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REGULATORY STRATEGIES AND SOLUTIONS  
GROUP LLC

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# The role of Regulatory Impact Analysis (RIA) in regulatory decision making

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# Setting the Context

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- As regulators, how do we know when our policy decisions are the optimal ones?
  - How does the public know?
- Regulations are controversial and always involve winners and losers
  - How to justify decisions, gain public support for difficult decisions in the face of controversy?
- Regulations are not static – they reflect political will of the party in power
  - Bridging the gap between **politics** and **policy** = **legitimacy**



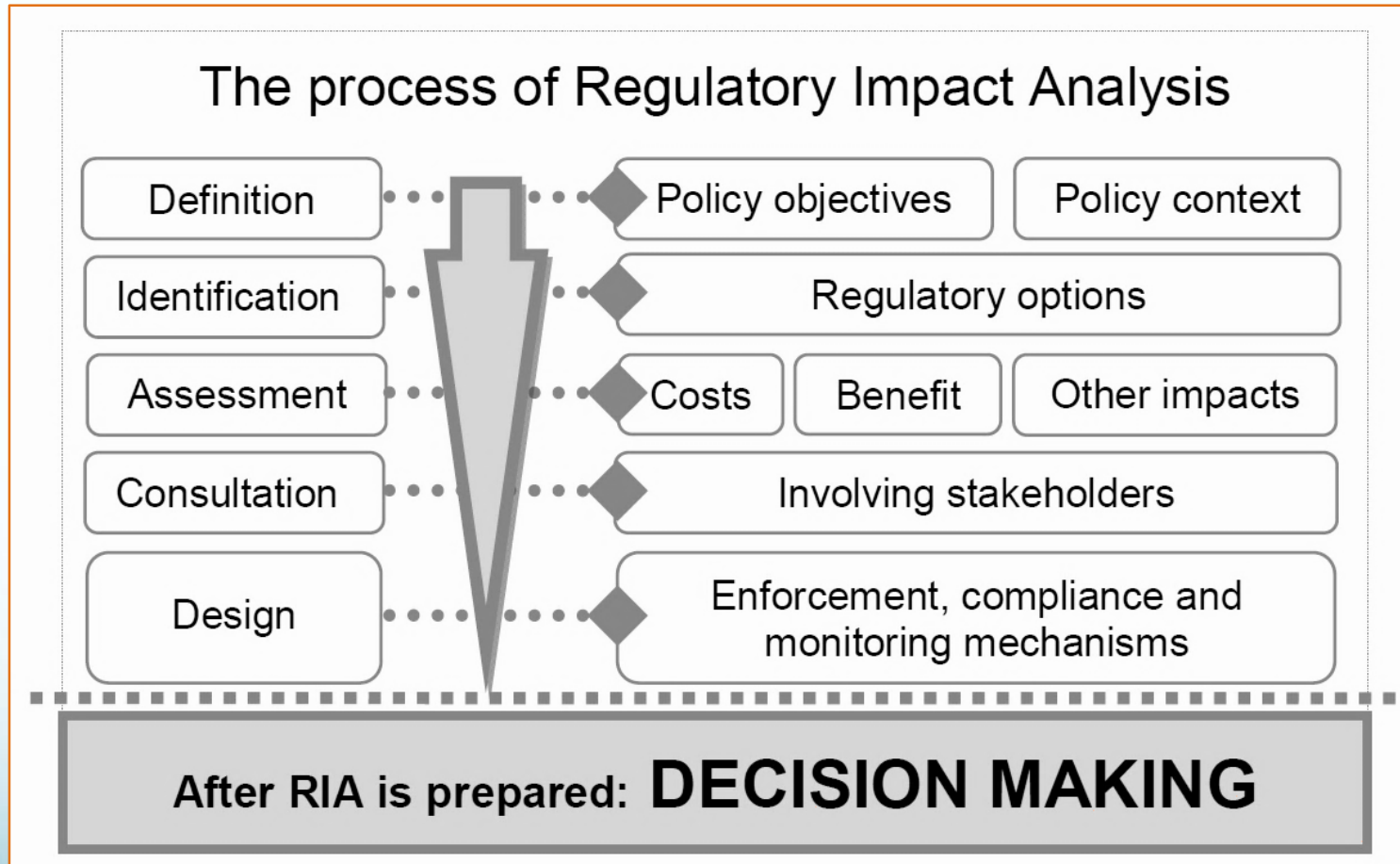
# Regulatory Impact Analysis (RIA)

