

Conducting ex-ante regulatory impact assessments:

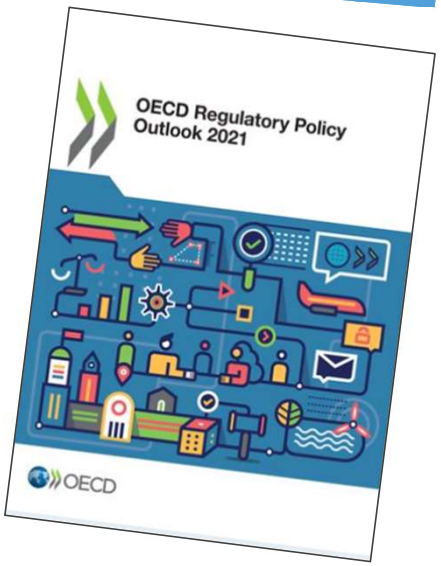
Workshop on Economic Assessment of International Commercial Law Reform

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15th of September 2022

OECD work on better regulation

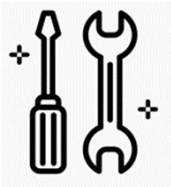
- **20+ years of experience** in regulatory policy
- **Internationally recognised standard** (Recommendation on Regulatory Policy and Governance)
- **Regular monitoring of OECD practices** through the Regulatory Policy Outlook (2015, 2018 & 2021)
- **Regulatory policy reviews** of most member countries and some non-members
- **Best Practice Principles:** Stakeholder Engagement, Regulatory Enforcement & Inspections, RIA





What is RIA & why should governments use it?

What is it?



Formal and systematic process of identification and quantification of benefits and costs likely to flow from regulatory or non-regulatory options for a policy under consideration.

Why should we use it?



