

SOME RESULTS OF REGULATORY IMPACT ASSESSMENT (RIA) AT THE FEDERAL LEVEL IN RUSSIA IN THE 2ND HALF OF 2013

January 2014

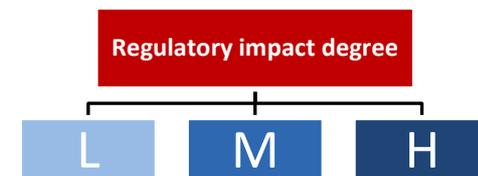
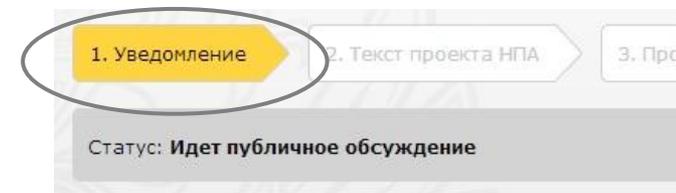
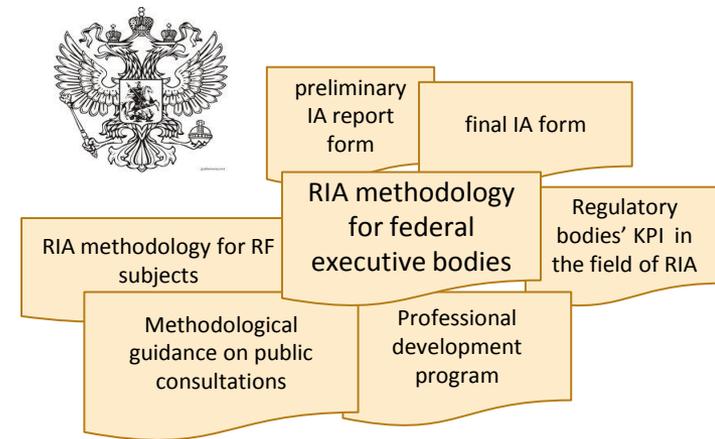
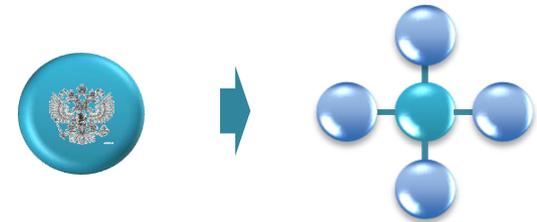
According to the results and based on:

1. Monitoring of documents published by developers of draft regulations on the portal regulation.gov.ru for public consultations as part of regulatory impact assessment. Rounds 1-6. NISSE, July 2013 - January 2014 (“Monitoring of stage 2”)
2. Monitoring of documents published on the portal regulation.gov.ru at the stage of impact assessments preparation. Round 1. NISSE, December 2013 (“Monitoring of stage 3”)
3. “Rulemaking of federal executive bodies: where are filters and limits of creativity?”. NISSE, January 2014

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Innovations of the Russian Federation Government Decree No. 1318

- ✓ Enhancing the role of federal executive bodies – developers of draft regulations: conducting initial evaluation (preliminary IA), conducting public consultations (completion of a change of a centralized model to a decentralized)
- ✓ Change of the role of the Ministry of Economic Development as the authorized body: quality evaluation of developers' results and correctness of the procedures performed, their own opinion on draft regulation and content of preliminary IA report (developer's assessment), "chief methodologist" for developers
- ✓ In furtherance of the Decree, the Ministry of Economic Development issued the Order of May 27, 2013 No. 290, approving the developer's preliminary IA report form and final IA report form (prepared by the Ministry of Economic Development) as well as RIA Methodology (previously there were no such documents apart from preliminary IA report form)
- ✓ Introduction of the "early stage": public consultations on notification about preparation of draft regulation
- ✓ Introduction of "importance marker" of draft regulation – low, medium and high degree of regulatory impact



Innovations of the Russian Federation Government Decree No. 1318 (2)

- ✓ Inclusion of draft regulations on tax and customs administration, amendments to government draft laws, decisions of the Eurasian Economic Commission Board into the RIA scope
- ✓ Final approval of regulation.gov.ru as the official web-portal for publishing information about preparation of draft regulations by federal executive bodies and results of public consultations in the Internet
- ✓ Draft legal acts with Impact Assessments containing a finding about non-observance of RIA procedure by federal executive bodies are returned by the Government Executive Office within 5 days
- ✓ Regulatory legal act cannot be registered in the Russian Ministry of Justice without IA if the act is subject to regulatory impact assessment

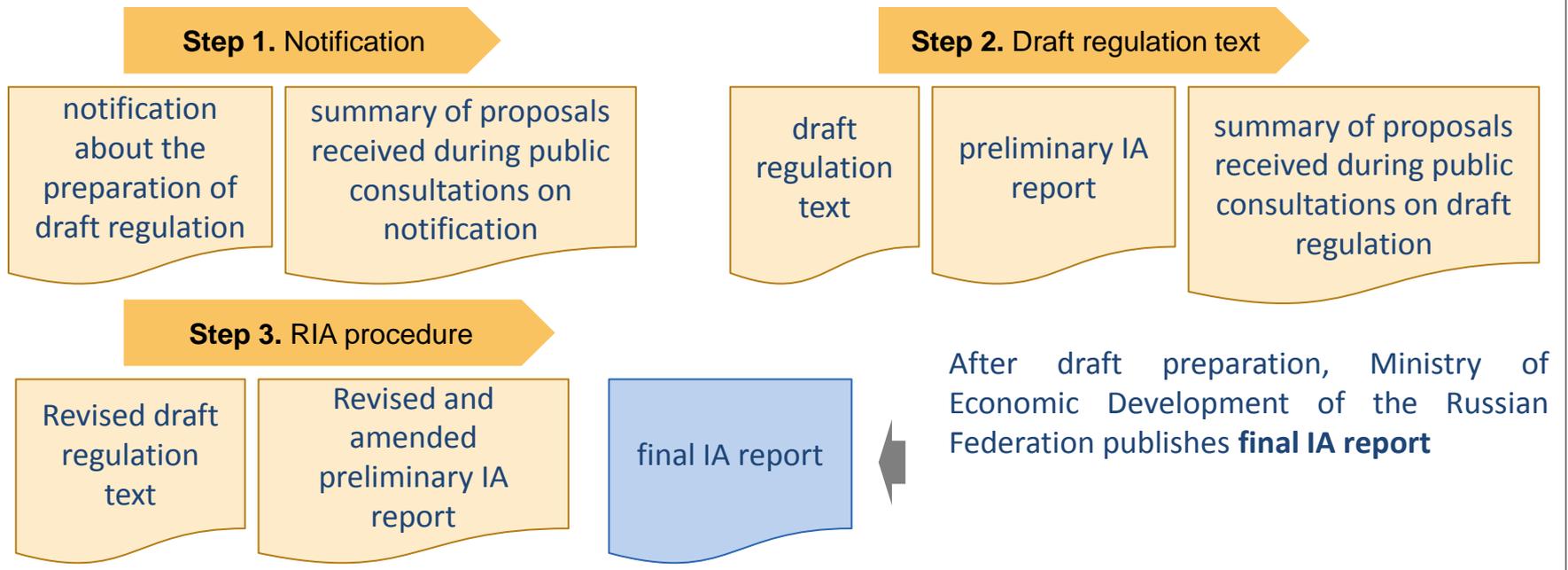


The main risk – transfer of new functions to disinterested persons without proper control adjustment over their activities, necessary resources, training and administrative incentives to conduct RIA properly

Single portal *regulation.gov.ru* and Regulatory Impact Assessment

Regulation.gov.ru – single portal for disclosure of information about preparation of draft regulations by federal executive bodies and results of public consultations. The portal is organized in order to enhance information transparency of federal executive bodies and exercise the constitutional rights of citizens and their associations and organizations to participate in administration of state affairs.

