

DRIVING RISK-BASED REGULATION

THE ROLE OF RISK-BASED THINKING IN REGULATORY STEWARDSHIP

PROFESSOR JEROEN VAN DER HEIJDEN

- EXPLORING REGULATORY STEWARDSHIP AS AN IDEAL AND AS A PRACTICE
- UNDERSTANDING THE ROLE OF RISK-BASED THINKING IN REGULATORY STEWARDSHIP
- DISCOVERING HOW REGULATORY STEWARDSHIP PRINCIPLES CAN IMPROVE RISK-BASED APPROACHES

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Regulatory Stewardship

the challenge of joining a virtue and a mechanism

Abstract

Since 2013, New Zealand's regulatory agencies have had a statutory obligation to carry out regulatory stewardship. They have been expected to adopt a whole-of-system, life cycle view of regulation, and to take a proactive and collaborative approach to the monitoring and care of the regulatory system(s) for which they have responsibilities. In 2021, after eight years, regulatory agencies have not managed to operationalise their shared regulatory stewardship obligations in a coherent and consistent manner. This article explores the challenges they face in operationalising regulatory stewardship, and provides some conceptual clarity that may aid these agencies in collaborating to develop and adopt the whole-of-system, life cycle view of regulation that is envisaged.

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Risk governance and risk-based regulation

A review of the international academic literature

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State of the Art in Regulatory Governance Research Paper 2019.02

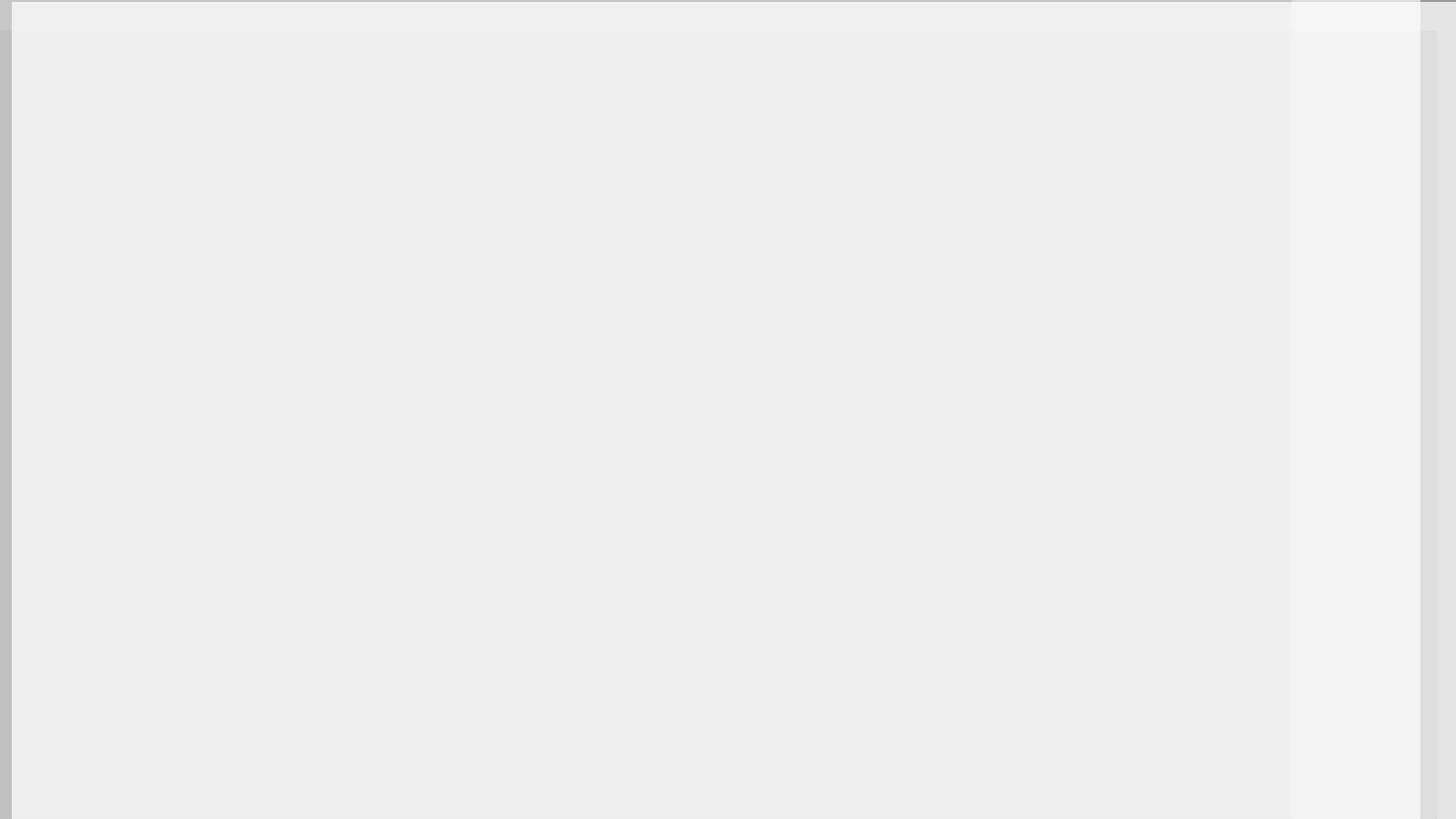
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IS REGULATORY STEWARDSHIP A UNIQUELY AOTEAROA/KIWI IDEA?




