Regulatory
Studies Center

THE GEORGE WASHINGTON UNIVERSITY

Nudging the Nudger:
Applying Behavioral Insights to Regulators

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Introduction

Background:

- Increasing calls for regulatory interventions to address “behavioral market failures”
- Prevalent (mis)assumption that regulators are rational
- Limited research on regulators’ behavioral biases through a lens of the institutional incentives they face

Introduction

Rachlinski and Farina (2002): "[a]ttending to the influence of cognitive errors facilitates an understanding of why some governmental structures are generally successful while others persistently fail."

Sunstein (2013): "For every bias identified for individuals, there is an accompanying bias in the public sphere."

UK Behavioural Insights Team (2018): "elected and unelected government officials are themselves influenced by the same heuristics and biases that they try to address in others."

Objectives:

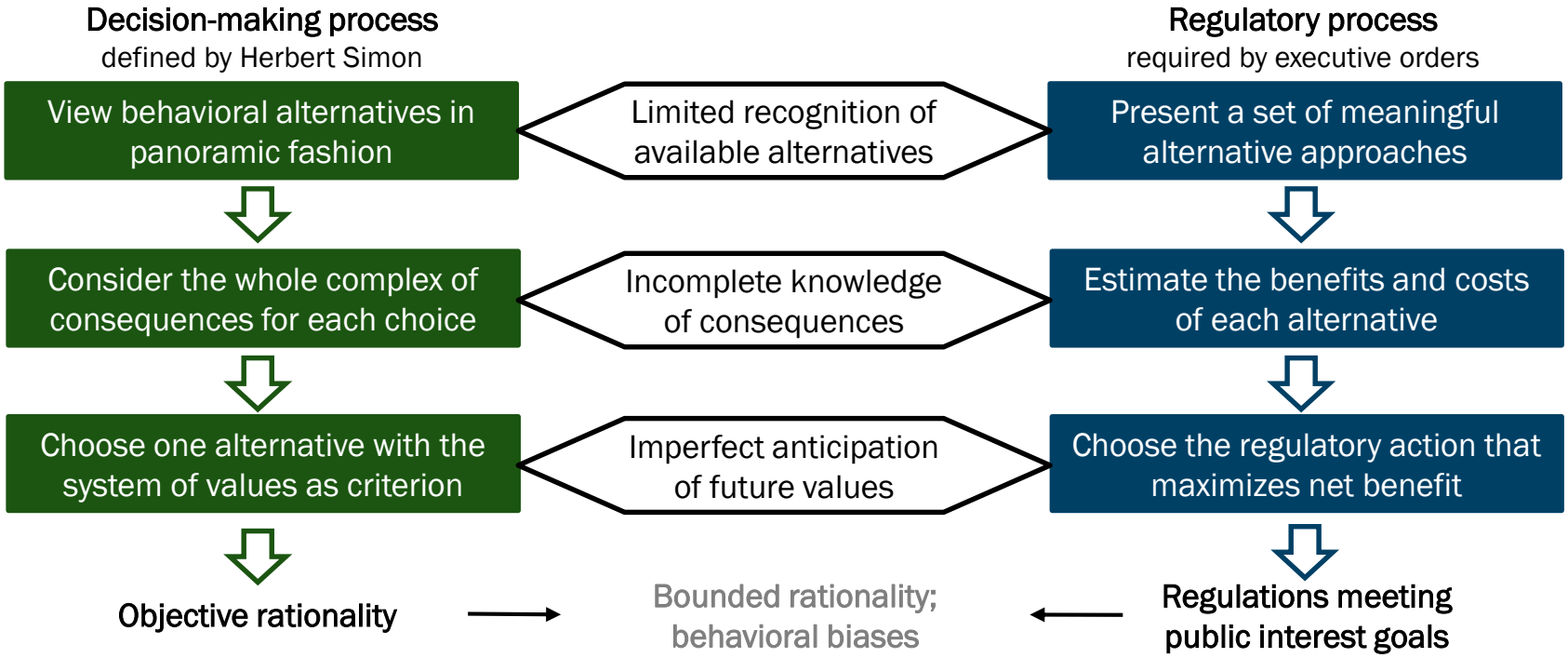
- Explore the "rationality" (or "irrationality") in the regulatory process
- Examine regulators' biases using both behavioral and institutional insights
- Suggest possible improvements in the regulatory "choice architecture"

Why Regulators?

