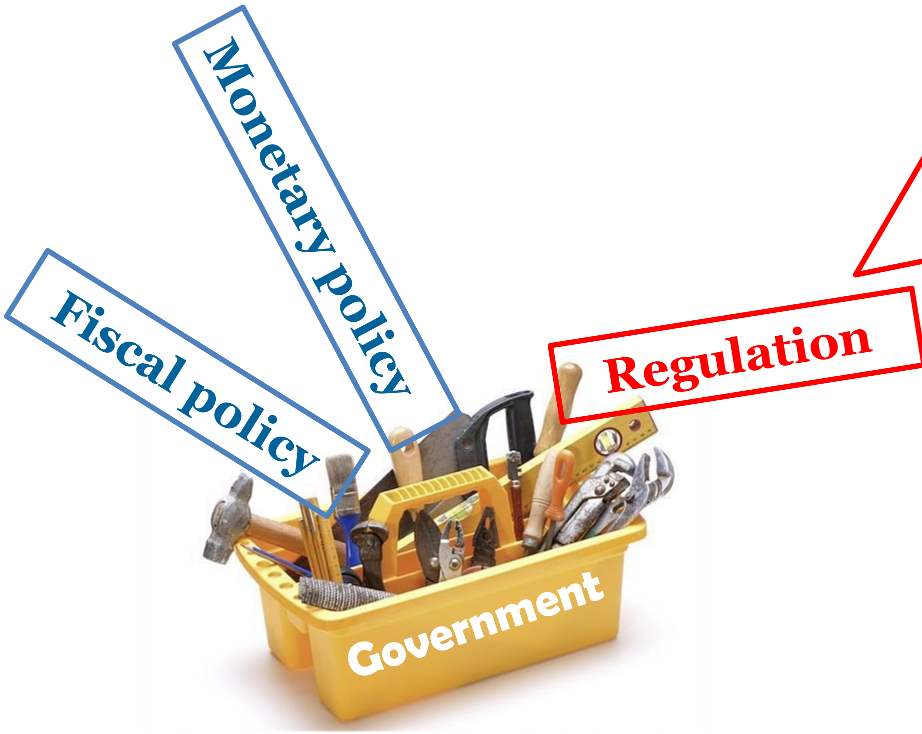
TRANSFORMING THE REGULATORY SYSTEM USING OECD PRINCIPLES AND RECOMMENDATIONS: OPPORTUNITIES AND CHALLENGES

Manuel Flores, Coordinator of the OECD Regulatory Policy Programme for Latin America
Brazil, August, 2019

