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Regulatory Modernization: Challenges and Trends

Results from a
Deloitte Global Survey

IPAC Regulatory Modernization Conference

October 21-22, 2009

Regina

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Deloitte



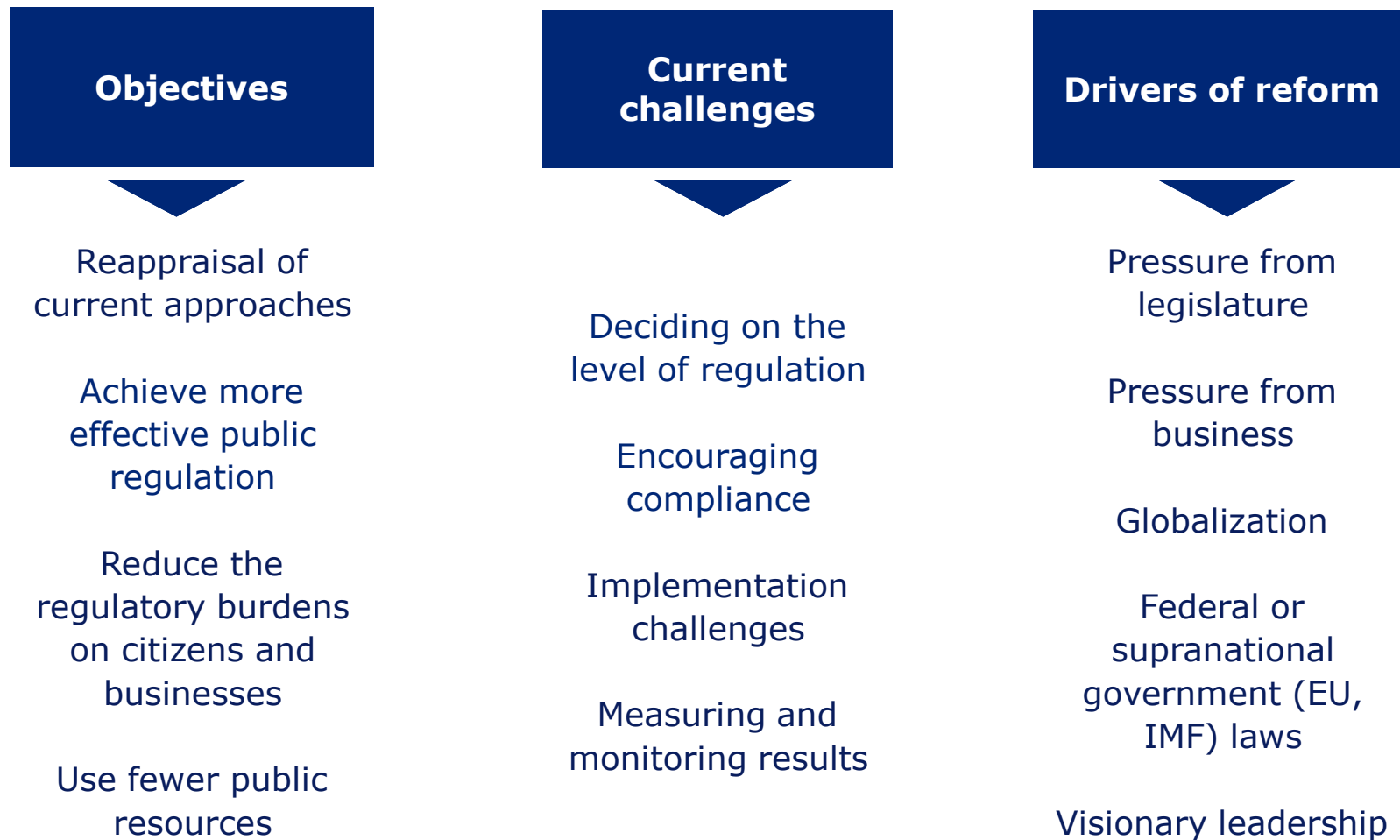
AGENDA

- About the Survey
- Current Scenario in Regulation
- Challenges and Drivers for Modernization
- New Methods of Regulation: Key Findings From the Survey
- Categorizing the Regulators
- The Road Ahead

About the Survey

We conducted a survey of regulatory agencies to understand future challenges and how they intend to tackle them

Overarching theme of the survey: How to ensure effective regulation while reducing the burdens imposed on businesses and costs to regulatory agencies



About the survey

- Administered to nearly 150 regulatory agencies across the globe.
- Sample included regulatory agencies from most of the developed world:
 - Europe: Sweden, Denmark, Portugal, Austria, UK, Ireland, Finland, Malta
 - North America: US, Canada
 - Pacific: Australia, New Zealand
- Developing countries also formed a part of the sample.
 - Mexico, Lithuania, Latvia, Slovenia, Czech republic, Slovakia, Hungary, Bulgaria, Argentina, etc.
- Most of the critical sectors were included:
 - Fiscal Law/ VAT (10), Food safety (4), Working environment (11), Environment (10), Financial services (7), Agriculture and agricultural subsidies (9), Transport (10), Fisheries (3), Public procurement (6), Company law/ annual accounts (6), Pharmaceutical legislation (4), Other (24)
- The size of these agencies varied from anywhere between 50 full-time employees to 50,000 employees.
- The respondents were very senior officials including agency heads, directors, and division heads who can be expected to be deeply aware of current challenges and future trends in regulation.

Current Scenario in Regulation

Example: Causes of the global financial crisis

A number of immediate factors can be identified: The housing market collapse; subprime lending; new products; liquidity crunch, and so on

However, it points to some bigger systemic issues:

Deregulation gone wrong?