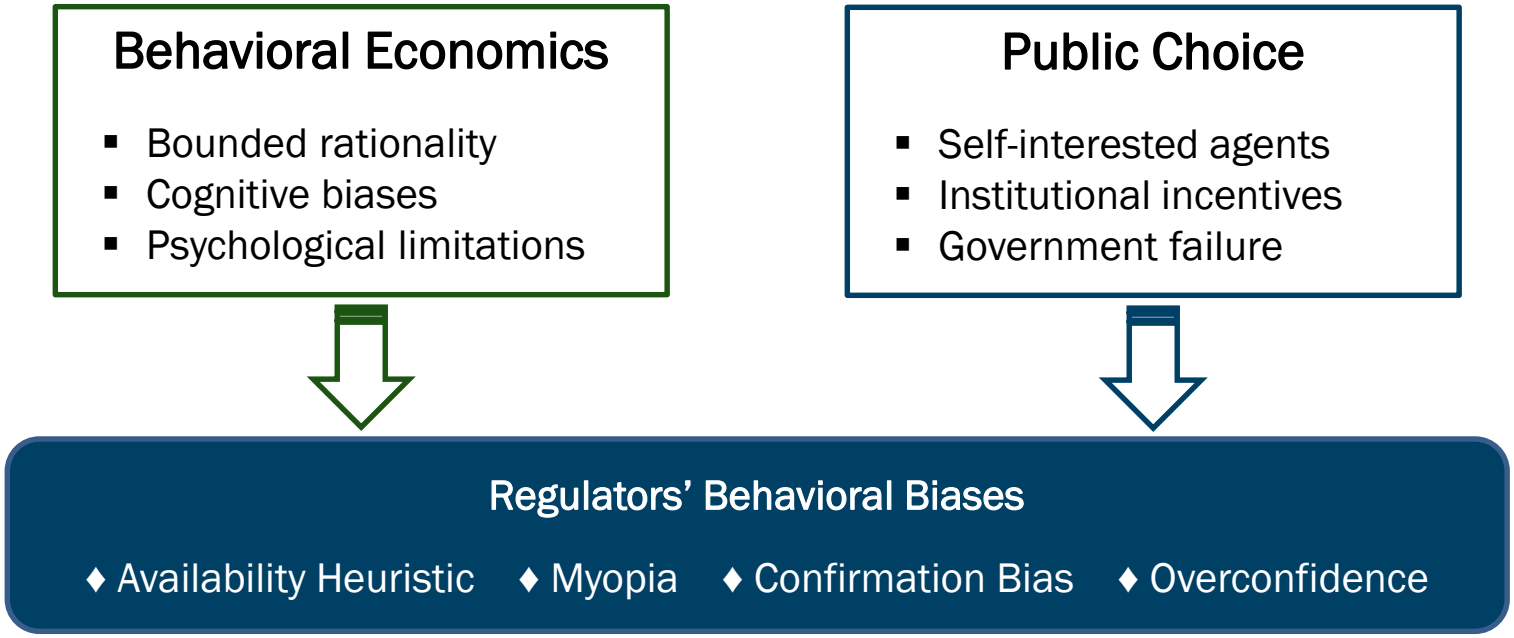
Regulators—Career civil servants involved in rulemaking in federal government agencies

- e.g., subject matter experts, economists, policy analysts, attorneys
- Different from individuals acting in the private sphere, and other public decision makers
  - Specialized knowledge and experiences
  - Institutional constraints
  - Making decisions for the public, not themselves