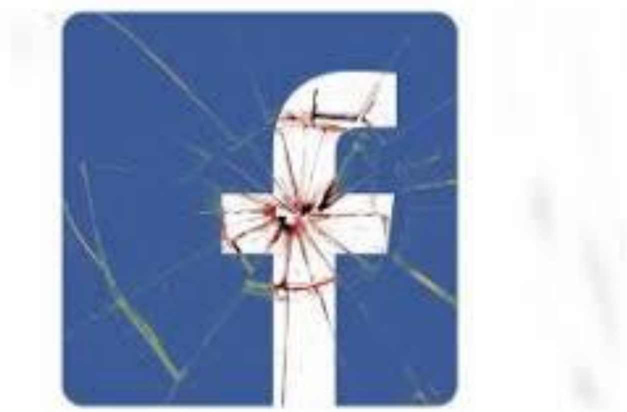
OECD
BETTER POLICIES FOR BETTER LIVES

Regulation is a key lever of formal state power

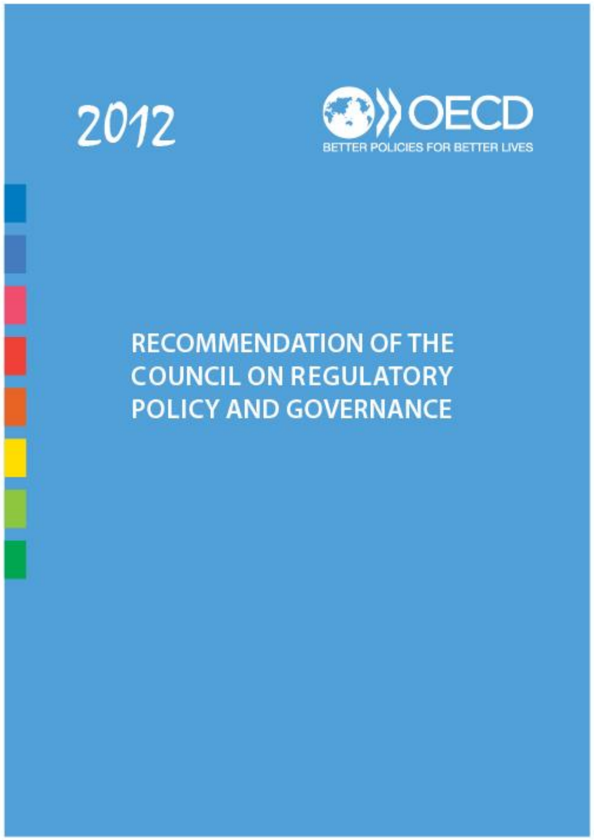


- Increase societal well-being and quality of life
- Stimulate economic growth
- Protect the environment
- Ensure inclusiveness
- Respond to technological challenges
- …

Regulations tend to make headlines when they do not work…



OECD and Regulatory Policy



25 years of experience in dealing with regulatory policy/better regulation

OECD has **reviewed** regulatory policy in most of its member countries + China, Russia, Indonesia, and many of LAC countries: Brazil (2008), Mexico (2014), Colombia (2014), Chile (2016), Peru (2016), Argentina (2019)

Internationally recognised Principles: *Recommendation on Regulatory Policy and Governance*

