



REVIEWING THE STOCK OF REGULATION: OECD Best Practice Principles

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Why review existing regulations?

- The 'stock' of regulation is extensive in all countries
- The potential for regulation to have significant impacts
- The effects of regulation cannot be known with certainty.
- Ensuring the regulation remain fit for purpose over time
- Understanding the aggregate impacts of regulation
- Improving the design and administration of *new* regulations
- Providing public support for regulations and governments

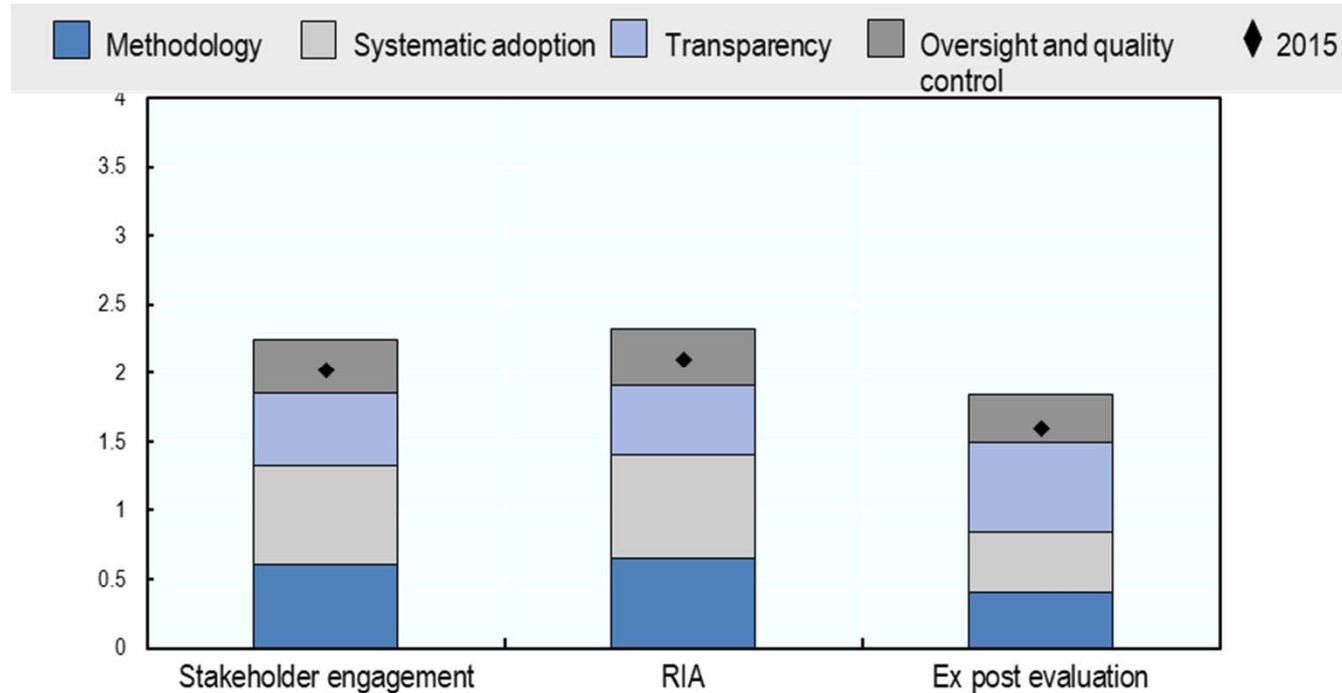


Why a need for principles?