"Rationality" in the Regulatory Process

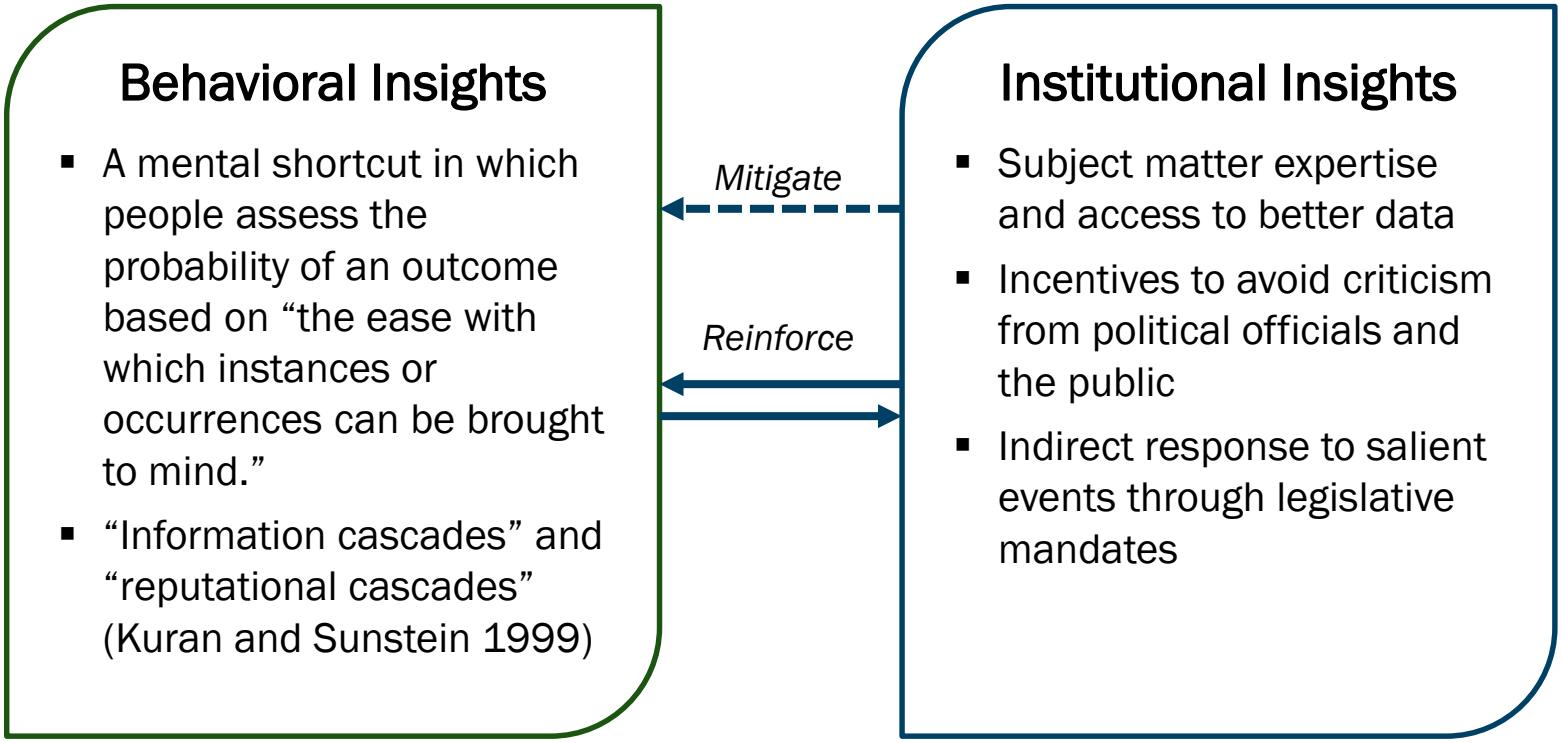


Behavioral and Institutional Insights



Availability Heuristic

Observation: Regulatory agenda responds to salient social events