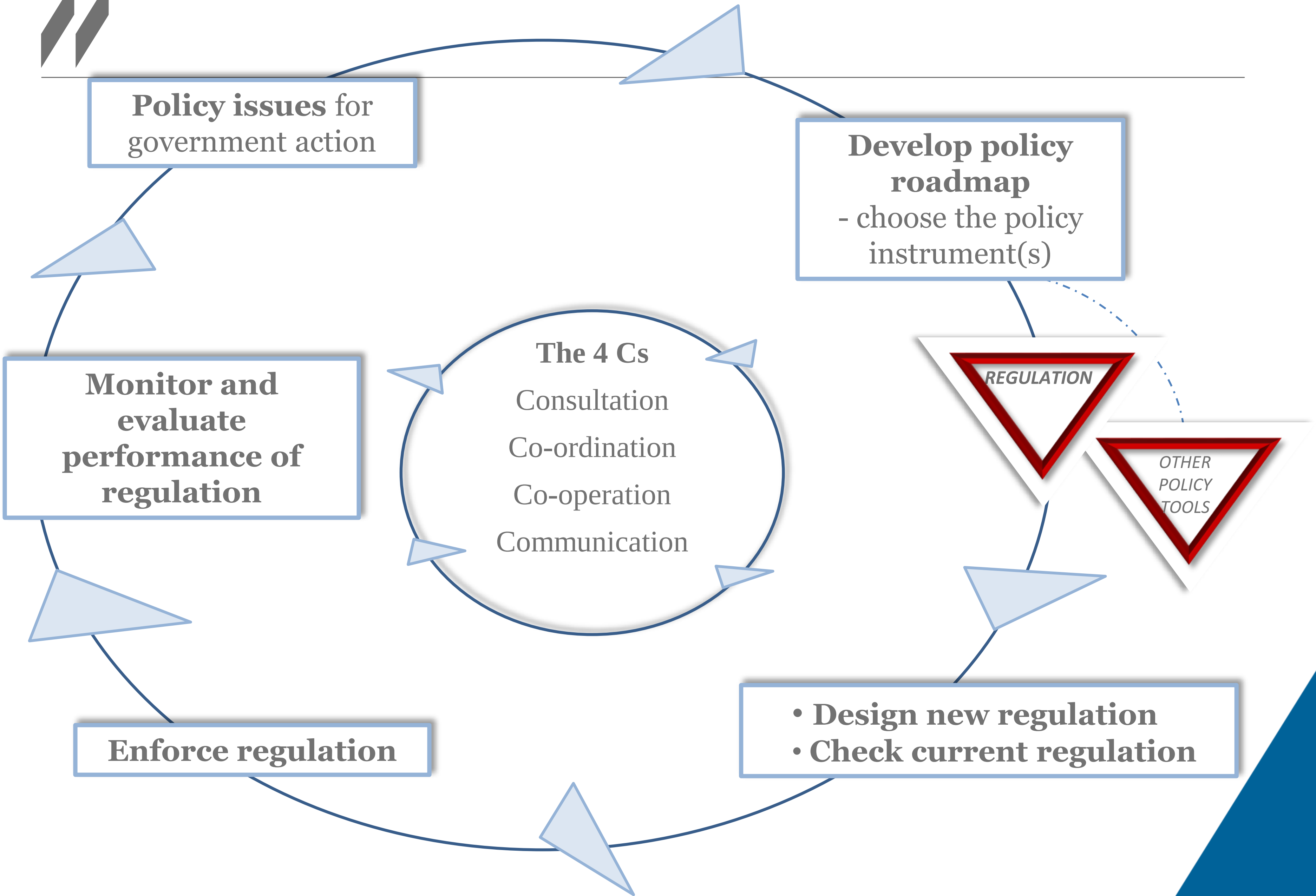
2012

OECD BETTER POLICIES FOR BETTER LIVES

RECOMMENDATION OF THE COUNCIL ON REGULATORY POLICY AND GOVERNANCE

- Apply an Explicit Policy for Regulatory Quality
- Develop Regulations through Communication, Consultation and Engagement
- Empower Institutions for Regulatory Oversight
- Integrate Regulatory Impact Assessment
- Review and Reform the Regulatory Stock
- Assess Regulatory Reform Programmes
- Co-ordinate the activities of Regulatory Agencies
- Establish effective Review Processes
- Apply Risk Regulation
- Promote Regulatory Coherence across levels of government
- Foster regulatory management capacity at sub-national government
- Pursue International Regulatory Cooperation