Quality control of regulation. Ensuring policy coherence

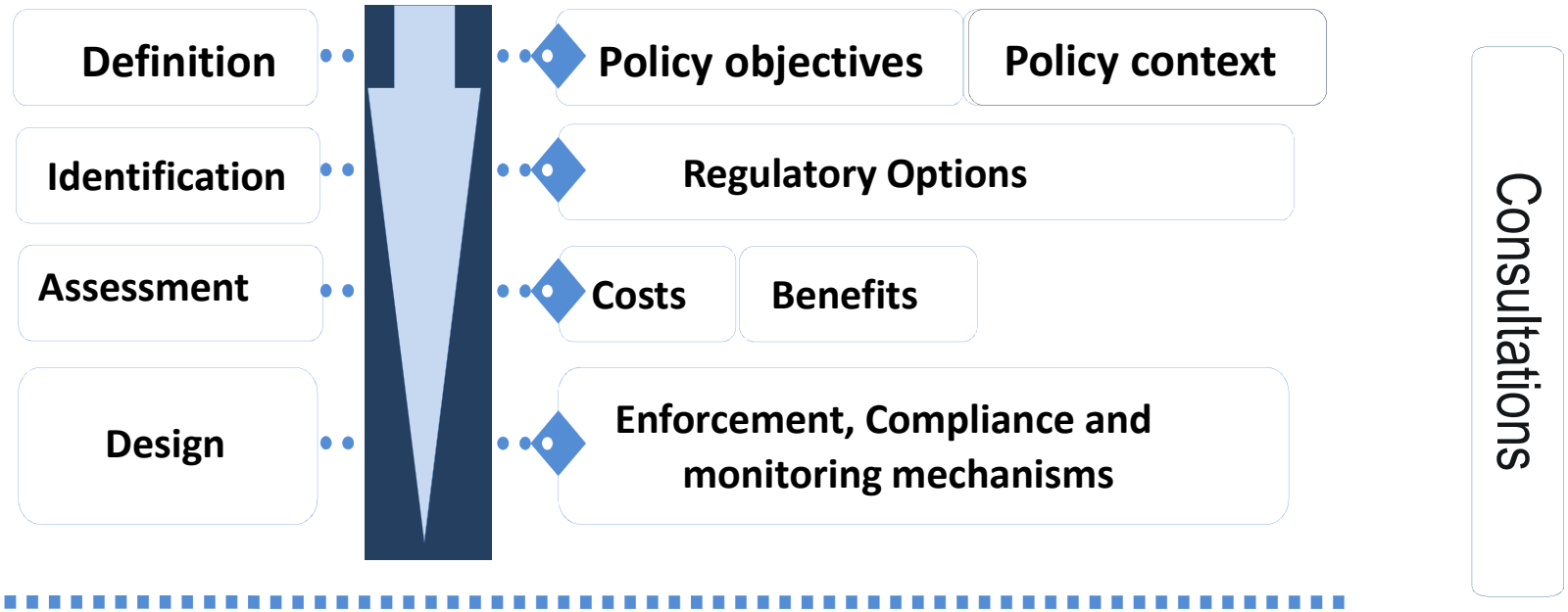


Evidence-based policy making: is regulation the best available means?