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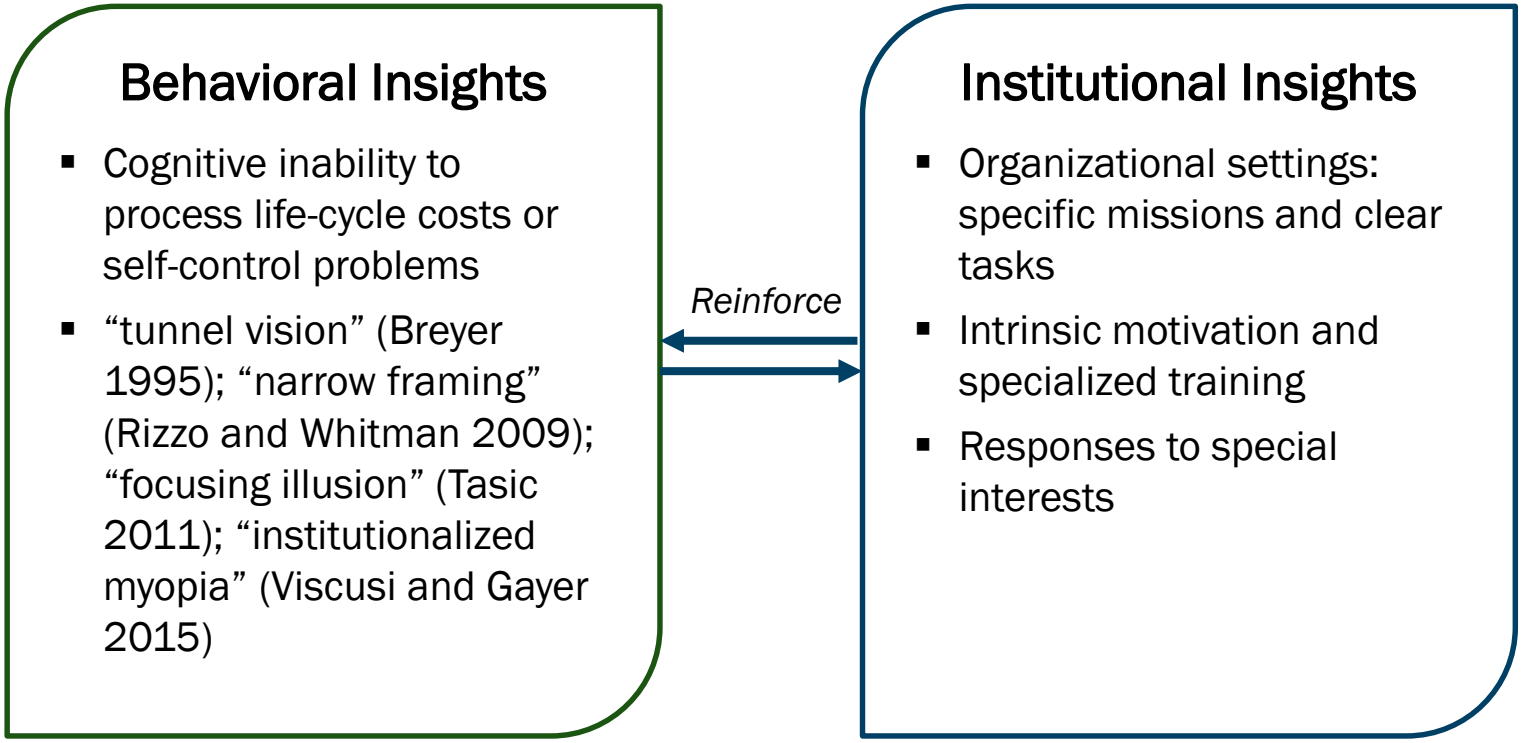
Myopia

Observation: Regulations focus on a single mission or certain aspects while ignoring others