- ✓ According to the Decree of the Government of the Russian Federation of December 17, 2012 No. 1318 “On procedure for carrying out regulatory impact assessment of draft regulations by federal executive bodies, draft amendments to the draft federal laws and draft decisions of the Board of the Eurasian Economic Commission, as well as amendments to certain acts of the Government of the Russian Federation”, federal executive bodies must publish information about the preparation of draft acts requiring regulatory impact assessment (RIA) on the portal *regulation.gov.ru*, and since July 1, 2013 the following key documents:

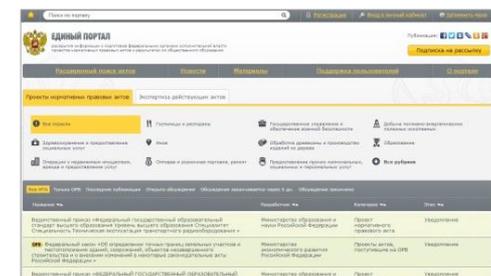


About the benefits of regulation.gov.ru

1. The portal is truly single - draft regulations and evaluation results shall be published within the framework of all four Decrees of the Government of the Russian Federation (dated August 25, 2012 No. 851, dated December 17, 2012 No. 1318, dated July 29, 2011 No. 633, dated February 26, 2010 No. 96) aimed at the disclosure of information and public participation in the discussion of regulatory initiatives of federal executive bodies

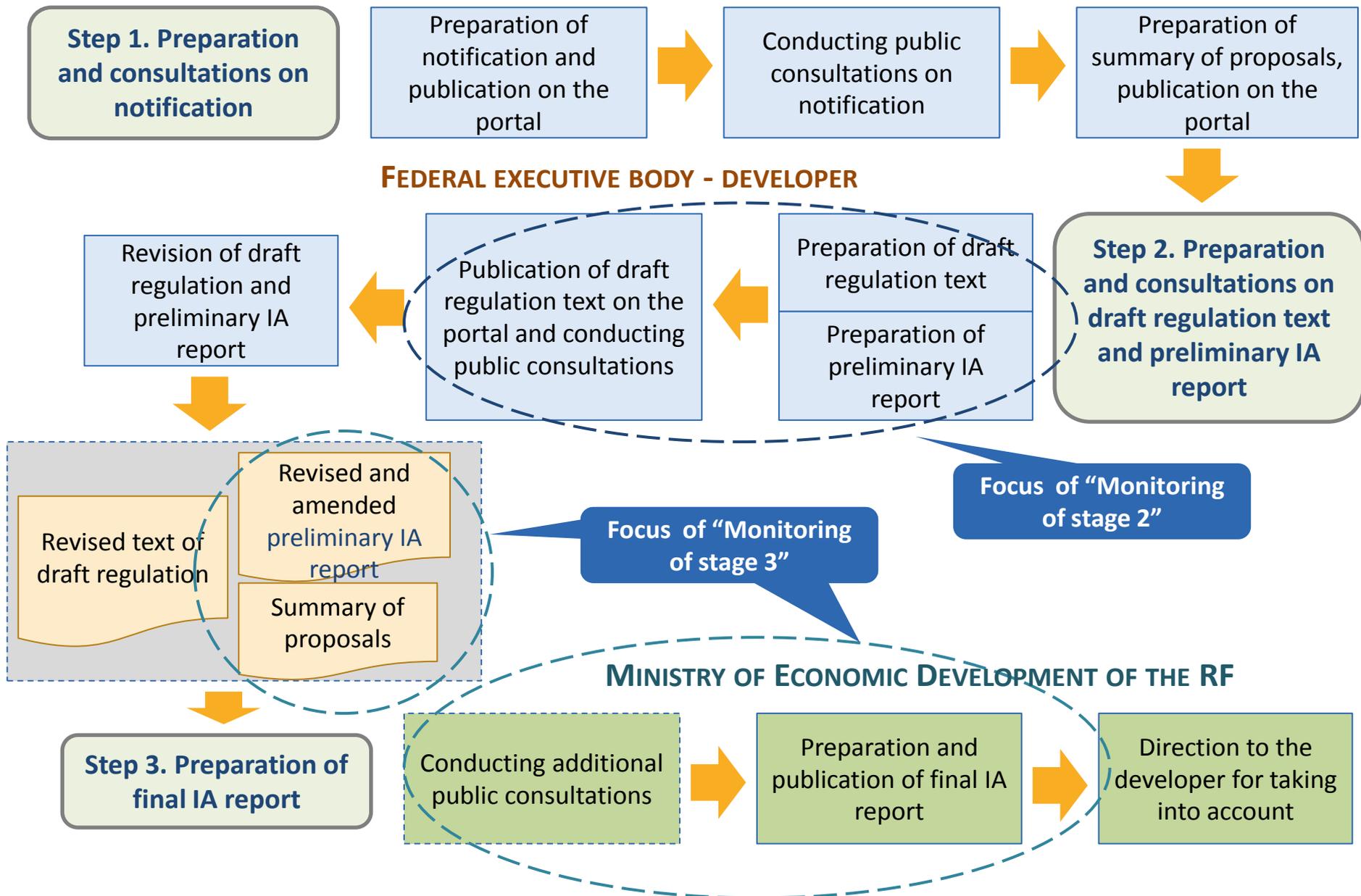
Contains information about more than 8.5 thousand draft regulations!

2. There are not so many analogues in the world:
<http://ec.europa.eu/yourvoice>, <http://www.regulations.gov> and some other
3. Portal - a major step towards transparency and application of advanced principles of Smart Regulation Concept in Russia, based on a broad discussion of draft regulations and carrying out their assessment before and after adoption
4. The portal provides plain technique of public influence on rulemaking process, in terms of RIA it implies transparency in taking into account all opinions and suggestions, which can be checked by anyone
5. There are specific examples of public influence on lawmaking and preparation and discussion of a growing number of draft regulations through the portal
6. Materials published on the portal is a “mirror” of regulatory bodies’ performance. Previously, we assumed that it's quality is not high enough – now we see that we can track and report on the problem areas



Yes, there are operating problems, problems of developers’ and authorized bodies’ activity. But creation of regulation.gov.ru is an undoubtful and unarguable step forward.

Procedural steps of RIA at the federal level



Focus of “Monitoring of stage 2”

- ✓ Focus of the stage 2 “Text of draft regulation“, where developer publishes text of the draft regulation and preliminary IA report for public consultations



- ✓ The following issues are covered:

- are there any difficulties in opening or downloading the documents to be saved (text of draft regulation and preliminary IA report , are the documents indicated in the link published);
- in which format preliminary IA reports and draft regulation texts are published (.doc, .pdf, others);
- form and content of preliminary IA reports - whether they meet the requirements of the Order of the Ministry of Economic Development of the Russian Federation No. 290 approving a form of preliminary IA report, and RIA Guidelines in terms of information contained (paragraph 15 of the Guidelines establishes a list of information which must be contained in it when published for public consultations, and paragraph 21 establishes the information that must be included in preliminary IA report following the results of consultations);
- Federal executive bodies which have made the largest number of “mistakes” both technical - downloading documents, publication of other documents instead of the required, large file sizes, publication of a scanned paper document without opportunity to copy text, and substantial – non-conformity of form and content of preliminary IA reports to the established rules (the most evident shortcomings were identified).

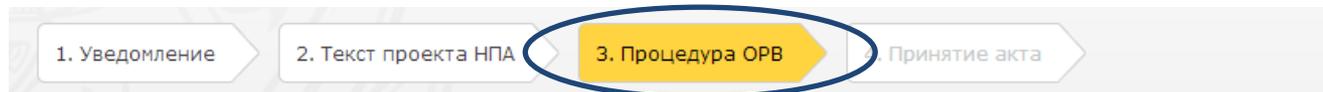
- ✓ As part of the monitoring, passports of all draft regulations over a specified period are reviewed



**6 rounds were held
since July 1, 2013**
(Date of entry into force of the RF
Government Decree No. 1318)

Focus of “Monitoring of stage 3”

- ✓ Focus of the stage 3 “RIA procedure”, where developer publishes draft regulation, preliminary IA report and summary of proposals received during public consultations. The Ministry of Economic Development publishes final IA report and gives conclusive definition (positive or negative)



- ✓ Final IA report contains conclusions about compliance of preliminary IA made by the developer with RIA Guidelines, about the presence or absence of provisions introducing excessive obligations, prohibitions and restrictions for individuals and legal entities in the field of entrepreneurial and other economic activities, or facilitating their introduction, as well as provisions leading to unreasonable costs for individuals and legal entities in the field of entrepreneurial and other economic activities, as well as for the budgets of all levels of the budget system of the Russian Federation, about the presence or absence of sufficient justification to solve the problem by the proposed regulatory measures [paragraph 27 of RIA Guidelines approved by RF Government Decree No. 1318]
- ✓ The following issues are covered:
 - a number of participants of public consultations on draft regulation;
 - existence of differences between preliminary IA report, published at the stage of publication of draft regulation text, and the final version of preliminary IA report (updated based on the results of public consultations); correction of the most evident shortcomings identified in “Monitoring of stage 2” is reviewed;
 - existence of draft regulations with final IA reports where it was not possible to view a series of documents (documents did not open or links opened other documents), the possibility to view these documents now;
 - definition of draft regulation (positive / negative);
 - arguments of the Ministry of Economic Development of the Russian Federation in negative final IA reports (developer ‘s non-compliance of with the procedures and / or the content of draft regulation)
- ✓ As part of the monitoring, passports of all draft regulations, included in “Monitoring of stage 2” are reviewed