Transparency: within government and civil society

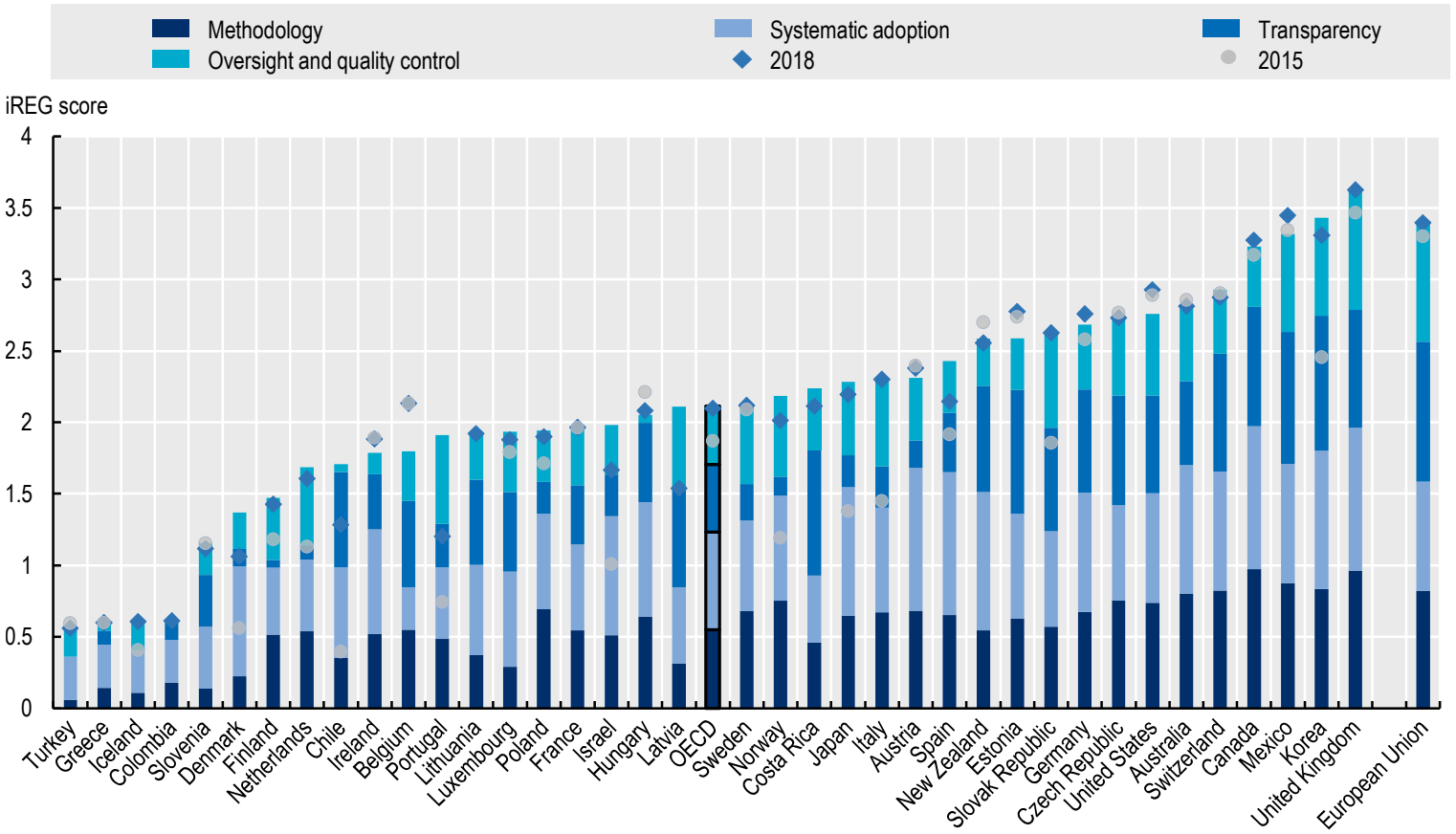
Regulatory Impact Assessment: Key Steps



Communication and Use of Results for Evidence-based Decision Making

Regulatory Policy Outlook 2021: Adoption of RIA

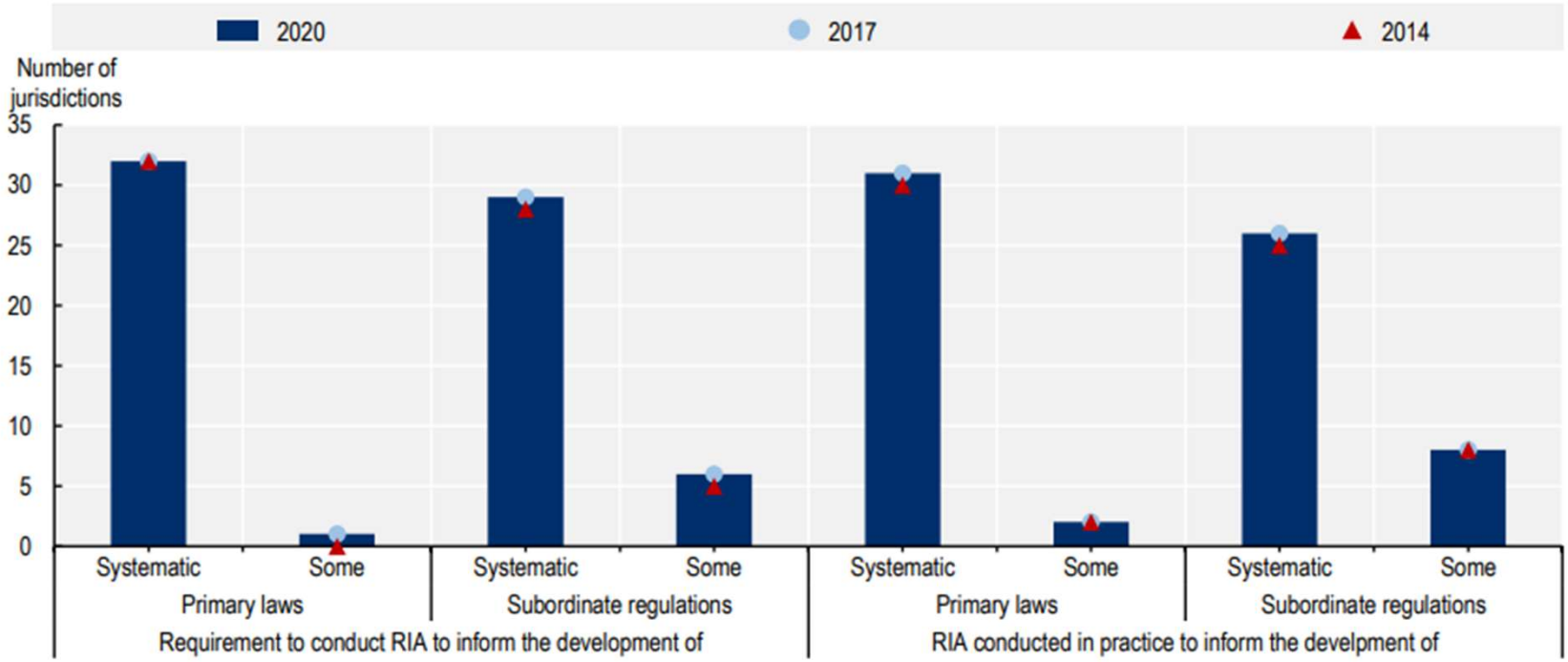
iREG results: Regulatory impact assessment - subordinate regulations