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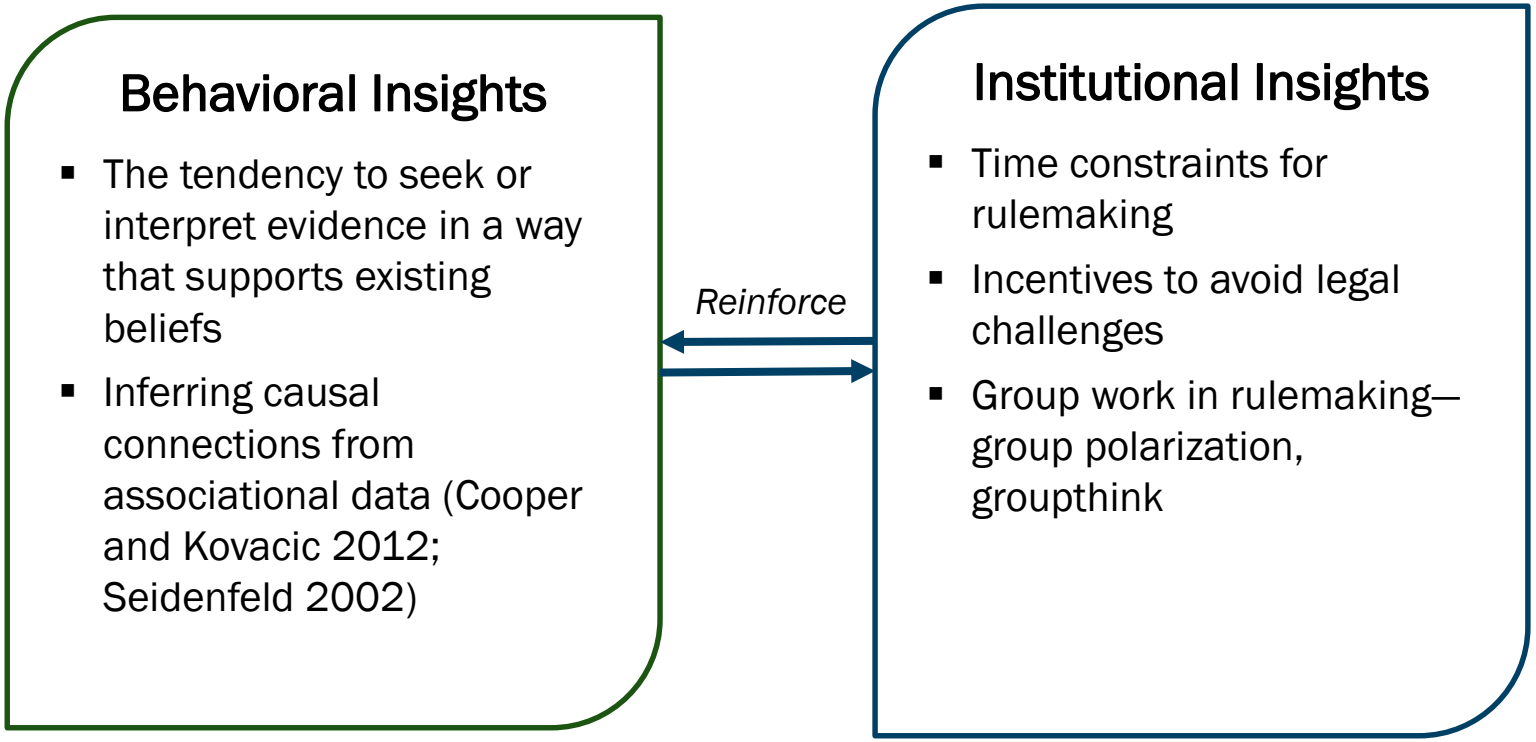