The Regulatory Governance Cycle



The OECD Regulatory Policy Outlook series

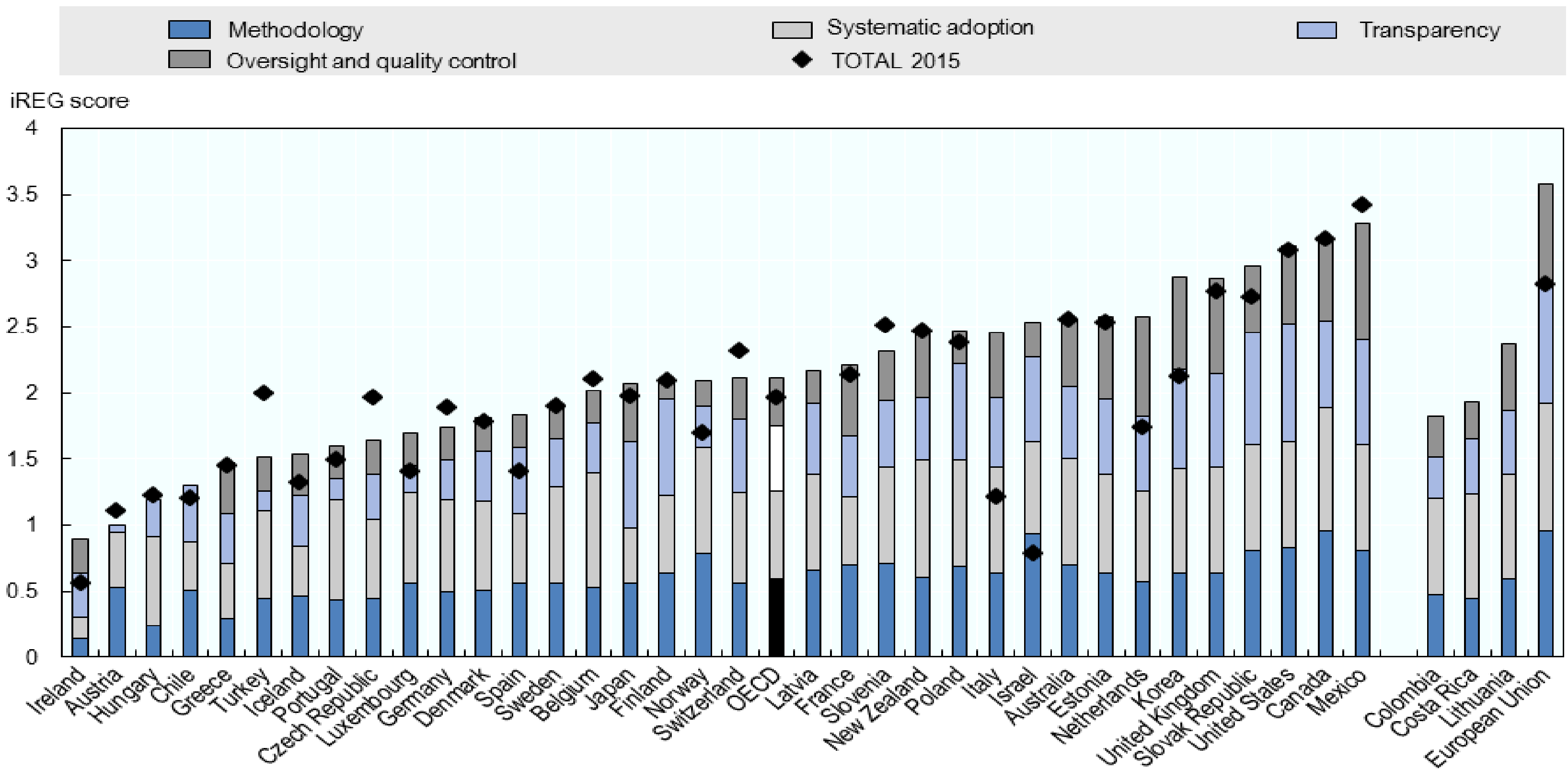
- Evidence-based cross-country analysis of progress to improve quality of laws & regulations
- Chapters on trends in RIA, stakeholder engagement and ex post evaluation; institutional setup for regulatory policy; regulatory delivery; international regulatory co-operation; and the use of behavioural insights
- Profiles for all OECD member and accession countries and the EU
- Based on the Indicators of Regulatory Policy and Governance (iREG)

https://oe.cd/RPO2018

Why stakeholder engagement?

- Stakeholders have a right to participate in the regulation-making process
- Better input – stakeholders have the right information on real-life effects of regulations and undesired effects, may propose different solutions to the problem
- Increase a sense of ownership among stakeholders – increases compliance and reduces enforcement costs
- Increase accountability of the government and civil servants, helping to balance opposing interests

