



European  
Commission

# REGULATORY SCRUTINY BOARD

ANNUAL  
REPORT  
2017

**EUROPEAN COMMISSION**

**Regulatory Scrutiny Board**

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*European Commission*

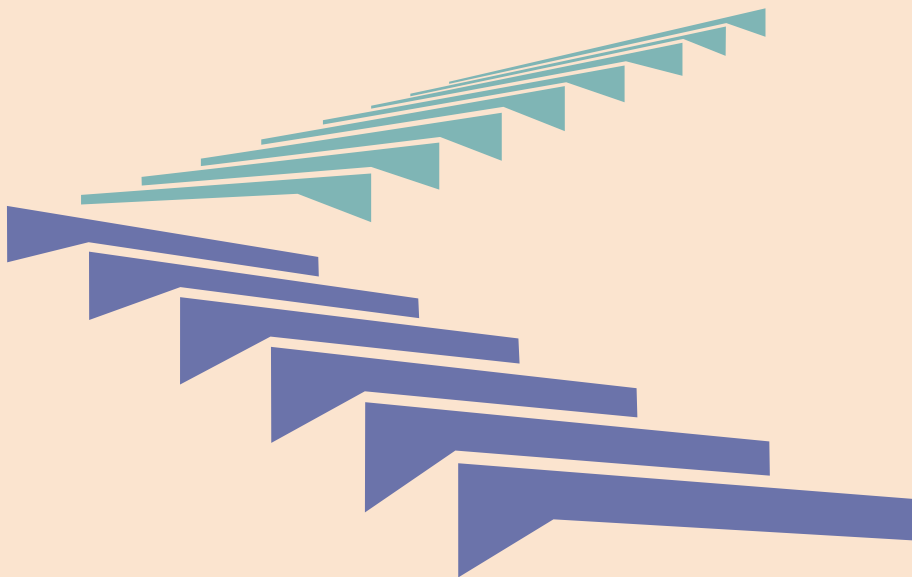
*B-1049 Brussels*

# REGULATORY SCRUTINY BOARD

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## ANNUAL REPORT 2017

**Disclaimer:** This report has been prepared in accordance with Article 10(5) of the Rules of Procedure of the Regulatory Scrutiny Board. It reflects the views of the Board, but not necessarily those of the European Commission.



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# Glossary

## **BETTER REGULATION**

'Better Regulation' means designing EU policies and laws so that they achieve their objectives at minimum cost. It is a way of working to ensure that political decisions are prepared in an open, transparent manner, informed by the best available evidence and backed by the comprehensive involvement of stakeholders. Better Regulation covers the whole policy cycle – policy design and preparation, adoption, implementation (transposition, complementary non-regulatory actions), application (including enforcement), evaluation and revision<sup>1</sup>.

## **CONSULTATION**

Consultation describes a process of gathering feedback, comments, evidence or other input on a particular intervention from other entities either from within the Commission (interservice consultation) or from outside the Commission (stakeholder consultation).

## **EVALUATION/EVALUATION REPORT**

Evaluation is an assessment of the effectiveness, efficiency, coherence, relevance and EU added-value of one single EU intervention. The Roadmap informs about evaluation work and timing. An evaluation report is prepared by the lead service and presents the findings and conclusions about the evaluation. The quality of major evaluation reports is checked by the RSB against the requirements of the relevant guidelines prior to publication and/or transmission to the Legislator as part of a formal report from the Commission.

## **FITNESS CHECK/FITNESS CHECK REPORT**

A Fitness check is an evaluation of the effectiveness, efficiency, coherence, relevance and EU added-value of a number of related EU interventions in a policy area or business sector. It identifies excessive burdens, inconsistencies and obsolete or ineffective measures and helps to identify the cumulative impact of legislation.

A Fitness check report is prepared by the lead service which presents the findings of the Fitness check. The RSB checks the quality of major Fitness check reports against the requirements of the relevant guidelines prior to publication or transmission to the Legislator as part of a formal report from the Commission.

## **IMPACT**

In an impact assessment process, the term impact describes all the changes which are expected to happen due to the implementation and application of a given policy option/intervention. Such impacts may occur over different timescales, affect different actors and be relevant at different scales (local, regional, national and EU). In an evaluation context, impact refers to the changes associated with a particular intervention which occur over the longer term.

## **IMPACT ASSESSMENT/IMPACT ASSESSMENT REPORT**

Impact assessment is an integrated process to assess and to compare the merits of a range of policy options designed to address a well-defined problem. It is an aid to political decision-making, not a substitute for it. The roadmap informs whether an impact assessment is planned or justifies why no impact assessment is carried out.

An impact assessment report is prepared by the lead service which presents the findings of the impact assessment process. It supports decision-making inside of the Commission and is transmitted to the Legislator following adoption by the College of the relevant initiative. The quality of each IA report is checked by the RSB against the requirements of the relevant guidelines.

## **IMPLEMENTATION**

Implementation describes the process of making sure that the provisions of EU legislation can fully enter into application. For EU Directives, this is done via transposition of its requirements into national law, for other EU interventions such as Regulations or Decisions other measures may be necessary (e.g. in the case of Regulations, aligning other legislation that is not directly touched upon but affected indirectly by the Regulation with the definitions and requirement of the Regulation). Whilst EU legislation must be transposed correctly it must also be applied appropriately to deliver the desired policy objectives.

## **IMPLEMENTING ACTS**

Primary responsibility for implementing EU law lies with EU countries. However, in areas where uniform conditions for implementation are needed (taxation, agriculture, internal market, health and food safety, etc.), the Commission (or exceptionally the Council) adopts an implementing act.

<sup>1</sup> For more on 'Better Regulation' please see: [http://ec.europa.eu/info/strategy/better-regulation-why-and-how\\_en](http://ec.europa.eu/info/strategy/better-regulation-why-and-how_en).

**INITIATIVE**

An initiative is a policy instrument prepared at EU level to address a specific problem or societal need. An impact assessment will assess options to inform the policy content of the initiative.

**INTERSERVICE CONSULTATION (ISC)**

The interservice consultation is used for requesting and obtaining the formal opinion of other departments with a legitimate interest in a draft text. As a general rule, interservice consultations (ISC) are mandatory for all documents requiring a decision by the College and for staff working documents.

**INTERVENTION**

Intervention is used as an umbrella term to describe a wide range of EU activities including: expenditure and non-expenditure measures, legislation, action plans, networks and agencies.

**INTERVENTION LOGIC**

The intervention logic is the logical link between the problem that needs to be tackled (or the objective that needs to be pursued), the underlying drivers of the problem, and the available policy options (or the EU actions actually taken) to address the problem or achieve the objective. This intervention logic is used in both prospective impact assessments and retrospective evaluations.

**REFIT**

REFIT is the European Commission's Regulatory Fitness and Performance programme launched in December 2012. Under REFIT, action is taken to make EU law simpler, lighter, more efficient and less costly, thus contributing to a clear, stable, least burdensome and most predictable regulatory framework supporting growth and jobs.

**ROADMAP**

A roadmap is a tool to substantiate the political validation of an initiative the Commission is preparing and to inform stakeholders about planned consultation work, impact assessments, evaluations, Fitness checks. It is published at an early stage by the Secretariat-General on the Commission's web site and helps stakeholders prepare timely and effective inputs to the policymaking process.

**COMMISSION SERVICES**

A department of the European Commission administration, such as Directorates General (DGs), Secretariat-General, Legal Service, European Anti-Fraud Office (OLAF).

**SME**

SME is the abbreviation for micro, small and medium-sized enterprises. SMEs are defined comprehensively in Commission Recommendation 2003/361. In simple terms, they are enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.

**STAKEHOLDER**

Stakeholder is any individual or entity impacted, addressed or otherwise concerned by an EU intervention.

**STAKEHOLDER CONSULTATION**

Stakeholder consultation is a formal process of collecting input and views from citizens and stakeholders on new initiatives or evaluations/fitness checks, based on specific questions and/or consultation background documents or Commission documents launching a consultation process or Green Papers. When consulting, the Commission proactively seeks evidence (facts, views, opinions) on a specific issue.

**TRANSPPOSITION**

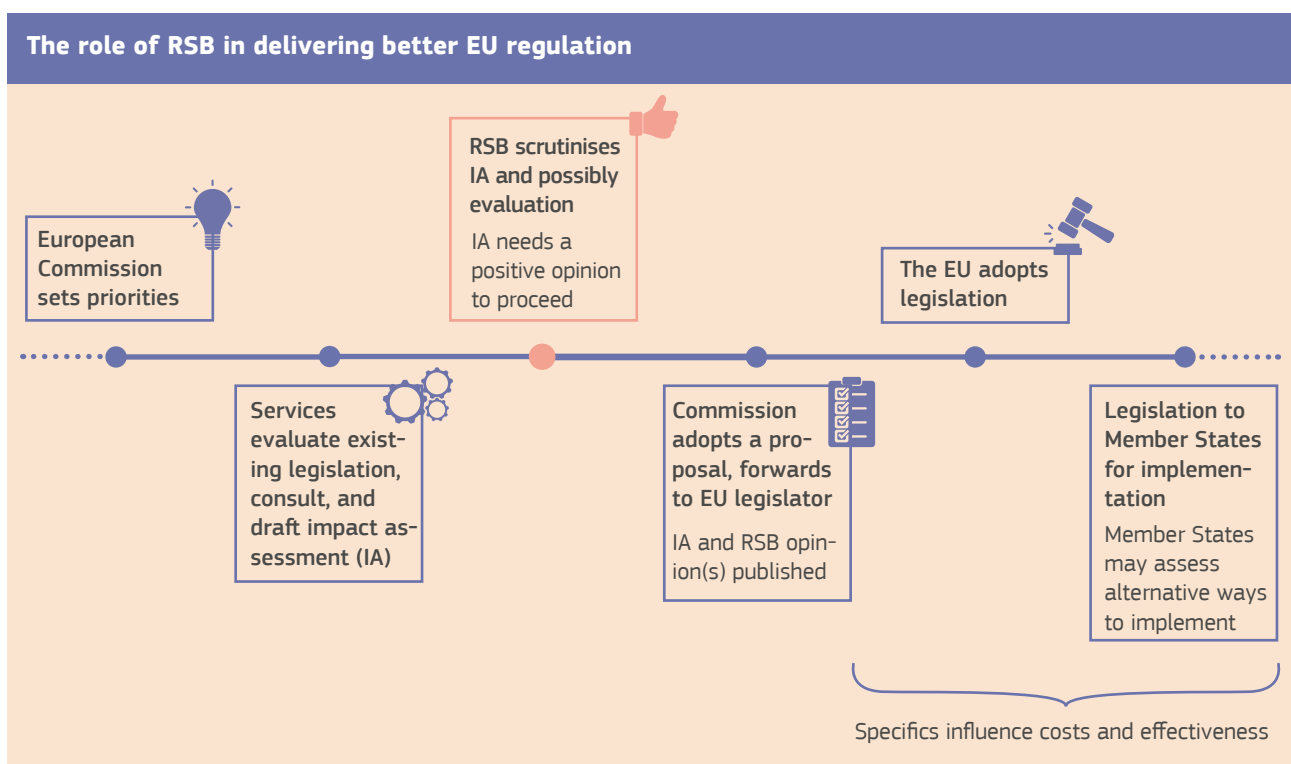
Transposition describes the process of incorporating the rights and obligations set out in an EU Directive into national legislation, thereby giving legal force to the provisions of the Directive. The Commission may take action if a Member State fails to transpose EU legislation and/or to communicate to the Commission what measures it has taken. In case of no or partial transposition, the Commission can open formal infringement proceedings and eventually refer the Member State to the European Court of Justice.