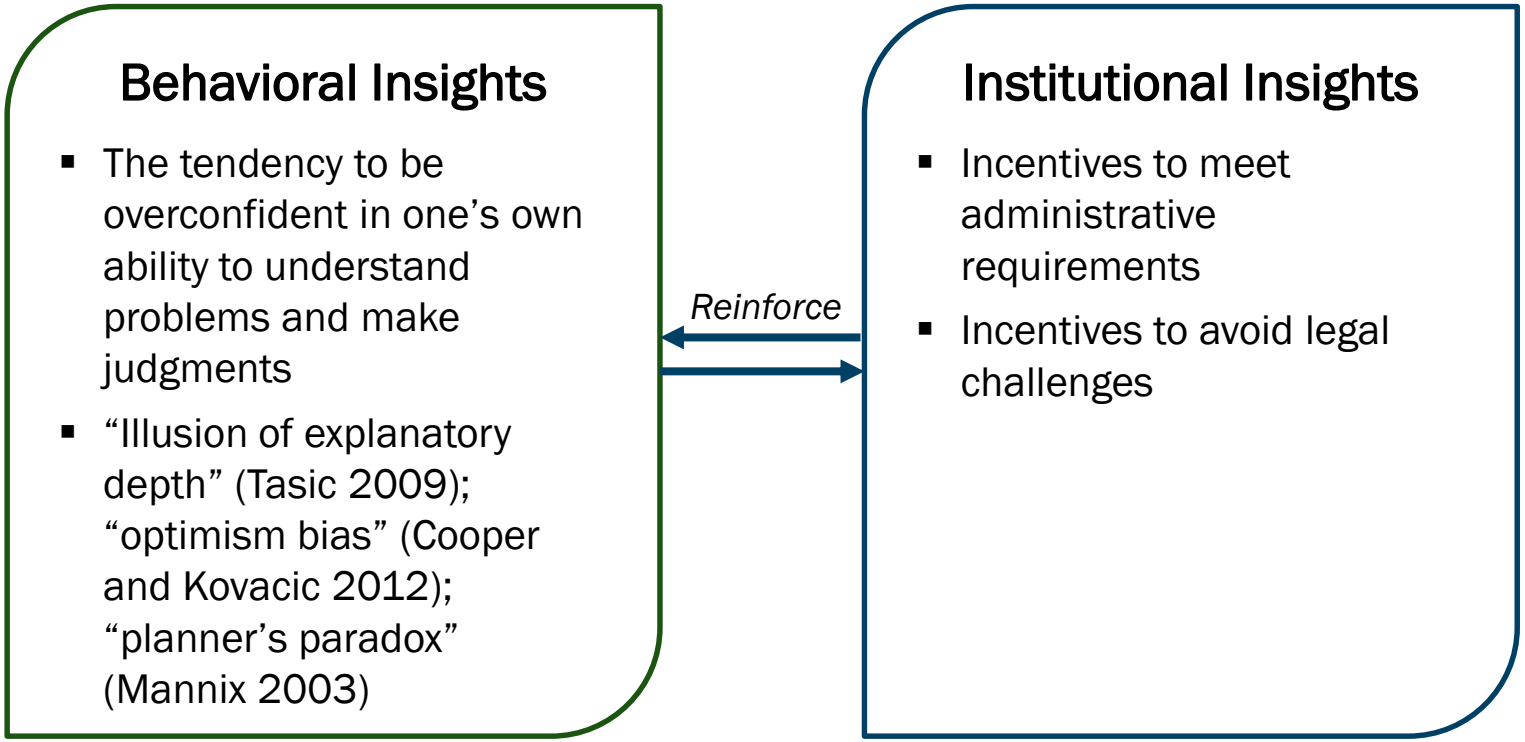
Confirmation Bias