ROUND 1

01.07.2013 – 15.11.2013

ROUND 2

16.11.2013 – 15.01.2014

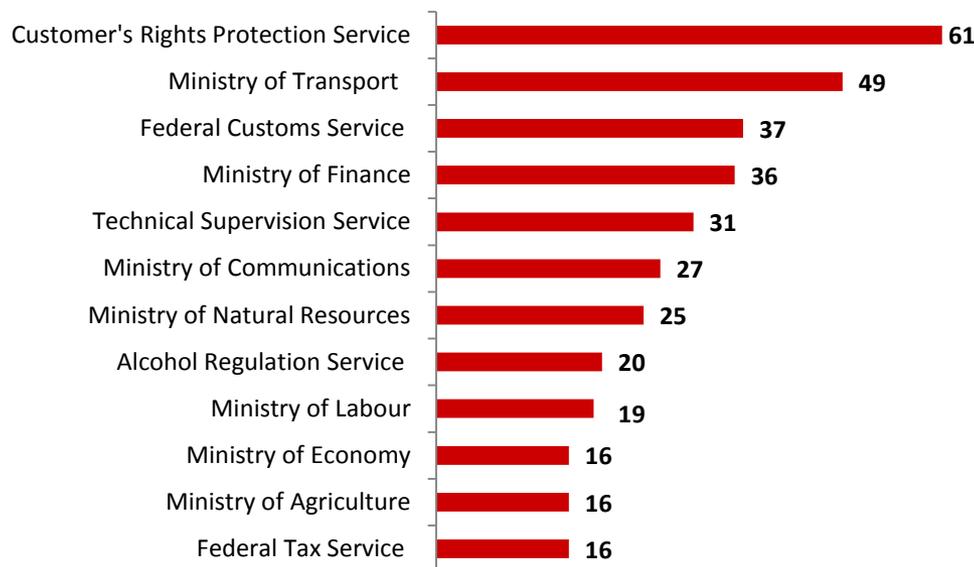
**2 rounds were held
since July 1, 2013**

(Date of entry into force of the RF
Government Decree No. 1318)

A number of regulatory legal acts: development of acts regulating entrepreneurial activity is concentrated

Top 10 “suppliers” of draft regulations for RIA

(in terms of a number of draft regulations for July-December 2013)

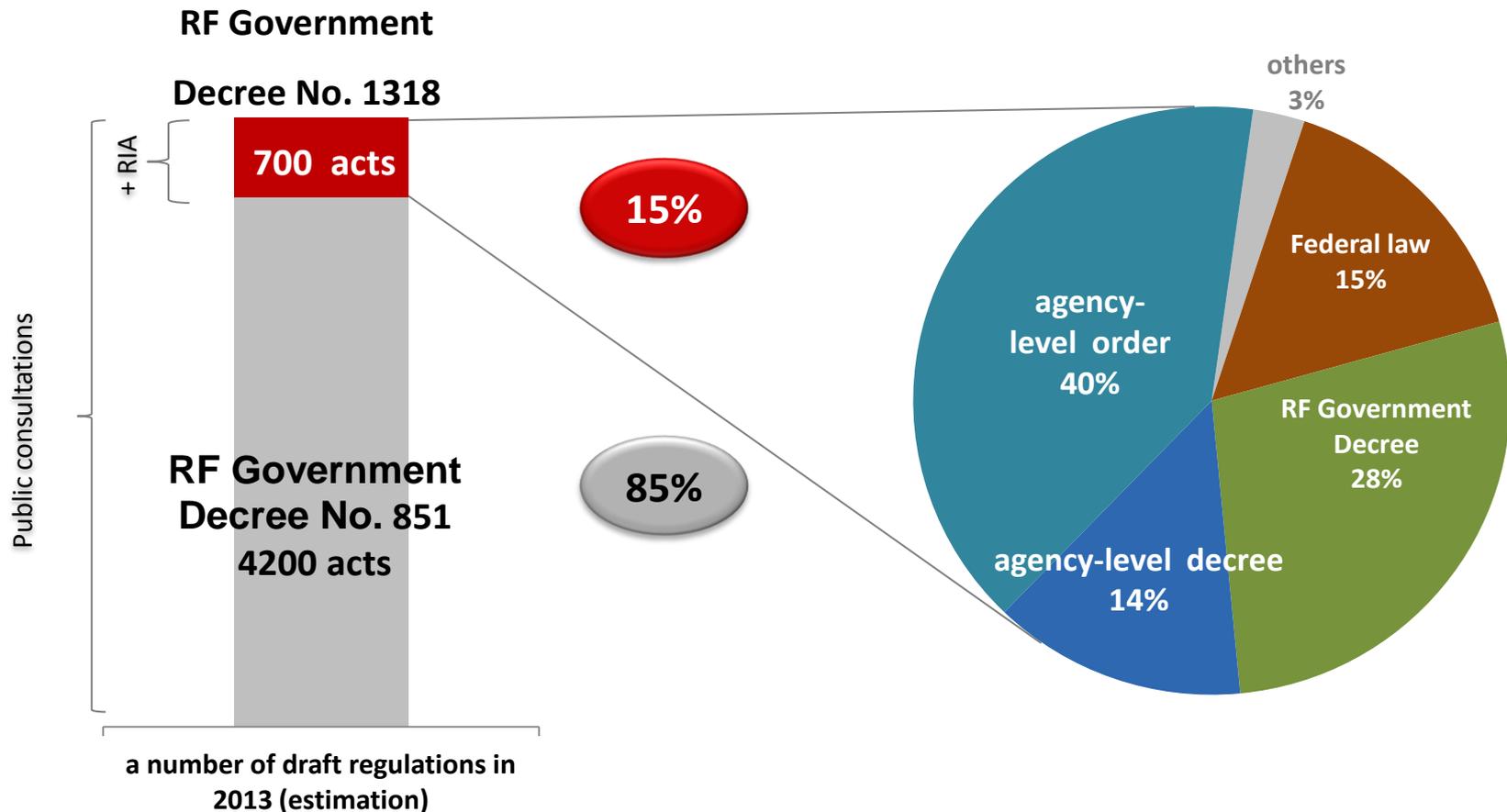


- ✓ In the second half of 2013 draft regulations were published on the single portal for carrying out RIA by 25 federal executive bodies and 1 state corporation (“Rosatom”)
- ✓ The first two federal executive bodies account for 27%, 5 - 52%, and 10 - 79%

General quantitative data:

- ✓ The portal regulation.gov.ru contains more than 8 200 drafts prepared by federal executive bodies for 25 months (until January 1, 2014)
- ✓ The “road map” of the RF Government Decree No. 1318 (RIA) covered about 2.2 thousand regulations (27%) for the period of 38 months - from September 2010 until January 1, 2014 (approximately 700 draft regulations per year)
- ✓ About 15% of draft regulations, developed annually by Federal executive bodies, were subjected to RIA
- ✓ Extract of Monitoring of stages 2 and 3 includes 18% of acts subjected to RIA for all time, 60% of 2013 amount

Draft regulations by type (level of approval)

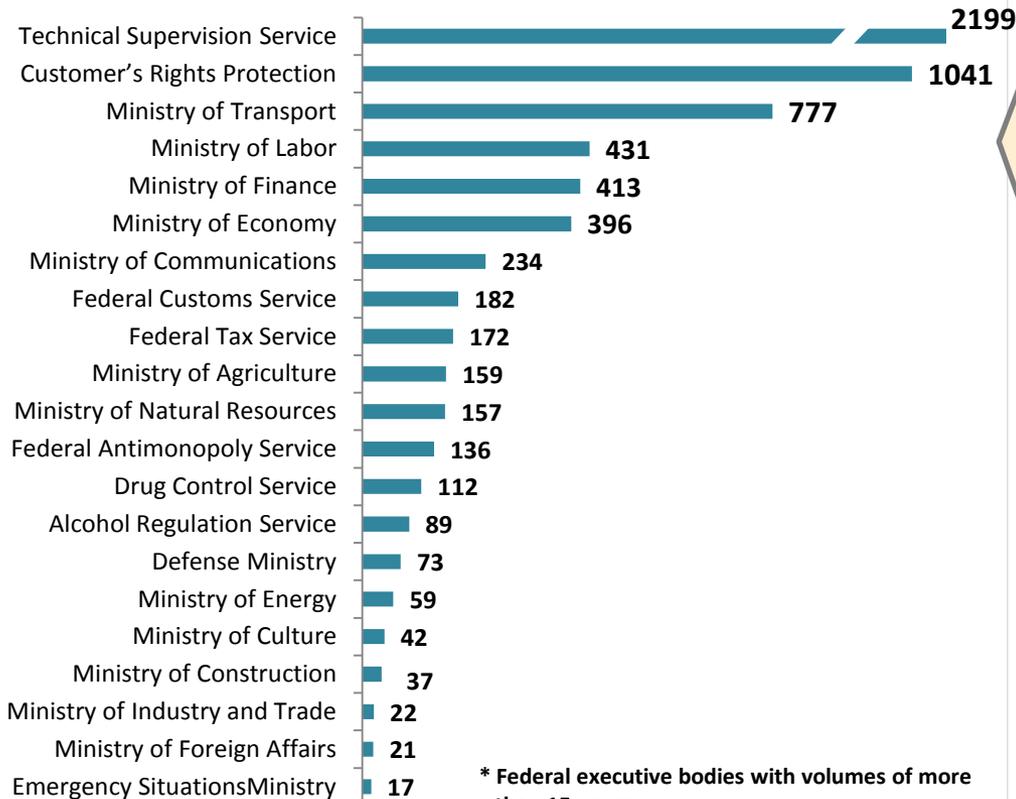


- ✓ Agency-level documents generally dominate in the structure of the draft regulations by types – 54%
- ✓ Federal executive bodies – leaders in preparing documents adopted at the level of regulatory bodies: Russian Federal Service on Customers' Rights Protection and Human Well-Being Surveillance, Federal Environmental, Industrial and Nuclear Supervision Service of Russia, Russian Ministry of Transport, Russian Ministry of Labour.