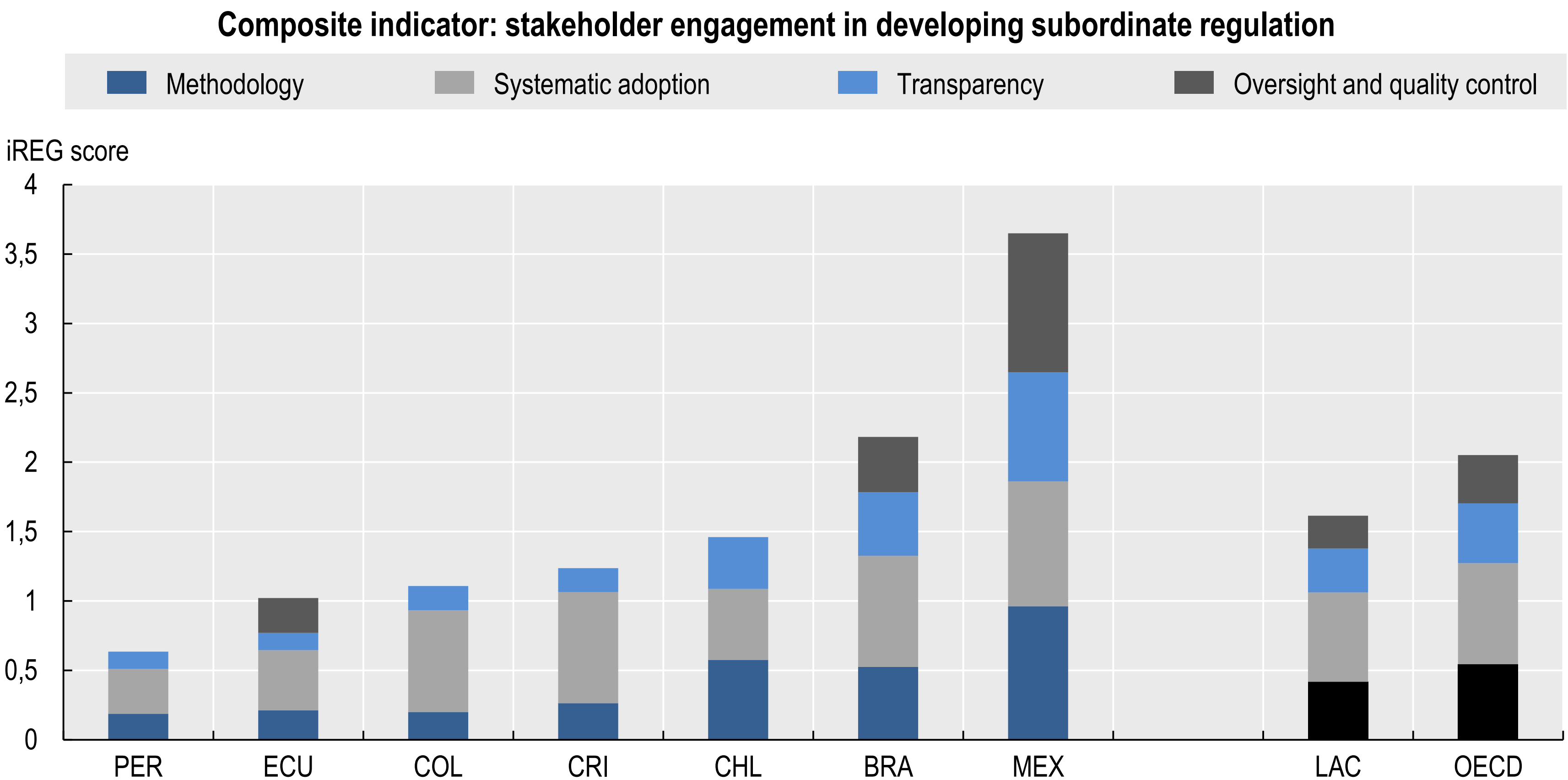
Composite indicators: Stakeholder engagement in developing secondary regulation, 2018



Notes: Data for OECD countries is based on the 34 countries that were OECD members in 2014 and the European Union. Data on the new OECD member and accession countries Colombia, Costa Rica, Latvia and Lithuania is only available for 2017. The more regulatory practices as advocated in the 2012 Recommendation a country has implemented, the higher its iREG score. The indicator only covers practices in the executive. This figure therefore excludes the United States where all primary laws are initiated by Congress, as well as Colombia, Costa Rica, Korea and Mexico, where a majority of primary laws are initiated by the legislature.