## RSB in a nutshell

**Mandate:** The Board provides **quality assurance** of impact assessments and major evaluations to the political level of the Commission. It helps ensure that initiatives take due account of **factual information** and stakeholder groups' **views** before political decision-makers consider what action to take, if any. The Board publishes its formal opinions after the College of Commissioners has completed its deliberations on initiatives subject to impact assessment or when a scrutinised evaluation is published. More broadly, the Board helps to develop further the Commission's policy on better regulation<sup>2</sup>.

Key features:

- Independent and reports to the President of the Commission
- 7 full-time members, internal and external.



<sup>2</sup> See [http://ec.europa.eu/smart-regulation/better-regulation/documents/c\\_2015\\_3262\\_en.pdf](http://ec.europa.eu/smart-regulation/better-regulation/documents/c_2015_3262_en.pdf) for the full formal mandate.



## FOREWORD BY THE CHAIR

I am pleased to report on our second year of operation. The Board's working methods are now largely established, and we can share more insight into how we help to support evidence-based policymaking.

Our tools are more refined. The Board strengthened its operational framework in 2017, both in communication and in systematising processes. A new intermediate rating between positive and negative opinions has enabled the Board to avoid unnecessarily holding up the process when initial drafts of impact assessments have not met some better regulation standards. The Board has also put in place a monitoring system to track quality and has defined key performance indicators for its scrutiny.

Negative opinions remain a regular early outcome for impact assessments. But the glass is more than half full. The positive opinions that almost always come at the end reflect a process of improvement and ongoing interactions. Reports end up clearer and better argued after Board scrutiny. The Board's recommendations are taken seriously and are in most cases acted upon. More than once, the revision process has resulted in reconsidering the scope and the preferred options.

Evaluation is our newest area of competence. The Board only started scrutinising evaluations in 2016. Commission services grapple with several well-known practical evaluation challenges, including when to evaluate and how to balance ownership against independence. Services sometimes manage these challenges successfully, at other times less so. Several evaluations that the RSB reviewed were not of a quality we might have hoped for. Reports come to the Board only after all field work is done, at which point it is often too late to adjust evaluation design aspects. The Board takes a pragmatic approach to its scrutiny and focuses mostly on helping evaluations to contribute as much as possible to informing policy in a forward-looking way.

Rigour is a crucial feature of the Board, just as important as our independence. Early attention of the Board on quantification is now helping the Commission to implement more ambitious objectives of reducing unnecessary regulatory costs without compromising policy objectives. The standards to which the RSB holds the services take into account improved methods and learning of the services. Thus, expectations for quantification, for example, will rise as the Commission develops and disseminates better techniques.

As the Board enters its third year, we are giving thought to how the RSB's performance might best be assessed and its regulatory oversight function further enhanced.

Anne Bucher

The Regulatory Scrutiny Board



From left to right: Nils Björkstén, Isabelle Schömann, Vassili Lelakis, Mona Björklund (Board Secretary), Anne Bucher (Chair), Didier Herbert, Andreas Kopp, Bernard Naudts

# CHAPTER 1

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## Activities of the Board in 2017



## 1.1. What did the Board scrutinise in 2017?

**The Board looked at all impact assessments, fitness checks and major evaluations.**

**At the end of the process, virtually all impact assessments had become fit for purpose.**

The Board scrutinises all impact assessments and a selection of evaluations. Table 1 shows 2017 activity in comparison with earlier years. This amounted to 53 impact assessments and 17 separate evaluations. After the initial reading, the Board gave positive opinions to more than half of the cases in each group. All impact assessments and some of the evaluations that did not pass scrutiny the first time were (or will be) revised and resubmitted to the Board for a second review. Almost all resubmissions in 2017 received positive Board assessments.

**Table 1. Board scrutiny by year**

Year	Meetings	Cases	Negative opinions	Initial rejection rate
<b>Impact assessments</b>				
2015	16	29	14	48%
2016	22	60	25	42%
2017	23	53	23	43%
<b>Evaluations</b>				
2016		7	*	
2017		17	7	41%

\* In 2016, evaluations received opinions with comments, without 'positive' or 'negative' mention.

**The Board's scrutiny work reflects the Commission work programme.**

**That means impact assessments addressed issues under the 10 priorities...**

**... and evaluations looked at elements of the post-2020 Multiannual Financial Framework.**

The impact assessments that came before the Board in 2017 reflect the Juncker Commission's continued execution on its ten policy priorities. The Board reviewed several impact assessments linked to the 'road package' of initiatives to promote low carbon mobility. Other impact assessments related to the Single Market Action Plan, including free movement of goods and reform of the value added tax (VAT). The Board also reviewed multiple impact assessments on financial regulation and trade policy. While most of the impact assessments on the Commission's Digital Single Market initiatives and fight against terrorism actions came before the RSB already in 2016, there were still a few in 2017.

Of the evaluations that the Board reviewed, about half related to activities that fall under the Multiannual Financial Framework (MFF). The remainder included four fitness checks<sup>3</sup>.

<sup>3</sup> Fitness checks are comprehensive policy evaluations that assess whether the regulatory framework for a sector is fit for purpose. The Board examined fitness checks on monitoring and reporting obligations in EU environmental policy, on consumer and marketing law, on general food law and on EU legislation in the construction sector.

## 1.2. New this year: broader spectrum of opinions

### New: opinions on evaluations.

The Board started issuing positive and negative opinions on evaluations at the beginning of 2017. Prior to that, the RSB had not issued overall ratings on evaluations.

An evaluation takes the form of a staff working document (SWD), and it usually draws on one or more evaluation studies written by external consultants.

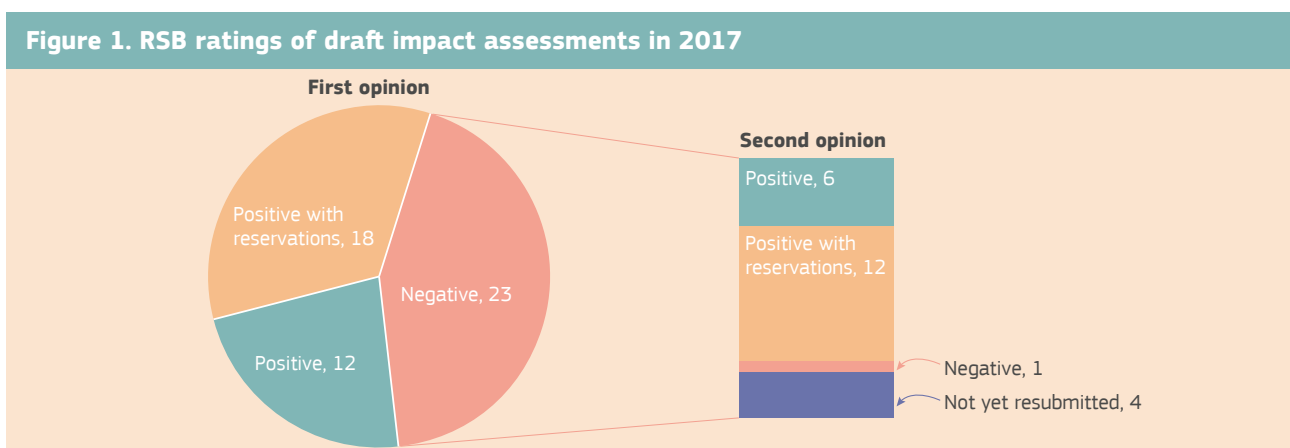
Board review supports the Commission's ongoing efforts to systematise evaluation activity and improve quality. The Board's scrutiny focuses on the SWD, and the Board publishes its opinions. Unlike for impact assessments, negative opinions on evaluations do not require a resubmission, and do not prevent the reports from advancing. Of the seven evaluations that received negative opinions, the lead services chose to revise and resubmit four. The Board issued positive opinions on all four resubmissions.

The Board has found it challenging to issue overall ratings on evaluations. Whether an evaluation is fit for purpose depends on what its purpose is, and this varies by evaluation type. Section 3.2 explores this issue in more detail.

### New: 'positive with reservations' opinion category on impact assessments.

Until this year, Board opinions on impact assessments were either 'positive' or 'negative'. By late 2016, the Board considered this choice too binary. At times a negative opinion seemed overly restrictive considering the identified shortcomings. In other cases, a positive opinion did not seem to encourage enough attention to remaining concerns. The Board therefore introduced a new rating of 'positive with reservations'. This rating allows the Board to clearly flag concerns that are significant but not enough to warrant a negative opinion.

The Board has made relatively active use of this new rating, both for initial submissions and for resubmissions. **Figure 1** shows that in 2017, around 60% of the positive ratings came with reservations. This was true both for initial submissions and for resubmissions that had earlier received a negative rating<sup>4</sup>.



<sup>4</sup> In addition to the impact assessments in **Figure 1**, the Board issued opinions on three resubmitted impact assessments that originally received negative opinions in 2015 or 2016. One of these resubmissions received a negative opinion, one a positive with reservations, and one a positive opinion.

## 1.3. New this year: improved monitoring of quality

### RSB scrutiny tracks several quality indicators.

These indicators are meaningful when considered in aggregate.

10 components for impact assessments and 6 for evaluations.

Component analysis confirms the overall consistency of the Board's opinions.

The Board delivers its opinions case by case and on the basis of global assessments that its members can individually agree on. The Board opinions are thus not the result of a mechanistic process.

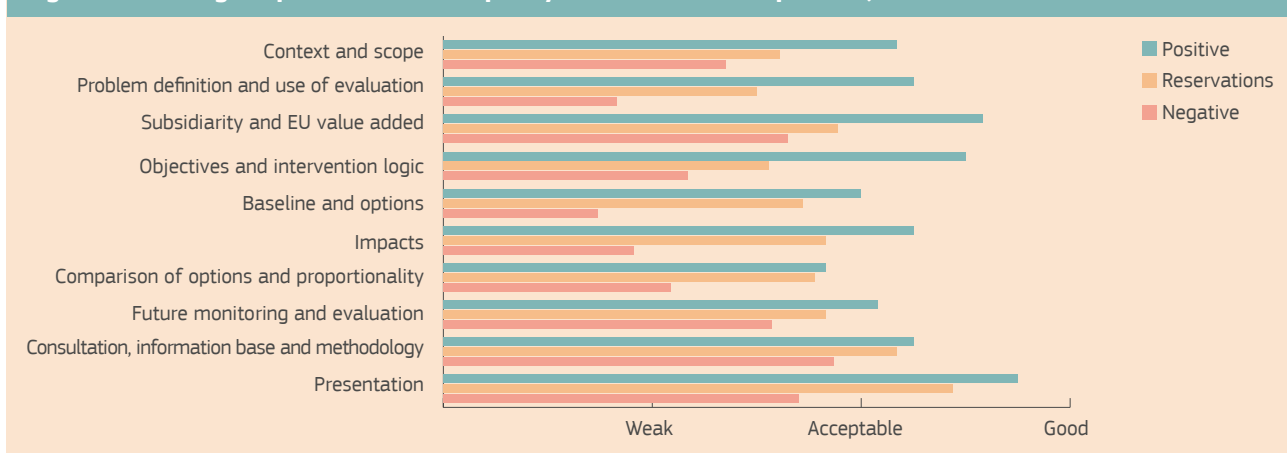
As part of monitoring its own performance, however, the RSB has piloted a new monitoring system of quality indicators for impact assessments and evaluations. The indicators make it possible to consolidate views across all reports and deliver a quality overview of the entire body of impact assessments, by components. By looking ex post across many files, the Board can verify the consistency of its opinions and take stock of quality improvements that followed interactions with the Board.

The RSB monitors ten components of impact assessments and six of evaluations<sup>5</sup>. These components correspond to structural features that every report contains. The monitoring system also tracks whether or not individual impact assessments and evaluations included certain other features, such as lighter regimes for SMEs, environmental impacts or impacts on third countries.