Note: The more regulatory practices as advocated in the 2012 Recommendation a country has implemented, the higher its iREG score.
Source: OECD (2021), OECD Regulatory Policy Outlook 2021 https://www.oecd.org/publications/oecd-regulatory-policy-outlook-2021-38b0fdb1-en.htm

Regulatory Policy Outlook 2021: Implementing RIA

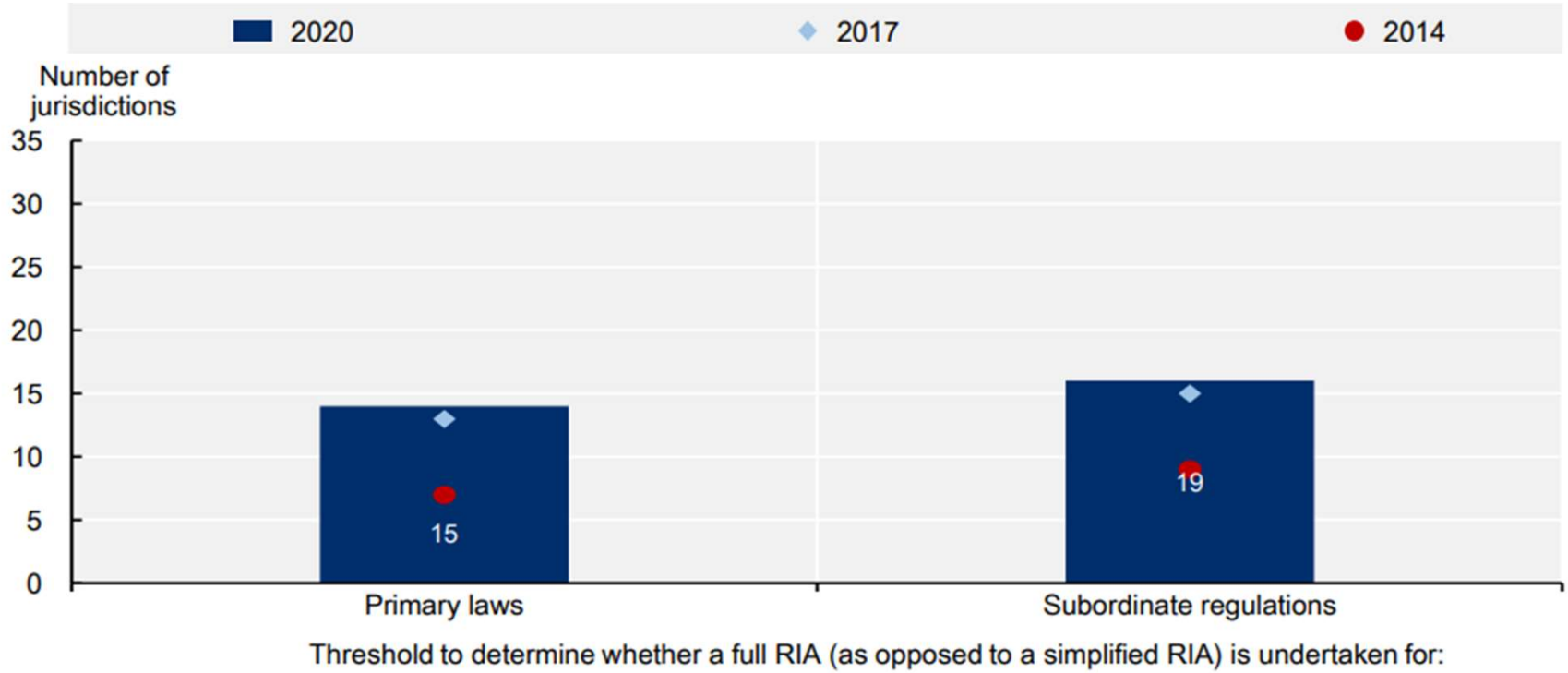
The gap between RIA requirements and practice is slowly diminishing over time



