwait has dropped significantly since 2011-12
- Key drivers include policy uncertainty for investors, difficulty in obtaining projects, and laws limiting foreign ownership

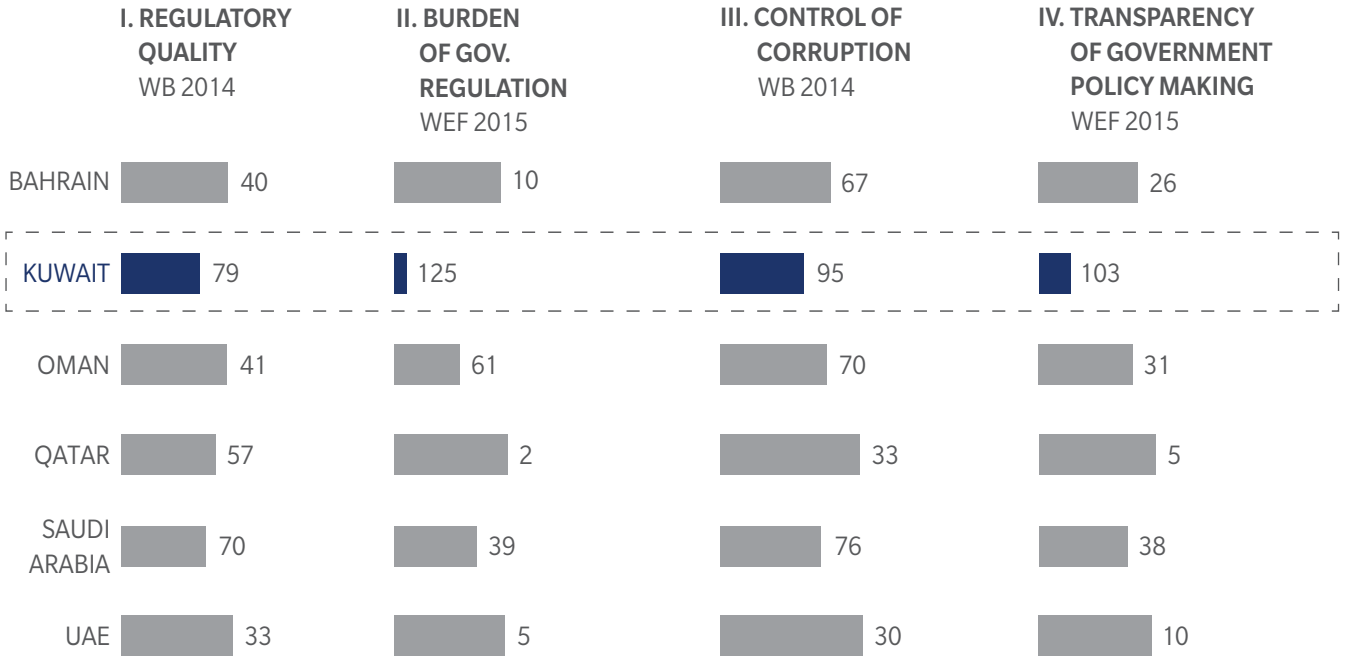
**Note:** Ranking charts represent gap from last place, i.e. the better the rank the taller the bar; WB – World Bank (ranking out of a total of 189 countries); GCI – Global Competitiveness Index by the World Economic Forum (ranking out of a total of 140 countries).
**Source:** The World Bank; World Economic Forum

These indicators are driven by performance on a diverse set of dimensions encompassing economic, developmental and regulatory measures. While Kuwait has focused much of its effort on economic and developmental enhancements, the key drivers of its present decline performance in these global rankings are primarily functions of its regulatory infrastructure.

Regulatory infrastructure, for the purposes of this report, refers broadly to the institutions that govern the content of regulations, as well as to the manner in which adherence to these regulations is supervised and enforced. The latter includes such issues as the effectiveness of monitoring and the timeliness of administrative action.

Analysis of the leading regulatory indicators highlights Kuwait's particularly poor performance in this area, despite the critical importance of regulatory infrastructure as a prerequisite for fostering economic growth (this is dealt with in more detail in the subsequent section). Kuwait is ranked lowest in the GCC on four key indicators linked to regulatory structure: 79th in regulatory quality, 125th in burden of government regulations, 95th in control of corruption and 103rd in transparency of government policymaking (see Exhibit 2).

**EXHIBIT 2: GCC COUNTRY GLOBAL RANKINGS – SELECT INDICATORS**




**Note:** Ranking charts represent gap from last place, i.e. the better the rank the longer the bar; WB – World Bank (ranking out of a total of 189 countries); WEF – World Economic Forum (ranking out of a total of 140 countries).
**Source:** The World Bank, World Economic Forum

I. The World Bank's **regulatory quality** index is a holistic assessment of a jurisdiction's regulatory infrastructure combining a diverse set of regulatory sub-measures. Kuwait's low rank indicates that it does not effectively enable the formulation of policies and regulations that foster economic growth. One of the sub-measures of the regulatory quality index where Kuwait performs particularly poorly is the **intensity of local competition** (Kuwait ranks 110th). This highlights the underutilization of competition law as an instrument for restoring and maintaining competitive markets and for preventing the abuse of monopolistic positions