The Board has been testing this system on the body of reports considered. Insights will grow more reliable and nuanced as the dataset expands and more detailed analysis becomes possible. For now, the basic patterns that are emerging are already informative.

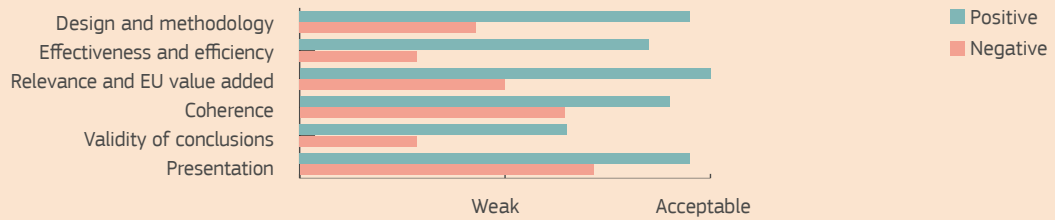
For example, Board opinions across the various files show consistency. **Figures 2a** and **2b** show that, on average, impact assessments and evaluations that receive positive Board opinions rate higher on all individual components. For impact assessments, the quality of positive opinions with reservations is close to positive opinions for most components, but is closer to negative opinions for the first four components.

**Figure 2a. Average impact assessment quality on each of 10 components, first submissions**



<sup>5</sup> The components are listed in Figures 2a and 2b. Ratings on each component go from unsatisfactory to very good.

Figure 2b. Average evaluation quality on each of 6 components, first submissions



## 1.4. Board value-added to Better Regulation in 2017

### The RSB has its own performance indicators.

The RSB has identified three key performance indicators (KPIs) against which it can be assessed annually. These KPIs provide a mechanism for monitoring how the RSB is making use of its resources:

1. The number of impact assessments and evaluations scrutinised.
2. On-time delivery of RSB opinions.
3. How much the impact assessments improved in quality following interactions with the Board.

How has the Board performed on the basis of these metrics?

### The Board had a busy schedule in 2017...

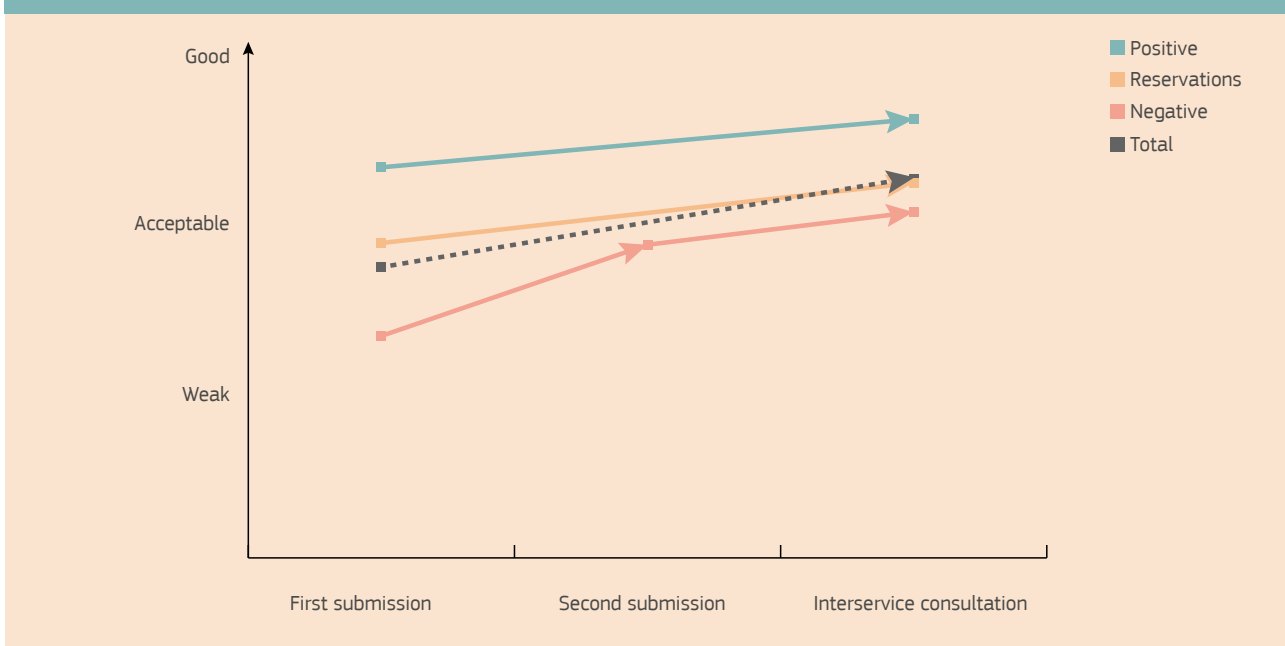
In 2017 the Board reviewed 53 impact assessments and 17 evaluations. It also delivered 26 second opinions on impact assessments and evaluations that received negative opinions and were resubmitted to the Board. This compares to 60 impact assessments, 7 evaluations and 25 second opinions that the Board reviewed in 2016.

### ... and managed to be responsive.

The RSB has consistently delivered its first opinions within three working days of Board meetings. The Board delivered all second opinions on or before each date promised. In many resubmission cases this happened much faster than in the standard four weeks, as the Board tried to accommodate services' needs when the services faced tight deadlines.

### Impact assessments improved following Board interactions.

Figure 3 shows that impact assessments have improved after RSB feedback. It displays the average overall ratings for impact assessments when they arrived for Board scrutiny and afterwards. The last point of measurement is at the interservice consultation (ISC) stage, when services have revised draft impact assessments or evaluations to take into account RSB feedback.

**Figure 3. Improvement of impact assessment after submission to the RSB**

**Figure 3** reveals several patterns:

- Impact assessments that arrived to the Board were of mixed quality.
- Impact assessments improved considerably following Board opinions.
- The weakest impact assessments tended to improve the most.
- The final quality of impact assessments that ultimately received a Board positive opinion was both better and less variable.
- Board criticism of first submissions appears to have been taken especially seriously when the first opinion was negative.

### **It is still too early to conclude on Board value added to evaluations.**

With regard to evaluations, the Board will do a similar analysis once a large enough sample has accumulated. To date, the Board has only seen four resubmissions.

In sum, initial data suggest that the Board has contributed to improving the quality of impact assessments. Measuring this improvement remains a work in progress. Anecdotal evidence from interactions with services is also encouraging.

For 2018, the Board intends to keep compiling evidence about its contribution to better regulation, both for impact assessments and for evaluations.

## 1.5. Internal guidance, external outreach

### Better process end-to-end.

### Optional early stage meetings have proved popular all around.

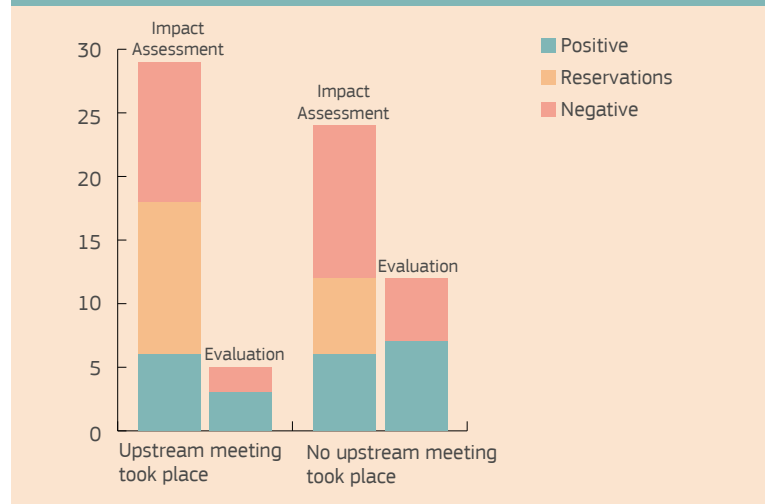
### They seem to help raise the quality of impact assessments...

### ... and to a lesser extent evaluations.

The Board also developed its advisory function in 2017. This included ‘upstream meetings’ with Commission services. These meetings have alerted the RSB to particularly challenging draft impact assessments and evaluations. During these discussions, Board members provided early feedback and advice on the basis of existing inception impact assessments and roadmaps. Board members’ feedback did not pre-judge the Board’s subsequent deliberations. There have been 28 such meetings in 2017, which turned out to be more than the Board anticipated. Upstream meetings have thus proved popular.

Have upstream meetings been useful in improving quality? There is some positive evidence of this for impact assessments. **Figure 4** shows that upstream meetings preceded more than half of the impact assessments that the Board reviewed in 2017. As a group, the impact assessments that services discussed with the Board in upstream meetings received fewer negative assessments. Considering that these were supposed to be the relatively more complicated and challenging impact assessments, the value of upstream meetings seems evident. By contrast, the impact on evaluations is less apparent. This could be because some of the upstream meetings came too late in the evaluations’ design process for Board input to be as useful.

**Figure 4. Quality of impact assessments and evaluations preceded by upstream meetings**





**Outreach to stakeholders is also important to improve scrutiny.**

Throughout 2017, the Board has sought to raise stakeholder awareness about its functions and work within the better regulation process. This has improved RSB visibility and institutional stakeholders' use of RSB opinions. The Board had regular and productive outreach meetings with the European institutions, national scrutiny bodies and regulatory watchdogs. The Board also held two methodology workshops, covering topics such as evaluation. The RSB held its first annual conference<sup>6</sup> in March 2017, during which it exchanged views with a broad set of stakeholders. All of these meetings helped the Board to learn about expectations and collect feedback on the quality and use of impact assessments and evaluations. The Board used this feedback to improve its scrutiny.

**Exchanges of views helped develop thinking and improve methods.****Board opinions are clearer and more accessible.**

Finally, to promote clearer communication, the Board has streamlined the way that it drafts its opinions. It tries to use plain language to make opinions more accessible to outside audiences, including the general public<sup>7</sup>. It pays particular attention to making its recommendations specific, and to suggesting realistic ways forward.

<sup>6</sup> More information can be found on [https://ec.europa.eu/info/events/regulatory-scrutiny-eu-annual-conference-2017-mar-20\\_en](https://ec.europa.eu/info/events/regulatory-scrutiny-eu-annual-conference-2017-mar-20_en).

<sup>7</sup> The Board has used the Flesch-Kincaid readability algorithm for this purpose. In its written communication, the RSB strives for a Flesch-Kincaid grade level of 12 with no more than 10% passive sentences. This readability level is similar to that of press articles in leading newspapers. In 2017, draft executive summaries of Commission impact assessments averaged grade level scores of 13.5 with 22% passive sentences.

