The Process of Rule Making

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The process of rule making

1. Identification and Analysis of Problem

2. Decision Making: Review and Planning of Action

3. Mitigating Actions: Rule Making (Law, Reg. Policies) and/or Supervisory Actions

4. Evaluation
The process of rule making

Sub 3. Mitigating Actions: Rule Making (Law, Reg. Policies) and/or Supervisory Actions

Steps in the process of rule making:
1. Development of the rule (Regulator, SRO, Ministry)
2. Approval process of draft rule
3. Consultation
4. Finalization of rule
5. Implementation
6. Enforcement
Rules or Principles

Advantages

- Immediate compliance
- Strong defence against litigation
- Strong base and sense of mission
- Internal cohesion
- Consistent
- Prevention of reg capture
- Punishes benefits by competitive advantages of non-compliance
- Scale effects in case of huge number of regulated entities

- Minimize opposition in long term
- Reduces compliance burden allowing tailored responses
- Reaches further with fewer resources
- Increases likelihood of agency survival
Regulatory and enforcement focus

Illegal behavior

Harmful behavior

Detailed administrative rule

Churning

Strong fee driven culture

Advantages and disadvantages of focus on illegal behavior

+ Law is precise basis
+ Accountability relatively simple in short run
- Law is slow and fallible instrument
- Do you attack big problems?

Advantages and disadvantages of focus on harmful behavior

+ Regulation focused on fixing big problems
+ Better accountability in long run
- What are the applicable rules?
- Risk of getting too far away from the law
The process of rule making

Issues addressed by the panel:
• Bottum-up (by SRO’s) versus top-down rule making
• Lifecycle of a rule: review and approval process
• Relationship between SRO and Statutory Regulator

Questions to the panel:
1. What has worked and what hasn’t?
2. Challenges and obstacles in the process.