Volume of draft regulations subjected to RIA

Draft regulations volume in pages

(all draft regulations subjected to RIA in July-December 2013)



* Federal executive bodies with volumes of more than 15 pages

- ✓ The main volume is submitted by departments, whose acts relate to security issues (**“technical norms and rules”**): Russian Federal Environmental, Industrial and Nuclear Supervision Service (Technical Supervision Service) (hazardous industrial facilities), Russian Federal Service on Customers' Rights Protection and Human Well-Being Surveillance (Customer's Rights Protection Service) (sanitary-epidemiological safety for all and for some categories), Russian Ministry of Transport (safety at all modes of transport), Russian Ministry of Labor (health and safety)
- ✓ Russian Ministry Economic Development is on the 5th place due to 300-page draft act to amend the land and property legislation

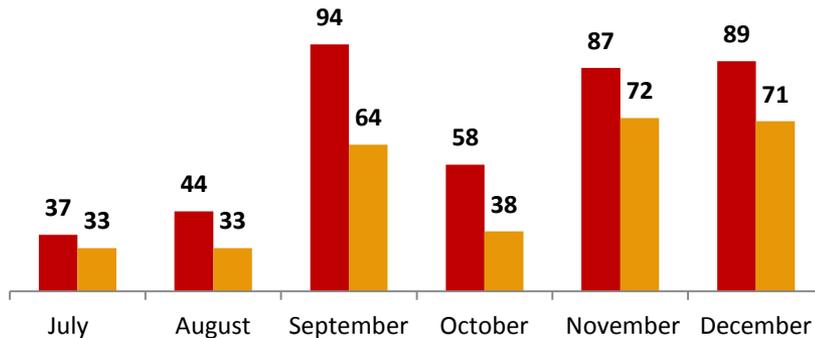


- ✓ The total volume of draft regulations produced by federal executive bodies in June-December 2013 and published in the framework of RIA – 6.8 thousand pages.
- ✓ On the whole, about 10 thousand standard pages can be assessed for one year
- ✓ If we consider draft regulations in the frames of RF Government Decree No. 851 and assume that an average draft regulation is 3 times shorter (about 6 pages) than on RIA, we have about 40 thousand pages of new regulatory legal acts produced by Federal executive bodies per year



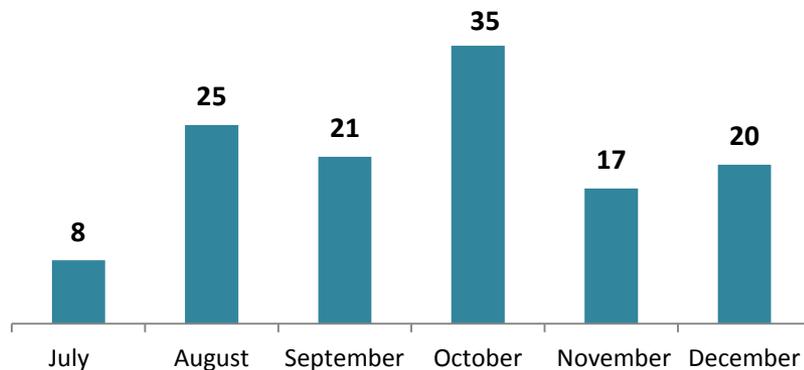
Statistics on published draft regulation for RIA and preliminary IA reports in the 2nd half of 2013

A number of published draft regulations and preliminary IA reports



- ✓ **409 draft regulations were published** for the reviewed period (about 3 per business day)
- ✓ A quantity of published draft regulations and preliminary IA reports is not equal due to the fact that developers upload other documents instead of the required preliminary IA reports indicated in the link, or the file cannot be viewed or downloaded in common browsers

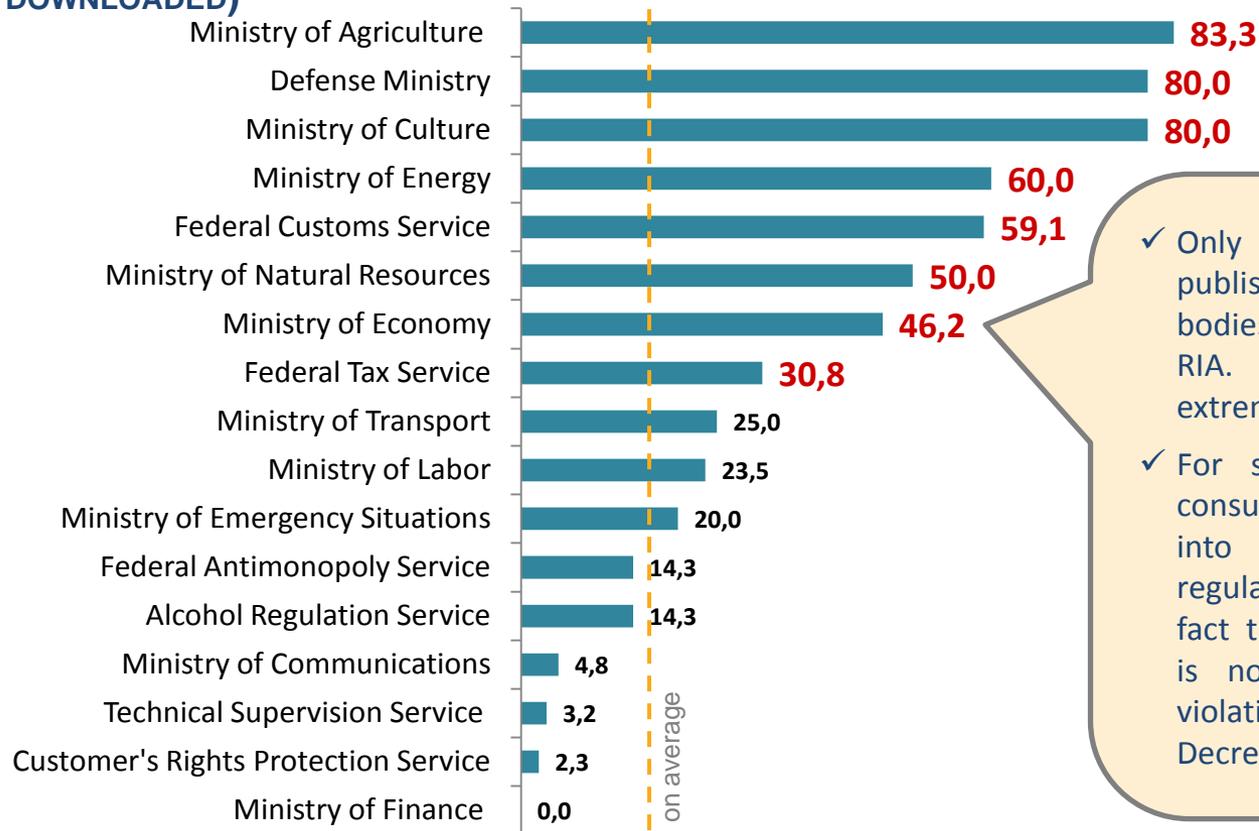
Proportion of preliminary IA reports, instead of which other documents were published, %



- ✓ Among documents published instead of preliminary IA reports are summaries of the proposals received during public consultations on notification. But this is not a technical error, since explanatory notes to the draft, as well as blank pages can also be found
- ✓ On average, **about 25% of preliminary IA reports were not available** at the stage of public consultations

Some rankings of federal executive bodies-developers

BY THE PROPORTION OF DOCUMENTS UPLOADED INSTEAD OF PRELIMINARY IA REPORTS, AND FILES OF PRELIMINARY IA REPORTS WHICH CANNOT BE OPENED (OR DOWNLOADED)*



- ✓ Only every second report is published by federal executive bodies, authorized to conduct RIA. And this example is extremely contagious.
- ✓ For some developers, public consultations practically turn into a discussion of draft regulation text only due to the fact that preliminary IA report is not published. This is a violation of RF Government Decree No. 1318.