II. Its low rank in the **burden of government regulations** index highlights the need to reduce unnecessary red tape and formulate goal-based regulations that support economic effectiveness, rather than act as a burden

**III. Control of corruption** measures local perceptions of the extent to which public power is exercised for private gain. It also represents a compilation of rankings, such as those regarding the diversion of public funds, irregular payments in public contracts, public trust in politicians, and corrupt practices like bribery. Kuwait has introduced a State Audit Bureau (SAB) to control public institutions; its present low rank in this indicator shows, among other things, that there is an urgent need to improve transparency in the supervision and enforcement of policies

**IV. Transparency of government policy making** measures the accessibility and timeliness of information about government policies and regulations. This identifies that Kuwait requires much more transparent communication as well as enhanced accessibility. This can be provided, for instance, by e-government services

The regulatory infrastructure in Kuwait needs urgent improvement given its performance in key metrics against international peers. This need for improvement is made all the more urgent because of the current push towards privatization.

# 2. AN URGENT NEED FOR REGULATORY REFORM

The link between good regulatory infrastructure and improved economic growth is a well-established phenomenon documented by many leading sources (See Exhibit 3).

**EXHIBIT 3: RELATIONSHIP BETWEEN REGULATION AND ECONOMIC GROWTH – EXPERT OPINIONS**

| | |
|---|---|
| **WORLD BANK** | The World Bank defines the six economic rationales for good regulation as:<br>• Preventing monopolies or reducing the impact of natural monopolies<br>• Internalizing externalities (third party effects)<br>• Promoting public goods<br>• Dealing with information asymmetries (especially for customer protection issues)<br>• Addressing coordination problems<br>• Encouraging technology transfer by attracting FDI |
| **OECD** | "Regulatory policy has already made a significant contribution to economic development and societal well-being. Economic growth and development have been promoted through regulatory policy's contribution to structural reforms, liberalization of product markets, international market openness, and a less constricted business environment for innovation and entrepreneurship" |
| **PROFESSOR DANI RODRIK** | "Every advanced economy has discovered that [for sustainable economic growth] markets require extensive regulation to minimize abuses of market power, internalize externalities, deal with information asymmetries, establish product and safety standards, and so on" |
| **EUROPEAN CENTRAL BANK** | "Regulation plays a key role in reducing the scope of financial fragility and limiting the costs of financial instability. Hence, a well-designed regulatory framework can actually lead to faster average economic growth over time" |

While strong regulatory infrastructure does not directly result in economic growth, apart from a few exceptional areas such as in the application of anti-trust law, it is clear that weak regulatory infrastructure can undermine it and, in many cases, destroy significant economic value. However, it is important to take a balanced approach to regulation, maintaining the guiding rule that strong regulatory infrastructure should not necessarily imply more regulation, just more effective regulation. Too much regulation can lead to an unnecessary burden on companies as a result of excessive red tape and bureaucracy. Too little regulation, however, can also lead to anti-growth outcomes, such as the abuse of market power by monopolies, the creation of harmful externalities, and market failure due to asymmetries in information. Good regulatory infrastructure is, therefore, a critical lever for encouraging economic growth, providing the platform on which it can be built.

As already underlined, the requirement for robust regulatory infrastructure is made all the more urgent following the announcement of the Government's plans to accelerate privatization, liberalization and empowerment of SMEs. Especially critical in this context is the need for effective anti-trust policies that ensure the competitiveness of the market, preventing the formation of monopolies and encouraging innovation across sectors. Particular attention needs to be given to ensuring that regulation does not unintentionally produce onerous regulatory requirements that can stifle the growth of SMEs, the main drivers of employment. One example of such unintended consequences is seen in the recent adoption of the GCC Trademark Law. This is intended to reduce trademark registration timelines. However, a secondary consequence is that the higher costs resulting from the tripling of trademark fees, the proceeds from which are being used to fund reduced waiting times, will reduce the ability of SMEs to protect their intellectual property. This is indicative of the delicate balancing act required in framing such legislation.

Building a robust regulatory framework and infrastructure takes a good deal of time. Changing the dynamics and culture within institutions, improving government credibility and enhancing investor confidence takes even longer. From previous case studies and examples of regulatory reform (see Exhibits 6, 7 and 8) it is clear that, on average, it takes five years or more before such programs begin to capture their full benefits. With such lengthy timeframes involved, Kuwait needs to act immediately to strengthen its regulatory infrastructure if it is to successfully realize its ambitious economic initiatives over the next 4-5 years.

# 3. ASSESSMENT OF THE KUWAITI STATUS QUO

The first step towards realizing regulatory reform is to develop an adequate understanding of the regulatory status quo. There are many approaches to analyzing the effectiveness of a jurisdiction's regulatory infrastructure, each of which is tailored to the requirements of its developer. Many governments (such as those of Australia, Canada, Netherlands, and the UK), as well as the OECD and the World Bank have published guiding principles that determine their preferred regulatory infrastructure, operating model and policy design.

## FIVE KEY REGULATORY DESIGN PRINCIPLES

Based on various case studies, expert literature and an analysis of numerous regulatory indices and global rankings, TICG has developed a framework that entails five common core principles of effective regulatory design (see Exhibit 4).