Note: Data are based on 34 OECD member countries and the European Union.
Source: OECD (2021), OECD Regulatory Policy Outlook 2021 https://www.oecd.org/publications/oecd-regulatory-policy-outlook-2021-38b0fdb1-en.htm

Regulatory Policy Outlook 2021: RIAs & Proportionality

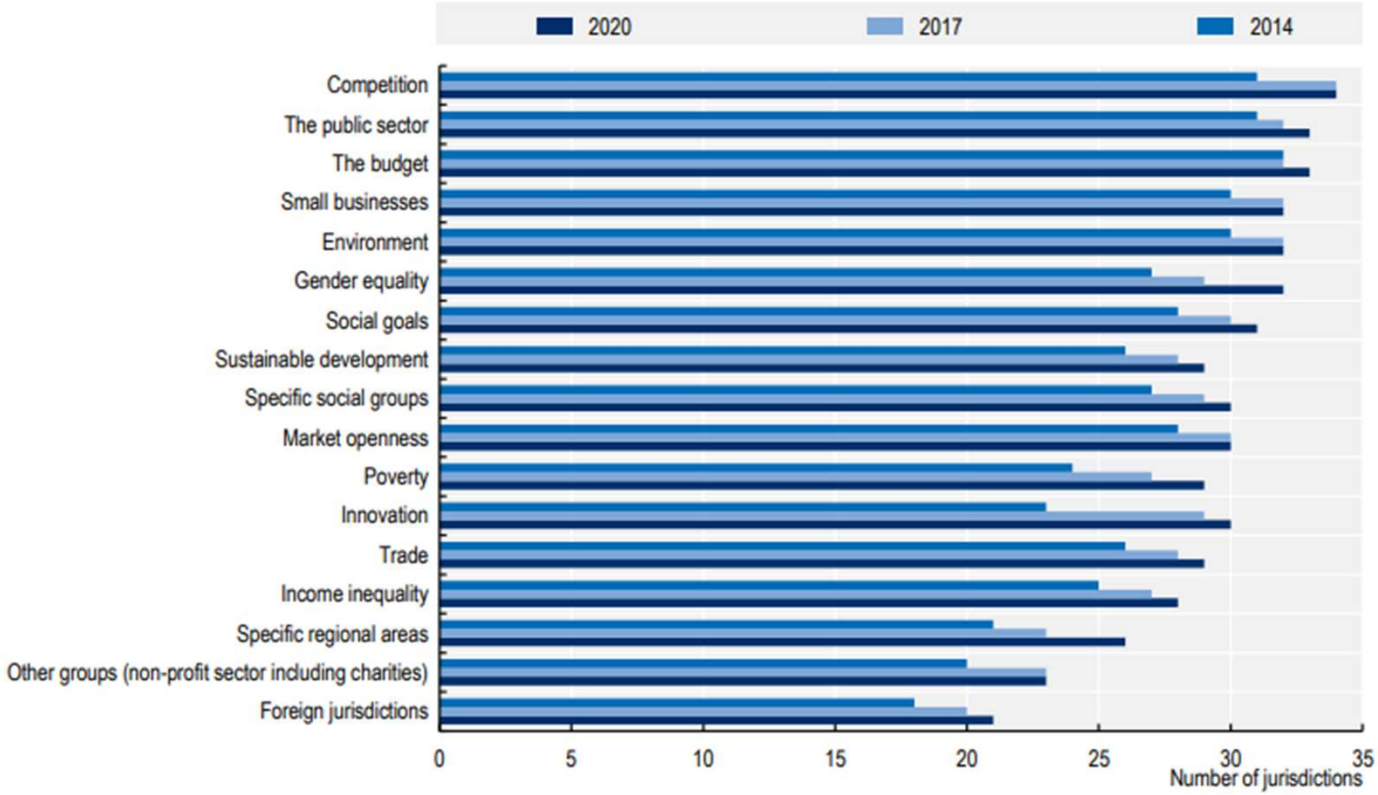
There is an increasing use of threshold tests to determine the depth of RIA