A result of “irresponsible practices” and “excesses for a long time” in the words of Henry Paulson, the US treasury secretary
Collateralized Debt Obligations sold on Wall Street with no regulation

Points to the need for better identification, assessment, and monitoring of risks

Global dependencies

Markets across the world are more closely integrated than at any point in the history of the world
Stock markets across the globe lost more than \$12 trillion in one year

New look at regulations across countries/ continents

Lack of flexibility

Regulation cannot be seen in simple terms: deregulation versus centralized control; or voluntary compliance versus tough sanctions

Innovative regulation is about using multiple approaches aimed at both enforcement and securing voluntary compliance

New risks

- **Shared destiny across nations** when it comes to issues like environment and security
- **Growing global competition** means that companies operating in less stringent environment may have an advantage as well as can potentially undermine regulatory outcomes elsewhere
- **Goods and capital are mobile across boundaries:** regulations that impose unnecessary burdens may shift jobs and business to other locations
- **Complicated trade-offs between multiple objectives:** promoting competitiveness and innovation; protecting consumers; and, managing system-wide risks
- **Measuring regulatory outcomes is not easy**
- **Regulatory cracks develop as multiple agencies deal with separate issues:** federal regulators, regional-based supervision, and self-regulatory organizations

A recurring theme in regulatory reform: Reduce administrative burdens

UK

'One in, One out' principle

- Recommended by Better Regulation Task Force
- Every new regulation to be counterbalanced by removing another

Canada

Smart Regulation

- Series of projects to strengthen policies, processes, tools & communities
- Leverage best knowledge in Canada and worldwide
- Promote effective co-operation, partnerships & processes

EU Reform Initiative

"Less red tape = more growth"

- Simplification & scaling down
- Scrap or rewrite legislations
- New legislative proposals to undergo a thorough impact assessment analysis

Australia

Major Reorientation of the Regulatory Framework

- New regulations required to be pro-competitive & outcome focused
- Broad acceptance of need to periodically review & reform regulatory arrangements

The regulatory reform agenda

The current challenge is that the deregulation objective needs to be supplemented with effective regulation

- Increasingly regulators are being asked to ensure that regulations achieve their intended purpose and not promote a patchwork system that results in repeated crises.
- There is no established text-book guide for managing regulatory reform – it is an iterative process that involves learning-by-doing
- This means that measurement and reporting of regulatory outcomes and constant monitoring are essential elements of the new approach
- Merely tinkering with the current system, in a linear fashion, will not deliver the results

Challenges and Drivers for Modernization

Implementation of regulation: Primary challenge is to secure compliance

Most regulatory agencies “strongly agreed” that they are challenged to:

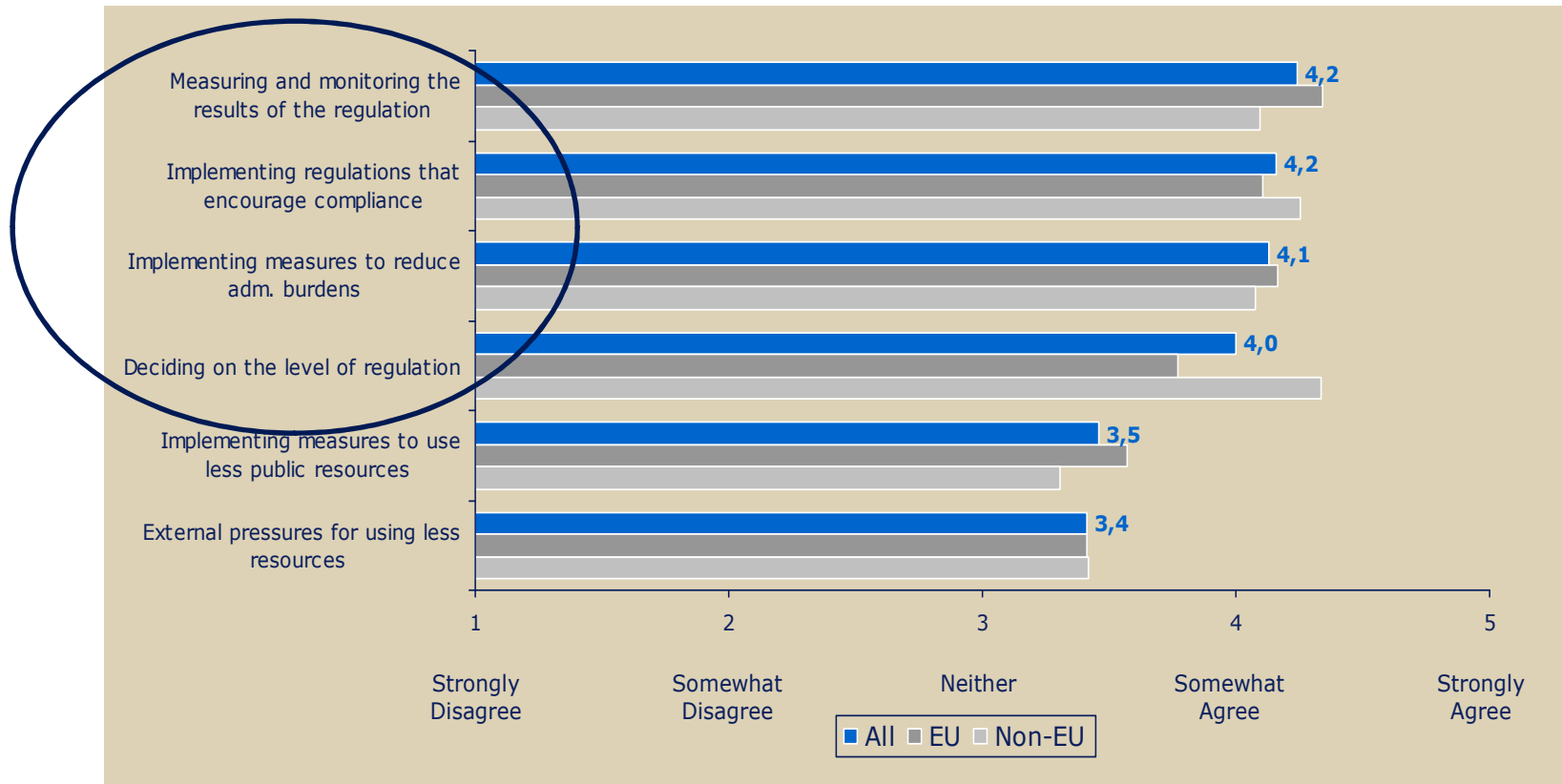
- **Measure and monitor** the results and effectiveness of the regulation
- **Assess risk.** Decide on the level of regulation and the way regulation should be executed based on identification and assessment of risks
- **Secure compliance.** Implement regulations that encourage compliance
- **Reduce administrative burden.** Implement measures to reduce the administrative burden imposed on business, citizens or others