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- A framework to systematically evaluate regulatory policy options and guide for arriving at the optimal solution
- An analytical document but more broadly a system or process to question policy proposals
- Goal: ensure that that regulations maximize net benefits to society



# Elements of the RIA Process



# What should RIA imply?

## Regulatory Impact Assessment

Knowing the effects of a new regulation **before** it is enacted

Considering all options, including non regulatory alternatives

Should be **transparent** (public consultation)

Should be supported by **evidence** (qualitative and/or quantitative)

it should be prepared **early** in the regulatory process



# Key Considerations

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- Screening methods
- Proportionality
- Data collection and data quality
- Measuring benefits and costs
- Who's in charge?
- Sanctions for non-compliance



# Screening Methods

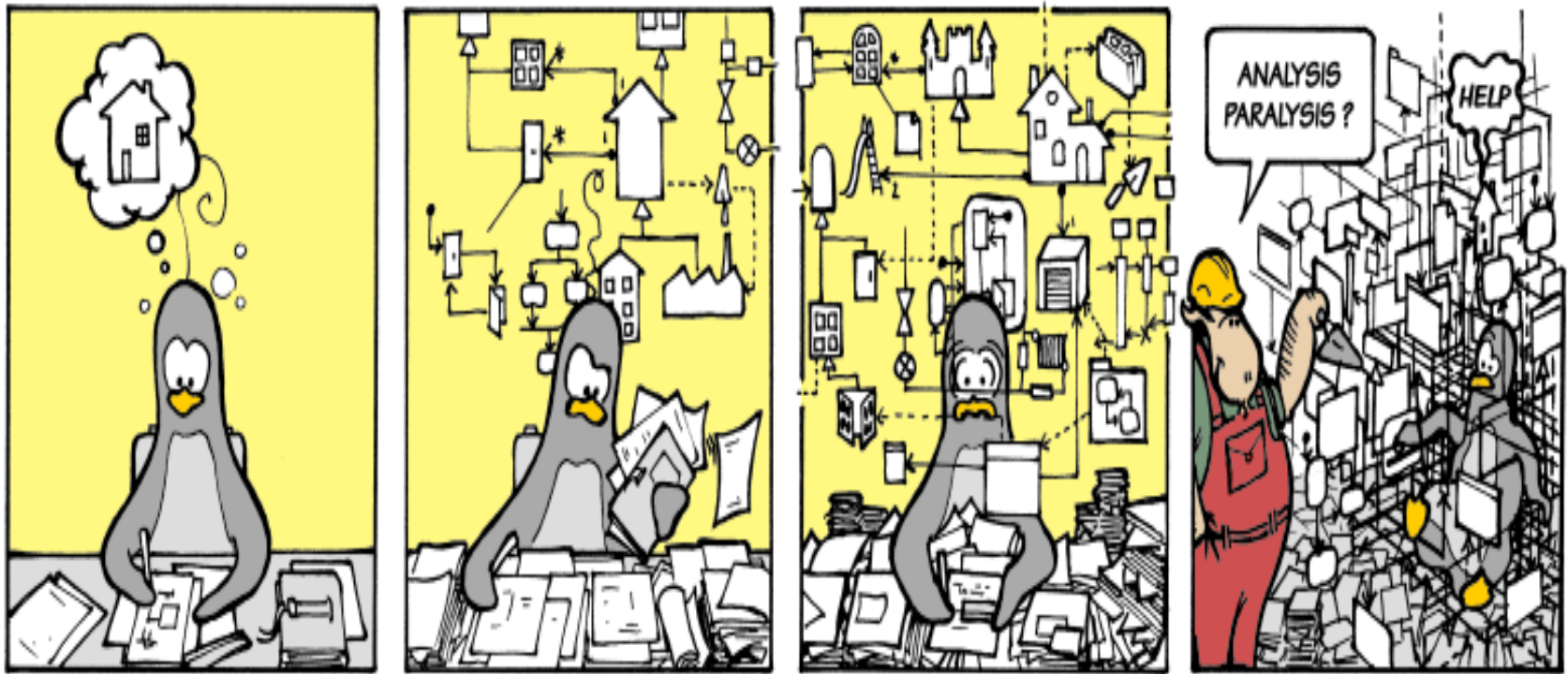
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- Establishing criteria for what regulations should be subject to RIA
  - Economic impact thresholds
  - Interagency concerns
  - Budgetary considerations
  - Disproportionate compliance impacts
  - Novel policy/legal considerations



# Proportionality

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# Data Collection and Quality

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- Usefulness of RIA depends on the quality of the data used to evaluate the impact
- Ad hoc strategies for data collection often fail on grounds of both timeliness and cost.
- RIA requires that data collection be tailored to the issues related to the specific regulation intended for review
- Two types of data collection
  - Direct: specific survey designed and implemented to attain a precise objective (costs)
  - Indirect: data previously collected for another objective (benefits)
- Harnessing the potential of consultation as a source for data and a means to verify its quality.