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ADMINISTRATIVE PROCEDURE ACT

Summary and Analysis
by the Editorial Staff
of
The Bureau of National Affairs

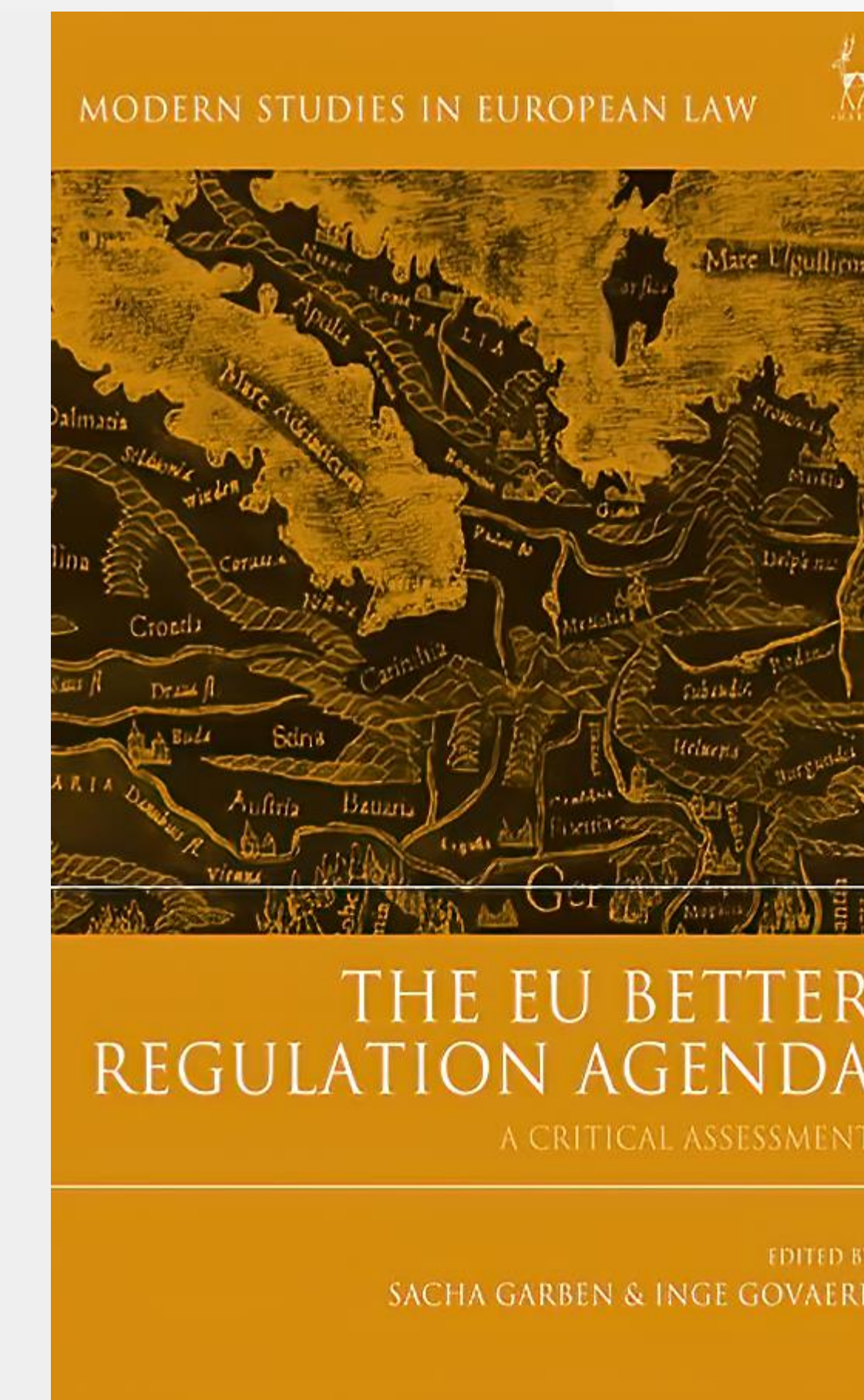
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IS REGULATORY STEWARDSHIP A UNIQUELY AOTEAROA/KIWI IDEA?