The results suggest that regulatory agencies are primarily trying to weigh the pros and cons of two approaches to regulation:

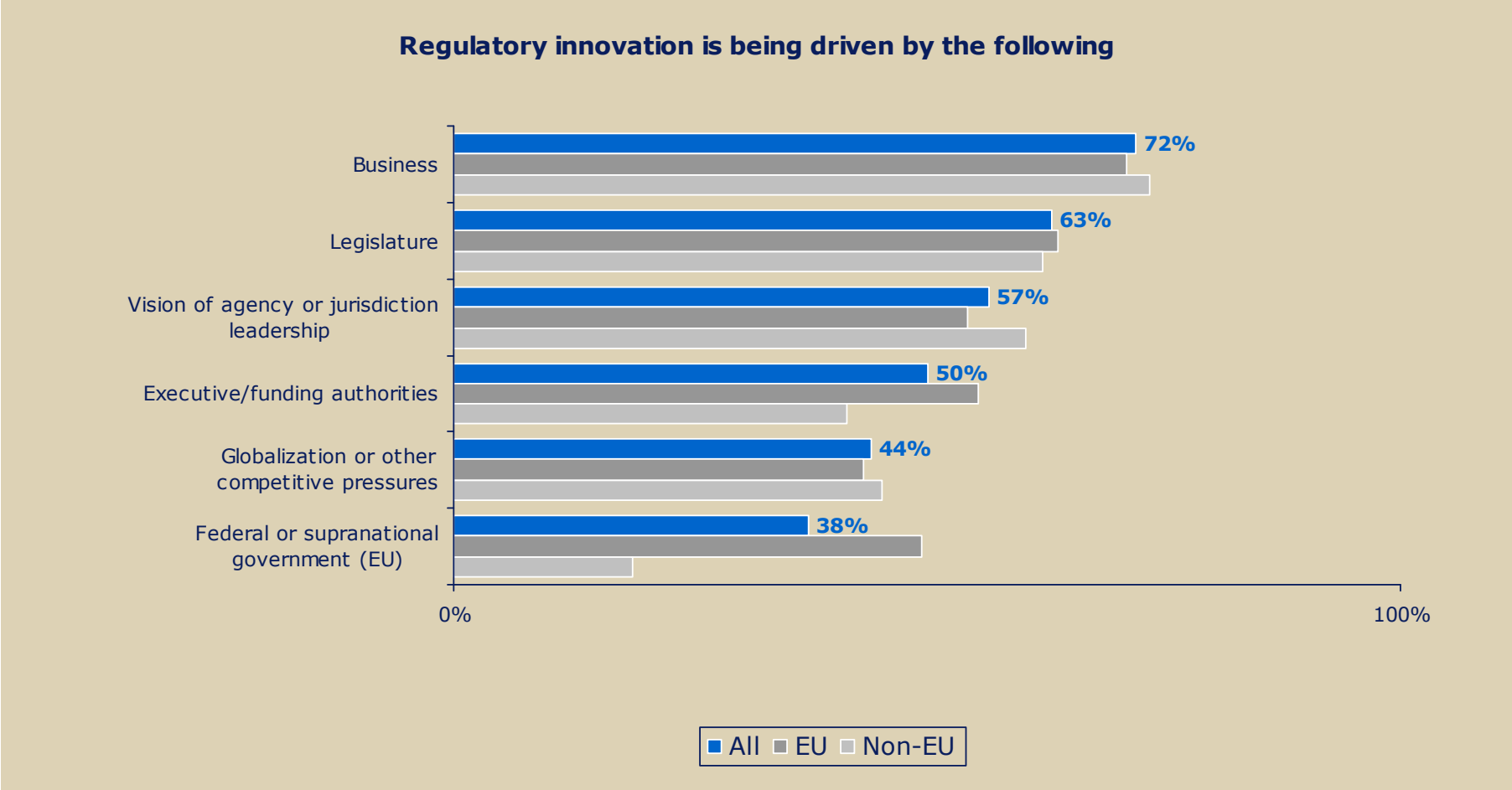
- **Compliance approach:** How much to regulate? How to reduce costs to businesses? How to ensure compliance?
- **Deterrence approach:** How to identify and assess risks? How to measure and monitor results? How to ensure outcomes?

Primary challenges facing regulatory agencies

- The top challenges for the modernization of regulation:
 - Measuring and monitoring results
 - Implementing regulation that encourages compliance
 - Implementing measures to reduce administrative burden
 - Agreement on the level of regulation