Source: Indicators of Regulatory Policy and Governance Surveys 2014 and 2017, http://oe.cd/ireg.

Scope and implementation of stakeholder engagement varies across the LAC region



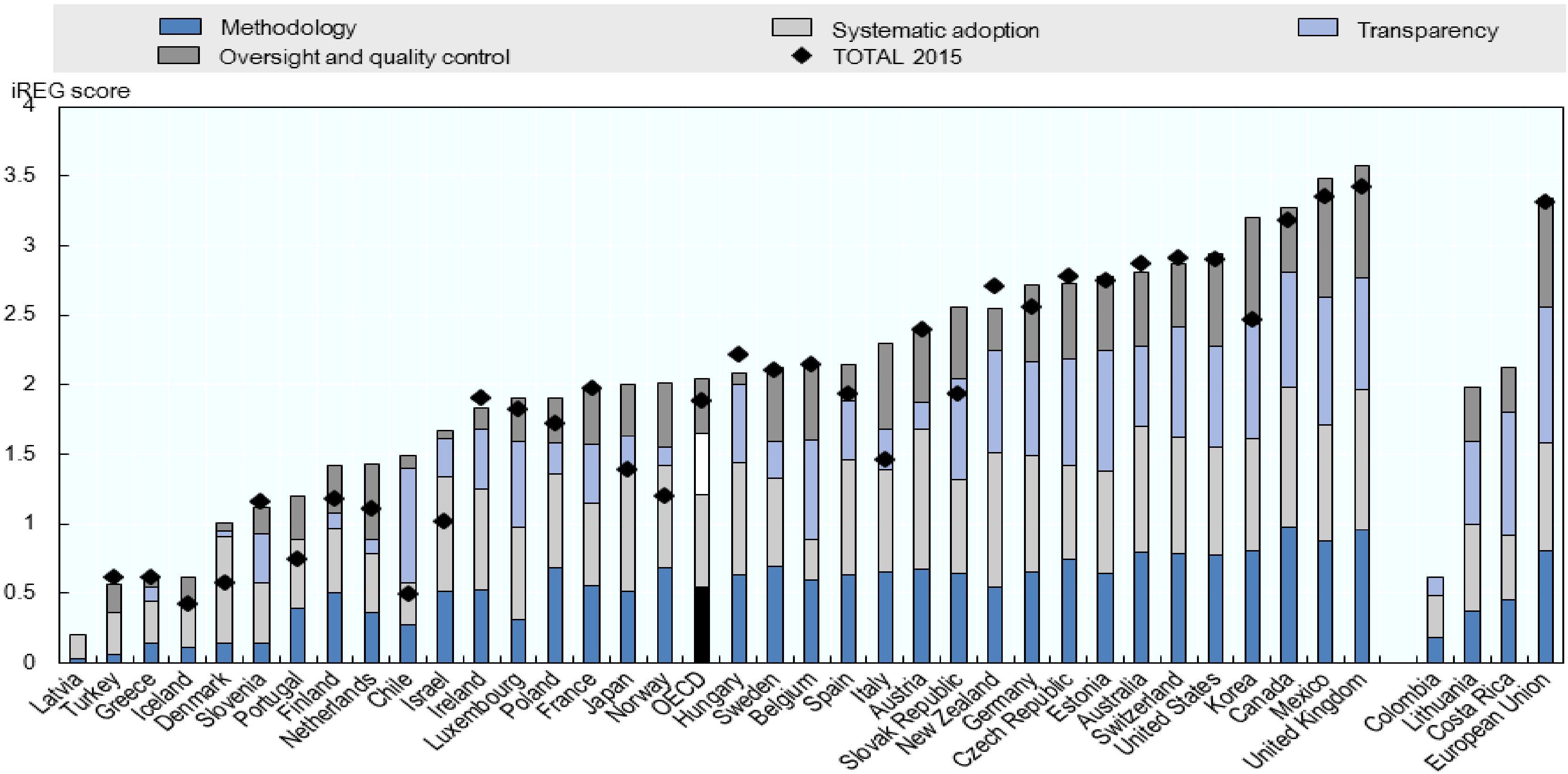
Note: The figure displays the total aggregate score across the four separate categories of the composite indicator. The maximum score for each category is one and the maximum score for the aggregate indicator is four. The more regulatory practices as advocated in the *2012 OECD Recommendation on Regulatory Policy and Governance* a country has implemented, the higher its indicator score. The data on LAC countries reflect the situation as of 31 December 2015. Data on OECD countries cover all OECD countries and reflect the situation as of 31 December 2014.