‘The **better regulation agenda** is about designing and evaluating EU policies and laws transparently, with evidence, and backed up by the views of citizens and stakeholders. It covers all policy areas and aims for targeted regulation that goes no further than required, in order to achieve objectives and bring benefits at minimum cost.’

- European Commission





‘Regulatory stewardship is a responsibility of government regulatory agencies. It involves them adopting a whole-of-system, lifecycle view of regulation, and taking a proactive, collaborative approach, to the monitoring and care of the regulatory system(s) within which they have policy or operational responsibilities.’

- *New Zealand Treasury*



Regulatory stewardship includes responsibilities for:



Regulatory stewardship includes responsibilities for:

- Monitoring, review and reporting on existing regulatory systems.
- Robust analysis and implementation support for changes to regulatory systems.
- Good regulatory practice.



Regulatory stewardship experiences:



Regulatory stewardship experiences:

- Agencies are struggling with 'performance-based' model
- A lack of collaboration between agencies
- Conceptual confusion



Stewardship in organization, management, and governance literature

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Stewardship in organization, management, and governance literature

- Stewardship theory
- Ethical stewardship
- Codification of stewardship

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- Albers Mohrman, O'Toole, & Lawler

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Stewardship ‘is the willingness to be accountable for the well-being of the larger organization by operating in service, rather than in control, of those around us.’

- Block

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THREE STEWARDSHIP CHALLENGES FOR REGULATORS

- 1. Stewardship as an ideal (virtue)
- Stewardship as a tool (mechanism)
- 2. A structural aspect to stewardship
- An activity aspect to stewardship

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Figure 1 : Some elements of regulatory stewardship as a mechanism