- The OECD 2012 *Recommendation on Regulatory Policy and Governance*
- *Ex post* review remain less developed than other regulatory management tools
- *Ex post* review is more demanding and less straightforward than RIA
- More political or bureaucratic resistance to scrutiny of regulations in place than developing new law and regulations



Average OECD composite indicators on regulatory policy



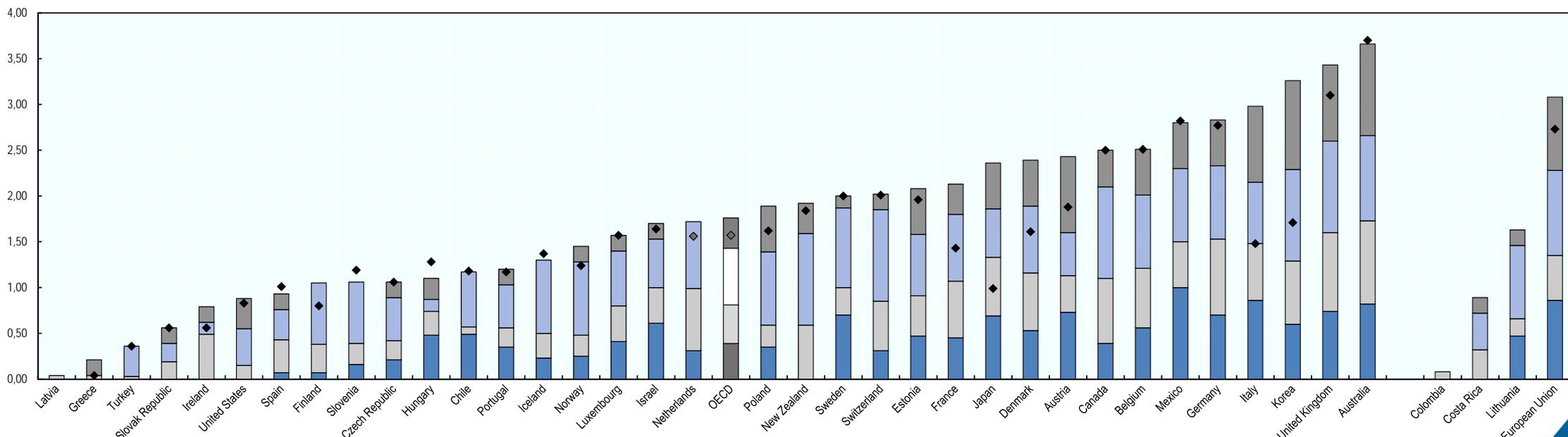
Notes: Data for OECD countries is based on the 34 countries that were OECD members in 2014 and the European Union. Data on new OECD member and accession countries 2017 includes Colombia, Costa Rica, Latvia and Lithuania.
Source: Forthcoming 2018 OECD Regulatory Policy Outlook.