Source: Indicators of Regulatory Policy and Governance (iREG) for Latin America 2016. Indicators of Regulatory Policy and Governance (iREG) 2015. www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm.

What is Regulatory Impact Assessment (RIA) and why is it important?

- A **policy tool and decision process** on whether and how to regulate to achieve policy goals
- Helps to **identify the best solution** to address a policy problem among different alternatives
- Improves the use of evidence in policy making and help **avoid regulatory failure**
- Provides information on **who is likely to benefit and who is likely to bear the costs** of regulation
- Points to **trade-offs between the economic, social and environmental effects** of potential regulatory responses
- Documents the evidence and **increases accountability** of policy decisions

Composite indicators: RIA for developing secondary regulation, 2018



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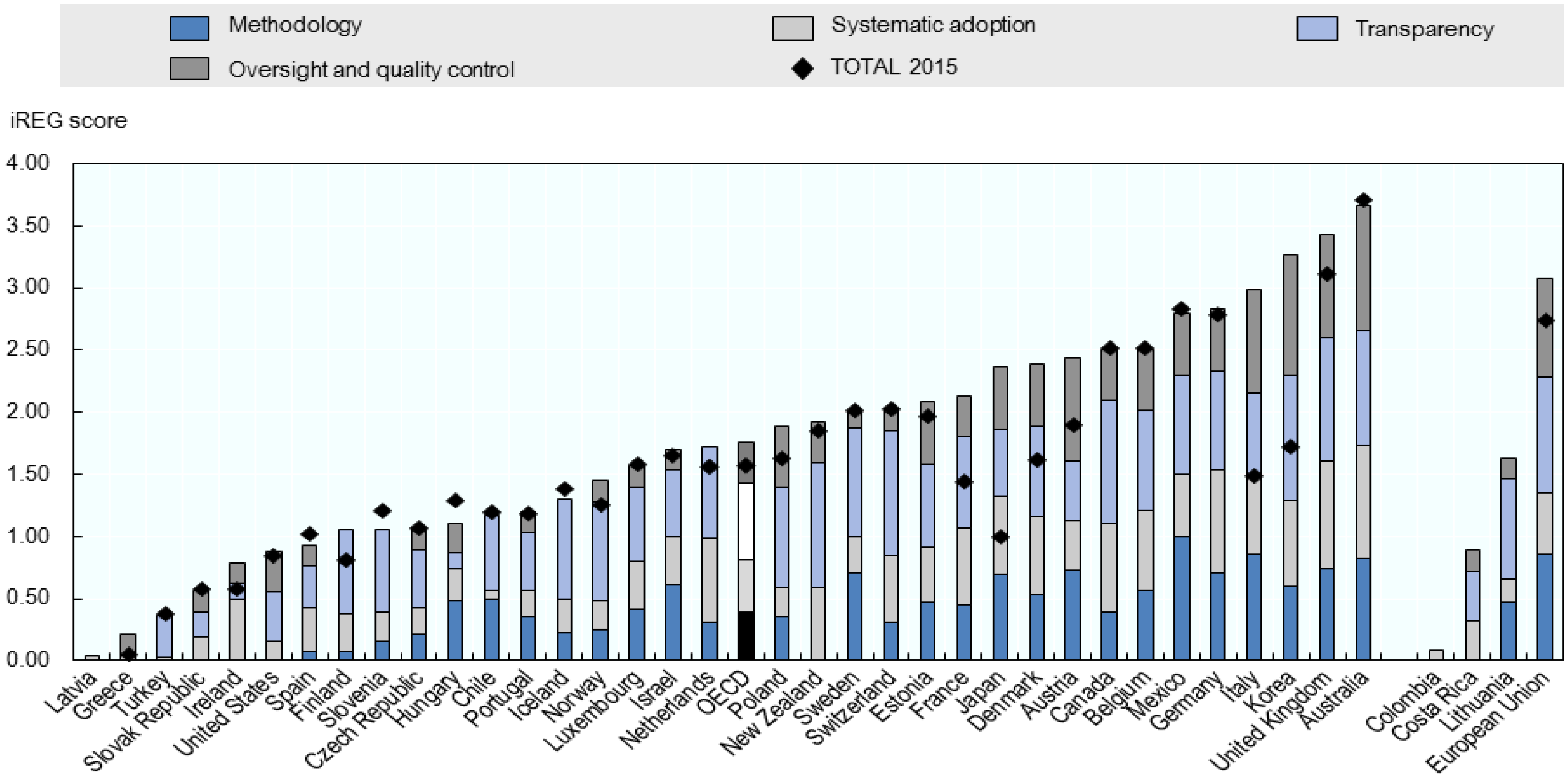
Source: Indicators of Regulatory Policy and Governance Surveys 2014 and 2017, http://oe.cd/ireg.