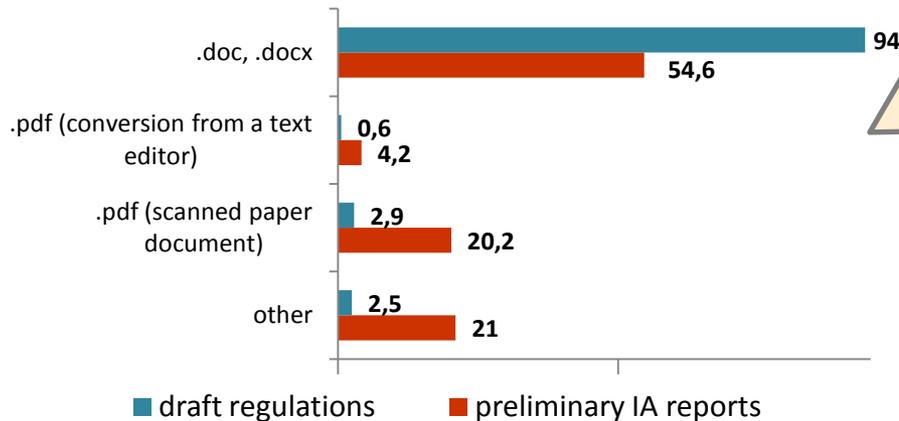
✓ For July - November 2013, 240 preliminary IA reports were published, although it should have been 320. Instead of remaining reports either other documents were uploaded, or the reports did not open in the common browsers at the time of monitoring (and therefore during public consultations)

* Federal executive bodies that have published five or more draft regulations in July-November 2013

Specifics of electronic formats of published documents

Electronic file formats of draft regulation and preliminary IA report texts

(July-November 2013)

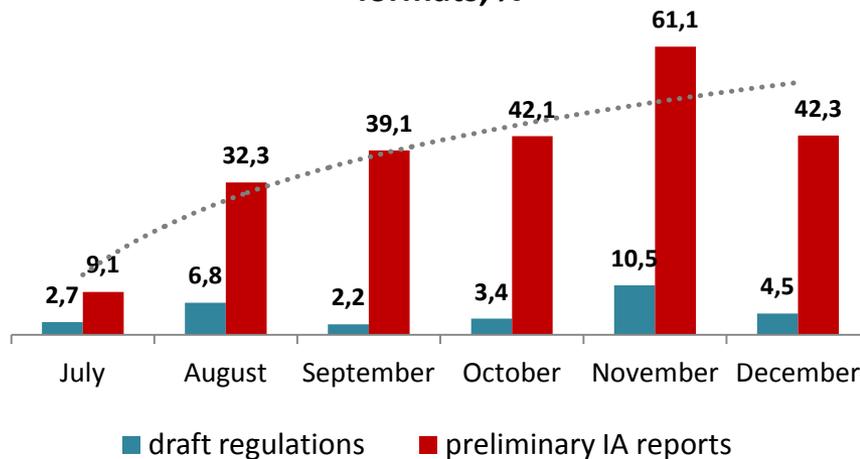


✓ Currently there is no approved electronic format, which the developer should use when publishing preliminary IA reports, texts of draft regulations and other documents. A considerable part of the published documents is non machine-recognizable, and therefore:

- it is impossible to introduce a system of automatic documents checks;
- the process of preparing proposals by participants of public consultations is hindered

✓ About 1/3 of preliminary IA reports are published in a non machine-recognizable format

Proportion of non machine-recognizable file formats, %



It was planned that an online form for drawing up preliminary IA reports would be elaborated, but the form has not appeared yet.

There is a ready draft form for filling out in .pdf format, but it is not used.



THE MOST COMMON SUBSTANTIAL MISTAKES OF PRELIMINARY IA REPORTS:



- ✓ **Blank sections of the report;**
- ✓ **Incorrect filling of a number of sections :**
 - most difficulties arise in the very beginning: objective of the proposed regulation, description of the problem and the negative consequences of its existence (described as the lack of legal regulation, although this is not a problem; no indication of adverse effects, which raises a question whether the problem exists or not, etc.);
 - a number of draft acts, where the costs for business entities are indicated, is small (although the average number > 60%);
 - all state expenses, as a rule, are “in the frames of ongoing activities”;
 - indicators of goal achievement are not formulated or formulated in immeasurable quantities;
 - among quantitative estimates only a number of regulated entities can be found, but rarely.
- ✓ **The degree of regulatory impact is incorrectly specified:** for example, average degree is indicated, which implies a change of obligations and restrictions for business entities, but preliminary IA report states the changes do not occur and expenses are not expected.

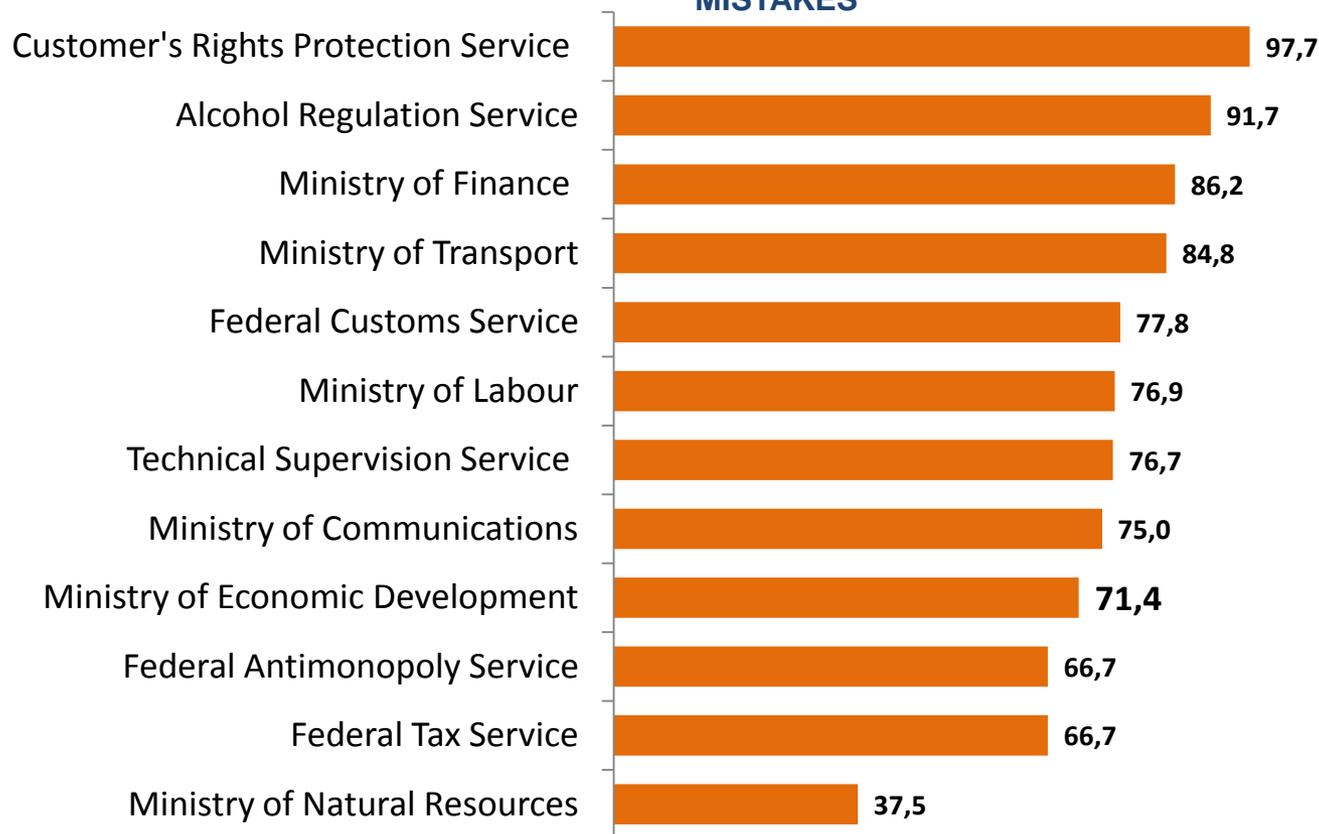
If we analyze the requirements to preliminary IA reports specified in the RIA Methodology approved by the Order of the Ministry of Economic Development of the Russian Federation No. 290, rare report can be regarded as satisfactory even with mistakes, which can be ignored.

Impossible demands of the RIA Methodology? Not at all ...