iREG composite indicator: *ex post* evaluation for primary laws



iREG score

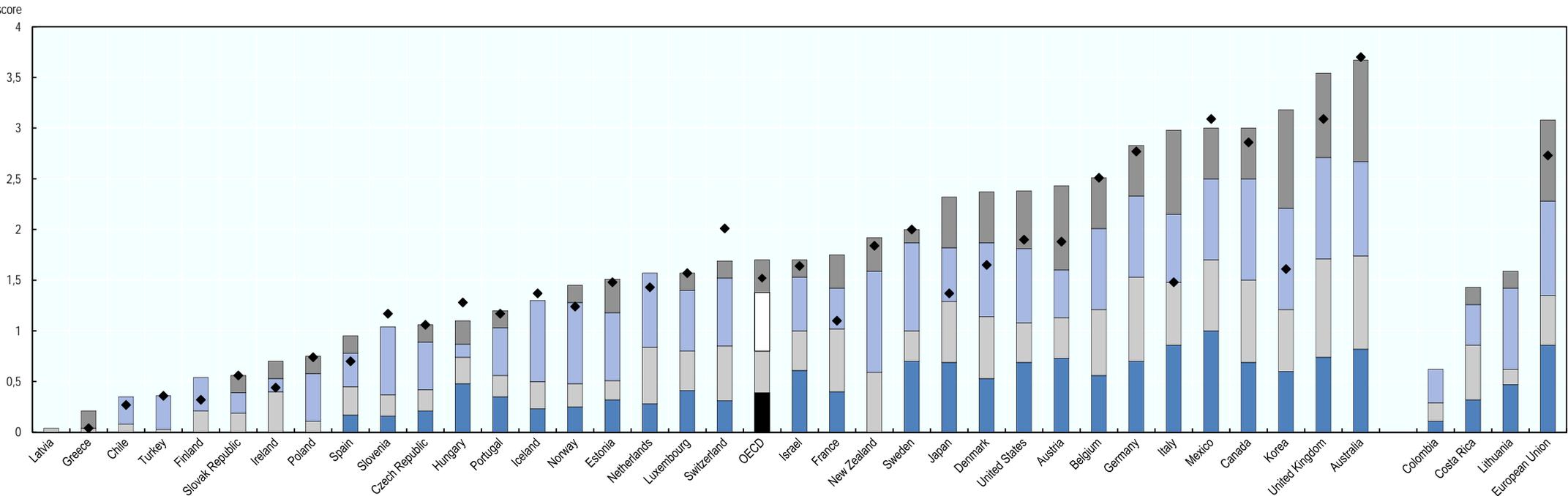


The more regulatory practices as advocated in the *OECD Recommendation on Regulatory Policy and Governance* a country has implemented, the higher its iREG score.

Source: Preliminary results from the 2017 Indicators of Regulatory Policy and Governance (iREG) Survey and OECD Indicators of Regulatory Policy and Governance (iREG) 2015: <http://www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm>



iREG composite indicator: *ex post* evaluation for secondary laws



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Source: Preliminary results from the 2017 Indicators of Regulatory Policy and Governance (iREG) Survey and OECD Indicators of Regulatory Policy and Governance (iREG) 2015: <http://www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm>



The Best Practice Principles

1. Overarching Principles
2. System governance
3. Broad approaches to reviews
4. Governance of individual reviews
5. Key questions to be answered in reviews
6. Methodologies
7. Public consultation
8. Prioritisation and sequencing
9. Capacity building
10. Committed leadership



Overarching Principles

Explicitly and permanently incorporate *ex post* reviews

Ensure comprehensive coverage of the regulatory stock over time

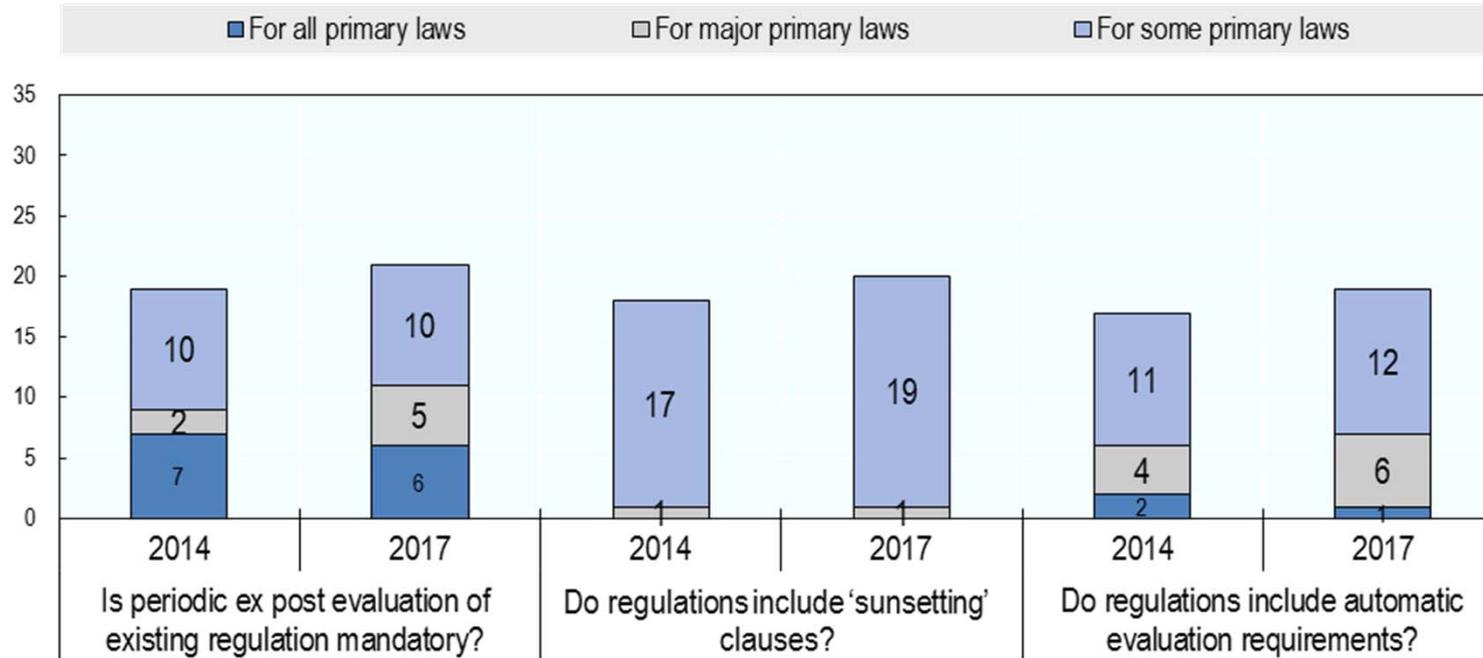
- ‘Quality control’ key reviews
- Monitor the operations of the system as a whole