Observation: Regulations misinterpret scientific evidence to support adopted policies



Overconfidence

Observation: Unintended consequences of regulation, over-regulation



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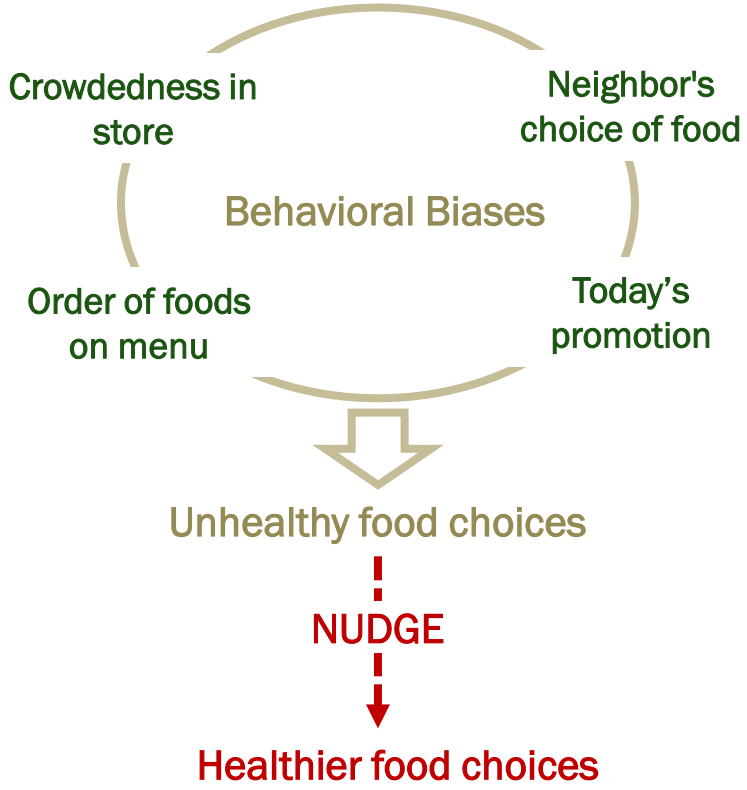
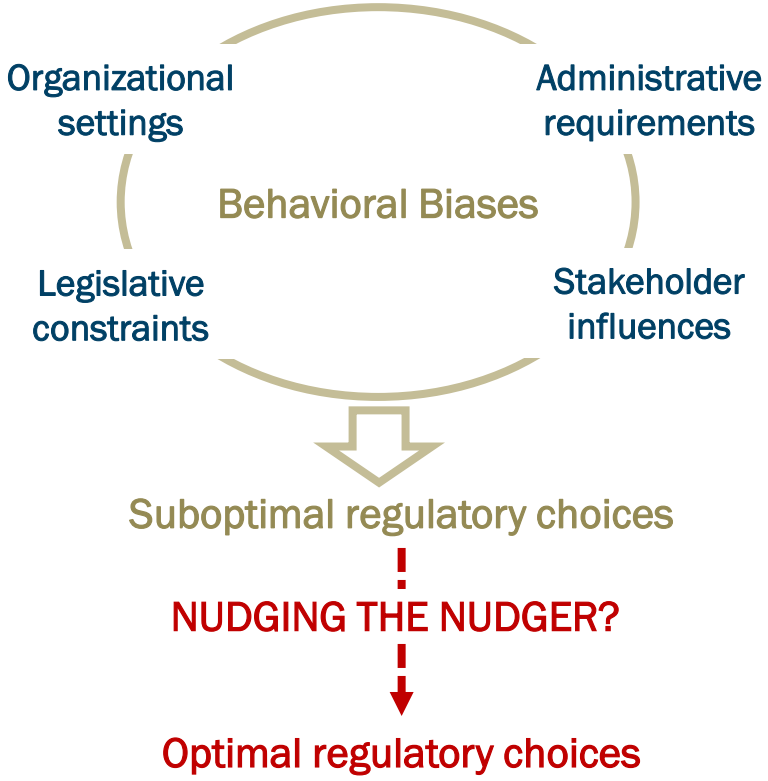
Regulators' Choice Architecture