Some rankings of federal executive bodies-developers (2)

BY THE PROPORTION OF PRELIMINARY IA REPORTS WITH REVEALED MISTAKES *



✓ Proportion of preliminary IA reports, where we have identified evident mistakes, among all federal executive bodies-developers was on average 81.7%

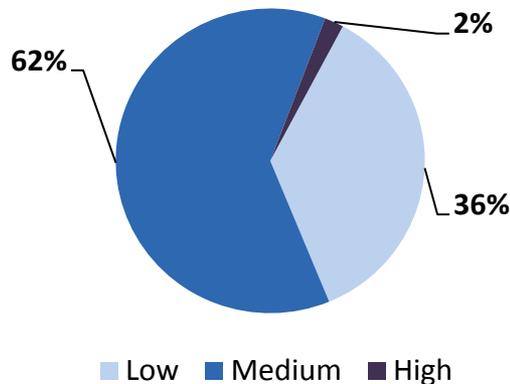


* Federal executive bodies that have published five or more preliminary IA reports in July-November 2013

Determining a degree of regulatory impact is often used not as a marker of the draft regulation importance

Degree of regulatory impact determined by developers

(upon draft regulations published for public consultations from 01.07.2013 until 27.10.2013)



- ✓ Degree of regulatory impact is assigned to draft regulation by the developer based on paragraph 6 of the RIA Guidelines approved by RF Government Decree No. 1318
- ✓ Time frame of public consultations on the draft regulation depends on the degree of impact

- ✓ In case the Ministry of Economic Development at the preparation stage reveals that the degree is not determined correctly, the developer will return to the stage of public consultations (discussion):
 - Assigning a low degree = 15 days for public consultations vs. Assigning an average degree = 30 days for public consultations
 - The innovation of the proposed method of regulation is difficult to prove, hence a high degree (= 60 days), is not assigned

To reduce the risks of procedure return to public consultations, developers set an average degree

- ✓ Inconsistency between the determined degree of regulatory impact of draft regulation and preliminary IA report content regarding the definition of new responsibilities (restrictions) for subjects of entrepreneurial and other activity or changes in the content of existing responsibilities (restrictions) and related costs – the most typical developers' mistake identified in "Monitoring of stage 2"

Typical shortcomings of developers: diversity of formats and tricks

✓ Some developers draw up preliminary IA reports by blindly copying information from sections of their other IA report – and thus make one template where they change only the name of draft regulation and the reason for elaboration

✓ Common practice of Federal Service on Customers' Rights Protection and Human Well-Being Surveillance and the Ministry of Transport (18% of all preliminary IA reports)

✓ Most of preliminary IA reports are drawn up according to the form approved by the Order of the Ministry of Economic Development of the Russian Federation of May 27, 2013 No. 290, but not all

✓ 20% are still drawn up according to the form stipulated by the Order of the Ministry of Economic Development No. 25 or in text format

✓ Developers publish a considerable part of documents in non machine-recognizable format, and therefore:

- search is complicated;
- it is impossible to check the uploaded documents automatically;
- the process of preparing proposals by participants of public consultations is hindered.

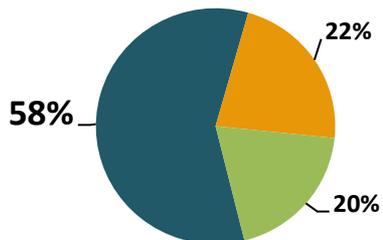
✓ Documents published at regulation.gov.ru are not subject to open data rules

✓ Developers do not publish the required documents; the link opens any other documents instead. There are cases of inconsistency of the regulation name in the passport and in the text of published regulation. This is not a technical error - this is a deliberate action of draft regulation developers

✓ The most common is the uploading of summary of public consultations on notification instead of the preliminary IA report

Updating preliminary IA reports after public consultations

Comparison of preliminary IA reports published at public consultations and after consultations (draft regulations at the stage "Conducting RIA")



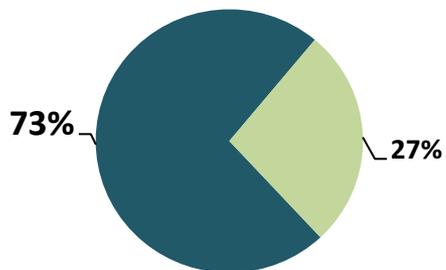
■ no differences

■ there are differences in the information provided in sections (subsections) of preliminary IA reports

■ final versions of preliminary IA report are drafted based on a new form (the form approved by the Order No. 290)

Elimination of evident mistakes in preliminary IA reports after public consultations

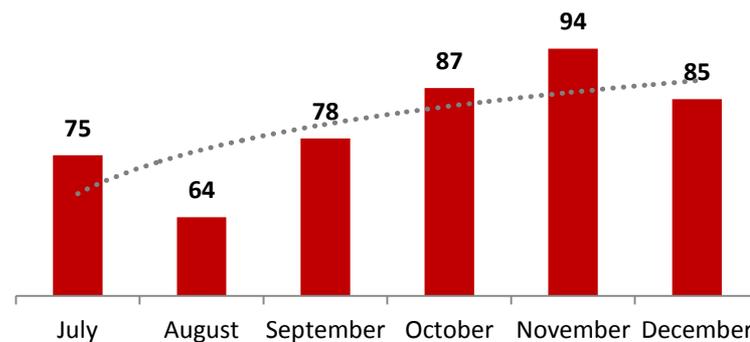
(draft regulations at the stage "Conducting RIA")



■ remained unchanged ■ partially eliminated

- ✓ Analysis of preliminary IA reports before and after public consultations shows that, in most cases, developers do not revise preliminary IA report following the results of public consultations

Proportion of preliminary IA reports with mistakes identified during Stage 2



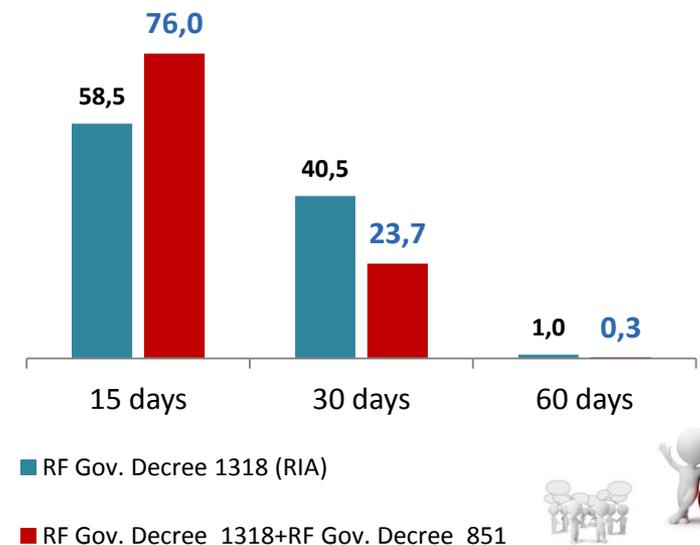
- ✓ In the frames of "Monitoring of stage 2" NISSE identifies the most evident mistakes in preliminary IA reports: proportion of reports with detected mistakes is growing
- ✓ "Monitoring of Stage 3" draws a comparison: something changes in a minority of cases

Public consultations timelines

- ✓ Early stage (discussion on the preparation of notification) usually lasts 15 days
- ✓ More than 60% of draft regulations are discussed without an early stage, directly draft regulation text (is missing in RF Government Decree of August 25, 2012 No. 851)
- ✓ A little more time is given for public consultations on draft regulation text, but 2/3 are likewise discussed only 15 days

- At the federal level In Russia (Government Decree of December 17, 2012 No. 1318) the timelines for public consultations on draft regulation text depend on the act's regulatory impact: at least 15 days for draft acts with low regulatory impact, 30 days - medium, at least 60 days - high
- According to the Government Decree No. 851 – generally 15 days, for certain types of acts 30 days, and for orders less than 15 days public consultations are not held
- **Low degree (about 40% of draft regulations according to RIA), as well as most regulations according to the Government Decree No. 851 – only 15 calendar days (12 business days), but this is obviously not enough to effectively organize, conduct and record the results of extensive consultations (round tables, meetings)**

Proportion of draft acts in terms of public consultations timelines (July-December 2013),%



Reference: In EU public consultations lasts at least 12 weeks (until 2012 – 8 weeks - extended to enhance the early stage) regardless of draft regulation. Comparable only with a high degree of regulatory impact in Russia, but there are few draft regulations with a high degree (9 in 2013)

LOW LEVEL OF PARTICIPATION IN PUBLIC CONSULTATIONS:

- ✓ Average number of participants on notifications – **0,5 people.**
- ✓ Average number of participants on draft regulations – **0,3 people.**
- ✓ **0,0 participants** – on notifications > 80%, on draft regulations > 60% of cases

Prior to the entry into force of RF Government Decree No. 1318 the Ministry of Economic Development of the RF declared on average 7 participants