**EXHIBIT 4: DESIGN PRINCIPLES FOR REGULATORS**

| | |
|---|---|
|  LONG TERM FOCUS | • Has unique objectives and distinct duties, clearly defined, communicated and not subject to change based on third-party short term goals |
|  INDEPENDENCE | • **Political**: Takes decisions autonomous from political influence or short-term goals of third parties<br>• **Financial**: Ensures self-sufficiency in use of its annual budget and with sufficient human and financial resources<br>• **Operational**: Entity must be legally and functionally independent from all other public and private entities |
|  EFFECTIVENESS | • Proactive in creating and reviewing policies<br>• Effective design of its policies to minimize unnecessary red tape and avoid hampering of economic growth<br>• Follows risk-based supervision model - intensity in monitoring adherence should be a function of risk to policy objectives protected by the regulation |
|  TRANSPARENCY | • Transparent and timely in communicating policies, and be held accountable to its key stakeholders<br>• Non-discriminatory in its approach to both supervision and enforcement |
|  PROPORTIONAL ENFORCEMENT | • Must have the undisputed mandate to enforce its policies, or have a clear process for enforcement<br>• Imposes balanced requirements while avoiding unnecessary reaction in enforcement |

### A. Long term focus

If you have no clear idea of where you are heading, it is very hard to know when you have arrived there. By developing and communicating a clear vision of what it intends to achieve, along with associated long-term policy goals, a regulatory institution plants a flag in the ground about its objectives. This, in turn, not only enables an assessment to be made of the contribution of the regulatory efforts to the broader national objectives but also ensures that the institution is accountable for meeting these goals.

Kuwaiti institutions have yet to make full use of this approach. In general, the majority of regulatory institutions studied in producing this report did not sufficiently define or communicate their vision and their goals were often not aligned to their mandates. As a result, this diminishes their public accountability. In one example, the regulatory body communicated its goal as making and increasing profits; however, this goal does not align with its full mandate. This focus prioritizes its operational role over that of regulatory policy design, both of which are within its mandate. This effectively creates a conflict of interest.

### B. Independence

The regulator needs to be politically, financially and operationally independent from any third-party influence in order to ensure security from opportunistic political intervention. For this goal to be achieved, it must have sufficient and appropriate resourcing, both human and financial.

Many Kuwaiti regulatory bodies lack political and operational autonomy in their financial budgets, and suffer consistently from shortages of human resource and expertise. In one example, the regulator is directly affiliated to the ministry concerned. This lack of autonomy significantly limits its independence. It is mandated with a very wide range of regulatory tasks, all of which require significant technical expertise and numbers of personnel to ensure their adequate supervision, reporting, enforcement and communication. As it stands, this body has no where near enough personnel for all these tasks. This necessitates its dependence upon other institutions and thereby limits its ability to realize its objectives.

Other crucial public bodies also lack operational independence due to their dual role as market participant and as regulator. In one case, the authority is responsible for both operating a facility and for setting the prices for its use. Since revenue generation is a key performance indicator, it has set charges that are above the socially optimal level. This deters the use of this facility, thereby discouraging trade to the detriment of the broader economy. The arrangement in this regulatory setup risks limiting the scope for FDI and international trade.

Even when an institution does not possess price-setting authority, the lack of separation between operational and regulatory responsibilities can lead to conflicts of interest. One national body, for example, operates extensively in the retail sector while at the same time being responsible for promulgating and monitoring the implementation of health and safety regulations for the whole market. This presents a clear conflict of interest.

### C. Effectiveness

When enacting new regulation, attention needs to be paid to the new regulation's impact on existing regulation and how the old and new regulations might affect each other. It is key to identify any potential inconsistencies or conflicts which might exist as a result of this interaction.

It is also necessary to ensure that any regulation, as well as being framed correctly, remains effective over time. This can be ensured by creating or adapting the regulation to match the evolving market realities and by eliminating unnecessary red tape, with the objective of realizing significant savings in time, money and effort. Ensuring that the regulation is kept up to date and as effective as possible will push the regulators to evaluate their own performance and follow best practices. Where regulators follow this approach, it will result in continuous improvement and mitigate the risk of over-regulation that can limit economic growth.

Senior executives of Kuwait's leading financial institutions have raised concerns about the effectiveness of Kuwait's financial services sector's regulatory infrastructure in interviews conducted by TICG for its 2015 publication, *Kuwait's $10 BN Opportunity in Financial Services*. While most of the forty interviewees acknowledged the instrumental role that the regulators play in ensuring the resilience of the economy and the sector, as well as the various improvements that were taking place at that time, the overwhelming majority also stated that the present regulatory approach was stifling growth. The most critical issue concerns the effectiveness of the regulatory framework, specifically its exceedingly risk averse approach of control over incentives. The interviewees had highlighted that the conservative approach of the regulators had made access to financing a constant challenge for the private sector, especially SMEs, and that this resulted in the lack of competition and innovation in the sector.

**D. Transparency**

It is vital to ensure transparency in communication, supervision, enforcement and regulatory entity performance in order to build public confidence and guarantee the accountability of the regulatory bodies. It is also important to make use of available technologies to enhance transparency of communication and accessibility. The World Bank specifically emphasizes transparency in its study *Principles of Good Regulation*: "Regulation should be accessible, transparent and accountable. The public should be able to readily find out what regulations they must comply with, and the regulations must be reasonably easy to understand and fairly and consistently administered and enforced."