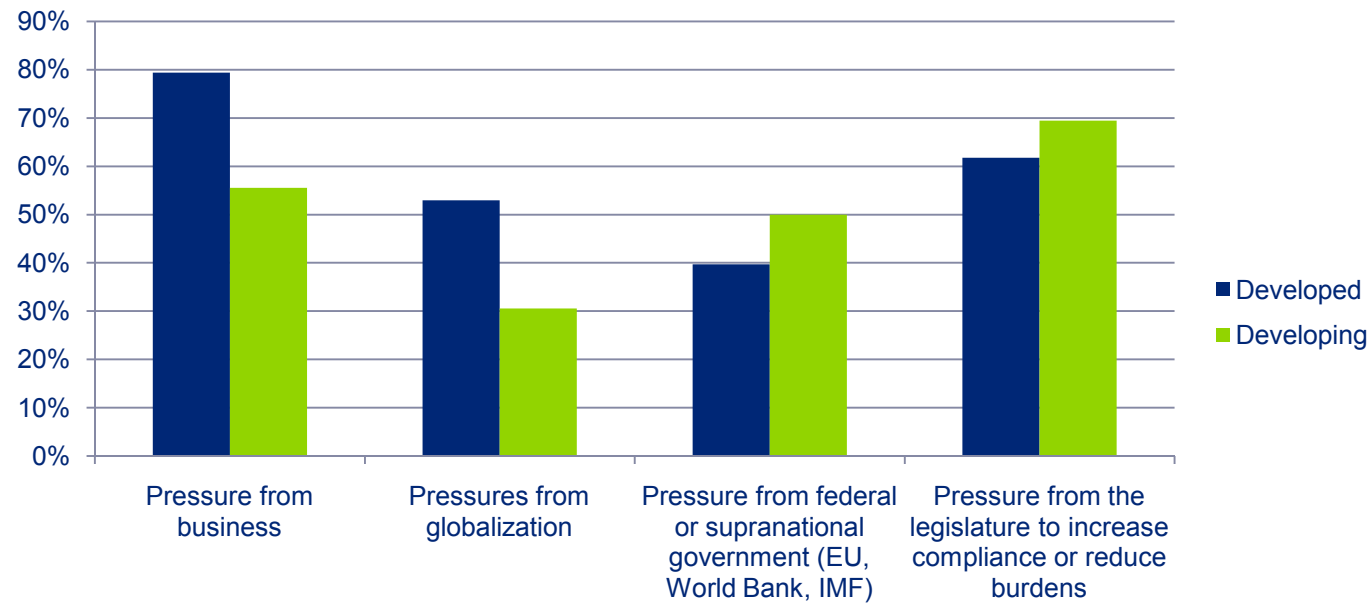


The business sector is the most important driver of regulatory innovation



Some differences between the developed and developing world

- The pressure from business is considerably less in developing countries; Globalization too is considered less important
- Probably as a result, implementing measures to reduce administration burden is not considered as big a challenge in developing countries
- On the other hand, pressure from the legislature and supranational government is much greater, resulting in greater focus on implementing regulations that encourage compliance



New Methods of Regulation: Key Findings From the Survey

New methods of regulation: A summary of survey results

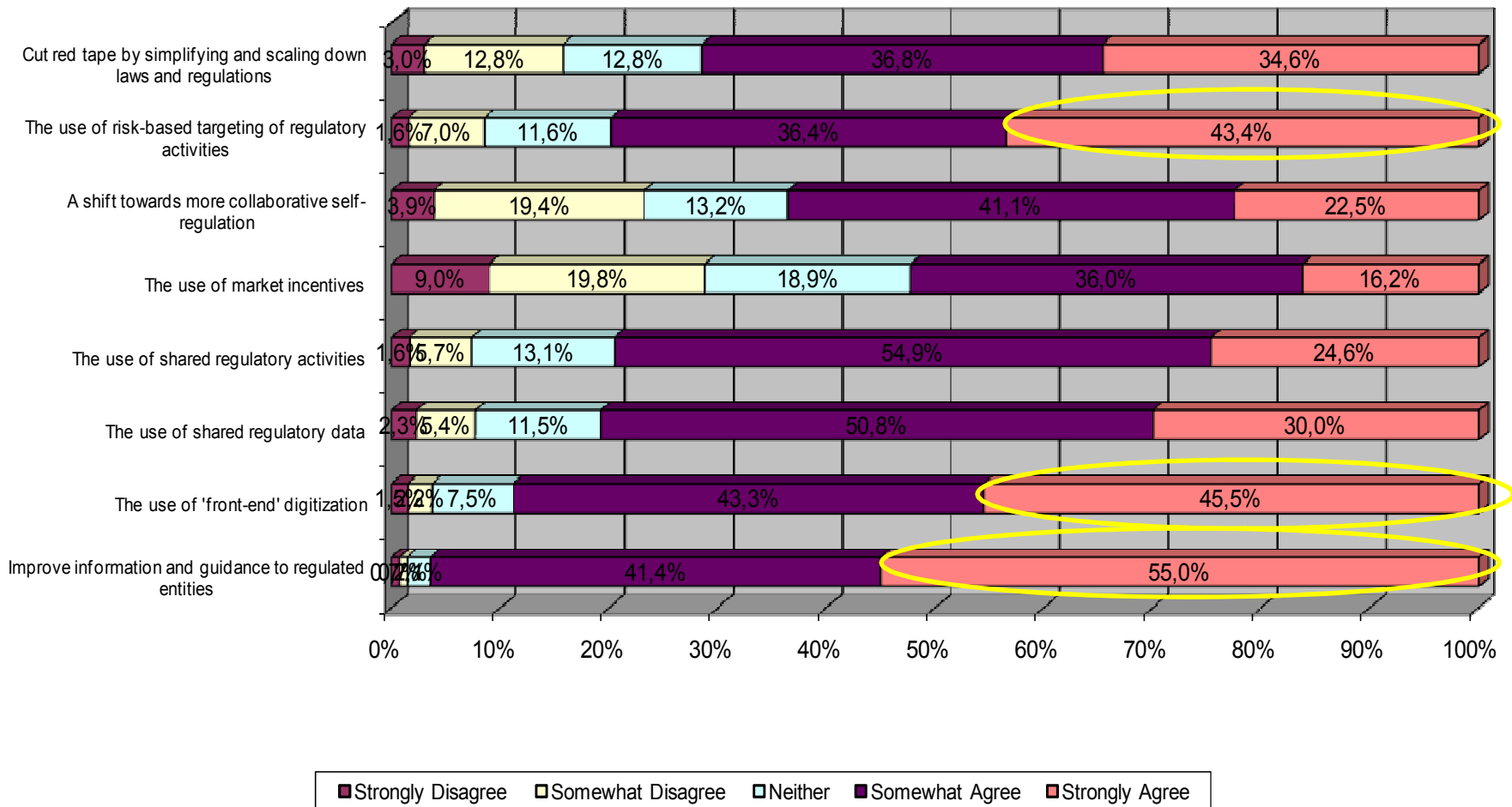
- Cutting red tape is still regarded as an important tool for **reducing administrative burdens** (35% “strongly agree” and another 37% “somewhat agree”)
- But a number of other approaches are today deemed equally or more important
- Almost the same approaches are considered important for **effective regulation**

Column heading	Approaches to reduce administrative burdens (percent Strongly agree)	Approaches to ensure effectiveness (percent strongly agree)
Improved information for regulated entities	55	60
Use of increased digitization	46	54
Risk based targeting	43	50
Shared regulatory data (and activities)	30 (25)	35 (30)
Outcome focused management	--	41

Survey results: Reducing administrative burdens on business

The most important approaches are:

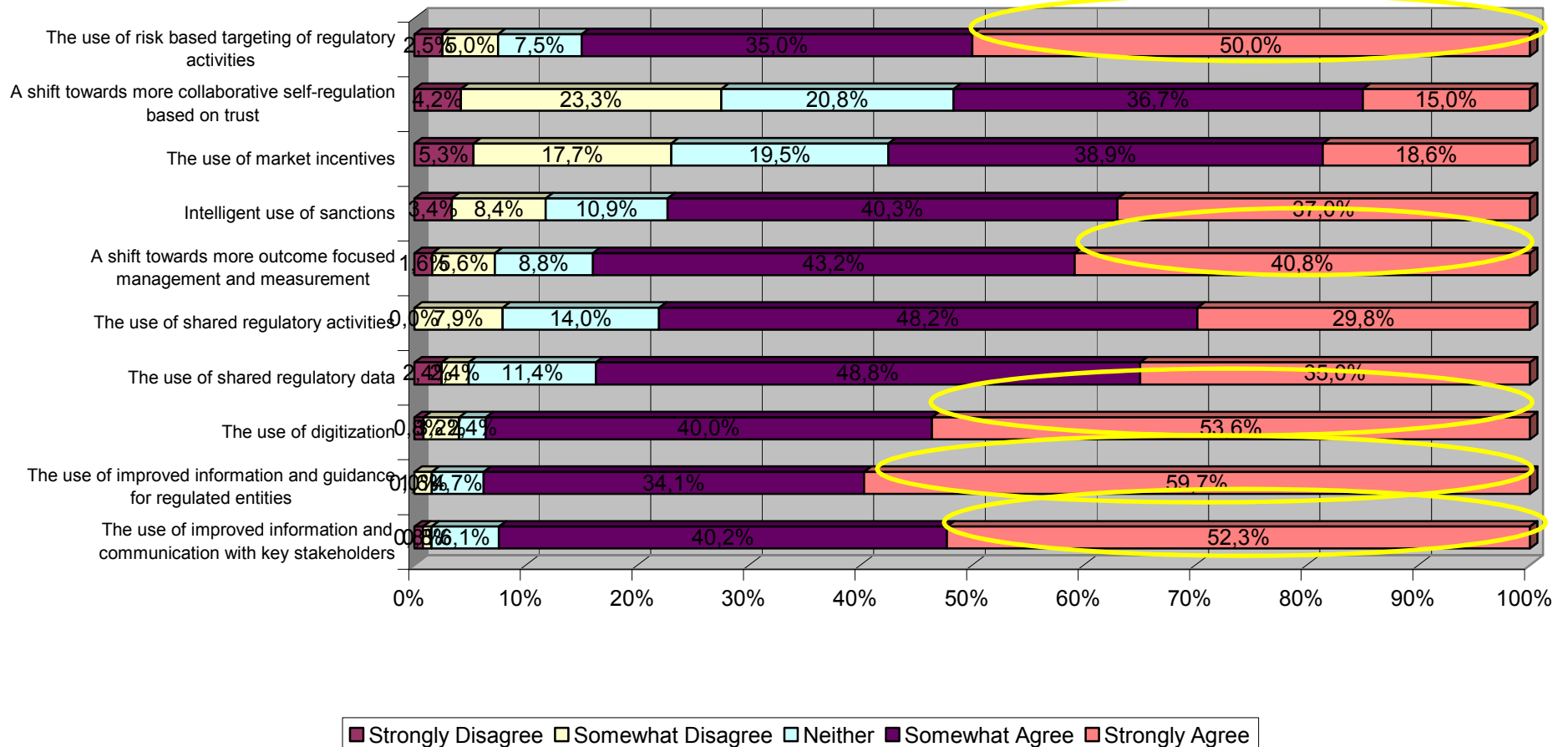
- Improved information and guidance to regulated entities
- Use of front-end digitization
- Risk-based targeting of regulatory activities



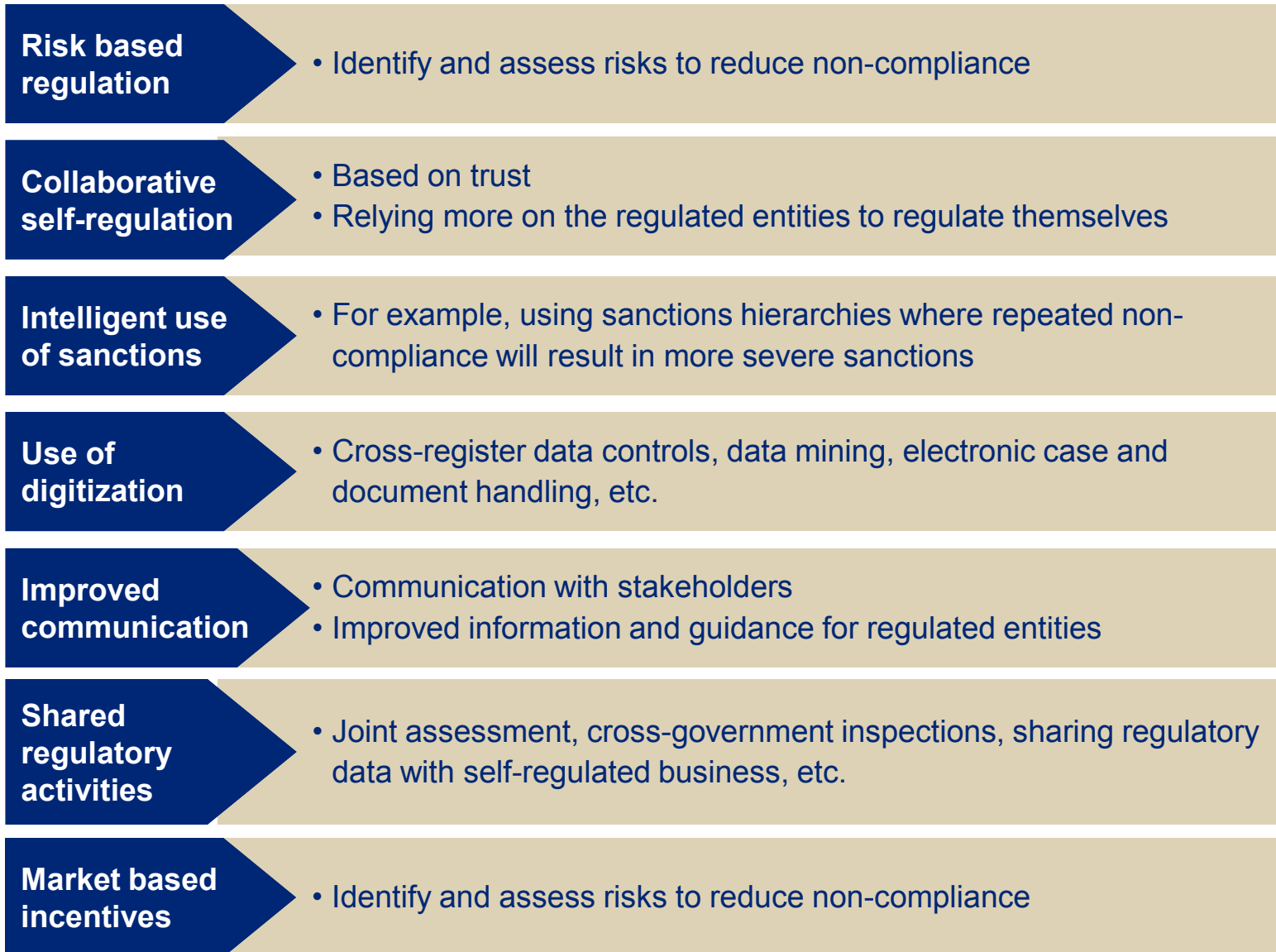
Survey results: Approaches to secure more effective regulation