# Measuring Benefits and Costs

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- Benefits and costs are always relative
  - Characterizing the baseline accurately is paramount
- Benefits often harder to measure
  - A benefit to whom?
  - DON'T REINVENT THE WHEEL!
  - Look to literature review
- Costs are often more objective
  - Regulated community often the best data source
  - How to know when these costs are accurate?
  - What about opportunity cost?



# Ensuring RIA serves its purpose

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- Assessment of RIA quality by RIA oversight body
  - Consequences for non-compliance?
- Public release of draft and final RIA for consultation
- Effective incentives for regulators – carrots vs sticks
  - Performance evaluations/appraisals for officials
  - Budgetary considerations
  - Parliamentary oversight?



# What RIA is NOT

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- A “one size fits all” formula.
- Analysis for analyses’ sake
- A way to justify policy decisions that have already been taken
- Paralysis by analysis – sometimes more complexity is not better
- A “free pass” – regulators are still accountable to the citizenry for policy outcomes



# RIA Implementation

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- RIA is a flexible and adaptable tool
  - ✓ Its underlying analytical approach should always:
    - Be proportional to the situation
    - Follow consistent guidance
- Practical guidance exists for practitioners that can be applied in many contexts
  - ✓ “RIA Light”
  - ✓ APEC methodological guide
  - ✓ OMB Circular A-4
  - ✓ BRRA handbook?
- Public consultation to inform RIAs is critical
  - ✓ Allows best available information to inform policy
  - ✓ Enhances transparency of regulatory decisions



# Key Implementation Considerations

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- Achieving a robust RIA process takes time
  - Implementing from scratch requires cultural change, building capacities and an incremental approaches
- High level political and bureaucratic support
  - Well understood roles, rules and methods within government
  - Centralized review, dedicated RIA unit
- Integrated into existing decision-making processes
- Transparency and predictable processes for stakeholder consultation and involvement in options framing



# RIA and Public Consultation

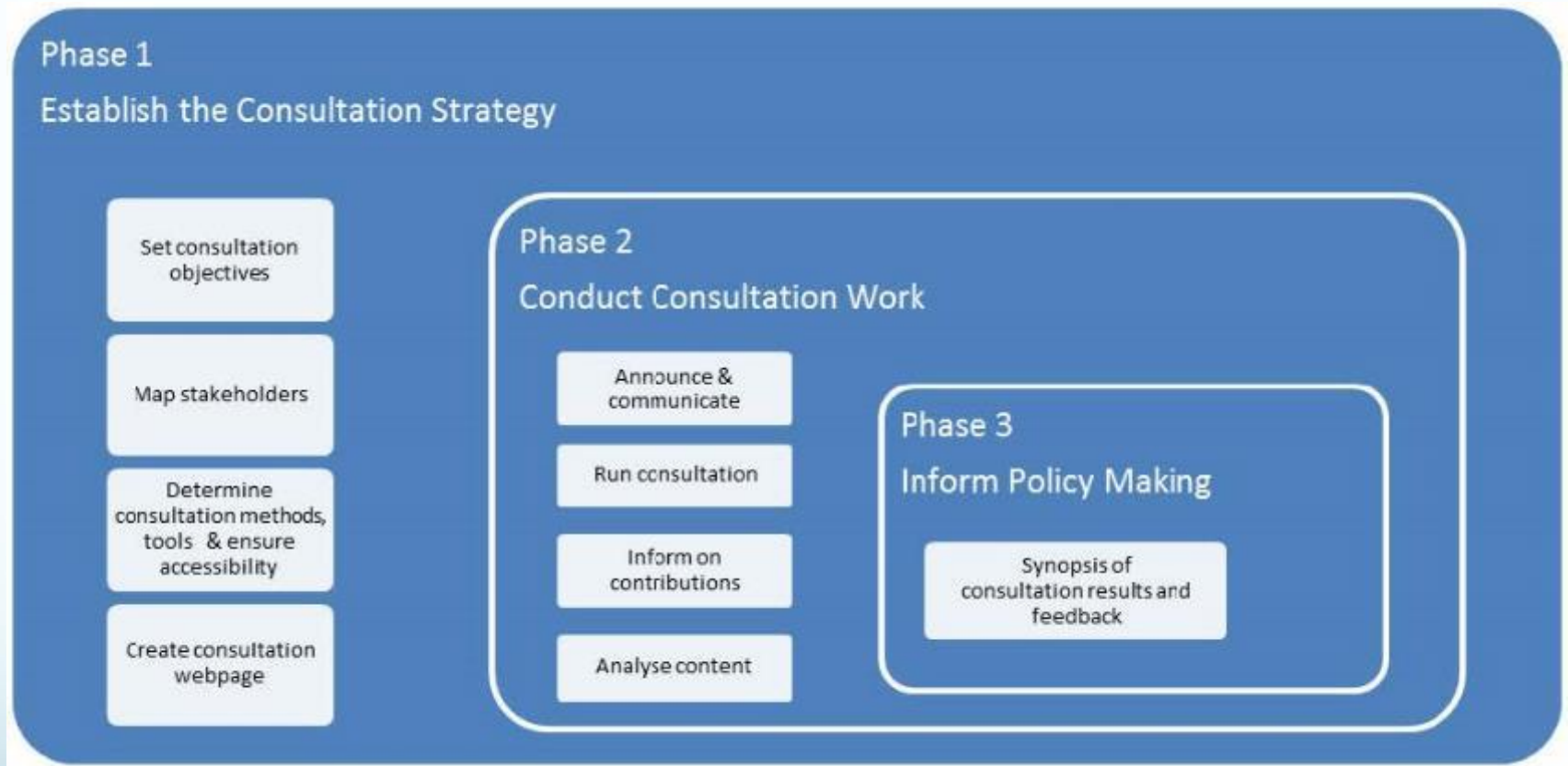
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- What should regulators do when lacking data on costs and benefits of policy choices?
  - PUBLIC CONSULTATION can fill the gaps
- Design questions/inquiries to stakeholders based on the information desired
- If data is used from consultation, tell how this information was generated and how it was used
- Transparency about data quality
  - Be clear about assumptions and caveats about limitations