# CHAPTER 2

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## Board scrutiny of impact assessments in 2017



## 2.1. Features of impact assessments with positive and negative opinions

### Commission impact assessments follow a template.

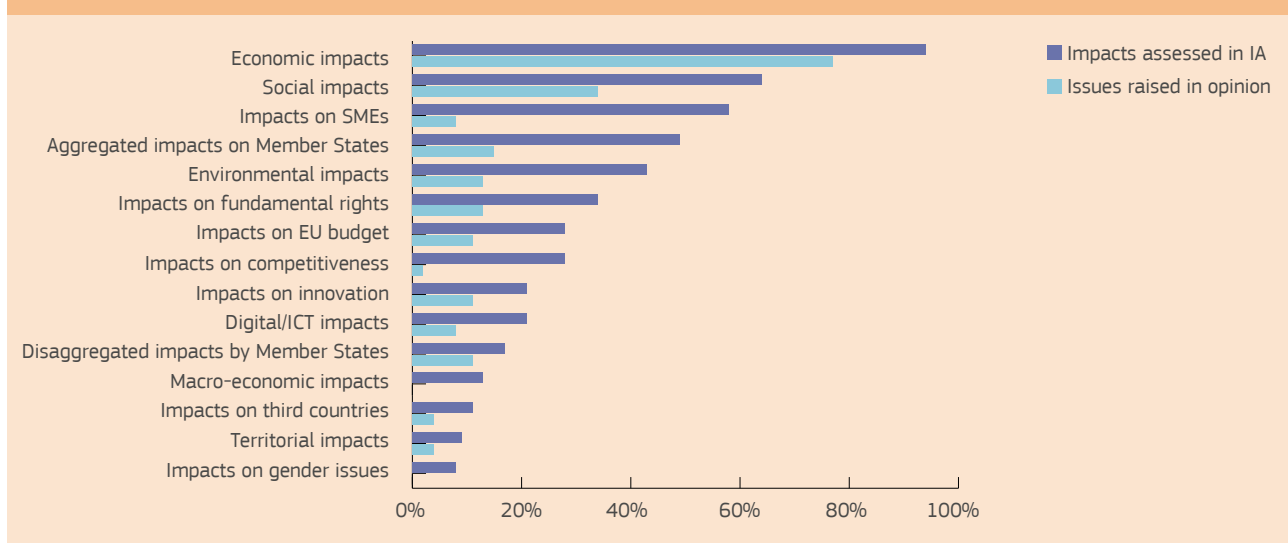
The basic structure of a Commission impact assessment report is as follows:

- context,
- problem definition,
- objectives,
- baseline,
- definition of options,
- impacts,
- comparison of options, and
- monitoring and evaluation arrangements.

### The template accommodates different types of impacts, as appropriate.

Which impacts are relevant to analyse depends on the nature of the measures that are being impact assessed. Figure 5 shows which proportion of the impact assessments in 2017 covered various types of impacts. More than 90% of impact assessments explored economic impacts. Around 60% examined social impacts and impacts on small and medium-sized enterprises (SMEs). These statistics have been fairly stable over the years.

Figure 5. Frequency of impacts analysed in impact assessments and raised in Board opinions



### Opinions aim to ensure that final impact assessments are fit for purpose.

When the Board gives a positive opinion without reservations, it considers that the impact assessment is fit for purpose, i.e. it is confident that the document is acceptable as a tool to support sound decision-making. In practice, this means that the impact assessment has a full narrative of:

- the problem to address,
- the need to act at the EU level,
- the possible policy options, and
- their costs and benefits.

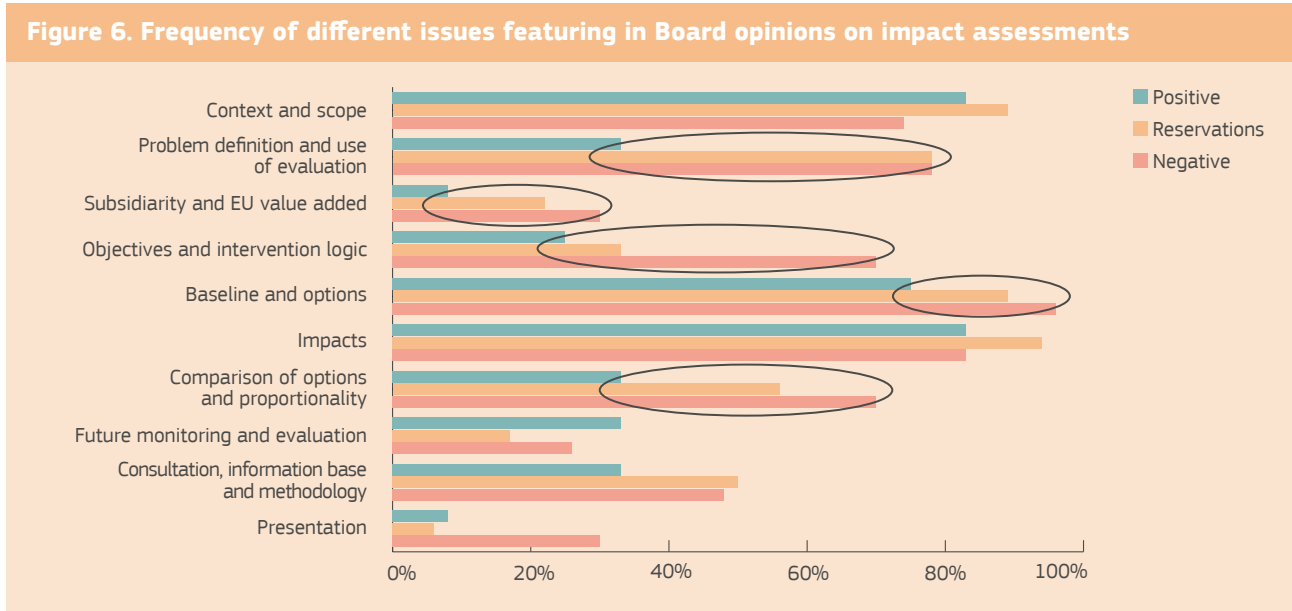
### Positive opinions reflect several qualities.

A positive opinion does not necessarily mean that the Board considers the impact assessment to be state of the art in terms of methodology or level of quantification. However, the impact assessment does need to be upfront about relevant uncertainties and gaps in knowledge.

**Reservations underscore concerns but allow the Board to respond proportionately.**

The new category of opinions ‘positive with reservations’ has been useful. The intermediate rating adds precision, clarity and proportionality to the Board’s opinions. The Board does not have to halt the process when impact assessments are fit for purpose in all but one or two respects, but services are made aware of the seriousness of the Board’s concerns in these areas, and of its understanding that these concerns will be addressed as required.

**Figure 6. Frequency of different issues featuring in Board opinions on impact assessments**



**Negative opinions reflected important shortcomings...**

The Board has given negative opinions especially in cases where it has observed one or more of the following (see Figure 6):

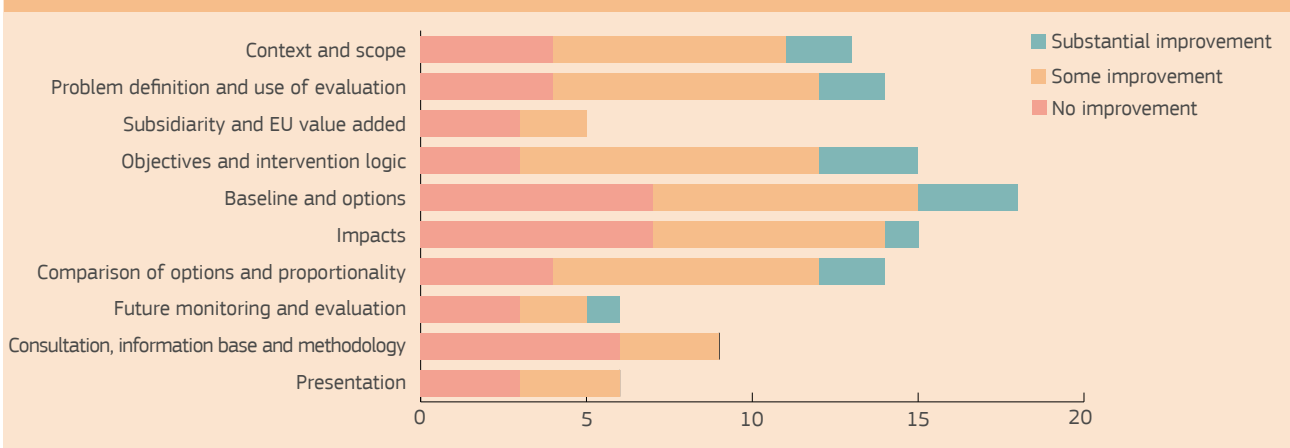
- There was a major flaw in the rationale for policy action or the analysis of baseline and options, and ultimately the proposed way forward was not substantiated.
- The need for EU action was questionable from a subsidiarity or proportionality point of view.
- Objectives were unclear or there appeared to be little EU value added.

**... and often led to much improved resubmissions.**

How have services taken on board the RSB’s comments? In Appendix 1 of each published impact assessment, services account for how they have modified reports following Board scrutiny. The Board has regularly noted improvements in final versions of impact assessments<sup>8</sup>. As was highlighted in section 1.4, services have tended to make the greatest improvements when they initially received a negative assessment from the Board. For these cases, Figure 7a shows how frequently the Board found scope for improvement in each of the 10 components, and the extent to which services made changes to accommodate Board criticisms. There were improvements in every area. In some cases, notably with regard to shortcomings in consultation and the information base, quality may not have increased because there was little that services could realistically do any more at that stage.

<sup>8</sup> This is also apparent in Figure 3.

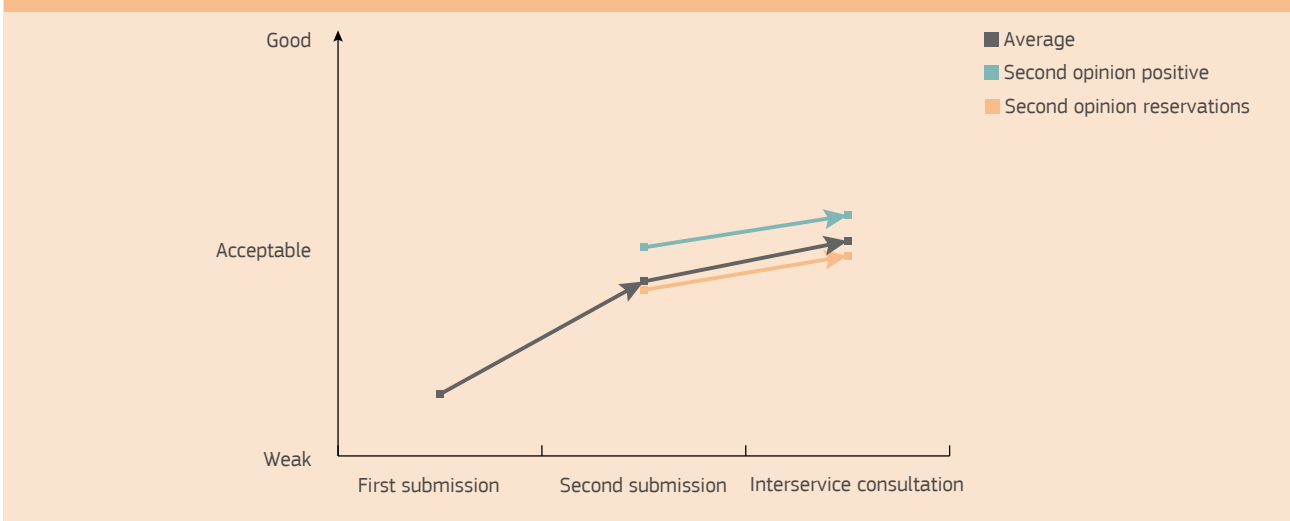
**Figure 7a. Services improved the impact assessments that they resubmitted to the Board**



**Reservations on resubmissions did not lead to the same kinds of improvements.**

Resubmitted impact assessments almost always received a positive opinion, albeit half the time with reservations. Figure 7b shows that when the Board gave a rating of ‘positive with reservations’ in its second opinion, the extent to which services accommodated RSB reservations varied and was generally lower than the improvements registered in all other cases of positive opinions. The Board is reflecting on how to handle this in the second round to ensure that remaining shortcomings on resubmissions are in fact remedied.