The most important approaches are:

- Improved information and guidance to regulated entities
- Use of digitization
- Improved information and communication with key stakeholders
- Risk-based targeting of regulatory activities
- Outcome focused management and measurement



The response: New methods of regulation

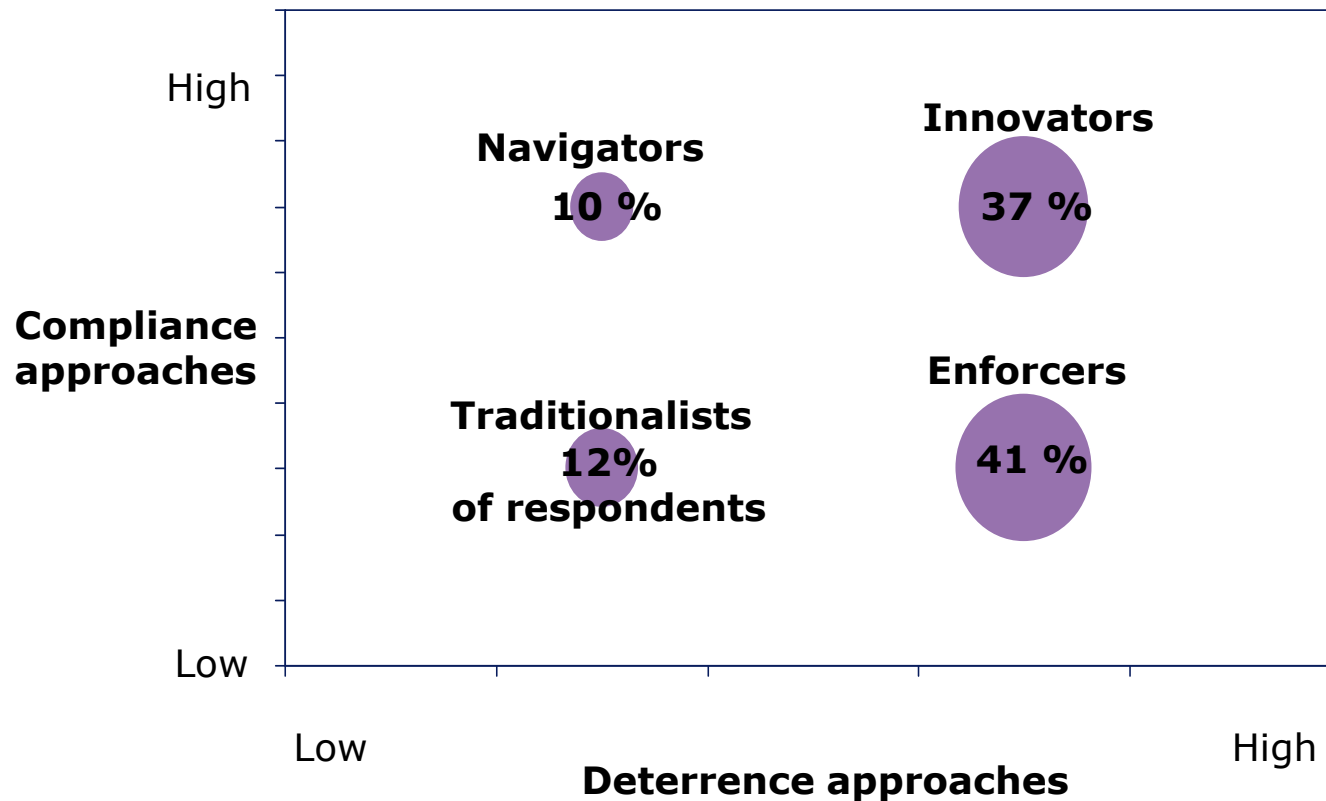


Categorizing the Regulators

Clusters in new approaches to regulation

Using cluster analysis, agencies were grouped into four categories based on their primary approach toward regulation