# Key Steps of the Consultation Process

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“Let’s hold off making a decision until we have even more information we don’t really need.”

# Tools of Public Consultation

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- Informal consultation
  - ✓ Conducted at discretion of regulators (ad-hoc)
- Circulation of regulatory proposals for public comment
  - ✓ Presentation of concrete proposals
  - ✓ More systematic, inclusive
- Public notice and comment
  - ✓ Standardized, formal presentation of draft regulations and supporting documents
- Public Hearings
  - ✓ Usually supplements other consultation procedures
- Advisory bodies
  - ✓ Technical groups advising on concrete policy issues



# Implementation Considerations

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- Is the public consultation mandatory? Are guidelines available on how to conduct public consultation?
- How open is the consultation? Can anyone participate?
- Has the consultation been launched at a stage when there is still scope to influence the policy outcome? Is the consultation conducted at the beginning of the regulatory proposal or at a later stage of the process?
- Is the consultation exercise of sufficient duration for interested parties to submit considered and meaningful responses?
- Will results of the consultation be made public?
- Does a process exist to monitor and oversight the quality of the consultation process?



# Key Takeaways

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- Many effective models for designing RIA systems
  - Core elements common to all approaches
- RIA quality depends on data availability, quality
- Availability and quality of data on costs and benefits are enhanced by public consultation
- Guidance for regulators is essential for effective RIA and public consultation
- BRRA's is there to make your job as regulators EASIER, not more difficult



# Resources

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- Making it work: “RIA Light” for developing countries  
<https://www.wbginvestmentclimate.org/uploads/RIALightNov2009.pdf>
- Development and implementation of methodologies to improve the quality of regulations and regulatory impact assessments for enhancing market openness ensure transparency and promote economic growth  
[http://www.cofemer.gob.mx/presentaciones/Final%20Report\\_APEC\\_Mexico\\_COFEMER\\_%2017122012.pdf](http://www.cofemer.gob.mx/presentaciones/Final%20Report_APEC_Mexico_COFEMER_%2017122012.pdf)
- OMB circular A-4  
[https://www.whitehouse.gov/omb/circulars\\_a004\\_a-4/](https://www.whitehouse.gov/omb/circulars_a004_a-4/)
- OECD Background Document on Public Consultation  
<http://www.oecd.org/mena/governance/36785341.pdf>
- OECD checklist for regulatory decision making  
<http://www.oecd.org/gov/regulatory-policy/35220214.pdf>



# Thank You!

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