Note: Data is based on 34 OECD member countries and the European Union.
Source: Indicators of Regulatory Policy and Governance (iREG) Surveys 2014, 2017 and 2021.

Regulatory Policy Outlook 2021: Range of Impacts

Regulators assessing regulatory impacts on an increasing number of factors



Choice of methodologies:

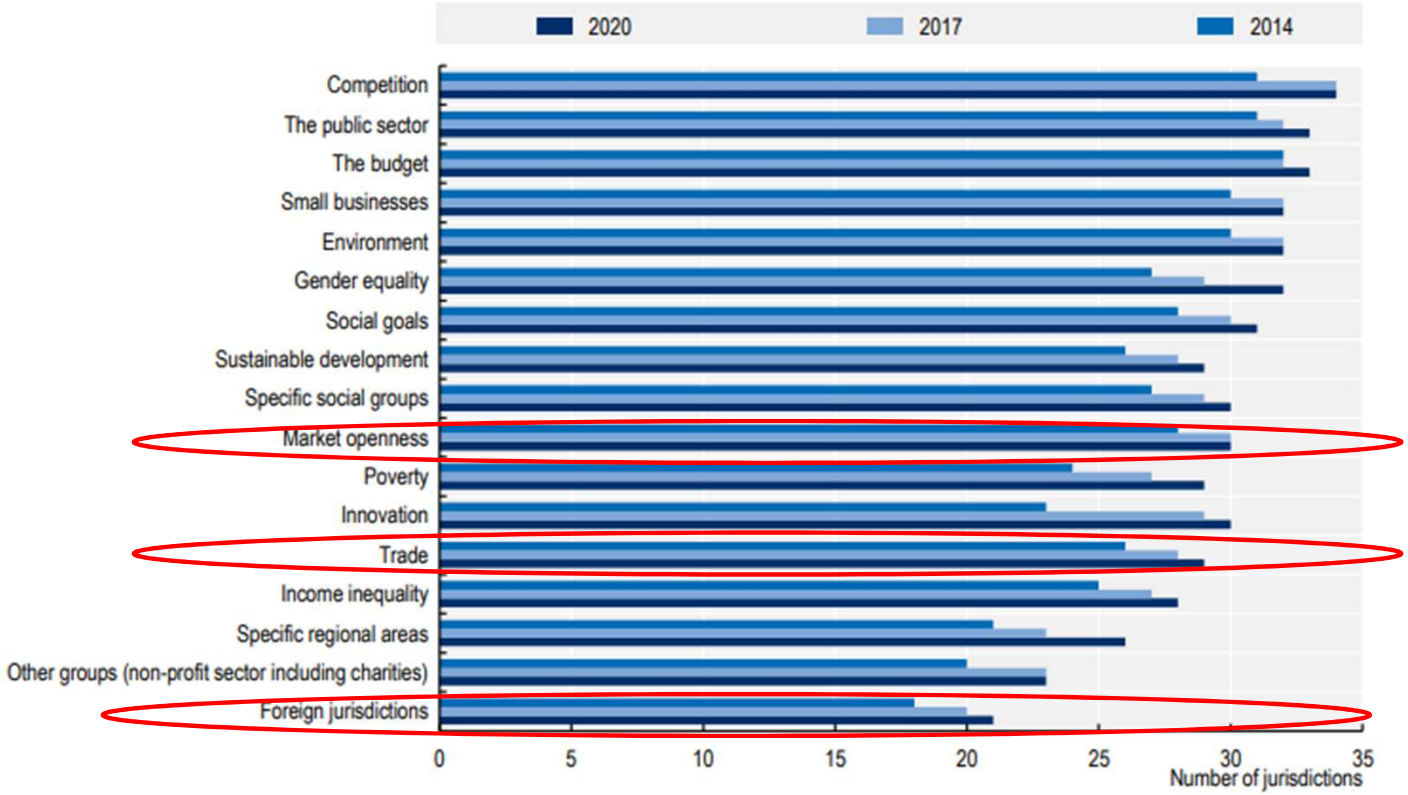
- Cost-benefit analysis
- Cost-effectiveness analysis
- Least-cost analysis
- Multi-criteria analysis