Choice architecture—the environment in which choices are made





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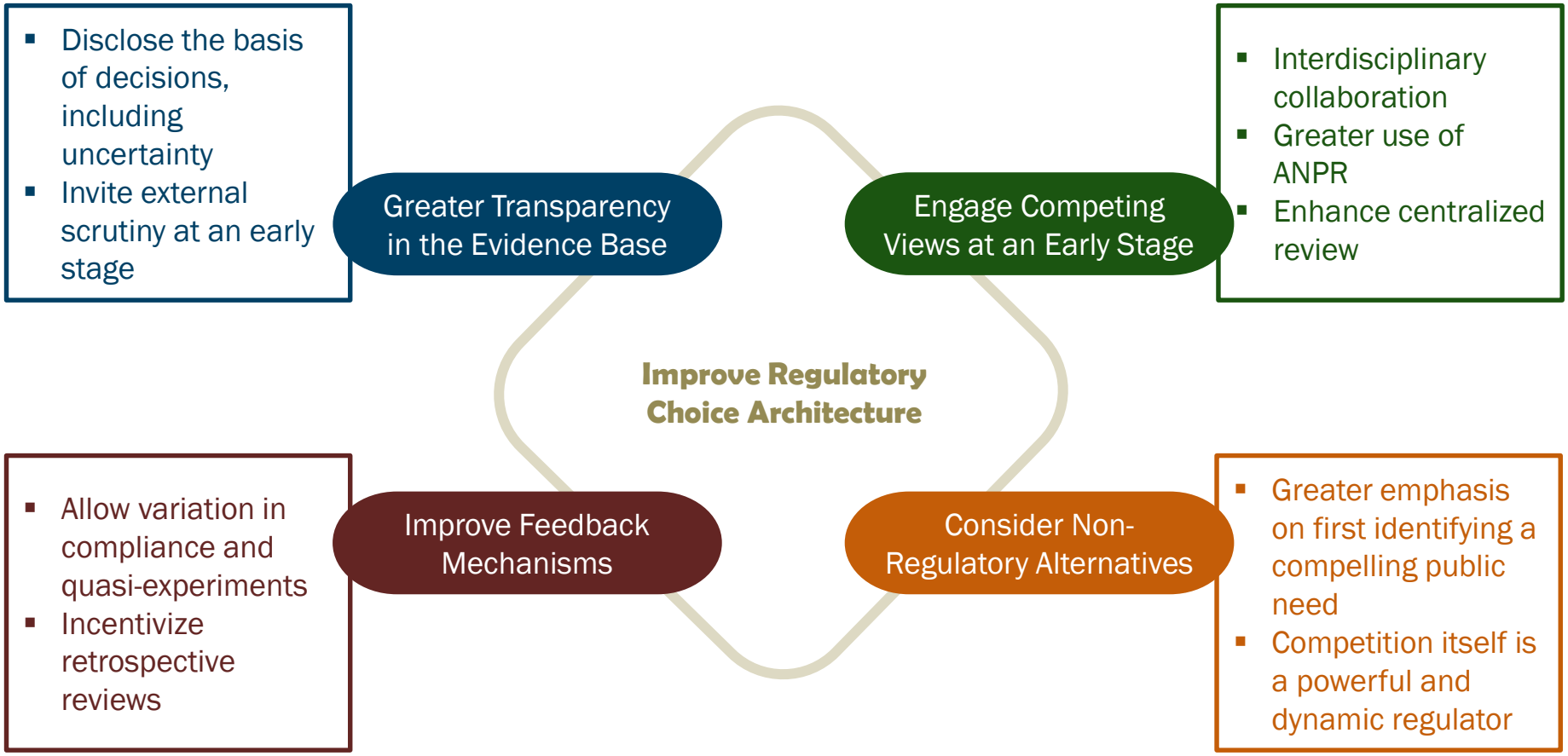

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Conclusion

- Individuals responsible for designing regulatory policy are susceptible to behavioral biases and heuristics.
- Observed regulator behaviors that appear contrary to the public interest may reflect the interaction of behavioral biases and rational regulatory responses to institutional incentives.
- Designing a choice architecture for regulatory decisions with these behavioral biases in mind could lead to better regulatory processes and outcomes.

Future Research:

- Empirical analysis on the relationship between specific institutional settings and systematic errors

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