**Figure 7b. Limited improvement of impact assessments after resubmission and second opinion**



When the Board issues a negative opinion, the services have to re-submit. In principle the Board does not issue more than two opinions, so a second negative opinion is in principle final. In that case, the lead service should seek the appropriate political guidance on whether and under which conditions to proceed with this initiative. When the Commission does decide to pursue an initiative that lacks a positive opinion from the RSB, an explanatory memorandum provides the political reasons for this. Such cases remain exceptional: in 2017, the RSB issued two second negative opinions<sup>9</sup> and in 2016 only one.

<sup>9</sup> The two cases are the ‘Legislative proposal on a framework for the free flow of data in the EU’ (first submission in 2016) and ‘Prudential treatment and supervision of investment firms’.

## 2.2. The ‘evaluate first’ principle and open public consultations

### Impact assessments are getting better.

Despite a steady share of impact assessments that received negative opinions on first reading, the average quality of submitted impact assessments is better than it was a year ago. This reflects three trends:

- Commission guidelines have become more demanding,
- Training activities on impact assessments have intensified, and
- Learning takes place, such that isolated instances of good practices spread to become standard practice.

Average quality has risen especially in the areas of consultation, evaluation and quantification. The Board has taken the resulting higher standards into account in its scrutiny criteria and has become more demanding in several respects.

In particular, the May 2015 Better Regulation package underscored the ‘evaluate first’ principle and made open public consultations mandatory for both evaluations and impact assessments. On both counts, the monitoring system shows that sound practices have taken root and are spreading.

### Consultation is improving...

Stakeholder consultation improved in 2017. With few exceptions, both open public consultation and additional consultations have become the norm. The Board has scrutinised the presentation and use of the consultation findings to assess how services factor these into their policy initiatives and evaluations. In 2017:

- 92% of the impact assessments were supported by an open public consultation, up from 80% in 2016 and 38% in 2015;
- 89% had additional targeted consultations;
- 92% of the impact assessments reported on consultation findings, against less than half in earlier years.

### ... but impact assessments did not always use stakeholder feedback to its full potential.

However, in almost half of the cases, the Board found shortcomings in the integration of consultation results in the impact assessment or in the annex that described consultation findings. Impact assessments sometimes reported selectively or too uncritically what stakeholders had said. Some also lumped all stakeholder groups together in ways that masked potentially important differences in perspectives across groups of respondents.

### Impact assessments are increasingly accompanied by evaluations...

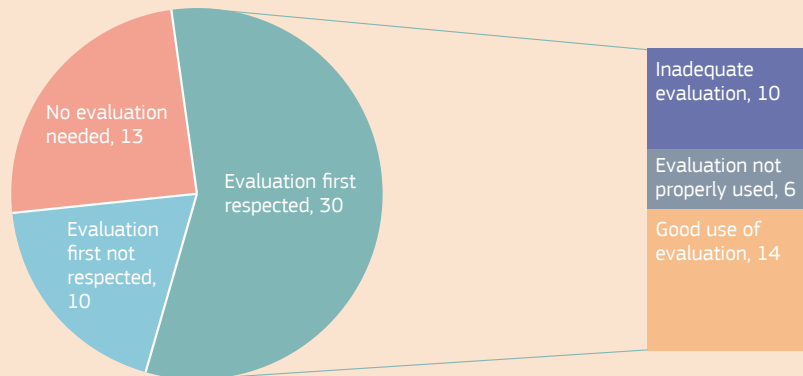
‘Evaluate first’ has increasingly become standard practice. **Figure 8** shows that in 2017, 75% (30 out of 40) of the impact assessments that aim to revise existing legislation were backed by an evaluation. This is up from about 50% in 2016<sup>9</sup>. Evaluations can be an important source of evidence for policymaking.

<sup>10</sup> In 13 of the 53 cases (24.5%) the impact assessment contemplated a completely new policy rather than a revision of existing EU policy, so an evaluation was not needed.

... but evaluations were not always adequate or fully used.

The Board systematically reviews how impact assessments draw on evaluations. It has observed some evaluations that do not yield usable insights, and some impact assessments that have not made full use of evaluation findings. Overall, close to 75% of the time when the Board gave a negative opinion, either there was non-respect of the 'evaluate first' principle, an evaluation was inadequate or evaluation results were not properly reflected in the impact assessment.

**Figure 8. Impact assessments supported by evaluations are becoming more prevalent, but evaluation results are not always well used**



**Box 1. Example of a good use of evaluation in an impact assessment: mutual recognition**

The Commission proposal on **mutual recognition for goods** is a good example where a solid impact assessment benefited from a robust evaluation. The evaluation assessed how well mutual recognition is functioning in the field of goods, both as regards the mutual recognition principle itself and Regulation 764/2008 which defines the practical implementation modalities.

For the **evaluation**, the Commission held both an open public consultation and additional targeted stakeholder consultations. The evaluation adequately summarises and reflects the collected views. The analysis also identifies implementation issues, their economic impacts, the impacts on SMEs, Member States and their budgets. The evaluation assesses the regulatory costs and is able to quantify administrative and compliance costs as well as benefits. This assessment finds shortcomings in how mutual recognition was working and in the Regulation's effectiveness in meeting its objectives.

The subsequent **impact assessment** draws on the evaluation results and the recurrent problems with the application of the principle of mutual recognition as reported by stakeholders. It analyses various options to increase awareness about mutual recognition, legal certainty on the scope and enhancing the application of mutual recognition and administrative cooperation between Member states.

## 2.3. Quantification and simplification: recent trends

### Costs and benefits both matter.

Commission impact assessments take a holistic approach to quantification. They are expected to estimate costs and benefits, both direct and indirect.

### Quantification of costs and benefits was one of the Board's priorities in 2017.

In its 2016 Annual Report, the Board noted inadequate quantification of regulatory costs and benefits of new initiatives and announced a more demanding approach in this area. In the case of REFIT initiatives, where the objective is to identify and eliminate unnecessary burdens without compromising policy objectives, the Board highlighted that standard practices in quantification made it difficult to make REFIT principles operational. It treated REFIT and non-REFIT reports in more or less the same way.

### There is now clearer guidance...

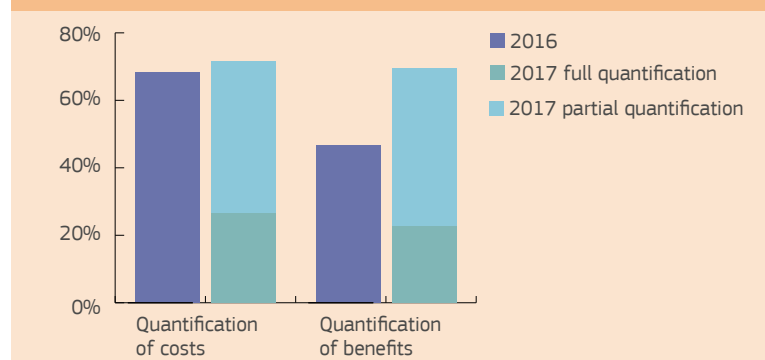
In 2017, the Board prioritised quantification. Together with the Secretariat-General it developed a standard quantification template. The template simplifies and systematises how costs and benefits are presented. Services should at least try to identify relevant costs and benefits and classify them as direct or indirect, and one-off or recurring. Services should also make an effort to categorise the different costs and benefits according to which stakeholder groups they primarily apply to, e.g. consumers, businesses or national administrations.

The Board started testing the robustness of such a systematic presentation of costs and benefits in the first half of 2017. The Commission's revised Better Regulation Toolbox has made this quantification template mandatory from November 2017. The Secretariat-General is providing services with guidance and training on quantification.

### ... and a pragmatic approach for REFIT.

This new approach has helped make operational the broader and clearer remit of REFIT. The Commission now seeks to achieve REFIT goals whenever any existing law is due to be reviewed. Accordingly, for REFIT initiatives, impact assessments need to make a good attempt at quantification and discuss the potential to simplify.

**Figure 9. Quantification of costs and benefits in impact assessments**



### There was progress in 2017, though gaps remain.

The Board noted an improvement in quantification efforts in 2017, especially of benefits. Quantification nevertheless remains challenging and is not always feasible. Figure 9 shows that quantification is mostly partial rather than full. While about 70% of the 2017 impact assessments identified costs and benefits, full quantification was only the case about a quarter of the time for costs and a fifth



of the time for benefits. For REFIT initiatives, the need for simplification translated into more efforts to quantify costs. As a group, REFIT initiatives score better than non-REFIT ones with regard to quantification of cost savings<sup>11</sup>. The difference between REFIT and non-REFIT is getting smaller over time, possibly reflecting improvements across the board.

About 60% of the cases managed to estimate cost savings and distinguish between one-off and recurrent costs.

- Compliance costs appear to be easier to fully quantify (close to 40% of the cases) than enforcement costs (close to 20% of the cases).
- With regard to costs for particular stakeholders, in most cases it seemed easier to provide quantified estimates for the costs that fall on administrations and to a lesser extent on businesses.

### Quantification is not a make-or-break issue...

In 2017, quantification of costs and potential cost savings was rarely a deciding factor for Board opinions. While valuing quantification of both costs and benefits, the Board has taken a pragmatic approach. Impact assessments with full quantification of both have generally received positive opinions. Lack of quantification contributed to negative opinions.

### ... but will remain a major focus area.

Going forward, the Board intends to revisit and strengthen its scrutiny of simplification and quantification. This will support the Commission's renewed commitment made in its Communication on 'Completing the Better Regulation Agenda'<sup>12</sup>. In this Communication, the Commission announced further efforts to quantify its proposals' impacts, in particular with regard to the REFIT programme.

#### Box 2. Example of good practice for cost quantification: VAT for SMEs

As part of its **Action Plan on VAT**, the Commission adopted a proposal to **simplify VAT obligations for SMEs under the definitive VAT system**. This is a REFIT initiative designed to review the special scheme for SMEs under the VAT Directive, in order to **reduce their compliance costs and limit distortions in the internal market**. The impact assessment provided a systematic quantification of regulatory costs and cost savings of the various options, by using the Standard Cost Model. One-off and recurrent costs were distinguished and impacts for businesses and administrations were differentiated. In addition the wider EU level economic impacts of the policy options were estimated by using a computable general equilibrium model. On the basis of these analytical tools and complementary studies, the impact assessment estimated in particular that the preferred option would generate: **a EUR 11.9 billion per year overall reduction of compliance costs for businesses** (18% reduction as compared to the baseline scenario); **a change in net VAT revenue collected** ranging between a reduction of EUR 5 billion (-0.48%) and an increase of EUR 2.8 billion (+0.28%), with significant differences across Member States; **a small overall impact on GDP** (+0.09%), but **a significant positive impact (+16.1%) on the output of impacted SMEs** and on their cross-border trading activity (+13.5%).

#### Box 3. Example of good practice for benefit quantification: update of the Drinking Water Directive of 1998

The **Drinking Water Directive (DWD)** regulates the quality of water for human consumption. The Directive defined clean drinking water by a set of contamination parameters. A REFIT evaluation concluded that new scientific evidence called for updating the definition, and offered suggestions how to reduce administrative burdens for water suppliers and compliance costs for Member States. The **impact assessment** provides an example showing how to estimate benefits that are often not quantified.

The update of the **DWD would lower the number of people in the EU who are exposed to health risks** of water consumption from 22 million today to fewer than 8 million by 2030. The largest impact results from updating the list of contaminants to take into account **new scientific evidence on health risks** associated with exposure to contaminated water. The second largest impact comes from **improved information on water quality**, which would help consumers to avoid risks. The impact assessment calculated the avoided health costs using Eurostat population projections and World Health Organisation (WHO) cost values for medical treatment.

<sup>11</sup> In 2017, 71% of REFIT initiatives and 56% of non-REFIT initiatives quantified cost savings.

