Executive summary

Regulation is a key tool for achieving the social, economic and environmental policy objectives of governments. Governments have a broad range of regulatory schemes reflecting the complex and diverse needs of their citizens, communities and economy.

However, as Professor Malcolm Sparrow (2000) argues:

“Regulators, under unprecedented pressure, face a range of demands, often contradictory in nature:

be less intrusive – but be more effective;
be kinder and gentler – but don’t let the bastards get away with anything;
focus your efforts – but be consistent;
process things quicker – and be more careful next time;
deal with important issues – but do not stray outside your statutory authority;
be more responsive to the regulated community – but do not get captured by industry” (p. 17).

Regulatory activity has become increasingly important in the modern state in both policy formation (regulatory design) as well as in policy execution (regulatory delivery) because regulators have special expertise in drawing on relevant evidence from the natural and social sciences, including economics, finance and behavioural theory (see Lunn, 2014). Regulators are increasingly forward looking and have an advantage in exploring new areas of societal concern.

In addition regulation has become an increasingly important mechanism for managing the space within which society, the economy and environment interact. Most notably it is also the mechanism to manage between the domains of politics and the market. For example under fiscal constraints, governments may turn to regulators to help the private sector provide more in the way of social provision and infrastructure investment. Furthermore
regulators have an advantage over politics and the law in that they can give long term and continuous attention to an area of social and economic concern rather than over shorter horizons or on a case-by-case basis.

Addressing these challenges to achieve better regulatory outcomes requires more than just good governance. It is vital that the full range of necessary and mutually reinforcing regulatory mechanisms and structures are in place, as described by the OECD regulatory policy and governance framework in Figure 0.1.

**Figure 0.1. OECD regulatory policy and governance framework**

Over the past three decades, the OECD has established itself as a key source of international principles for good regulatory practices. These principles are intended to facilitate better institutional arrangements for the governance of regulators, and consequently it complements documents such as the OECD’s *Introductory Handbook for Undertaking Regulatory Impact Analysis (RIA)* (2008), which guides the development of better rules and regulations, the OECD *Best Practice Principles for Regulatory Enforcement and Inspections* (2014) and the OECD’s *Recommendation of the Council on Regulatory Policy and Governance* (2012). All of these documents support the work underway across OECD countries to improve the operational processes and practices within regulators and to support regulators’ efforts to attract and develop the best people.
These principles are intended for all the key actors in relation to regulators, that is: i) the political branch (governments and legislators); ii) the judiciary; iii) the targets of regulation or regulated entities; iv) the public; and v) regulators themselves. How a regulator is established, directed, controlled, resourced and held to account — including the nature of the relationships between the regulatory decision maker, political actors, the legislature, the executive administration, judicial processes and regulated entities — builds trust in the regulator and is crucial to the overall effectiveness of regulation.

While there are different institutional models for regulators, improving the governance arrangements of regulators can benefit the community by enhancing the effectiveness of regulators and, ultimately, the achievement of important public policy goals.

Achieving good regulatory outcomes is almost always a co-operative effort: by the government, amongst regulators, the regulated, and the broader community. Governance arrangements for regulators can be important to foster such co-operative efforts and build the legitimacy of any necessary, strong enforcement action. For these reasons, governance arrangements require careful consideration to ensure they promote, rather than hinder, the efficient achievement of policy objectives and public confidence in the operations of regulatory agencies.

These principles aim to develop a framework for achieving good governance through outlining general principles that might apply to all regulators. The framework is intended to provide:

- principles for assessing existing governance arrangements and undertaking reviews of regulators and their administration; and
- a guide to the development of governance arrangements for any proposed new regulators.

The principles are set out within seven areas which need to be considered to support good governance of regulators. At the end of each chapter are guiding questions to assist in applying the principles to different contexts and needs.

Regulators are playing an increasingly important role in delivering economic and societal objectives as well as being tasked with regulating more complex situations. At the same time the role of regulators is being continuously examined, especially at times of crisis or when issues arise that create public concern. As such regulators are key state actors with responsibilities and therefore are accountable for the delivery of policy outcomes. These principles are designed to assist the institutional structures for regulators to be more effective in the overall regulatory system within which they function.
### Box 0.1. Seven principles for the governance of regulators

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