Achieving Better Quality Regulations

Incorporating risk assessment tools in RIA to prepare better rules

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Risk in Regulatory Impact Assessments (RIA)

- Endorsed in 2005 *OECD Guiding Principles for Regulatory Quality and Performance*
- Risk assessment helps avoid opportunity costs of regulatory failure:
  - Failing to regulate when there is a need (type 1 error)
  - Regulating when there is no need (type 2 error)
- "Quantitative risk assessment improves the capacity of a government to focus on the most important risks and reduce them at lowest cost while identifying those risks that fall below a threshold justifying government action." OECD 2002
- RIA has been adopted by all OECD countries for at least some forms of new regulation
- But formal risk assessment not comprehensively applied
Steps in Regulatory Impact Assessment

1. Problem definition
2. Objectives of Government action
3. Consideration of alternative options
4. Impact analysis – costs, benefits and risk
5. Consultation
6. Recommendation
7. Implementation and review
Risk analysis is in all steps in a RIA

1. Defining the problem
   - What will occur under a ‘do nothing scenario’?
   - What is the probability that the outcome will occur?
   - How serious is the harm or injury that could occur?
   - How widespread will it be and who will be affected?
   - What is the level of uncertainty?

2. Govt objectives are often to “reduce risk”
   - Any reduction in risk involves costs
   - Need to determine how much risk is acceptable
   - What is the value of the risk cost trade-off?
   - Goal should be the minimum effective regulation to meet objectives

3. Alternative Options
   - Risk avoidance – prohibit activity
   - Risk transfer – cause another party to accept the risk (contracts, compulsory insurance, privatization)
   - Risk retention – accept the loss from the risk event
   - Risk reduction – reduce the probability of the risk event (licensing, codes and standards, enforcement strategies)

4. Impact Analysis
   - Calculate costs and benefits of each option; show net benefit
   - Sensitivity analysis can reveal implications of uncertainty for decision makers
Promoting Transparency

5. Consultation
   - Explore the consequences and probabilities of risk for each option analyzed
   - Obtain feedback from all groups likely to be affected
   - Seek expert opinions

6. Recommendation
   - Select option with highest net benefit, only after accounting for risk in the analysis

7. Build in implementation and review
   - Was the risk adequately identified?
   - Has government intervention been effective?
   - New science - what has changed, is it still appropriate?

But not without its challenges…

- Managing complexity
  - Getting the right data can be difficult
    - But the systematic framework of a risk assessments can be still be useful
  - Develop in house risk tools
    - Even simple approaches have merit
  - Build the capacity for risk assessment over time
    - Post implementation reviews reveal lessons
  - Recognize that risk based processes require regulators and politicians to take risks
    - Manage communication of risk cost trade offs