In Kuwait, many entities are responsible for both operations and their regulation. In this environment there is no guarantee of non-discriminatory behavior as the entity in effect self-regulates. The lack of separation between operations and regulatory functions can result in serious conflicts of interest and diminished public trust. All these issues raise concerns about the present level of transparency.

**E. Proportional enforcement**

Enforcement plays a vital role in the regulatory framework: consistent and proportional regulatory action is an important lever for protecting market dynamics. Over-reaction, however, can directly hamper market growth while under-reaction can lead to an increase in violations.

Enforcement is a critical issue in Kuwait. Many regulatory institutions are not mandated for enforcement or have yet to fully operationalize the enforcement element of their organization.
An important example is that of regulation to promote competition (the Authority for the Protection of Competition): at present the legal and regulatory framework have not been completed.

# BENCHMARKING REGULATORY PERFORMANCE

The examples above provide anecdotal evidence of the urgent requirement for systemic regulatory reform in Kuwait. TICG has undertaken a broader analysis by scoring Kuwait against the framework introduced above using publicly available global indicators, many of which have already been described in this document. Based exclusively on this analysis, we have plotted Kuwait's regulatory performance relative to other countries across the five design principles. The majority of the results score Kuwait in the bottom third of the ranking (see Exhibit 5).

**EXHIBIT 5: KUWAIT REGULATORY INFRASTRUCTURE ASSESSMENT**

| TICG REGULATORY DESIGN PRINCIPLES | KUWAIT ASSESSMENT | KUWAIT SCORING |
|---|---|---|
| LONG TERM FOCUS | • Insufficient publication of vision or long-term goals<br>• Many goals that are communicated do not align with the entity's mandate |  |
| INDEPENDENCE | • Shortage of human and financial resources<br>• Pervasiveness of political and operational intervention by third parties |  |
| EFFECTIVENESS | • Disproportionate incidence of avoidable regulatory burden<br>• Unsatisfactory level of anti-monopoly regulations<br>• Inadequate, proactive policy or regulatory performance reviews |  |
| TRANSPARENCY | • Large gaps in policy and policy design communication<br>• Scarce usage of public consultation in policy development<br>• No accountability for discriminatory action leading to inconsistencies and exceptions<br>• Reliance on paper rather than leveraging e-government where possible |  |
| PROPORTIONAL ENFORCEMENT | • Insufficient authority for enforcement; in many cases absence of enforcement capabilities<br>• Unbalanced approach to supervision and enforcement |  |

**Assessment methodology**: Kuwait's score for design principle A was defined based on qualitative input gathered from interviews with a number of institutions which lack a clear long term vision. Scoring for other principles of the framework, (independence, effectiveness, transparency and proportional enforcement) were assessed quantitatively based on the Global Competitiveness Index (GCI) and Global Innovation Index (GII) sub-indices. Relevant indices from GCI and GII were first identified and mapped across TICG regulatory design framework principles. The arithmetic average of Kuwait's rank in these indices resulted in final scoring for Kuwait.
**Source:** Global competitiveness index report by World Economic Forum, TICG analysis

The picture is not unremittingly bleak, however. The level of institutional strength in Kuwait is improving and the government has shown that it is willing to reform. For it to succeed, however, better regulatory infrastructure is urgently required. While recognizing the significant steps that have already been taken in this regard (such as the anti-corruption law, intellectual property law, and bankruptcy law), here we highlight five further areas for action. These are the areas that have the widest gaps in the global rankings. Most are systemic, in that they play a critical role across all regulatory institutions. The five areas that require immediate focus are:

I. Review current structures (including autonomy over budgets) and enforce the optimal **level and quality of manpower** for all key regulators.

II. Remove conflicts of interest by ensuring **operational independence** and separation between market participants and regulators.

III. Increase the **market effectiveness of regulatory policies** by eliminating unnecessary red tape and introducing better regulations for managing insolvency.

IV. Increase **clarity and transparency in policy design** by incorporating public consultation throughout the process, thereby reducing the risk premium and helping to build trust and accountability.

V. Enhance the authority of regulators in **supervision and enforcement**, in particular by increasing the enforceability of anti-monopoly regulation, thereby enabling a more competitive environment.

A structured and concerted effort will be needed to address these deeply ingrained issues and this should begin with the establishment of an authoritative body tasked with transforming the regulatory infrastructure of Kuwait.

# 4. THE WAY FORWARD

Although the analysis has identified individual areas of focus which require immediate attention, the key learning from this study is that the critical regulatory infrastructure issues in Kuwait are systemic and do not merely reside within one or two institutions. To address such core issues, Kuwait will need to undertake substantial regulatory reform. This should comprise a three-step process.

## THE THREE-STEP PROCESS FOR REGULATORY REFORM

The design of this process will enable Kuwait to tackle both the infrastructural issues and the issues particular to each individual institution.