Why is ex post evaluation useful?

- Did the regulation achieve its objectives?
- Beware of outdated regulations!
- Make use of the learning effect
- Increase trust and acceptance of regulations

Composite indicators: Ex post evaluation for secondary regulation, 2018



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Source: Indicators of Regulatory Policy and Governance Surveys 2014 and 2017, http://oe.cd/ireg

Brazil: the way forward in regulatory policy

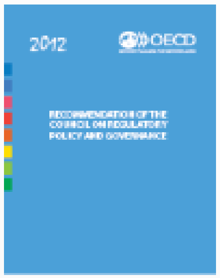
- Broaden the scope of regulatory policy
- Align the use of public consultation across the administration
- Expand the use of regulatory impact assessment gradually
- Invest in ex post evaluation

Source: http://www.oecd.org/gov/regulatory-policy/Brazil-regulatory-policy-ireg-2016.pdf

visit:

www.oecd.org/gov/regulatory-policy/

Recommendation of the OECD Council on Regulatory Policy and Governance



The Recommendation is the first international instrument to address regulatory policy, management and governance as a whole-of-government activity that can be addressed by sectoral ministries, regulatory and competition agencies.

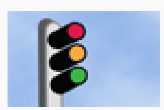
The Recommendation sets out the measures that Governments can and should take to support the implementation and advancement of systemic regulatory reform to deliver regulations that meet public policy objectives and will have a positive impact on the economy and society.

Read the Recommendation of the Council on Regulatory Policy and Governance.

International regulatory co-operation

Promote the co-ordination of rules and their enforcement

Network of Economic Regulators

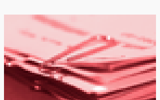


Share experiences and good practices in economic regulation

Measuring regulatory performance

Assessing the benefits of regulatory reform for citizens and business

Administrative simplification

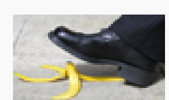


Review the stock of regulations to reduce unnecessary burdens

Regulatory Impact Analysis

Integrate RIAs in the development of new regulations

Risk and regulatory policy



Effectively assess and manage risks

THANKS!

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Brazil, August, 2019
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http://www.oecd.org/gov/regulatory-policy/regulatory-policy-in-latin-america-and-the-caribbean.htm
https://twitter.com/ocde_rlac

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