Note: Data is based on 34 OECD member countries and the European Union.

Source: Indicators of Regulatory Policy and Governance (iREG) Surveys 2014, 2017 and 2021.

Regulatory Policy Outlook 2021: International Impacts

Accounting for international impacts in RIA



Note: Data is based on 34 OECD member countries and the European Union.

Source: Indicators of Regulatory Policy and Governance (iREG) Surveys 2014, 2017 and 2021.

Regulatory oversight is crucial to ensure regulatory quality

- Quality control of regulatory management tools
- Co-ordination
- Evaluation and systematic improvement of the system
- Guidance and support
- Identify areas where regulation can be improved

- **One or more oversight bodies**
- **Close to the centre of government**
- **Degree of autonomy**

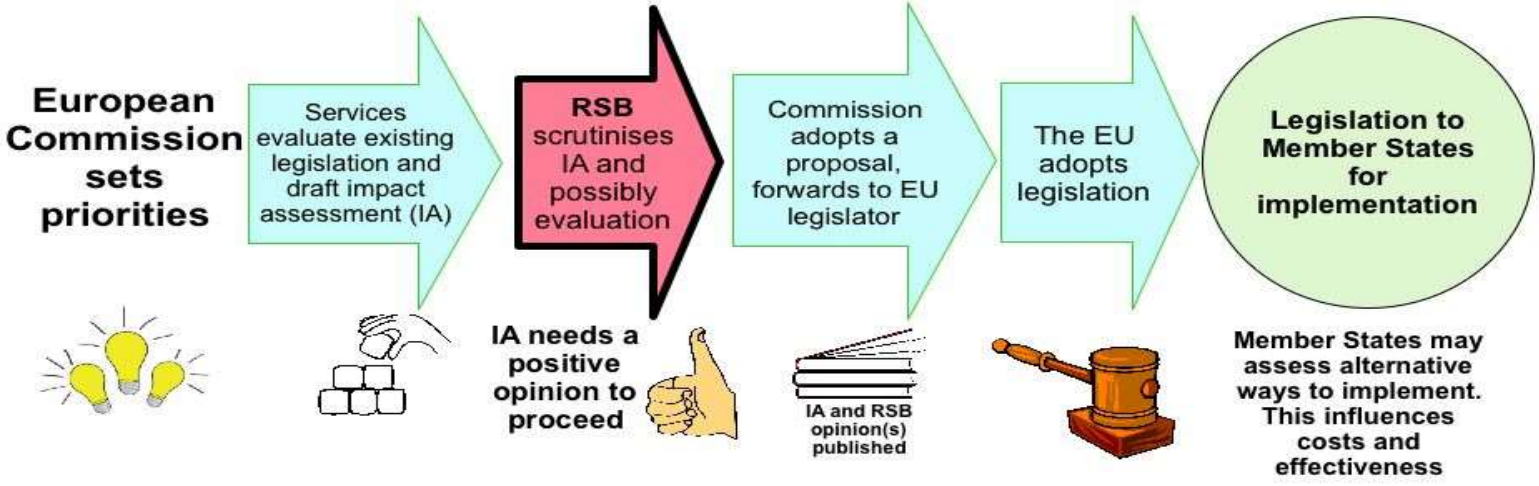
Challenges for implementing RIA

International evidence suggests that :