**1. Setup and launch a Joint Regulatory Transformation Office (JRTO)**

As with any critical transformation, the first step is to set up and launch the body that will be responsible and accountable for the reform. This team should comprise senior executives of the key regulators across all sectors, select government representatives and leaders from the private sector. It should report directly to, and be empowered by, the Prime Minister to ensure that it has sufficient authority and that all sectors are given equal consideration, while it should also safeguard the critical independence of the regulators. The JRTO will act as the center of excellence for Kuwait's regulatory reform and will steer the implementation of initiatives by working together with the regulators. Its role will entail continuous monitoring of the reform process and it will be tasked with ensuring the quality of the evolving regulatory infrastructure. This regulatory reform practice can be found across many leading jurisdictions both within sectors and in cross-sectorial transformation. A highly relevant case study is the experience of Korea's integrated Regulatory Reform Committee, established in 1997-98 at the height of the Asian financial crisis (see Exhibit 6).

**2. Definition of Public Policy Objectives**

Once the JRTO is set up and fully empowered, the next step will be to map the current regulatory landscape, including the roles and responsibilities of each institution, as well as the regulation and practices in each sector. The definition of the cross-sectorial regulatory strategy will be based on this blueprint. Kuwait's public policy objectives will then be defined based on this approach. The objectives should be an enabler for Kuwait's vision and thus must be derived from it. The objectives will also form the starting point for the design of Kuwait's regulatory infrastructure and must clearly define who is responsible for what.

**3. Gap assessment by sector and institution**

Starting with the public policy objectives as its foundation, the JRTO should then conduct a detailed regulatory assessment of the infrastructure sector by sector (including both policies and institutions). This assessment will then be cascaded down to the level of institutions. This detailed mapping will help ensure that the chosen operating and governance model is effective across both dimensions. Based on the findings of this detailed assessment, the JRTO will then be tasked with putting forward a pragmatic proposal for regulatory development that is grounded in the principles of welfare maximization seen through the lens of market design. The final output will be a detailed and practical regulatory transformation plan mapped sector by sector and institution by institution that addresses the requirements both of the vertical regulators (e.g., financial services, telecommunications, and energy) and of the horizontal regulators (e.g. anti-trust, health & safety, and environmental protection).

# INTERNATIONAL EXPERIENCE OF REGULATORY REFORM

Many leading jurisdictions have successfully used a similar approach to this three-step process in their assessment and implementation of regulatory reform. Reforms undertaken by the Korean government in the late 1990s, for instance, are a prime example of successful regulatory reform.

South Korea undertook a major cross-sectorial regulatory reform program in response to the Asian Financial Crisis of 1997-98. They immediately established the Regulatory Reform Committee to review and assess regulatory infrastructure for the entire economy and made instant changes which had a very positive impact on the country's economy, enabling it to recover rapidly (see Exhibit 6).

**EXHIBIT 6: SOUTH KOREA CASE STUDY: CROSS-SECTORIAL REGULATORY REFORM PROGRAM**

**1997**

- Korean economy hit hard by Asian financial crisis
- Four major sectorial regulatory reforms launched (Financial, Labor market, Corporate and Public)
- The Basic Act on Administrative Regulation (BAAR) was enacted
- BAAR required mandatory regulatory impact analysis and a comprehensive regulatory improvement plan by each ministry each year

**1998**

- The Presidential Regulatory Reform Committee (RRC) was established, chaired by the Prime Minister and a civilian co-Chairman
- RRC mandated to establish policy guidelines on regulatory reform, quality control and examine current status of regulations
- "Guillotine Approach" ordered by President whereby each ministry had to prove the need for their regulations before the RRC
- Number of regulations slashed from 11,125 (Jan 1998) to 6,308 (end 1999), 2,411 of which were modified
- Impact felt across all Korean economy and life

