EUROPEAN AVIATION SAFETY AGENCY
AGENCE EUROPÉENNE DE LA SÉCURITÉ AÉRIENNE
EUROPÄISCHE AGENTUR FÜR FLUGSICHERHEIT

10TH ANNIVERSARY

Performance Based Regulation

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EASA Safety Conference
10 October 2012

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Definition of (safety) regulation

A regulation is a legal provision that:

- creates, limits, or constrains a right,
- creates or limits a duty,
- or allocates a responsibility.

Aviation safety regulations can also be referred to as :

"safety risk controls used by the regulator"

Performance based rules – how did we get there?

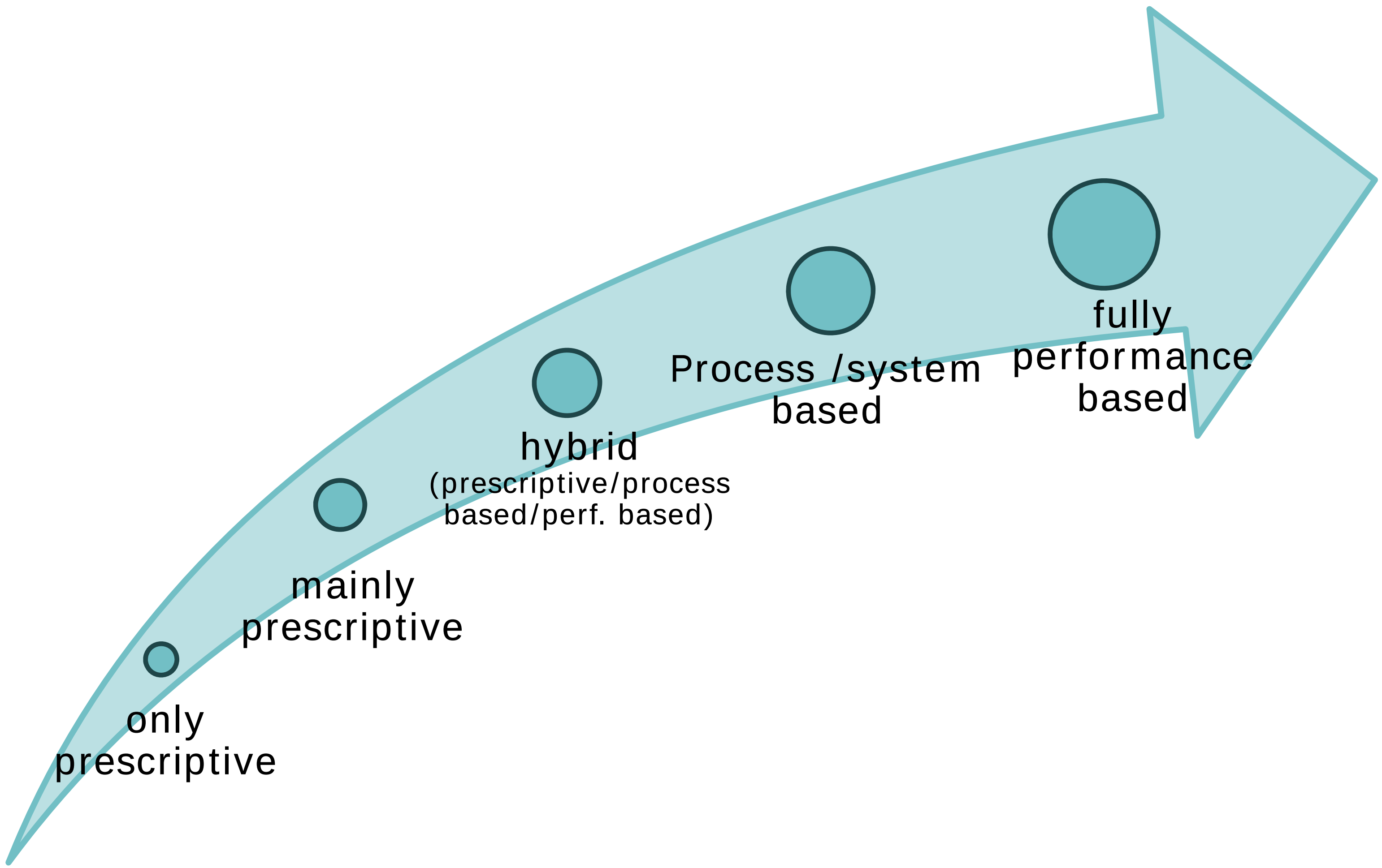
The complexity of the aviation system

New demand on regulators

- *“Value for money”*
- *De-regulation*
- *New public management*

International aviation safety standards

The regulatory spectrum



In the EASA system, regulations can be divided into three broad categories:

Authority requirements	Organisation requirements	Technical requirements & standards
addressing systems and processes, rights and obligations of competent authorities	addressing systems and processes, rights and obligations of service providers required to hold an approval	either applicable to individuals or to approved organisations

Hard law / Soft law

The Agency's approach:

- Place essential safety elements in the rules

  "Hard Law"

- Leave non-essential implementation aspects to Certification Specifications (CS) or Acceptable Means of Compliance (AMC)

  "Soft Law"

Despite their non-binding nature, the CS and AMC play an important role in providing sufficient flexibility in the implementation of the European Union requirements.

Prescriptive vs. performance-based

Prescriptive	Performance-based
obsolescence	resilience
Common cause risks	Multiple, random risk causes
Compliance	Performance
Audits & inspections	Assessment, insight

In practice, a combination of prescriptive and performance based regulatory elements are present at different degrees in almost all EASA rules.

Measuring performance

Multiple ways for measuring performance:

- Qualitative Interpretation
- Actual Measurement
- Predictions
- Determination of the appropriate level of risk

"information costs" both for the regulator and regulated entities

Equity and Fairness in performance schemes

Stakeholder concerns may arise from :

- the possibility of using a variety of means of compliance,
- different “standards” being applied for accepting alternative means of compliance
- different approach & methods to define and measure safety performance
- more discretion provided to authorities for applying enforcement actions

When Implementing Performance schemes

Proper change management is needed, considering all trade-offs in terms of :

- Efficiency (cost/benefit)
- Effectiveness (to mitigate safety risks / achieve the safety objectives),
- Equity and fairness
- Clarity and transparency
- Maturity of management systems (of regulators and regulated persons)

Thank you for your attention