Assess the actual outcomes from regulations against their rationales and objectives

Make recommendations to address any deficiencies.



Ex post evaluation of regulations remains sporadic in many jurisdictions



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

Source: Indicators of Regulatory Policy and Governance 2018, <http://oe.cd/ireg>, 2018 OECD Regulatory Policy Outlook.



System governance

Oversight and accountability systems across the whole of government

- Ensure that key areas of regulation are not missed
- Reviews are conducted appropriately.

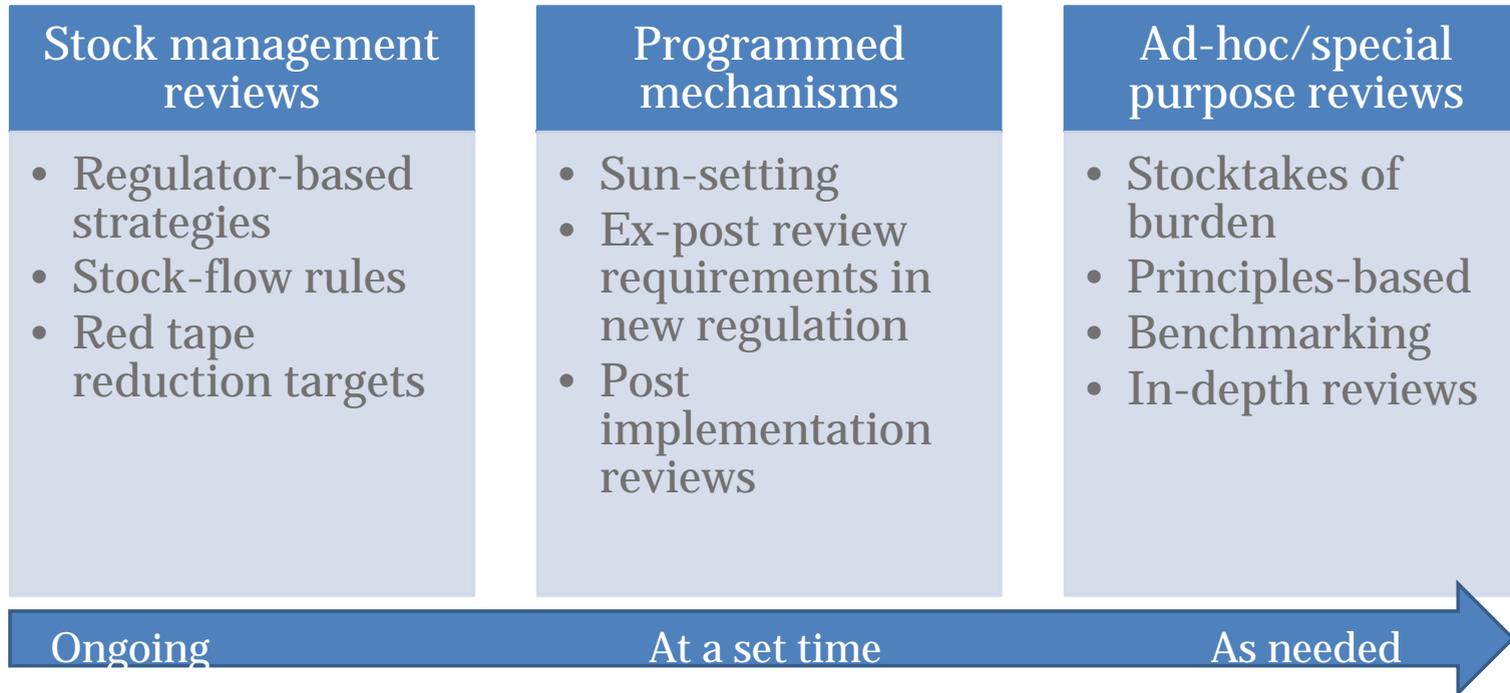
Combine oversight of the processes for *ex ante* as well as *ex post* evaluation processes