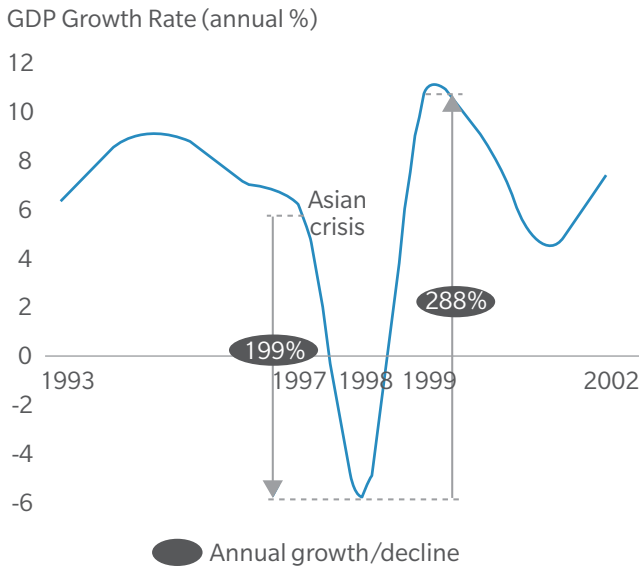
**ECONOMIC IMPACTS OF THE REFORMS**

**1.1MM**
Jobs created

**$36.5 BN**
Extra FDI over 5yrs

**8.57%**
Real GDP growth in 10yrs (0.64% p.a.)

**>$300 MM**
Reduction in Government costs

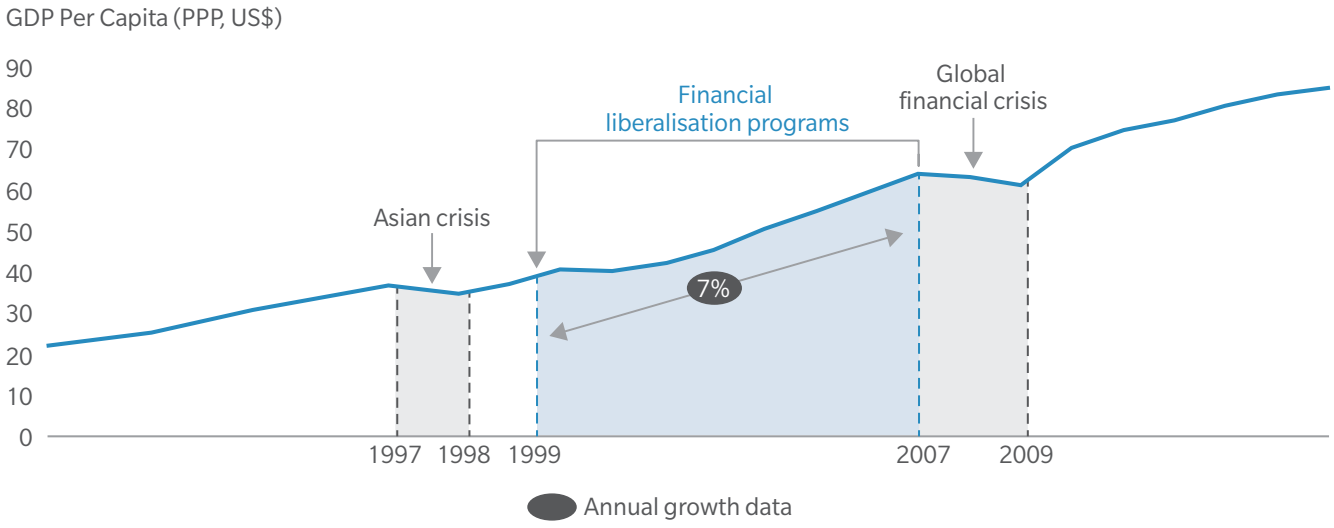



**Source:** World Bank; Byung Ki Ha (1999), The Economic Effects of Korea's Regulatory Reform; KIET; JCA Regulatory Reform

Similarly, Singapore's reforms were carried out as part of a nationwide program that included the "Cut Red Tape" movement and the setting up of the Pro-Enterprise Panel (in 2000). In particular, the financial services industry underwent significant regulatory reform led by the Monetary Authority of Singapore (MAS) in 1999. The financial services regulator identified the need for the institution to transition its regulatory policy from a "one size fits all" somewhat risk-averse approach to a more risk-focused supervisory approach. After conducting a gap analysis, MAS launched a five-year liberalization program (see Exhibit 7); followed by a second wave of reform some twelve years later. The regulations developed as a direct result of these reforms significantly increased the effectiveness of Singapore's sectorial policies by removing regulatory barriers to growth. The reforms are seen to have directly contributed to Singapore's 7% a year per capita GDP growth over the subsequent eight years, according to the World Bank's World Development Indicators, a growth rate that only slowed with the onset of the global financial crisis of 2008.

**EXHIBIT 7: SINGAPORE CASE STUDY: LIBERALIZATION OF FS REGULATIONS**

- The Monetary Authority of Singapore (MAS) was established as a statutory board in 1971, functioning as the monetary authority and de facto central bank for Singapore
- By successfully reading global trends, and intelligently distilling which ones will affect Singapore, the region and the industry, MAS identified in 1999, the need to move away from extensive regulation launching a 5-year liberalization program for banking sector:
  - Granting foreign banks new Qualifying Full Bank (QFB) licenses to enhance competition in the domestic market
  - Lifting foreign ownership restrictions on local banks
- In 2004, MAS lowered Capital Adequacy Requirements (CAR) for local banks, allowing them to be more competitive
- All these reforms removed obstacles hampering financial sector development and policy setting, particularly for wholesale banking, contributing to and facilitating eight years of strong growth, ending with the global financial crisis in 2008
- MAS is among several institutional bodies in Singapore that act in concert in order to foresee, manage and position the country's various economic engines for growth, generally producing joint impact and co-linearity




**Source**: Worldbank (for GDP), Tan Chwee Huat, Joseph Lim and Wilson Chen - Competing International Financial Centers: A Comparative Study between Hong Kong and Singapore, Nov 2014, ITU, Effective regulation case study 2001

Another relevant example of successful regulatory reform that led to increased growth is that of the United Kingdom. Here, a new regulator was established that successfully oversaw the reduction in household electricity prices and helped curb monopolistic market abuse by utility companies.