		Stewardship focus	
		Inward-looking	Outward-looking
Stewardship approach	Activity	<ul style="list-style-type: none"> • Engage staff in essential decisions that involve them; share critical information with staff and share it on time. • Give staff rewards that aid a long-term view of their career path (ideally within the organisation), and leadership rewards that trigger intrinsic satisfaction. • Nurture staff skills and competencies ('good regulatory practice') and train future organisational leaders. • Cultivate a sense of personal responsibility for the long-term wellbeing of the regulatory agency and its contribution to society. 	<ul style="list-style-type: none"> • Engage stakeholders (including other regulatory agencies) in essential decisions that involve them. • Share critical information with stakeholders (including other regulatory agencies) and share it on time. • Be receptive to the diversity of public concerns about the development, implementation, review and termination of regulation. • Increase stakeholder skills, competencies and capacities to comply with regulation.
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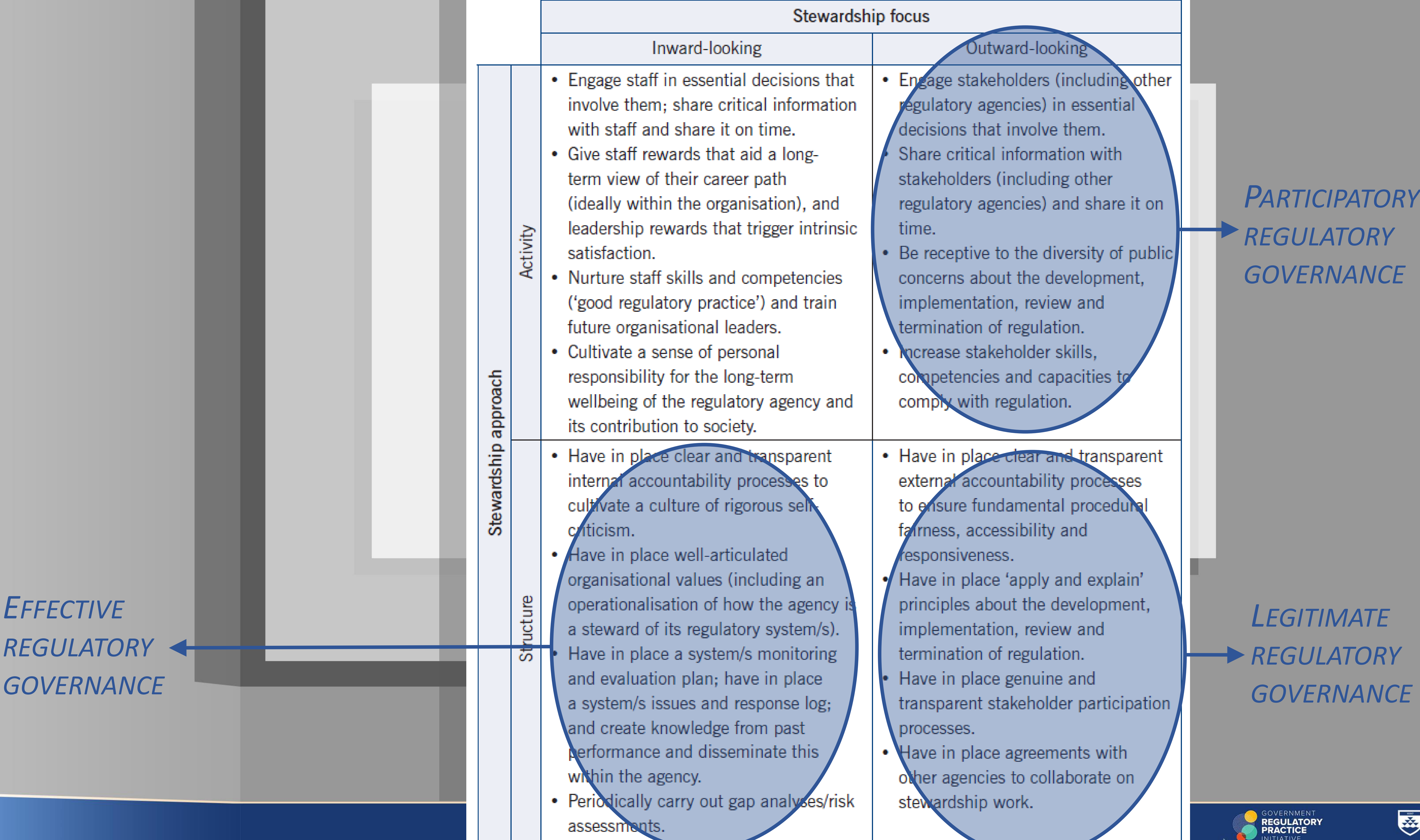


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	Structure	<ul style="list-style-type: none">• Have in place clear and transparent internal accountability processes to cultivate a culture of rigorous self-criticism.• Have in place well-articulated organisational values (including an operationalisation of how the agency is a steward of its regulatory system/s).• Have in place a system/s monitoring and evaluation plan; have in place a system/s issues and response log; and create knowledge from past performance and disseminate this within the agency.• Periodically carry out gap analyses/risk assessments.	<ul style="list-style-type: none">• Have in place clear and transparent external accountability processes to ensure fundamental procedural fairness, accessibility and responsiveness.• Have in place 'apply and explain' principles about the development, implementation, review and termination of regulation.• Have in place genuine and transparent stakeholder participation processes.• Have in place agreements with other agencies to collaborate on stewardship work.

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Figure 1 : Some elements of regulatory stewardship as a mechanism

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‘Stewardship is service to something larger than ourselves, and that ‘something larger’ needs to be known before people can commit.’

- *Block*

DRIVING RISK-BASED REGULATION

THE ROLE OF RISK-BASED THINKING IN REGULATORY STEWARDSHIP

MORE INFORMATION: WWW.REGULATORYFRONTLINES.BLOG

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