It is best to determined at the time regulations are made

- The type of *ex post* review
- Its timing or 'trigger'

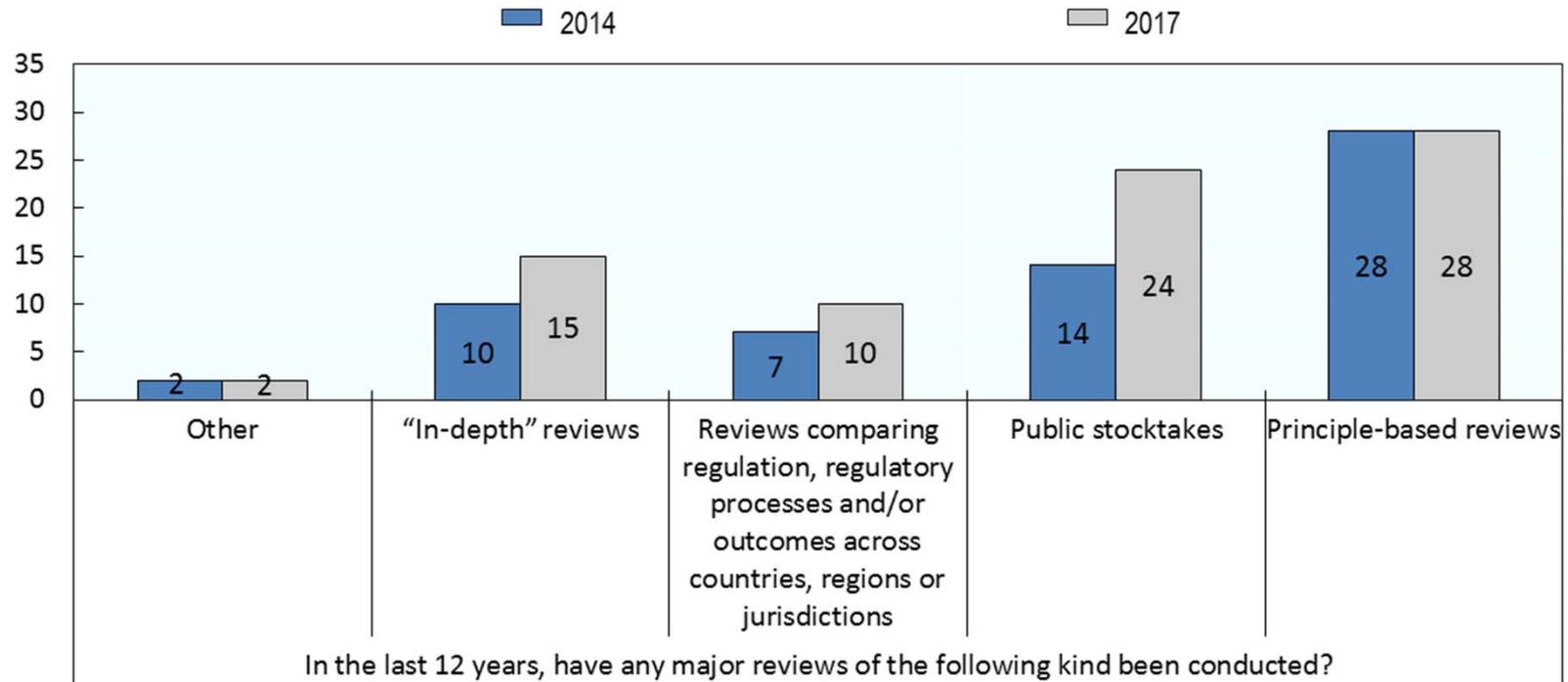


Broad approaches to reviews





Types of reviews



Note: Data is based on 34 OECD member countries and the European Union.
Source: Indicators of Regulatory Policy and Governance 2018, <http://oe.cd/ireg>.



Regulatory offsetting: One-in, One (and more)-out

- Growing popularity in OECD countries
- Range of different approaches
- Still too early to evaluate the effectiveness and impacts