## EXHIBIT 8: UK CASE STUDY: ENERGY REGULATION

### Context

- Between 1985-88, the UK experienced a **sharp rise in electricity prices** driven by rising oil prices
- The Electricity Act enacted in 1989 has the objective of **privatizing and liberalizing** the electricity industry
- **Market regulator (OFFER) is established** to monitor this process, ensure fair competition, and protect consumers rights

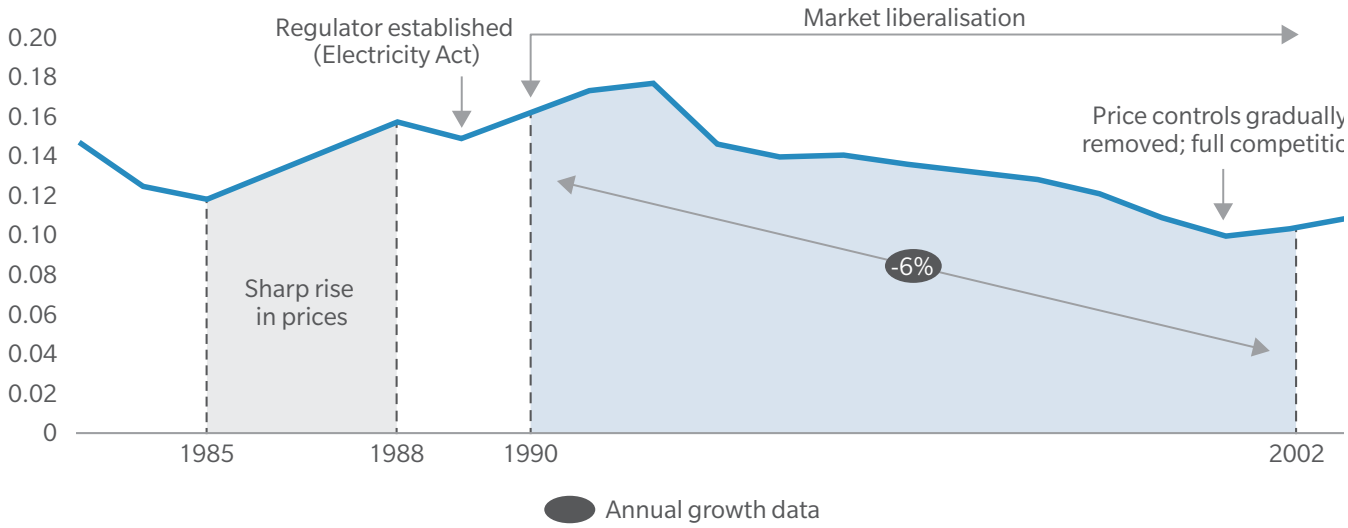
### Action

- Market undergoes **liberalization** (1990-99), including unbundling, heightened private participation, and marketization
- OFFER i**ntroduces market rules and price controls** on monopolies during this period
- OFFER **promotes competitive environment** and eventually removes price controls in 2001

### Result

- **6% annual reduction** in household electricity prices between 1992-2001
- Successful **transition of market** from monopolized to competitive structure
- Elimination of monopolistic market abuse and **protection of end consumer**

**UK HOUSEHOLD ELECTRICITY TARIFFS**
US$/kWh




**Note:** OFFER – Office of Electricity Regulation, renamed to Office of Gas and Electricity Markets (OFGEM) post-merger with Office of Gas Supply (Ofgas)
**Source:** Energy Information Administration EIA | Department of Applied Economics, Cambridge | Energy Probe Research Foundation

# URGENT NEED FOR ACTION

To prevent this squeeze on public finances TICG's scenario testing has concluded that Kuwait's leadership must setup, empower and then launch the JRTO by the end of Q1 2017 latest. The office must then, working closely with Kuwait's regulators, agree on the definition of the public policy objectives by mid-2017. By the end of Q3 2017 the JRTO must have completed the detailed gap assessment and developed its proposal for the regulatory transformation, to be implemented across the regulatory landscape before the end of the year. The proposal should then be communicated to the public to anchor the plans and help empower JRTO with the responsibility to implement.

Within 2017, the JRTO must introduce and launch a regulatory impact analysis framework, including standard cost modelling, for all existing and new regulations in Kuwait. This will require regulators to justify the need for their existing regulations with the ultimate goal of dissolving a large percentage of them (up to 40% in the first year). Similarly, all new regulations will need to undergo a self-review process, to be conducted by the regulator, as well as an external evaluation of ex-ante suitability conducted by JRTO. In addition, all new regulations will be required to undergo a public consultation process to ensure the enhancement of transparency and accountability across the regulatory ecosystem. Finally, JRTO will also be tasked with reforming the systemic monitoring and evaluation of regulations as well as building up the capacity within regulatory organizations.

