

United States

Overview and recent developments

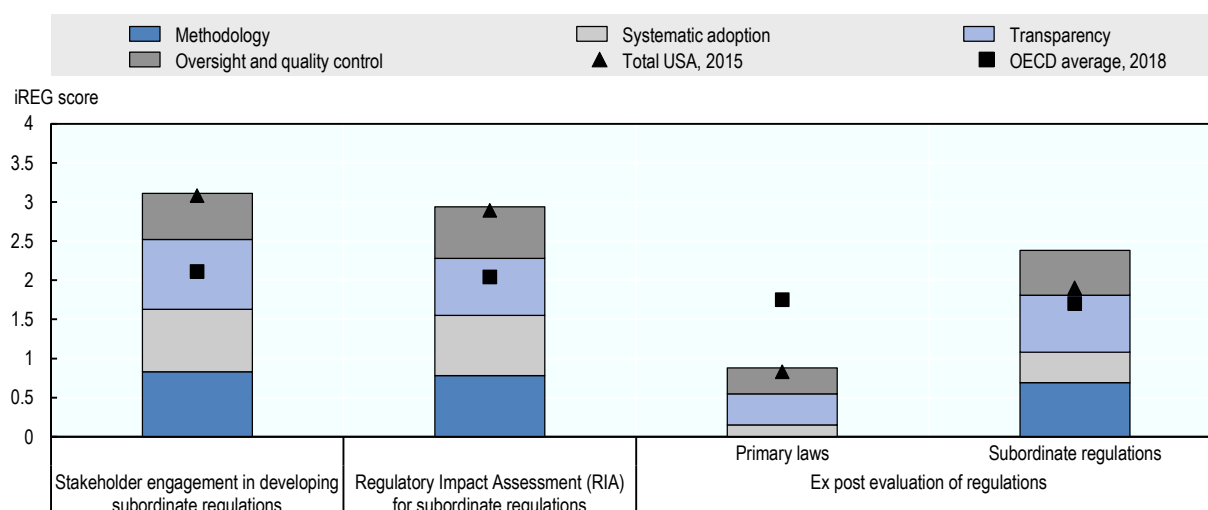
The Administrative Procedure Act governs the rulemaking process in the U.S., requiring agencies to provide public notice and seek comment when proposing new regulations or revising or repealing existing ones. Agencies must consider the comments and in the final rule explain how they addressed significant issues raised by commenters. A final rule is subject to judicial review to ensure it conforms with legal requirements, including those concerning notice and comment. The evaluation of regulatory costs and benefits is well developed in the U.S. RIAs are required for all significant regulatory proposals, and full RIAs are required for proposals with annual impacts over USD 100 million. *Ex post* evaluation of subordinate regulations is mandatory since 2011. A stock-flow linkage rule introduced in 2017 requires agencies to issue two deregulatory actions for every regulatory action, in a way that the total cost of regulations does not exceed the agency's Fiscal Year Cost Allowance, as approved by the Office of Management and Budget. The Office of Information and Regulatory Affairs (OIRA) located within the Executive Office of the President provides oversight and guidance on the implementation of *ex post* evaluations and the stock-flow linkage rule. The U.S. could benefit from strengthening the link between *ex ante* and *ex post* evaluation, for example by requiring regulators to identify a process for assessing progress in achieving a regulation's goals as part of RIA or by mandating a post-implementation review for regulations exempted from RIA.

As the executive does not initiate primary laws in the United States, only the scores for subordinate regulations are displayed for stakeholder engagement and RIA. There is no mandatory requirement for consultation with the general public, RIAs, or *ex post* evaluation for primary laws initiated by Congress.

Institutional setup for regulatory oversight

OIRA is the central regulatory oversight body of the United States. It scrutinises the quality of significant regulations, RIAs and *ex post* evaluations and can return draft regulations to agencies for reconsideration if their quality is deemed inadequate. OIRA does not currently review rules issued by independent agencies. OIRA also coordinates the application of regulatory management tools across the government, reports to Congress on their impacts, provides guidance and training on their use and identifies areas where regulation can be made more effective. **The US Government Accountability Office (GAO)** works for Congress and investigates how the federal government spends taxpayer dollars. It also conducts ad hoc reviews of regulatory programmes and the use of regulatory management tools.

Indicators of Regulatory Policy and Governance (iREG): United States, 2018



Notes: The more regulatory practices as advocated in the [OECD Recommendation on Regulatory Policy and Governance](#) a country has implemented, the higher its iREG score. The indicators on RIA and stakeholder engagement only cover processes that are carried out by the executive. As the executive does not initiate any primary laws in the United States, results for RIA and stakeholder engagement are only presented for subordinate regulations and do not apply to primary laws.

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

StatLink <https://doi.org/10.1787/888933816117>

Location of regulatory oversight functions: United States

Regulatory oversight functions		Centre of government	Ministry of Finance, Economy or Treasury	Ministry of Justice	Other ministries	Non-departmental body	Parliament	Office of the Attorney General	Supreme audit institution	Part of the judiciary
Quality control of...	RIA	●								
	Stakeholder engagement	●								
	Ex post evaluation	●								
Identifying policy areas where regulation can be made more effective		●								
Systematic improvement of regulatory policy		●								
Co-ordination of regulatory policy		●								
Guidance, advice and support		●								
Scrutiny of legal quality		●								

Notes: ● indicates that a given regulatory oversight function is covered by at least one body in a particular location. Data present the situation as of 31 December 2017 and do not reflect changes that may have taken place in 2018.

Source: Survey questions on regulatory oversight bodies, Indicators of Regulatory Policy and Governance Survey 2017, <http://oe.cd/ireg>.