<sup>12</sup> See [https://ec.europa.eu/info/sites/info/files/completing-the-better-regulation-agenda-better-solutions-for-better-results\\_en.pdf](https://ec.europa.eu/info/sites/info/files/completing-the-better-regulation-agenda-better-solutions-for-better-results_en.pdf).

# CHAPTER 3

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## Board scrutiny of evaluations



## 3.1. How can the Board help make evaluations more useful for decision-makers?

**Programme evaluation has long been standard practice at the Commission.**

Evaluation practice is well established in the Commission. Historically it started with spending programmes. Today the Commission conducts more than 100 evaluations per year. Evaluation delivers many benefits and is essential for transparency and accountability, especially for spending programmes. The Commission is among the best performers on evaluation worldwide<sup>13</sup>.

**Policy evaluation is newer and can lead to better-designed proposals for change.**

Experience with policy evaluation is more recent. It builds on review clauses in legislation. Policy evaluations provide reality checks, alerting policymakers to gaps and practical implementation problems, and identifying needs for course corrections. This central role in the policy cycle underscores the importance of the 'evaluate first' principle (see 2.2), which formally links evaluation with impact assessment. The idea is that a systematic assessment of past performance strengthens the evidence base of Commission policy proposals. This in turn should lead to better-designed proposals.

**The purpose of the Board is to support the policy process.**

The Board directs its scrutiny towards ensuring that policymakers have timely, high quality, unbiased information to inform decisions on initiatives. The reason why the RSB scrutinises evaluations is to help future policy-making. It looks for insights into what has worked well or less well. The RSB therefore pays less attention to evaluations with a more limited scope (such as project evaluations) or that focus primarily on accountability.

Part of the RSB's mandate is to scrutinise fitness checks and 'major evaluations'. The Board needs to do this in a way that adds the most value. One part of this involves selection choices about which evaluations to scrutinise.

**The Board carefully selects evaluations to scrutinise...**

In 2017, the RSB selected for scrutiny evaluations that did one or more of the following:

- reviewed or supported priority policy initiatives,
- involved a lot of taxpayer resources,
- concerned innovative approaches,
- were of a cross-cutting nature,
- covered topics that the REFIT platform had highlighted,
- otherwise seemed politically sensitive.

About half of the scrutinised evaluations concerned programmes for which major spending proposals will be made in 2018 as part of the discussions on the post-2020 MFF.

**... and sees other evaluations in the course of reviewing impact assessments.**

Besides the 17 scrutinised evaluations, the Board also saw 18 evaluations that were attached to impact assessments (see Table 2). In these cases, the Board's opinion on the impact assessment also covered the quality of the evaluation and how its findings contributed to the problem analysis.

<sup>13</sup> See OECD Regulatory Policy Outlook 2015, pp. 128-129.

**Table 2. Evaluations that the Board reviewed**

	Evaluations scrutinised by RSB		Evaluations seen with IA	
	2016	2017	2016	2017
Fitness checks	2	4	N/A	N/A
Ex post evaluations MFF 2007-2013	2	2		
Interim evaluations MFF 2014-2020		7		
Other evaluations	3	4	15	18
Total	7	17	15	18

**Box 4. Fitness checks**

Fitness checks constitute a particular category of evaluations. This is the closest to evaluation of the stock of legislation that the OECD recommends as an advanced practice. A fitness check is an evaluation of a policy area or a sector. It usually addresses **how several related individual (non-)legislative acts have jointly contributed to a common set of policy objectives**. Compared to other evaluations, fitness checks are well suited to focus on cross-cutting objectives, simplification and coherence.

There are inherent challenges in conducting fitness checks due to the complexity of the exercise. In particular, covering **interventions of different types with different legal bases, transposition and implementation schedules** makes it difficult to conduct a coherent analysis. In addition, defining an appropriate scope is difficult. Experience shows that when a wide coverage is chosen, the depth of the analysis needs to remain limited to keep the exercise manageable.

A good example of a fitness check that the Board reviewed in 2017 was on **monitoring and reporting obligations in EU environmental policy**. This fitness check looked at **58 pieces of EU environmental legislation**, but limited its analysis to the reporting obligations. It found 181 legal obligations to submit data, information or reports to the European Commission or the European Environment Agency.

Findings were predominantly based on qualitative analysis, while providing quantification on the basis of the standard cost model. Despite the scarcity of data, the fitness check demonstrated that current reporting delivers clear comparable and consistent information. It also provided evidence that **benefits**, such as improved implementation and better information for the public, **outweigh the administrative costs**.

As part of the REFIT programme, the fitness check analysed the **potential for simplification**. It identified scope for streamlining public and private sector obligations regarding content, timing, frequency and processes. It also identified opportunities for improvements regarding advanced technical solutions as well as alternative approaches in collecting national data.

## 3.2. Quality of evaluations

### The Board takes a restricted view of evaluation quality...

Whether an evaluation is fit for purpose depends on what its purpose is, and this varies by evaluation type. Given the Board's role to ensure well-informed decision-making, the RSB tends to look for lessons from past experience for future policy design. But as **Box 5** describes, evaluations may not have this as their main purpose. Many Commission evaluations instead focus primarily on accountability and transparency. Such evaluations may do a good job describing programme implementation and showing how funds were spent, while not critically assessing relative strengths and weaknesses or how EU intervention could be made more effective.

### ... focusing on contribution to the policy cycle.

The overall quality of the evaluations that the RSB reviewed in 2017 showed considerable scope for improvement. But the Board sees only part of all evaluations and selects those evaluations that are meant to feed into the policymaking cycle. The Board has deliberately chosen to fully scrutinise evaluation reports, but to focus its opinions on the robustness of the evaluation and relevance of the conclusions for the policy process. The Board therefore pays particular attention to the evaluation design and confirming that conclusions are objective and complete.

### Box 5. Heterogeneity of evaluations

Evaluations can contribute to different purposes:

- **Decision-making** and design of future interventions. The 'evaluate first' principle ensures that any policy decision takes into due account the lessons from past EU action.
- **Organisational learning.** The results of an evaluation can be used to improve the quality of an ongoing intervention. They can also encourage the sharing of (good and bad) practices and achievements across interventions.
- **Transparency and accountability.** All stakeholders and the general public have a right to know what the EU has done and achieved.
- **Efficient resource allocation.** Evaluation results can contribute to simplification and a more efficient allocation of resources.

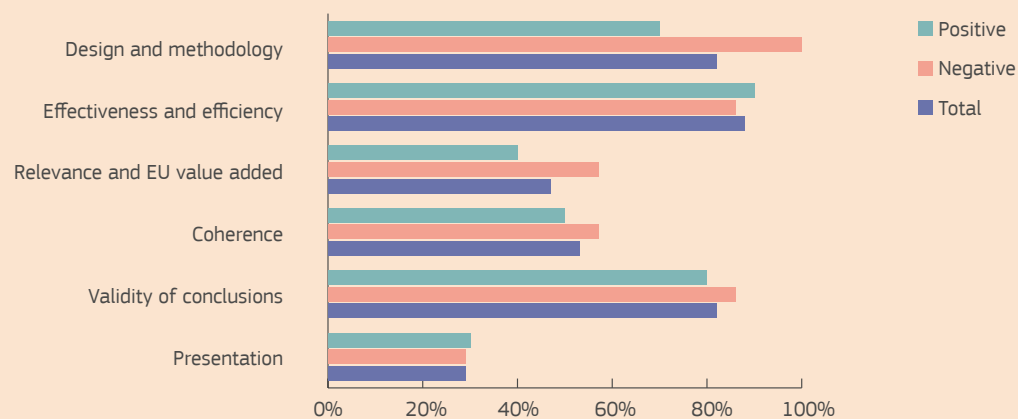
Different types of evaluations accommodate these different purposes. Evaluation types include **fitness checks, sectoral fitness checks, mid-term evaluations, ex post evaluations, programme evaluations, policy evaluations, and project evaluations.** Each of these addresses the above purposes to a different degree. Evaluations can also try to serve multiple purposes simultaneously in a more hybrid type of exercise (for example, looking also at longer-term effects of a previous spending programme in the mid-term evaluation of the current programme).

In order to deal with timing constraints and to generalise the evaluation practice, the Commission is conducting more and more evaluations at the same time as it prepares the corresponding impact assessment ('**back-to-back**' evaluations). Although the standards for back-to-back evaluations are the same as those of regular evaluations, time constraints often lead to more limited exercises that do not include external evaluation studies.

#### ... The Board found scope for improvement in this regard.

In 2017, the Board opinions often raised concerns with these essential elements. Both the design and methodology and the validity of conclusions were critically mentioned in more than 80% of first opinions (see **Figure 10**). This was particularly true for those evaluations that received a negative opinion.

**Figure 10. Frequency of different issues featuring in Board opinions on evaluations**



#### The Board frequently raised issues with design and methodology,

A basic challenge for any evaluation exercise is to deliver insights that are both useful and timely. Many of the Board's comments on design and methodology relate to these perennial issues. This is and will remain a work in progress for the Commission, as it is elsewhere.

#### intervention rationale,

The Board regularly called for a deeper discussion of the rationale for the initiative, including how interventions would contribute to desired outcomes.

**evaluation questions,**

The evaluation questions could sometimes do more to broach major issues that stakeholders have put forward, including through the REFIT platform. Question formulation could sometimes take better account of what data can be gathered, and what these data can realistically demonstrate.

**data collection,**

Even when questions were in principle possible to answer well, the evaluation design did not always dedicate enough effort to collect the necessary information and data to do so. 82% of evaluations were predominantly qualitative and relied on stakeholder views or sometimes case studies. Only half of the evaluations quantified costs and less than a third quantified benefits. With few exceptions, quantification was partial rather than full.

**benchmarks for comparison,**

Interpreting data normally requires benchmarks to provide some point of reference to judge, for example, the efficiency and effectiveness of an initiative. A counterfactual or 'alternative reality' was sometimes used for this purpose. But e.g. for policies and programmes that have been in place for years or decades, there are usually better benchmarks or targets against which to assess, for example, what parts of a programme seem to be working better or less well, or how the current programme performed in comparison with the one it replaced.

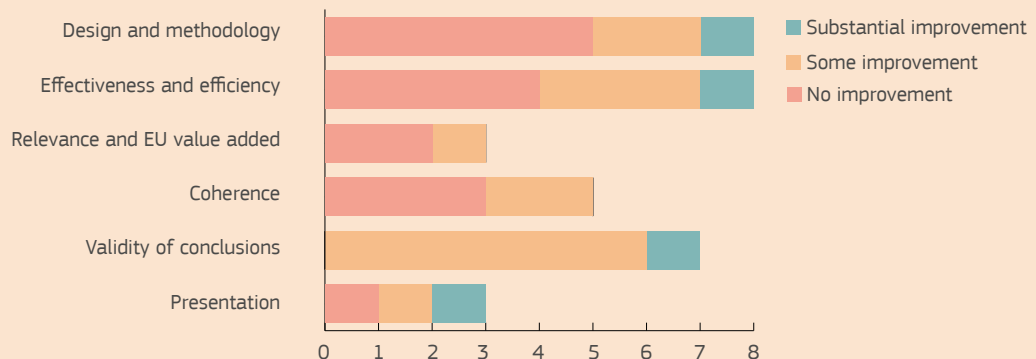
**and selective reporting of findings.**

While the Commission originally introduced the SWD to promote services' ownership of evaluations, the Board found that achieving this objective is still a work in progress. At times, the conclusions in SWDs did not accurately reflect the underlying evaluative studies, or did not explain departures from them. In the first submissions, the validity of conclusions received on average the lowest score of all quality criteria. The RSB observed some evaluations of programmes that were biased towards continuation of the programmes. By contrast, evaluations of legislation are undertaken for the purpose of changing the legislation. They tend to be more critical of the existing legislation. A constant temptation to guard against is cherry-picking of evidence that supports a preferred view while disregarding other evidence.

