

*A Practical Guide for the Intensity of Effort in
Regulatory Benefit-Cost Analysis*

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Regulatory Checkbook

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Why is the Current Regulatory BCA Scoping Process So Dysfunctional?

- Agency culture
 - Many agency officials and managers dislike BCA
 - Virtually all agency lawyers dislike BCA
 - All agency officials despise White House oversight
- EOP culture
 - Enforcement depends on political will
 - Authority: 'Yes'; Accountability: 'No'
- Systemic process defects in the oversight process
 - Conflation of BCA with decision-making
 - The \$100 million threshold creates discontinuity of effort
 - OMB RIA guidance has little practical value

A Qualitative BCA of Various Proposed Remedies

- Less regulation of agencies' BCAs
- More regulation of agencies' BCAs
- Incentives rewarding high quality
- Penalties for low quality
- Instilling competition in the production of BCAs
- External principles and standards for BCA practice
- External principles and standards for BCA process

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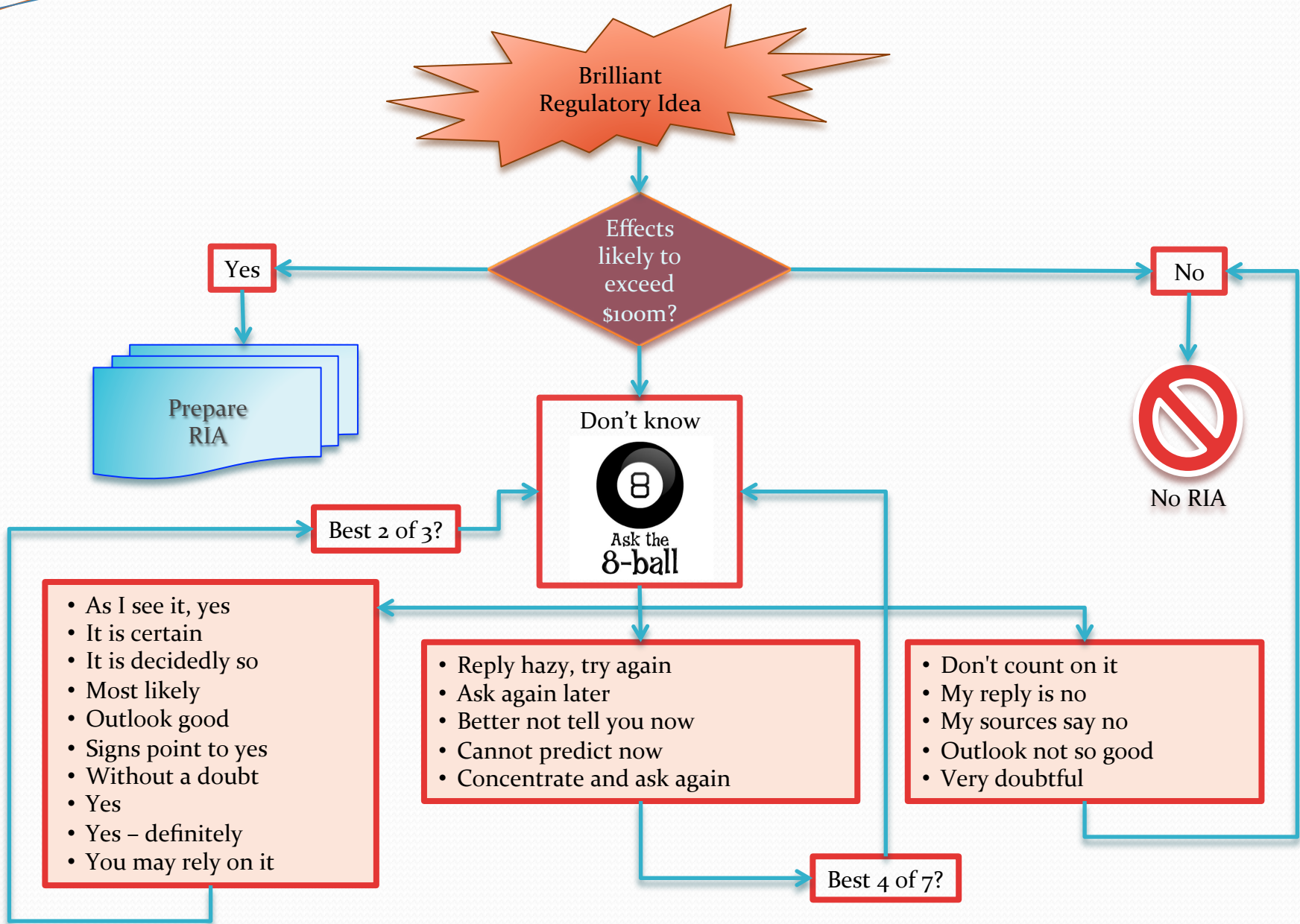
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Why Focus on Process?

- Quantitative threshold for BCA rewards subterfuge and strategic ignorance
- Current procedures permit agencies to delay public disclosure of BCAs until it is too late to fix them
- Agency BCAs are exempt from peer review
- OMB does not make its reviews public
- Multiple previous attempts to independently evaluate agencies' performance have foundered on the need to master substantive details

Current Regulatory BCA Scoping Process





Non-Monetary Criteria for Guiding the Intensity of Effort

- Problem definition
- Non-economic factors and inputs
- Economic inputs
- Outputs of concern
- Regulatory design elements



Problem Definition

- Controversy about existence or magnitude of market failure
- Government failure
- Intra- or interagency conflicts
- Special cases
 - Federal programs implemented by regulation
 - Federal budget outlays dominate
- High information quality not demonstrated

Non-Economic Factors and Inputs to BCA

- Authoritative regulatory principles besides normative BCA
- Variability &/or uncertainty about science or risk
- Uncertainty about technology or technological change
- High information quality not demonstrated



Economic Inputs to BCA

- Variability &/or uncertainty about benefits &/or opportunity costs
- Variability &/or uncertainty about behavioral response
- Significant difference in timing of benefits and costs
- High information quality not demonstrated



BCA Outputs of Concern

- Significant regulatory externalities
- Unintended (or hidden) consequences
- Distributional effects
- International effects
- High information quality not demonstrated



Potential Regulatory Design

- Breadth
- Federal pre-emption
- Uncertainty about science, technology, transition costs
- High restrictiveness
- High transactions costs
- High paperwork burdens
- Draconian enforcement powers
- Significant risk of targeting error
- High information quality not demonstrated

Criteria for Intensifying Analytic Effort

Pre-Economic	Economic	Regulatory Design
Technical uncertainty	Controversy about problem definition	Broad scope or scale
Technical bias	Elusive market failure/ Governmental failure	High transactions/ transition costs
	Stated preference data	Enforcement issues
	Latency	Federal pre-emption
	Economics uncertainty	Restrictiveness
	Distributional effects	
	International effects	