- OIXO should not exist in isolation and complement traditional regulatory management tools



Governance of individual reviews

The **governance and resourcing** of reviews, and the approaches employed, need to be **attuned to the nature and significance of the regulations concerned**.

Evaluations are best conducted **within the departments** or ministries with policy responsibility.

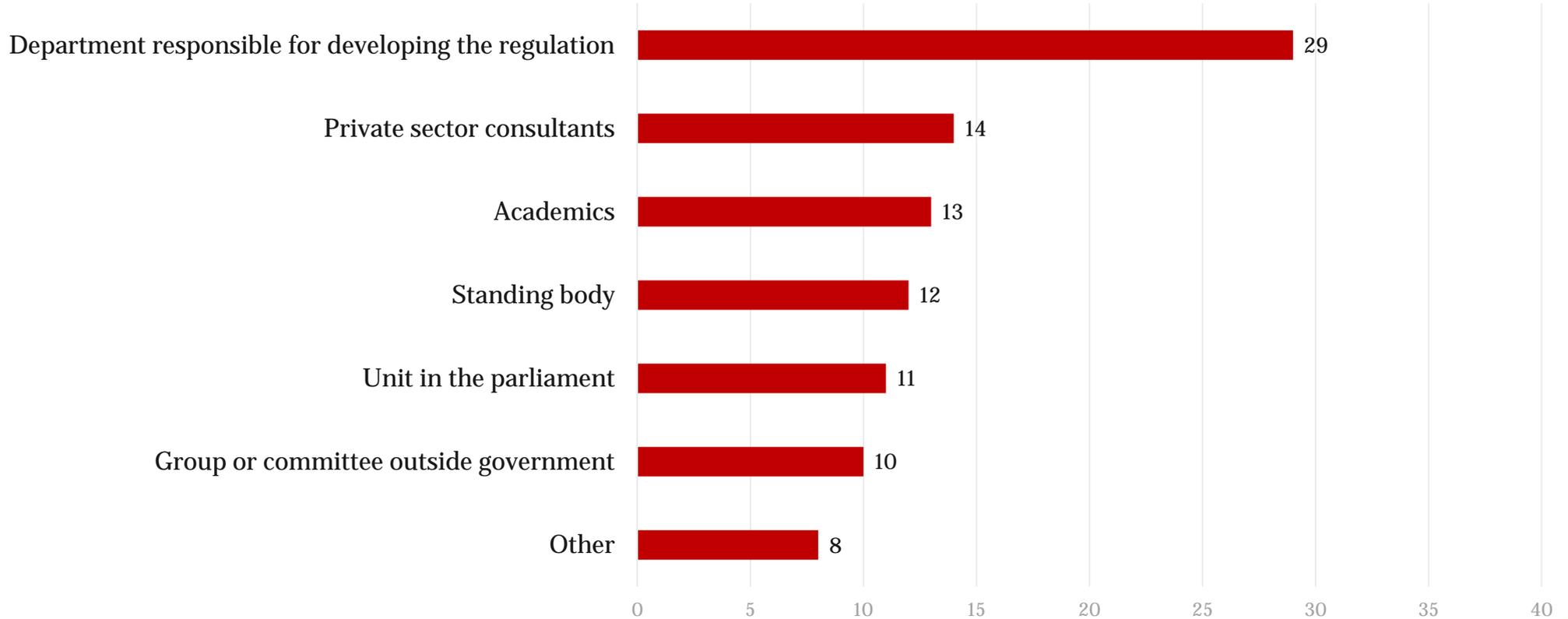
Enforcement bodies are uniquely placed to provide information and advice.