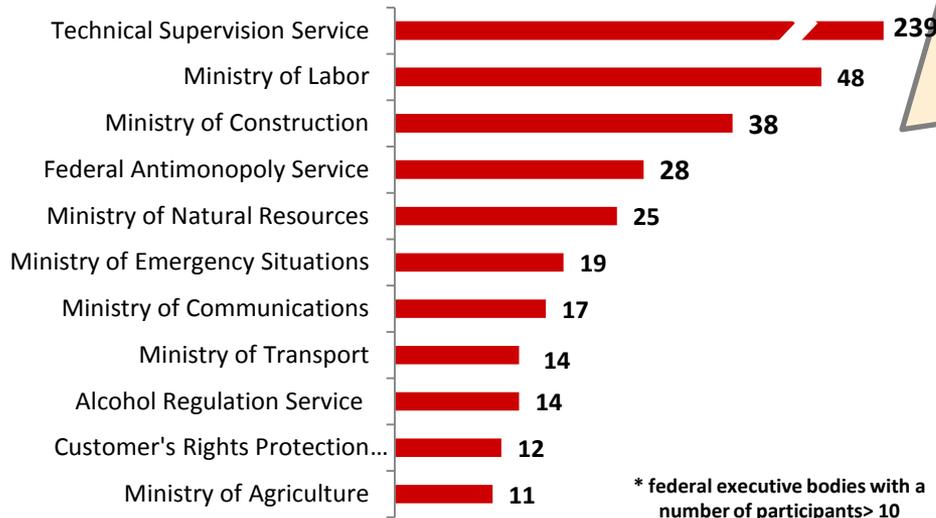
SOME REASONS:

- low level of information content of notifications published by developers
- lack of requirements to the notification to be checked by the Ministry of Economic Development in practice
- lack of KPI in terms of conducting public consultations (scope for mailing, number of participants, etc.) and minimum standards
- Results of public consultations do not influence anything (few refusals to draft)
- absence of agreements between developers and major business associations, consumers, expert centers (in a centralized system there were such agreements between stakeholders and the Ministry of Economic Development)
- inactive importance markers, lack of the Ministry's own opinion - experts and business lost in the flow of regulation (> 2,000 drafts with RIA are published per year)
- results of consultations outside the Internet are not included in summaries of proposals
- developer ignores explanation of proposals neglect

Participants of public consultations

Total number of participants of public consultations on notification about preparation and on draft regulation text

(all draft regulations subjected to RIA in July-December 2013)



- ✓ Average number of public consultation participants that have submitted proposals in the frames of the two stages – 0,97
- ✓ 27% regulatory bodies – no participants at all, 50% - less than 1.
- ✓ **On 47% of draft regulations – 0 participants on both stages of consultations**
- ✓ But there are regulatory bodies with “high profile” draft acts and relatively “organized” consultation: Russian Technical Supervision Service, Russian Ministry of Labor, Russian Ministry of Construction



Number of participants for 1 “discussed” draft act

Federal executive bodies

0 participants of public consultations

Russian Foreign Ministry, Russian Defense Ministry, Russian Federal Service for Military-Technical Cooperation, Russian Federal Customs Service, Russian Federal Financial Monitoring Service, Russian Federal Service for Drugs Control, State corporation “Rosatom”

0,1 – 0,4

Russian Ministry of Finance, Russian Federal Customs Service, Russian Federal Tax Service, Russian Ministry of Culture, Russian Ministry of Economic Development, Customer's Rights Protection Service, Russian Ministry of Transport, Russian Ministry of Energy, Russian Ministry of Agriculture, Russian Ministry of Communications

0,5-1,0

Russian Alcohol Market Regulation Service, Russian Ministry of Natural Resources, Russian Ministry of Industry and Trade

1, 1 – 2,0

Russian Federal Antimonopoly Service, Russian Ministry of Emergency Situations, Russian Ministry of Labour

> 2,0

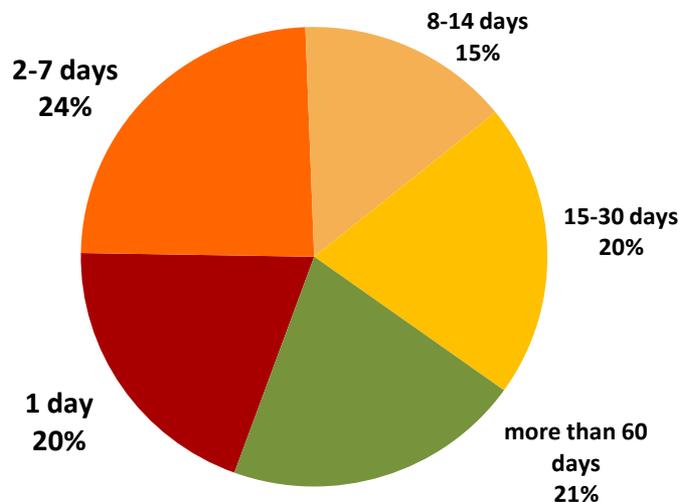
Russian Ministry of Construction, Russian Technical Supervision Service

Early stage in Russia does not perform all its functions

- Regulation does not stipulate the time period between the end of consultations on notification about preparation and start of consultations on draft regulation - developer “decides independently”, but more precisely - orders of superiors or plans of draft regulations preparation
- We consider the time period between the end of consultations on notification and date of publication of draft regulation for consultations on the single portal to be **a formal timeline for draft regulation preparation**. On average, this period **lasted 19.6 days**
- In some cases, at the stage of consultations on notification, developer publishes ready texts of draft regulation (in such cases it is too late to discuss alternatives - the developer has already made a decision)



Distribution of draft regulations in terms of time period between the end of consultations on notification about the preparation and publication of draft regulation text



- Drafts are prepared due to commissions issued, the commission cannot be canceled, therefore, a regulation is still needed
- Results of consultations at an early stage are not reported to senior officials, i.e. the decision-makers, who made a decision about the necessity of the regulation and makes decision on subsequent approval
- There was not a single refusal to elaborate the regulation following the results of consultations on notification



In 60% of cases the preparation of draft regulation formally lasts 2 weeks or less

Problems of fixing the results of public consultations

- ✓ Proposals are submitted by participants of public consultations online
- ✓ The developer has the opportunity to expand the list of questions, but usually, does not use this opportunity

- ✓ Following the results of public consultation the developer automatically generates a summary of the proposals received through the online form on the portal. Proposals received by mail, in the frames of “active” public consultations outside the Internet are rarely taken into account
- ✓ There are no developer’s verification mechanisms to account all opinions received

Сводка предложений по итогам публичного обсуждения уведомления о подготовке нормативного правового акта «О внесении изменений в формы договоров об инвестиционном налоговом кредите, утвержденные приказом Федеральной налоговой службы от 29.11.2005 № САЭ-3-19/622@»

ID проекта: 00/03-7508/09-13/78-13-5

Ссылка на проект: http://regulation.gov.ru/project/7508.html?point-view_passport&stage=1&stage_id=3471

Дата проведения публичного обсуждения: 2013-09-23 - 2013-10-08

Количество экспертов, участвовавших в обсуждении: 0

Отчет сгенерирован: 28.10.2013 16:05

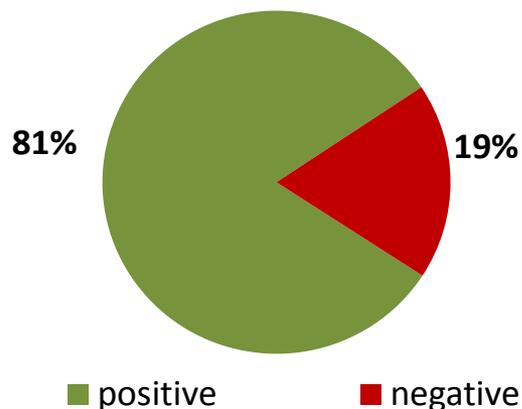
№	Участник обсуждения	Вопрос для обсуждения	Позиция участника обсуждения	Результат рассмотрения позиции разработчиком позиций участников обсуждения	Комментарии разработчика

- ✓ Given the absence of monitoring of developers’ filling out of “Developer’s Comments” section in public consultation proposals summary, the developer can easily ignore indicating their position on the proposal received, or indicate without argumentation of not taking them into account
- ✓ “Partial anonymity” of public consultation participants: the form of proposals summary does not provide for the field for indicating the organization where the participant of public consultation works. This leads to a situation where public consultations are “held” by employees of the same organization.
- ✓ Contradictory information provided by the developer in respect of the number of public consultation participants (public consultation results are reflected in several documents - two summaries, a separate protocol and preliminary IA report - and they often contradict)

Some results of work of the Ministry of Economic Development on final IA reports preparation