- RIAs often undertaken late in the policy process
- more to do to target RIA to the most significant regulations - *proportionality*
- need to strengthen regulatory oversight regarding quality control - *too many proposals exempt from RIA*
- still overly focused on narrowly defined economic impacts
- more likely to identify and assess regulatory options than non-regulatory options
- need for greater understanding of behavioral responses
- overload of tests risks undermining the quality of RIA assessments
- legal obstacles may prevent regulatory agencies from assessing impacts beyond borders

Example 1: EU Commission

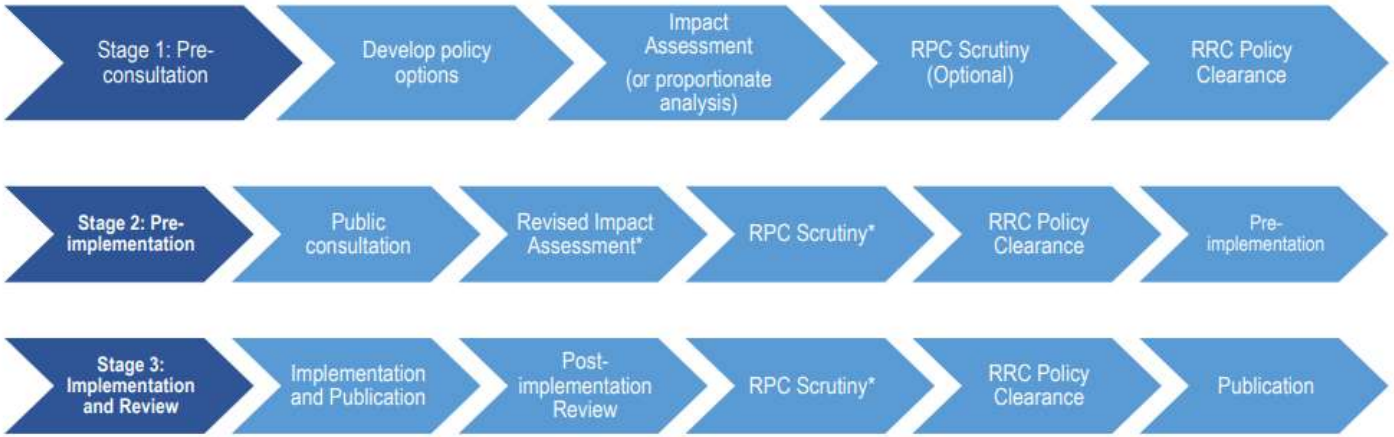
- Applies to all major new policy initiatives of the EC, from soft law documents (Communications, recommendations) to far-reaching, cross-cutting new EU directives & regulations
- Regulatory Scrutiny Board established in 2016 to provide expert quality control of every draft impact assessment as well as of major retrospective evaluations



Example 2: United Kingdom

- Preliminary RIA outlines the problem & evaluates regulatory and non-regulatory solutions.
- Stakeholders are invited to comment on the evidence & assumptions supporting the analysis.
- A final stage RIA is developed with detailed cost-benefit analysis for the preferred option(s).
- The Regulatory Policy Committee (RPC) assesses the quality of the evidence base & scrutinizes the RIAs (and ex-post reviews).

Better regulation phases in the United Kingdom



* At this stage a full RIA and RPC scrutiny is optional only for measures below the threshold of ± GBP 5m EANDCB and those measures that are certified as being within the administrative exclusions categories.
Source: Better Regulation Framework, Department for Business, Energy and Industrial Strategy, August 2018.

Thank you!



Contact me at:

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Find the OECD Best Practice Principles - Regulatory Impact Assessment here:

https://www.oecd.org/gov/regulatory-policy/regulatory-impact-assessment-7a9638cb-en.htm