The more 'sensitive' a regulatory area the stronger the case for an 'arm's-length' or independent review process.

Transparency is paramount for in-depth reviews.



Who prepares ex post evaluations?



Note: Data is based on the 35 OECD member countries, the European Union, and three accession countries.

Source: Indicators of Regulatory Policy and Governance 2018, <http://oe.cd/ireg>.

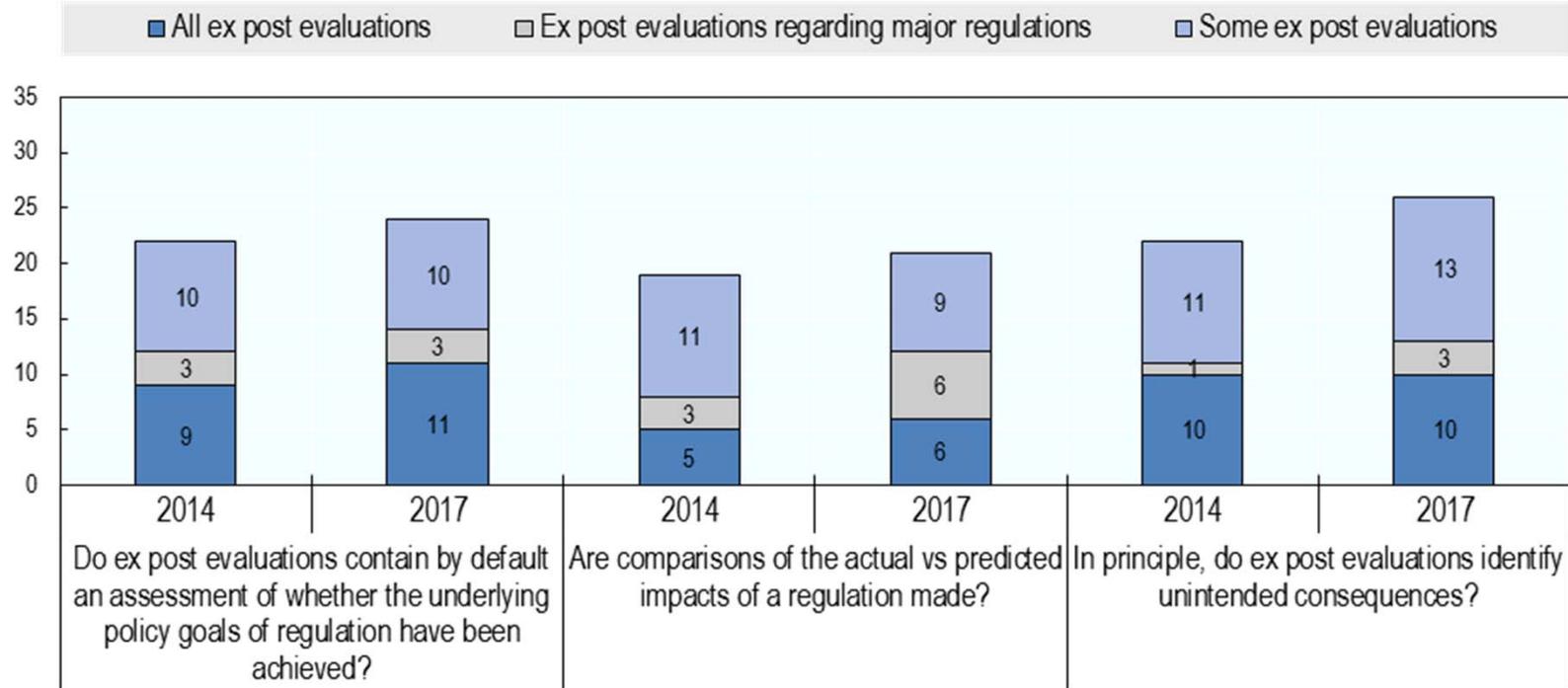


Key questions to be answered

- ***Appropriateness***: reviews should address as a threshold question whether a valid rationale for regulating still exists
- ***Effectiveness***: reviews should determine whether the regulation (or set of regulations) actually achieves the objectives for which it was introduced.
- ***Efficiency***: reviews need to determine whether regulations give rise to unnecessary costs (beyond those needed to achieve the regulatory goal) or other unintended impacts
- ***Alternatives***: reviews should consider whether modifications to regulations, or their replacement by alternative policy instruments, are called for.



In practice, evaluation methodologies may miss the point



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

Source: Indicators of Regulatory Policy and Governance 2018, <http://oe.cd/ireg>, 2018 OECD Regulatory Policy Outlook.



Methodologies

- Evaluations should be conducted within a **cost-benefit framework that firstly identifies and documents impacts** of relevance and then assesses their relative magnitudes.
- **Quantification should be encouraged where feasible**, as it can bring additional rigour to assessments of impacts and potential outcomes.
- **Data requirements are best considered at the time a regulation is being made**, as part of wider consideration of the type of *ex post* review that would be most appropriate.
- The observed **impacts of a regulation should be compared with ‘counterfactuals’** –how things would have turned out otherwise.



Public consultation

- All reviews should involve consultations with affected parties, and to the extent possible, be accessible to civil society.
- The nature and coverage of consultations should be proportionate to the significance of the regulations and the degree of public interest or sensitivity entailed.



Prioritisation and sequencing

High priority should be given to reviewing regulations that have

- (a) wide coverage across the economy or community (breadth)
- (b) significant impacts on certain groups of citizens or organisations (depth)
- (c) *prima facie* evidence of a ‘problem’.

There are benefits in **reviewing regulations as a group**, rather than singly, where they are interactive or operate jointly to achieve related policy objectives.



Capacity building

- Having **in-house capability in evaluation and review methods** is essential, both in order to conduct reviews internally as well as to oversee those commissioned externally.
- **Capacity enhancement** needs to be underpinned by the training as well as recruitment of staff, with on-the-job learning an important element.
- **Consultants** can usefully supplement the expertise available within government, but how they may best contribute in specific cases needs careful consideration, and they **should not be over utilised** to the detriment of internal capability.



Committed leadership

- Support from political leaders is essential to the ongoing effectiveness of systems for the *ex post* review of regulation.
- Senior officials within the bureaucracy need to be vigilant in shaping practice ‘on the ground’.



THANK YOU FOR YOUR ATTENTION!

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