Distribution of final IA reports by conclusive definition

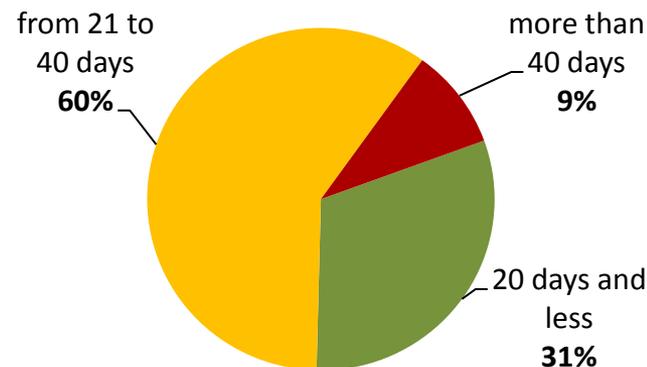
(published on the portal and the website of the Ministry of Economic Development for the period of 01.07.2013 - 15.11.2013)



- ✓ **Positive final IA reports on draft regulations with a number of necessary documents missing on the portal and final reports containing evident mistakes**
- ✓ **Timelines for preparing final IA report raise questions: 69% more than 20 days**
- ✓ **There are grounds to believe that “quality standard” of approved preliminary IA report is underrated**
- ✓ **First results look like adverse selection: positive evaluation of draft regulations with preliminary IA reports containing shortcomings and violations of public consultation procedure**

- ✓ **A number of final IA reports on the single portal: 54 (01.07.2013 - 15.11.2013), taking into account final IA reports published on the website of the Ministry of Economic Development – 62**
- ✓ **In 28 passports of final IA reports there is no conclusive definition, it is necessary to determine it on the basis of the text**
- ✓ **12 negative final IA reports, arguments of the Ministry of Economic Development :**
 - **improper execution of procedures – in 5**
 - **nonconformity of preliminary IA report – in 1**
 - **Identification of provisions containing unjustified restrictions and expenses – in 6** (last month a number of negative final IA reports on this ground increased 👍)

Distribution of final IA reports by the time period between the publication of final version of draft regulation, preliminary IA report and final IA report of the Ministry of Economic Development



Some parameters of federal executive bodies' work on draft regulations with final IA reports

№	federal executive body-developer	A number of draft acts with received final IA reports*	An average number of public consultation participants according to draft regulation	Proportion of draft regulations (%), where:		Preliminary IA reports with mistakes identified at the stage 2:		conclusive definition of final IA report	
				documents missing at the stage 3	still no opportunity to open documents missing at the stage 2	quantity	Proportion of non-corrected in the final version, %	+	-
1	Ministry of Natural Resources	2	1,0	100,0	100,0	0	-	1	1
2	Ministry of Emergency Situations	1	2,0	0,0	0,0	0	-	1	-
3	Ministry of Communications	1	1,0	0,0	H**	1	100,0	1	-
4	Ministry of Transport	3	0,0	0,0	H	1	100,0	2	1
5	Ministry of Finance	7	0,3	14,3	H	6	33,3	3	4
6	Ministry of Economic Development	3	0,0	0,0	H	2	50,0	3	-
7	Federal Antimonopoly Service	1	4,0	0,0	100,0	0	-	1	-
8	Federal Tax Service	6	0,0	66,7	0,0	0	-	6	-
9	Federal Customs Service	3	0,0	0,0	100,0	2	100,0	3	-
10	Customer's Rights Protection Service	20	0,0	20,0	0,0	15	100,0	20	-
11	Alcohol Market Regulation Service	3	0,0	33,3	0,0	2	50,0	3	-
12	Technical Supervision Service	3	2,3	0,0	H	3	0,0	1	2
13	State corporation "Rosatom"	1	0,0	0,0	H	1	100,0	1	-
Total		54	0,3	-	-	33	-	46	8

* Only final IA reports published on the portal regulation.gov.ru

** H – documents that did not open or other documents were uploaded instead of them, at the stage 2 they were still missing

A positive final IA report can be obtained despite shortcomings and negative final IA report can be obtained even when the procedures are observed and the quality of preliminary IA report is improved

Key findings

1. The Russian Federation Government Decree No. 1318 approved the decentralized RIA system. The main risk was the transfer of new functions to disinterested persons without proper control adjustment over their activities, necessary resources, training and administrative incentives to conduct RIA properly. The results of the Monitorings show that this risk is actually occurring.
2. One of the most important innovations of the Russian Federation Government Decree No. 1318 is introduction of RIA early stage. However, this stage does not perform its filtering role yet.
3. Determining a degree of regulatory impact is often used not as a marker of draft regulation importance. With a very significant amount of draft regulations subjected to RIA, no other markers of importance exist, which complicates public consultations.
4. Major mistakes are produced by the developer at an early stage - the authorized body (Ministry of Economic Development) receives the results with mistakes for assessment. The Ministry of Economic Development pays insufficient attention to ongoing control at an early stage, meanwhile, having established such control, the Ministry could achieve better quality of the developer's final documents.
5. In the frames of "Monitoring of stage 2", we identify the most evident mistakes in preparing preliminary IA reports. Proportion of reports with evident shortcomings is constantly growing and is high even on the part of the body authorized in RIA (MED).
6. Discipline and accuracy of developers and the authorized body in publishing the required documents on the portal causes many complaints. Too often, there are no documents on the portal necessary for participants of public consultation for discussion.
7. Russian single portal regulation.gov.ru, aimed at disclosing information about draft regulations under development and related public consultations, has a number of shortcomings, and the information published is not subject to open data principles. All this reduces the role of the portal in the discussion of draft regulations. Its analytical and organizational capacities are not used in full.



Key findings(2)

8. Conducting public consultations, as evidenced by the statistics of their results, should be considered unsatisfactory. There are many proofs associated with improper audience targeting of discussed draft regulations, poor advocacy of consultation results, as well as an excessive amount of drafts directed for consultation given limited expert resource and inactive importance markers.
9. Facts of “Monitoring of Stage 3” indicate that the content of developer’s preliminary IA report is rarely taken into account by the Ministry of Economic Development in preparation of final IA reports, RIA Methodology approved by the Order of the Ministry of Economic Development No. 290. is not used. There are grounds to believe that there is a selective attitude to the developers, and the “quality standard” during expertise of the developer’s materials for some of them is underrated.
10. There is no KPI system for developers and the authorized body, which characterizes the quality of work and results at all stages of RIA. Without such a system there are no incentives to conduct RIA in a proper way, and the situation with quality of work is likely to worsen.
11. A common problem for almost all aspects of RIA implementation in Russia is poor resource base. Once adopted “managing under ongoing financing” concept is clearly failing and therefore more serious financial resources are needed to reinforce the mechanism so it could really be effective in performing its function. Now the mechanism is mostly aimed at saving billions of rubles.
12. Currently an excessive amount of legal acts regulating entrepreneurial activity is produced and adopted. An average enterprise annually has to read thousands of new regulations pages, which are released daily, not even periodically. The problem cannot be solved only by further introduction of RIA – a complex of mechanisms should be established by the Regulatory Policy Concept, which in turn should be elaborated and adopted.



Some proposals

1. Elaborate and adopt the Regulatory Policy Concept, which, in addition to RIA, would include a complex of mechanisms to improve the rulemaking process and its results, and would be based on the best practices of the OECD and the European Commission, in particular on the principles and mechanisms of the Smart Regulation Concept.
2. Approve KPI system for developers and the authorized body, characterizing the work quality of federal executive bodies in preparing notifications, preliminary IA reports, conducting public consultations, and the authorized body (Ministry of Economic Development) – final IA reports, as well as quality control at the early stages (before submission of results to the Ministry). This system should also include indicators designed to limit the volumes of produced texts of regulations, and be closely aligned with the Regulatory Policy Concept.
3. Solve the single portal's technical problems as soon as possible, as well as extend open data rules to the portal.
4. Establish a system of automatic verification of documents published on the single portal, inter alia not allowing developers to upload incomplete or incorrect documents. The system should not allow access to the next stage until the documents package is not complete.
5. Develop and approve methodological base (standards and guidelines for achieving them) for conducting public consultations, and clarify legal and regulatory framework taking into account multi-channel public consultations and diversity of their forms.
6. Develop analytical potential of the single portal, including similar Monitorings, rankings of developers, publication of FAQ and teaching materials, conducting surveys among public consultation participants.
7. Define real material base for RIA development both at the federal level and in Russian regions and municipalities. Amount of resources invested in RIA development should be comparable to the expected benefit of this institution; otherwise the expectations will turn into illusion.



“RIA is a magnifier over the bureaucratic machine”

From the interview of the Director of RIA Department of the Ministry of Economic Development of the Russian Federation Vadim Zhivulin to Russian Business Newspaper. December 10, 2013. <http://www.rg.ru/2013/12/10/zakon.html>



Thank you for attention!

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