Innovative approaches to regulation

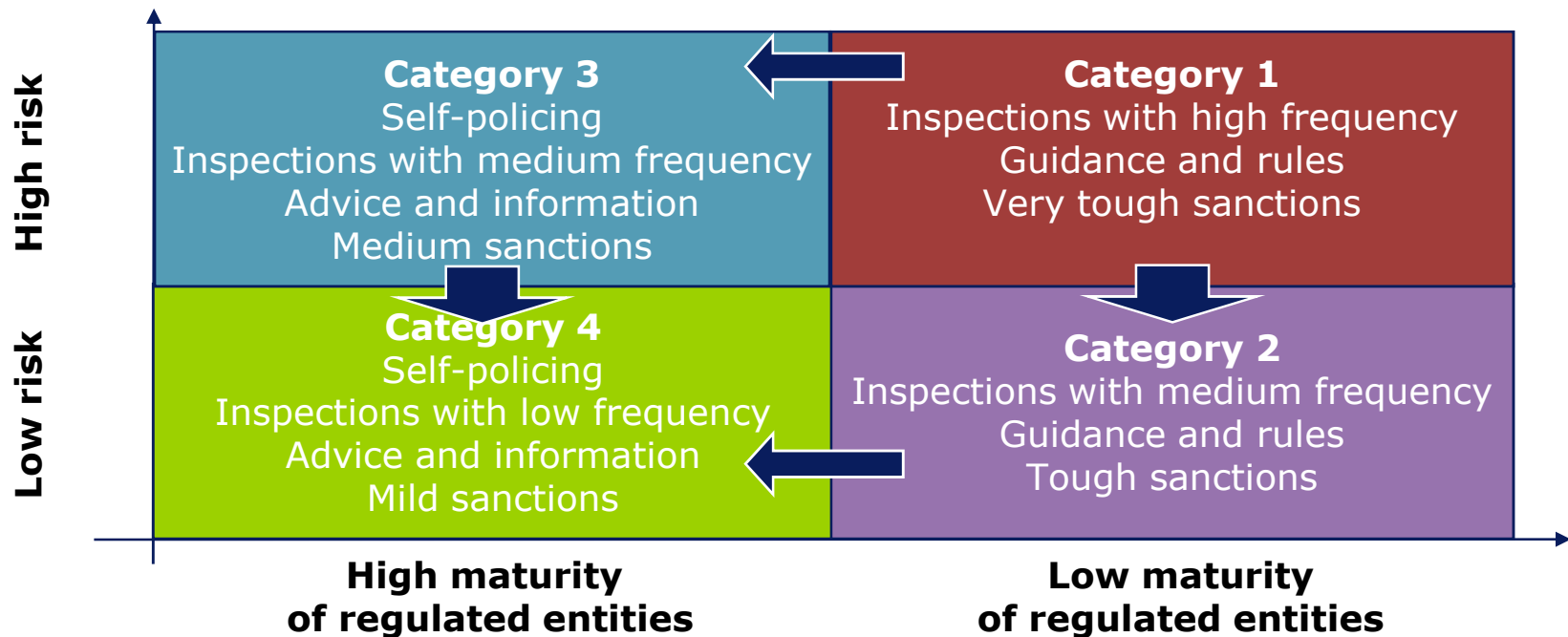


Source: Deloitte Research Global Survey on Regulation

Innovators

- Innovators combine both deterrent and compliance approaches using the most relevant approach available towards different types of regulated entities
- Responsive regulation makes use of compliance approaches toward regulated entities that are expected to comply, while making use of deterrent approaches toward regulated entities that are not expected to comply (for example because of a bad track record)