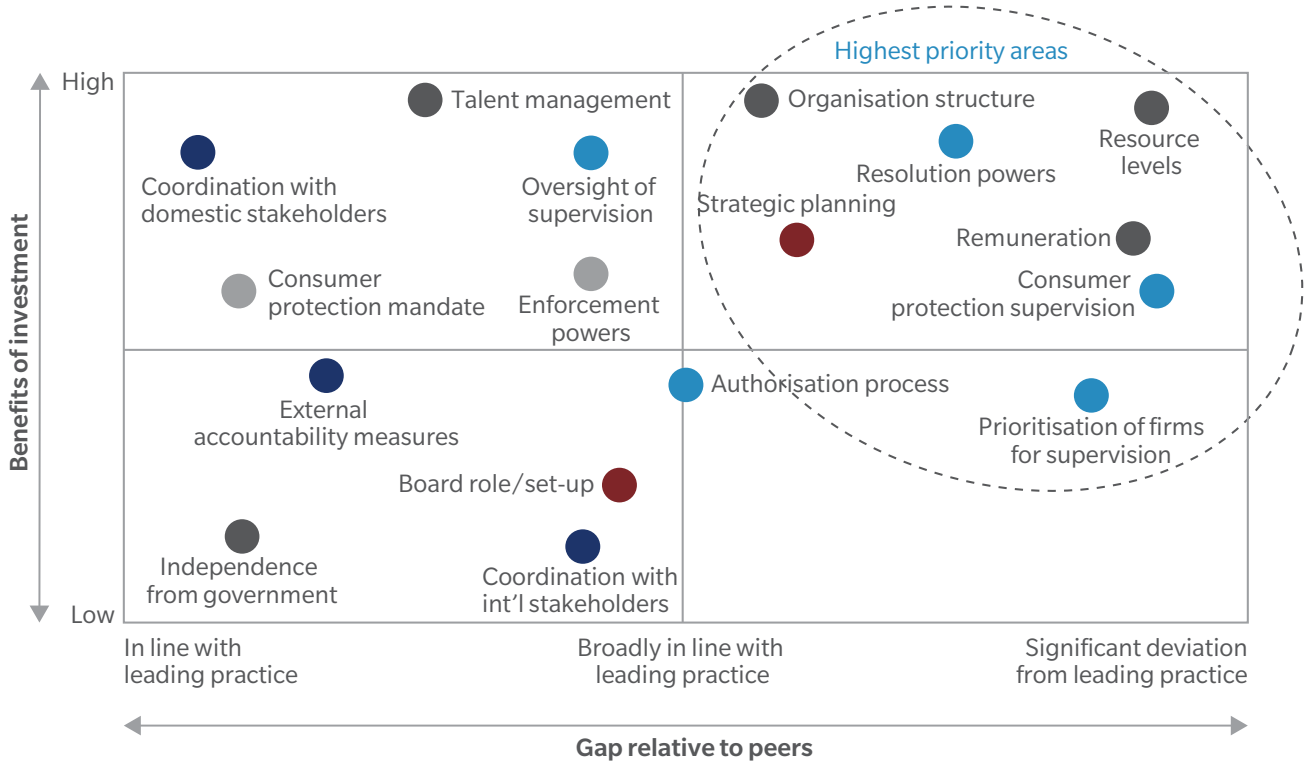
The timeline is aggressive but necessary and achievable, as shown in the South Korean case study. The plan starts immediately with the establishment of the Joint Regulatory Transformation Office, reporting directly to the Prime Minister, with responsibility and accountability to propose the overall policy strategy and lead the change.

# 5. TICG'S EXPERTISE

TICG, through its partnership with Oliver Wyman, has supported governments globally to identify institutional regulatory gaps both within sectors (such as financial services, telecommunications, energy, and health services) as well as in cross-cutting regulatory areas (such as anti-trust, environment protection, and health & safety). Each institutional area has a very different purpose, so the criteria used to define success are also very different, as are the frameworks used in their analysis. Exhibit 9 presents a disguised case from a real-life assessment of the effectiveness of a major European regulatory supervisor. A range of policy areas were analyzed as part of a broad-based benchmarking exercise and aggregated to enable them to be comparable. The output identified eight high-priority areas where there could be significant benefits from reform in which there were currently key gaps with best practices.

**EXHIBIT 9: GAP ANALYSIS FOR A EUROPEAN SUPERVISOR (DISGUISED CLIENT EXAMPLE)**

**POSITIONING RELATIVE TO PEERS ON KEY DIMENSIONS**



## ABOUT TICG

Tri International Consulting Group (TICG) is a world-class management consultancy that combines extensive industry knowledge and deep Kuwaiti market understanding with specialised expertise in strategy, operations, risk management, and organisation transformation. Our professionals help clients optimise their businesses, improve their operations and risk profile, and accelerate their organisational performance to seize the most attractive opportunities.

TICG was founded as a joint venture between the Kuwait Investment Authority (KIA), the first sovereign wealth fund in the world, the Kuwait Fund for Arab Economic Development (KFAED), the first Arab international development institution, and Oliver Wyman, a leading global management consulting firm.

www.ticg.com.kw

## CONTACTS

For further information, please contact:

**Tri International Consulting Group**
5th floor, Global Tower
Al Shuhada street
Sharq, Kuwait
PO Box 21744
13087 Al Safat, Kuwait

Tel: +965 2241 5057
Fax: +965 2241 5470

contact@ticg.com.kw



## REPORT QUALIFICATIONS/ASSUMPTIONS & LIMITING CONDITIONS

TICG shall not have any liability to any third party in respect of this report or any actions taken or decisions made as a consequence of the results, advice or recommendations set forth herein.

This report does not represent investment advice or provide an opinion regarding the fairness of any transaction to any and all parties. The opinions expressed herein are valid only for the purpose stated herein and as of the date hereof. Information furnished by others, upon which all or portions of this report are based, is believed to be reliable but has not been verified. No warranty is given as to the accuracy of such information. Public information and industry and statistical data are from sources TICG deems to be reliable; however, TICG, its employees and its advisers make no representation as to the accuracy or completeness of such information and has accepted the information without further verification. No responsibility is taken for changes in market conditions or laws or regulations and no obligation is assumed to revise this report to reflect changes, events or conditions, which occur subsequent to the date hereof.