**RSB scrutiny comes too late in the process to address some of the issues.**

It is easier to identify than to remedy problems of design and methodology at the late stage in the process when the Board scrutinises the SWD. It was sometimes not possible for services to fully integrate the Board's recommendations (see Figure 11). But in those areas where services could still amend their evaluations, they did indeed improve, even after an initial positive opinion. This was particularly true for the validity of conclusions. These improved in all cases where the Board made a recommendation.

**Figure 11. Integration of RSB recommendations after initial opinion**



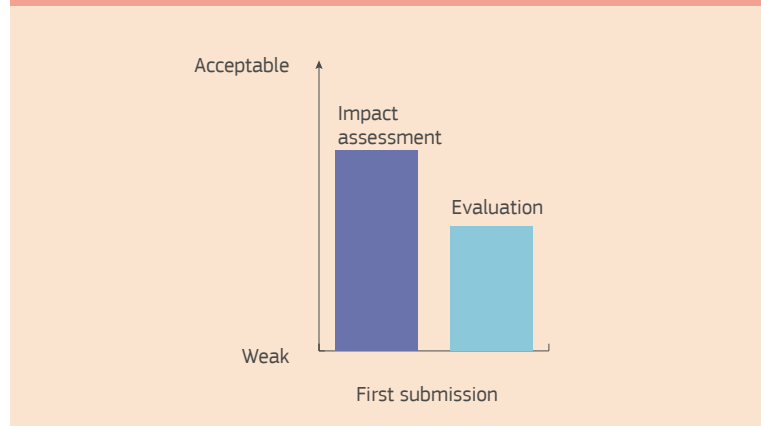
### 3.3. The way forward

**Policy evaluation looks to become increasingly useful...**

**... but average quality remains below that of impact assessments.**

The continued development of impact assessments has put pressure on evaluations to deliver clearer assessments of results and impacts. A current challenge is to fully integrate evaluations into the policy cycle. Evaluations are only starting to deliver on these increased ambitions. Although the percentage of negative opinions for impact assessments was about the same as for evaluations (see **Table 1**), the average quality of evaluations was lower (see **Figure 12**). The Board takes into account the greater maturity of the impact assessment process. Board scrutiny might have a positive effect on the average quality of evaluations, but the number of observations remains small to draw firm conclusions on this.

**Figure 12. Comparison of quality of scrutinised impact assessments and evaluations, first submission**



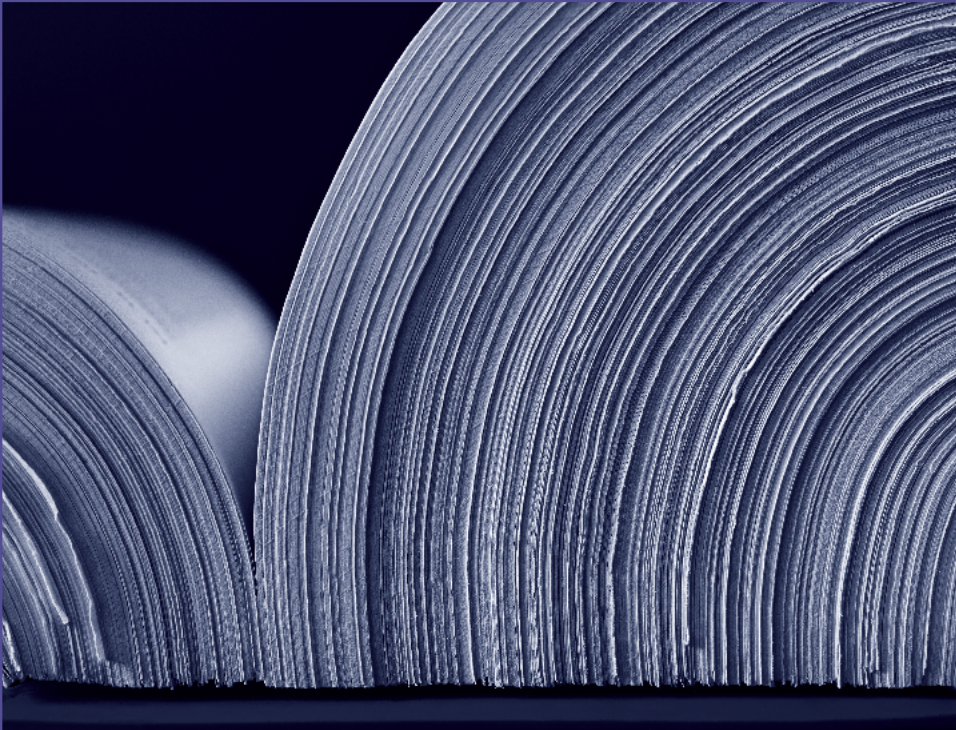
**The Board has limited influence but can do at least two things.**

**Upstream meetings deliver at least some input earlier...**

**... and the Board can push for impact assessments to explain how future evaluation will work.**

The issues that the Board raised in positive and negative opinions were rather similar for evaluations (see **Figure 10**), much more so than for impact assessments (see **Figure 6**). The Board has identified several short-term actions to help services to address some of the weaknesses. In particular, the Board will continue to organise early upstream meetings with services on particularly important future evaluations to help services to address weaknesses. During these meetings, the Board will focus on an appropriate evaluation design and methodology and the need to interpret the guidance documents to the specific needs of each evaluation. As such, the Board could identify design weaknesses at an early stage, when they can still be corrected.

The Board also intends to verify more systematically that impact assessments include a proper analysis to prepare for future evaluation. The link from evaluation to impact assessment is gradually being reinforced through the 'evaluate first' principle. But there is also a complementary link from impact assessments to evaluations that needs strengthening. The RSB pays particular attention to the last section of the impact assessment ('future monitoring and evaluation'). This section should define a suitable intervention logic of the preferred option(s), a monitoring framework consisting of appropriate result and impact indicators, with benchmarks against which to measure success of the initiative.





# SUMMARY AND CONCLUSIONS

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RSB TEAM

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## Summary and conclusions

The RSB has hit its full stride. 2017 was its second year of operation, and its first with a full complement of seven Board members. As an independent quality control body, the Board is part of the Commission's holistic approach to Better Regulation.

In 2017 the Board pushed to improve quantification of both costs and benefits, with a view to simplifying rules and reducing burdens without compromising policy objectives. Success in this demands resolve, patience, and a lot of effort on all sides. Going forward, the Board intends to focus on the better regulation requirements to simplify and quantify, especially for impact assessments on revising existing legislation.

One result of Board scrutiny has been measurably better impact assessments. On average, final versions have been big improvements over initial submissions. As best practices spread, the quality of initial submissions is trending up, but better regulation requirements are also becoming more demanding.

Some of the improvements result from Board initiatives to strengthen its operational framework and methods. During 2017, Board members held informal upstream meetings with Commission services on request, some weeks or months before these submitted reports for Board scrutiny. These meetings relied on the inception impact assessments. They clarified messages and delivered practical input in time for services to plan and deliver stronger initial submissions with fewer surprises all around.

The Board reviews every impact assessment, and in 2017 there were many. Partly this reflected the cycle of the Commission, which is entering its fourth year. Overall, it found that the quality of impact assessments is improving. A stricter adherence to the 'evaluate first' principle and a more systematic involvement of stakeholders have been important drivers of this trend.

The Board grew its capacity and experience in scrutinising evaluations during 2017. Finding ways to draw clearer lessons from the Commission's policy evaluations is a promising area for improving regulation. There is scope for better learning from past experience. Well-executed evaluations deliver insights and reality checks that can improve efficiency and effectiveness, reduce unnecessary burdens and avoid future missteps. Institutionally the RSB is well placed to identify scope for making evaluations into more effective learning tools. Nevertheless, the Board's ability to foster improvements is partly constrained by the late stage in the evaluation cycle at which it intervenes.

For 2018, the Board intends to continue compiling evidence on its contribution to better regulation, including both impact assessments and evaluations. This will support stocktaking of how the quality control function of Better Regulation is working.

## RSB team



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**John WATSON** – Board Secretary from 26 October 2017  
European Commission, Secretariat-General

# ANNEXES

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## Annex 1: Impact assessments and evaluations

Commission Work Programme 2016/2017	Impact assessments and evaluations reviewed in 2017	First opinion	Second opinion
<b>A New Boost for Jobs, Growth and Investment</b>			
Implementation of the Action Plan on Circular Economy	Proposal for a Directive of the European Parliament and of the Council amending Council Directive 98/83/EC on the quality of water intended for human consumption. Adoption pending.	●	
	Revision of Directive 2000/59/EC on port reception facilities for ship generated waste and cargo residues	●	
	Proposal for a Regulation of the European Parliament and of the Council on waste water reuse	Ongoing	
Review of the Multiannual Financial Framework (MFF) 2014-2020	Interim Evaluation of Horizon 2020	●	
	Evaluation Staff Working Document for the European Neighbourhood Instrument	●	●
	Mid-term evaluation of LIFE Programme for Environment and Climate Action	●	
	Mid-term evaluation of Erasmus+	●	
<b>A Connected Digital Single Market</b>			
Implementation of the Digital Single Market Strategy	Digital Single Market Initiative on the Free Flow of Data	●	●
	Proposal for a Regulation of the European Parliament and of the Council on establishing a single digital gateway to provide information, procedures, assistance and problem solving services and amending Regulation (EU) No 1024/2012	●	●
ENISA (European Union Agency for Network and Information Security)	European Union Agency for Network and Information Security (ENISA) mandate and ICT security certification and labelling	●	●
<b>A Resilient Energy Union with a Forward-Looking Climate Change Policy</b>			
Implementation of the Energy Union Strategy: low-emission travel and mobility	Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/33/EC on the promotion of clean and energy-efficient road transport vehicles	●	
	Impact assessment on the revision of Directive 1999/62/EC ('Eurovignette')	●	
	Impact assessment on the Revision of Directive 2004/52/EC and Commission Decision 2009/750/EC ('EETS Legal Framework')	●	●
	Heavy Duty Vehicles CO <sub>2</sub> emissions monitoring system	●	
	Recast Proposal for a Regulation setting CO <sub>2</sub> emission performance standards for new passenger cars and new light commercial vehicles and repealing Regulations (EC) No 443/2009 and (EU) No 510/2011	●	

Positive opinion ●  
 Positive opinion with reservations ●  
 Negative opinion ●

Commission Work Programme 2016/2017	Impact assessments and evaluations reviewed in 2017	First opinion	Second opinion
Combined Transport	Proposal for a Directive of the European Parliament and of the Council amending Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States	●	
<b>A Deeper and Fairer Internal Market with a Strengthened Industrial Base</b>			
Implementation of the Single Market Strategy	REFIT evaluation of Proposal of the European Parliament and of the Council on mutual recognition for goods	●	
	REFIT evaluation of the application of market surveillance provisions of Regulation (EC) No 765/2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93	●	●
	Proposal of a Regulation of the European Parliament and of the Council on mutual recognition for the single market of goods	●	
	Proposal for a Regulation of the European Parliament and of the Council on Compliance and enforcement of Union harmonisation legislation on products (Market Surveillance Regulations)	●	●
	Revision of Regulation (EC) 1371/2007 on rail passengers' rights and obligations	●	●
	Proposal to introduce a Single Market Information Tool	●	●
	EU Company Law package: making the best of digital solutions and providing efficient rules for cross-border operations whilst respecting national social and labour law prerogatives	Ongoing	
	Initiative on strengthening EU cooperation on Health Technology Assessment (HTA)	●	●
Fairer taxation of companies/Corporate Tax Package	Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises	●	
	Proposal for a Council Directive amending Directive 2006/112/EC as regards rates of the value added tax	●	●
	Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards certain harmonisation and simplification rules within the current value added tax system and introducing the definitive system for the taxation of trade between Member States	●	
	Proposal for a Council Directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements	●	●
	Administrative cooperation and combating fraud in the field of VAT (Council Regulation amending Regulation (EU) No 904/2010)	●	

