REGULATORY IMPACT ASSESSMENT (RIA) – A "CUTS" NOTE

INTRODUCTION

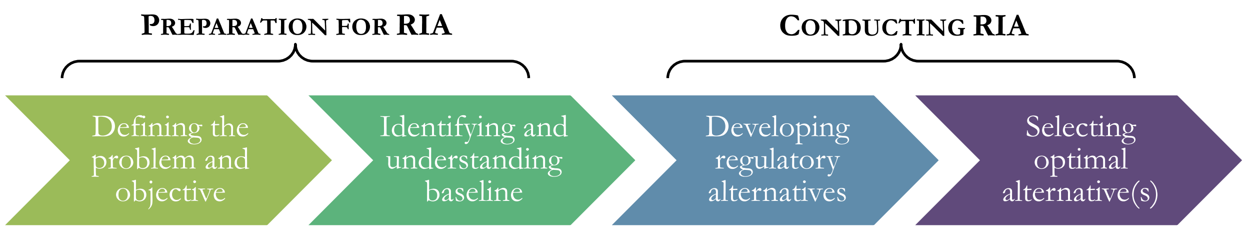
Regulatory instruments such as policies, legislations, rules, and regulations etc (regulations) have widespread impacts, which affect multiple stakeholders in different ways. Regulations tend to change behaviour of stakeholders, and thus impose additional costs. Consequently, only such regulations must be adopted which can achieve intended objectives with least possible distortions.

Moreover, sub-optimal regulations have the potential to impose superfluous costs on stakeholders, raise complexity and uncertainty associated with obligations, which must be avoided. Therefore, it is important to understand impacts of proposed and existing regulations to formulate most optimal design.

One of the systematic approaches to critically assess the impacts of proposed and existing regulations is Regulatory Impact Assessment (RIA). It is an important element of an evidence-based approach to policy making, as it essentially comprises stakeholder engagement in policy making and review.

Impacts of regulatory options are compared with 'as is' scenario on the basis of scientifically developed tools such as cost-benefits analysis, cost-effective analysis etc. and thus best possible regulatory intervention is selected.

PROCESS OF UNDERTAKING RIA



STEPS	DESCRIPTION	EXAMPLES
Defining the problem and objective	The first step in performing RIA is to clearly define the problem that the proposed regulatory intervention or amendment to existing regulation is intended to address. Problem definition sets out the objective and scope of RIA exercise, and helps in identification of stakeholders	*Problem:* Slow and low recovery of debts due to banks and financial institutions *Objective:* Improving the debt recovery process *Stakeholders:* Banks, Financial Institutions, Ministry of Finance, RBI, DRTs, DRATs, legal practitioners, etc.
Identifying and understanding the baseline	This steps involves identification and selection of relevant existing regulations/ legislations (based on the pre-defined indicators), identification of issues, understanding the costs and benefits of the as-is/ baseline scenario. In-depth literature review, **stakeholder interaction**, and analysis of relevant regulatory provisions aid in this exercise	*Regulations/ Legislations:* DRT Act and SARFAESI Act (selected based on indicators like time required for compliance, procedures/authorities involved, cost of compliance, debt recovery rate, focus on debt recovery, etc.) *Issues identified:* • Sub-optimal provisions in relation to staffing and operation of recovery tribunals • Lack of performance review and accountability provisions • Absence of provisions in relation to adequate number of recovery tribunals

STEPS	DESCRIPTION	EXAMPLES
		• Sub-optimal provisions in relation to taking over of assets • No guidance on determination of correct value of mortgaged security *Estimation of Costs:* • Opportunity cost due to delay in recovery *(up to four years)* has been estimated up to Rs. 35,000 cr. (DRT Act and SARFAESI Act) • Low debt recovery has resulted in credit risk premium of around 300 basis points, resulting in high cost of funds • Social cost of the amount of loans written off by commercial banks in last five years (i.e., Rs. 1,61,018 cr.) would have allowed 1.5 million of the children to get a full university degree
Developing regulatory alternatives	Multiple alternatives intending to achieve desired change in the baseline scenario are developed. Alternatives could be no-regulation, co-regulation, direct regulation, etc. Further, costs and benefits of the alternatives on relevant stakeholders, including government, are estimated	*Regulatory alternatives and their respective costs:* • Establishment of additional DRT/ DRAT – Rs. 63 cr. for setting up 24 additional DRTs in addition to one time infrastructure cost • Appointment of technical members in DRTs/ DRATs – Rs. 6.60 cr. per annum • Constitution of independent advisory body to recommend candidates for appointments – Rs. 20.40 lakhs per annum *Benefits:* • Improved recovery rate • Improved performance of recovery tribunals • Prevention of benefits foregone
Selection of optimal alternative	The alternatives are compared inter-se and with the baseline scenario using appropriate tool for selection of the alternative having the potential to result in greatest net benefit.	*Selection of alternatives:* • Establishment of additional alternatives • Appointments of technical members • Providing statutory timelines to DM/CMM to dispose of the case

BENEFITS OF RIA

Implementation of RIA improves overall regulatory quality, by factoring all the relevant expectations of stakeholders. Rigorous and transparent assessment of costs and benefits also increases the acceptability of regulation among stakeholders. As a result, there is greater clarity and predictability in regulatory process. This is evident from experience of the other jurisdictions from adoption of RIA.

The One-in, Two-out Policy of UK, which mandates removal of £2 of costs for imposition of £1 of costs via state-led intervention, has resulted in net reduction of £836 million in costs to business between 2010 and 2013.

Taking a cue from other jurisdictions, RIA has been recommended for India by several expert committees. These include the erstwhile Planning Commission's Working Group on Business Regulatory Framework, Financial Sector Legislative Reforms Commission, Damodaran Committee Report and the Tax Administration Reform Commission.

The Pre-Legislative Consultation Policy of the Government of India, introduced in 2014, also requires government departments to conduct partial RIA of proposed legislations. Some of the non-OECD countries like South Africa and South Korea have also started using RIA with good results.

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