Example of responsive regulation model

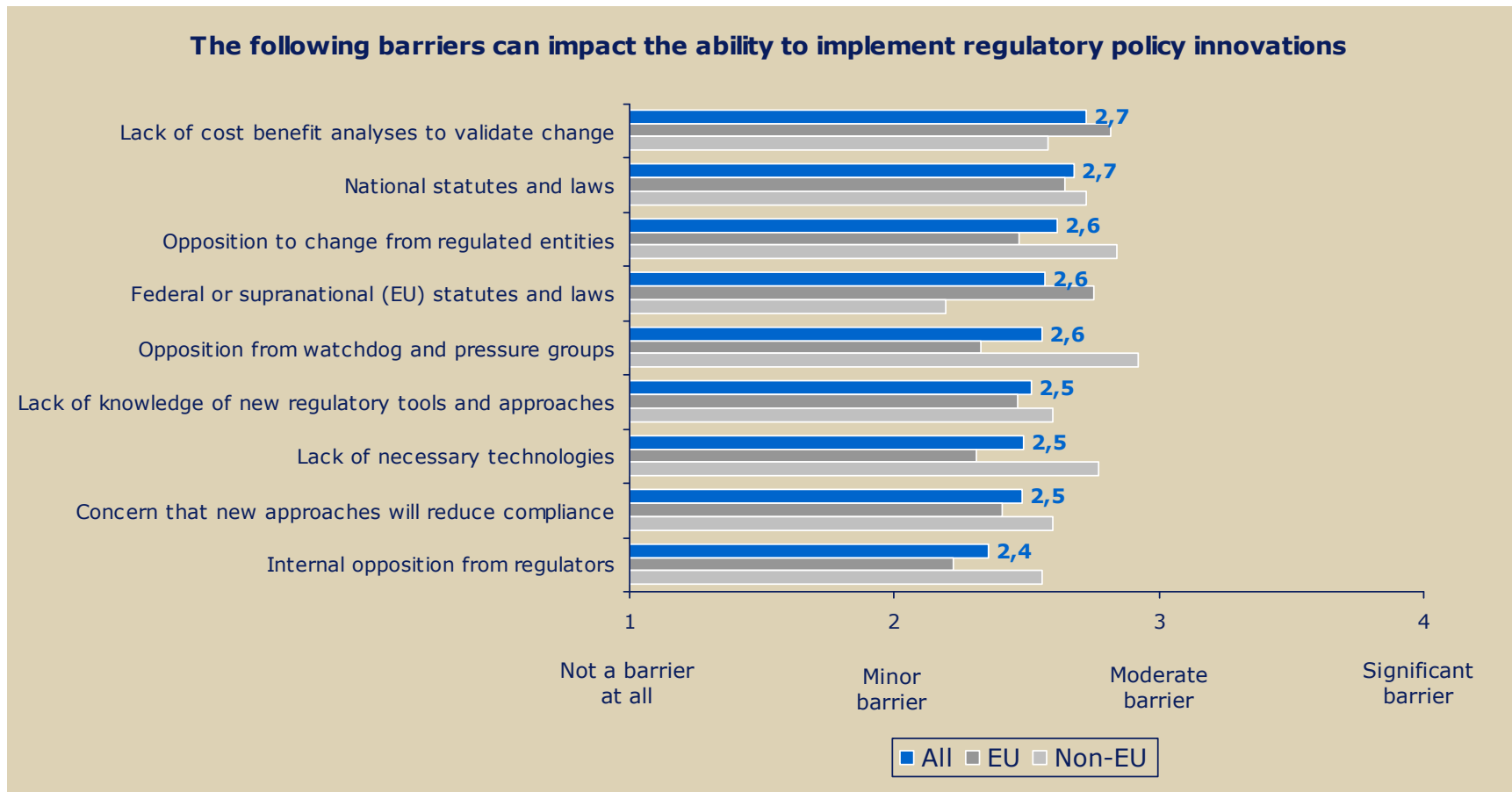


The Road Ahead

Barriers to regulatory policy innovations

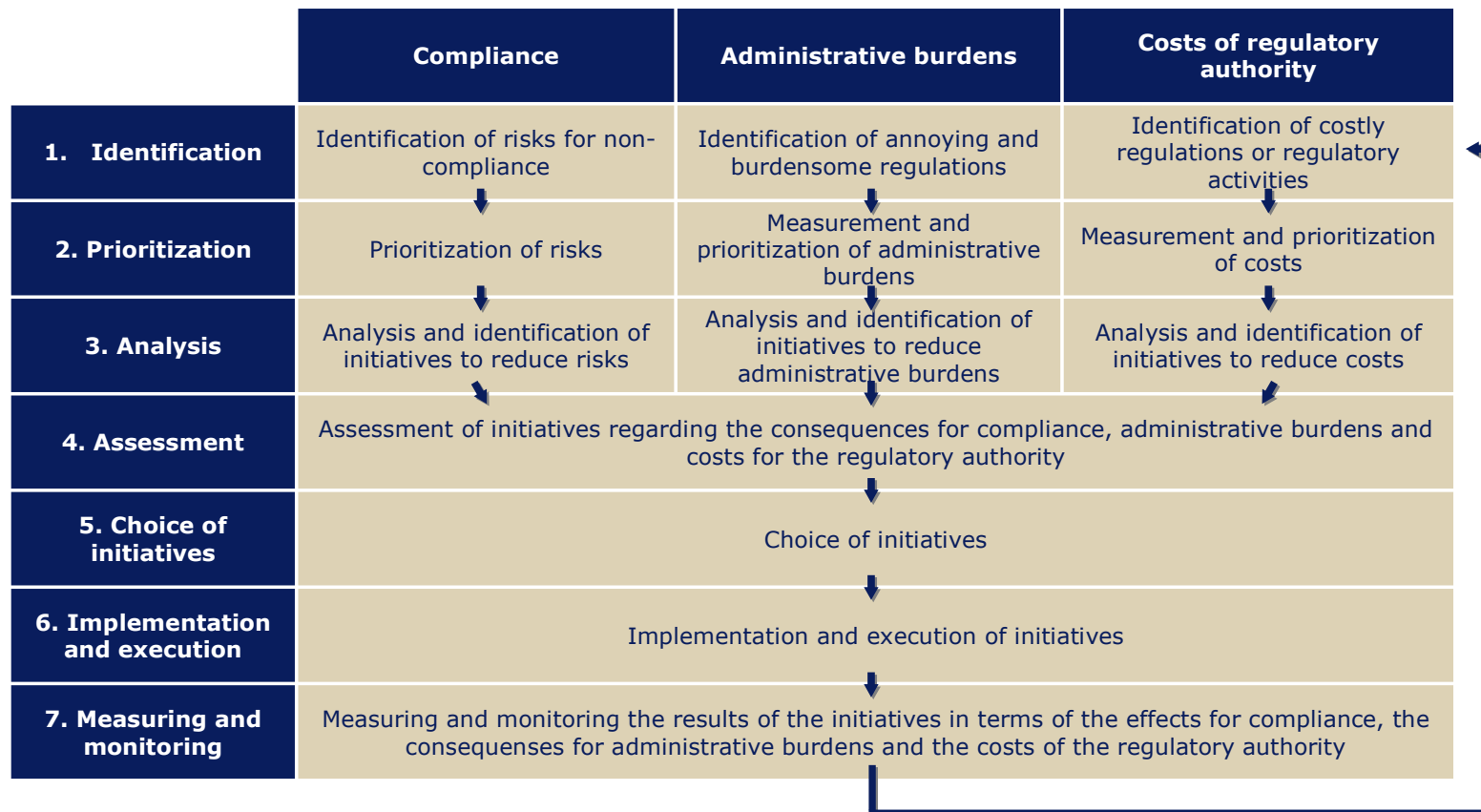
The top two barriers to regulatory innovation are:

- Lack of cost benefit analyses to validate change.
- National statutes and laws.



Framework for regulation

- Framework for continual improvements in compliance, reducing the administrative burdens, and the costs of the regulatory authority
- The framework can be used at all levels of government: Supranational, national and at the level of the regulatory authority



Capabilities required to make use of new approaches

- **Strong analytics and information management**
 - Risk based targeting, digitization, and sharing regulatory data presume the ability to transform information into knowledge and ability to predict risks
- **Technology improvements and collaboration**
 - Improved information and guidance to regulated entities require the use of new technology that provide the ability to establish two-way communication channels
 - Digitization is about being able to implement data mining, electronic case and document handling, system support of inspection activities (PDA's), IT-based reporting, etc.
- **Ability to measure and monitor results**
 - “Results” focused management of regulation can work only if the results of regulation can be effectively monitored
 - Similarly, ability to use sanction hierarchies is dependent on visibility into regulated entities compliance or non-compliance with regulation
- **Strong communication and stakeholder management skills**
 - Improved communication with politicians, trade organizations, interest groups, etc. is considered critical for effective regulation by half the respondents

Summary - What we learned

The future is not necessarily about regulation or deregulation but regulatory innovation. Bringing regulatory frameworks into the 21st century will require using multiple new approaches.

- Our survey results clearly show that governments are concerned about both pursuing administrative burden reduction on business and ensuring effective regulation
- But the new regulatory reform agenda extends beyond deregulation to include, among other things:
 - **New risk management methods**, which enable targeted regulatory activities, sanctions and communication
 - **Digitization**, which enables more effective and efficient regulation
 - A shift toward **self-regulation** that limit regulatory filing demands
 - The use of **shared regulatory services**, which facilitate one-stop services and single-window clearance
 - The use of **market incentives** in public regulation that may reduce administrative burdens
- Many of these new approaches are considered important to meet both the objectives: reducing administrative burdens and establishing effective regulation

For more information

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