Positive opinion ●  
 Positive opinion with reservations ●  
 Negative opinion ●

Commission Work Programme 2016/2017	Impact assessments and evaluations reviewed in 2017	First opinion	Second opinion
Implementation of the Space Strategy for Europe	Proposal for a Regulation on the Creation of a Program for Secure Satellite Communications for Governmental Users (EU GOVSATCOM)	Ongoing	
Implementation of the Capital Markets Union Action Plan	Commission proposal for a Regulation creating a statute for a pan-European Personal Pension Product		
	Regulation amending Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (EMIR)		
	Amendments to the Commission Delegated Regulation (EU) No 2015/35 concerning the calculation of regulatory capital requirements for certain categories of assets held by insurance and reinsurance undertakings - Infrastructure Corporates (New calibration of the Solvency II standard formula for investments in infrastructure corporates)		
Financial Conglomerates Directive	REFIT evaluation of Directive 2002/87/EU on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate (FICOD) <sup>14</sup>		
Better functioning of the market for bus and coach transport	Proposal for a Regulation of the European Parliament and of the Council amending Regulation 1073/2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006		
Access to the EU road haulage market	Impact assessment on the revision of Reg. 1071/2009 on access to the occupation of road transport operator and of Reg. 1072/2009 on access to the international road transport market		
Enhancement of the legislation in road transport	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) 561/2006 on driving times, breaks and rest periods of drivers, and for a Directive of the European Parliament and of the Council amending Directive 2002/15/EC on the working time of mobile workers in road transport, Directive 2006/22/EC on enforcement requirements and on specific-sector rules on the posting of workers in road transport		
Leasing of Vehicles	Proposal for a Directive amending Directive 2006/1/EC on the use of vehicles hired without drivers for the carriage of goods by road		
<b>A Deeper and Fairer Economic and Monetary Union</b>			
A strong Union built on a strong EMU	Commission SWD Review of the prudential framework for investment firms accompanying the document Proposals for a Regulation and a Directive on the prudential treatment and supervision of investment firms <sup>15</sup>		
	Regulation of the European Parliament and of the Council amending Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority) and amending Regulation (EU) No 648/2012 as regards the procedures and authorities involved for the authorisation of CCPs and requirements for the recognition of third-country CCPs		
	Regulation of the European Parliament and of the Council amending a number of regulations establishing European Supervisory Authorities		

<sup>14</sup> The evaluation has been replaced by a SWD.

<sup>15</sup> The impact assessment report has been replaced by a SWD.

Commission Work Programme 2016/2017	Impact assessments and evaluations reviewed in 2017	First opinion	Second opinion
European Pillar of Social Rights	A 'New start' to support work-life balance for parents and caregivers	●	●
	Written Statement Directive establishing the employer's obligation to inform employees of the conditions applicable to the contract or employment relationship	●	
Cross-border payments	Reducing barriers to cross-border distribution of investment funds	Ongoing	
<b>Trade: A Reasonable and Balanced Free Trade Agreement with the U.S.</b>			
Implementation of the Trade for All Strategy	Recommendation for a Council Decision authorising the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy to open negotiations to negotiate with Chile a modernised Association Agreement	Cancelled	
	Recommendations for Council Decisions authorising the opening of negotiations with Australia and New Zealand respectively on comprehensive free trade agreements	●	
<b>An Area of Justice and Fundamental Rights Based on Mutual Trust</b>			
Progress towards an effective and genuine Security Union	Proposal for a Directive of the European Parliament and of the Council on combating fraud and counterfeiting of non-cash means of payment	●	
	Customs controls measures regarding the import of cultural goods in the EU	●	●
Consumer Law	Report of the Consumer and marketing law Fitness Check	●	
<b>A Union of Democratic Change</b>			
A more strategic approach to enforcement of EU law	Fitness Check on Monitoring and Reporting Obligations in EU Environment Policy	●	

Positive opinion ●  
 Positive opinion with reservations ●  
 Negative opinion ●



Impact assessments and evaluations reviewed in 2017	First opinion	Second opinion
<b>Impact assessments and evaluations not included in the Commission Work Programme</b>		
REACH Evaluation	Ongoing	
Evaluation Staff Working Document for the 11th European Development Fund	●	
Recommendation for a Council Decision authorising the European Commission to open negotiations and negotiate a convention establishing a multilateral investment dispute resolution mechanism	●	
Ex post evaluation of the European Refugee Fund 2011-2013	Ongoing	
Assessment of the fitness of EU legislation in relation to the competitiveness and sustainability of the construction sector	Ongoing	
Implementing acts for the establishment of systems of traceability and security features for tobacco products under Articles 15(11) and 16(2) of the Tobacco Products Directive (TPD) 2014/40/EU	●	
Ex post evaluation of the External Borders Fund 2011-2013	Ongoing	
Regulatory treatment of fixed and mobile termination rates in the EU (2009/396/EC)	Ongoing	
Fitness Check of Regulation (EC) No 178/2002 (the General Food Law)	●	
Proposal for a Council Regulation establishing the Euro High Performance Computing Joint Undertaking	●	
Regulation of EP and Council establishing a multi-annual plan for demersal species in the Western Mediterranean	Ongoing	
Revised regulation under the Ecodesign Directive 2009/125/EC regarding electric motors and variable speed drives	Ongoing	
Proposal for Initiative on an integrated covered bond framework	Ongoing	
Exchange of Customs Related information with Third Countries	Ongoing	
Interoperability of databases in the field of migration and security	●	
Legislative proposal for an EU framework on crowd and peer to peer finance	Ongoing	
Conflict of laws relating to third party effects of transactions in securities and claims	Ongoing	
Fairness in Platforms-to Business relations	Ongoing	
Maintenance of the computerised system for cross-border communication in judicial proceedings and between judicial authorities (e-CODEX)	Ongoing	
Legislative proposal on access to electronic evidence in criminal investigations	Ongoing	
Mid-term evaluation of the European Globalisation Adjustment Fund (EGF)	Ongoing	
Mid-term evaluation of the Connecting Europe Facility (CEF)	●	●

Positive opinion ●  
 Positive opinion with reservations ●  
 Negative opinion ●

## Annex 2: Evaluations and application of the ‘evaluate first’ principle

### Evaluations scrutinised by the Board in 2017

1. Fitness check on Monitoring and Reporting Obligations in EU Environmental Policy
2. Evaluation of the Financial Conglomerates Directive (FICOD)<sup>16</sup>
3. Mid-Term Evaluation of the LIFE Programme for Environment and Climate Action
4. Ex-post evaluation of the External Border Fund 2011-2013
5. Interim evaluation of Horizon 2020
6. REFIT evaluation accompanying the proposal for a Regulation on mutual recognition of goods
7. REFIT evaluation of the application of the market surveillance provisions of Regulation (EC) No 765/2008 setting out the requirements for accreditation and market surveillance relation to the marketing of products and repealing Regulation (EEC) no 339/93
8. Consumer and marketing law Fitness Check
9. Fitness check on EU legislation in the construction sector
10. Mid-term evaluation of the European Globalisation Adjustment Fund (EGF)
11. Ex-post evaluation of the European Refugee Fund for 2011-2013
12. Mid-term evaluation of the Connecting Europe Facility
13. Evaluation of European Neighbourhood Instrument 2014-2017
14. Evaluation of the 11th European Development Fund
15. Operation of the REACH Regulation - Report and REFIT evaluation
16. General Food Law Fitness Check
17. Mid-term evaluation of Erasmus+

<sup>16</sup> Evaluation of the FICOD was downgraded from evaluation to staff working document after interservice consultation.

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## Compliance with the 'evaluate first' principle: impact assessments scrutinised by the Board in 2017 that are supported by an evaluation

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1. Proposal for a Regulation of the European Parliament and of the Council on establishing a single digital gateway to provide information, procedures, assistance and problem solving services and amending Regulation (EU) No 1024/2012
  2. Commission Decision under Article 19 Framework Directive on termination rates
  3. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk mitigation techniques for OTC derivatives contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories (EMIR Amendment)
  4. Proposal for a Regulation of the European Parliament and the Council amending Regulation (EC) 1371/2007 on rail passengers' rights and obligations
  5. Proposal for a Directive amending Directive 2006/1/EC on the use of vehicles hired without drivers for the carriage of goods by road
  6. Proposal for a Directive of the European Parliament and of the Council amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures (Eurovignette)
  7. Impact assessment on the revision of Reg. 1071/2009 on access to the occupation of road transport operator and of Reg. 1072/2009 on access to the international road transport market
  8. Proposal for a Directive of the European Parliament and of the Council amending Directive 2004/52/EC of the European Parliament and of the Council of 29 April 2004 on the interoperability of electronic road toll systems in the Community and proposal for a Commission Decision amending Commission Decision 2009/750/EC of 6 October 2009 on the definition of the European Electronic Toll Service and its technical elements
  9. Proposal of a Regulation of the European Parliament and of the Council on mutual recognition for the single market of goods
  10. Proposal for a Regulation of the European Parliament and of the Council amending Regulation 1073/2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006
  11. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) 561/2006 on driving times, breaks and rest periods of drivers, and for a Directive of the European Parliament and of the Council amending Directive 2002/15/EC on the working time of mobile workers in road transport, Directive 2006/22/EC on enforcement requirements and on specific-sector rules on the posting of workers in road transport
  12. Proposal for a Regulation of the European Parliament and of the Council on Compliance and enforcement of Union harmonisation legislation on products (Market Surveillance Regulations)
  13. Proposal for a Directive of the European Parliament and of the Council amending Council Directive 98/83/EC on the quality of water intended for human consumption
  14. Revision of Directive 2000/59/EC on port reception facilities for ship generated waste and cargo residues
  15. Proposal for a Directive of the European Parliament and of the Council amending Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States
  16. Review of the European Supervisory Authorities
  17. Proposal for a Directive of the European Parliament and of the Council on combating fraud and counterfeiting of non-cash means of payment
  18. Proposal for a Council Directive amending Directive 2006/112/EC as regards rates of the value added tax
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19. Proposal for a Council Directive Amending Directive 2006/112/EC on the common system of value added tax as regards certain harmonisation and simplification rules within the current value added tax system and introducing the definitive system for the taxation of trade between Member States
  20. European Union Agency for Network and Information Security (ENISA) mandate and ICT security certification and labelling
  21. Proposal for a Regulation of the European Parliament and of the Council on the prudential treatment and supervision of investment firms<sup>17</sup>
  22. Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises
  23. Administrative cooperation and combating fraud in the field of VAT (Council Regulation amending Regulation (EU) No 904/2010)
  24. Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/33/EC on the promotion of clean and energy-efficient road transport vehicles
  25. EU Company Law package: making the best of digital solutions and providing efficient rules for cross-border operations whilst respecting national social and labour law prerogatives
  26. Recast Proposal for a Regulation setting CO<sub>2</sub> emission performance standards for new passenger cars and new light commercial vehicles and repealing Regulations (EC) No 443/2009 and (EU) No 510/2011
  27. Proposal for a Regulation on minimum quality requirements for reused water
  28. Conflict of laws relating to third party effects of transactions in securities and claims
  29. Reducing barriers to cross-border distribution of investment funds
  30. Written Statement Directive establishing the employer's obligation to inform employees of the conditions applicable to the contract or employment relationship
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<sup>17</sup> The proposal has been downgraded from impact assessment to staff working document after interservice consultation.



