FACILITATING THE ADOPTION OF REGULATORY IMPACT ASSESSMENT FRAMEWORK IN INDIA

Report of National Reference Group Meeting

October 30, 2015, Jaipur

1. Background

CUTS International is implementing a two-year (2014-16) research project on conducting regulatory impact assessment (RIA) in financial sector for generating evidence of utility of RIA, with support of British High Commission. First cycle of the project comprised RIA on debt recovery legislations, and was concluded in mid-2015.[1]

The second cycle involves RIA in insurance sector. A meeting with National Reference Group (NRG) for second cycle of the project was organised on 30 October 2015 to discuss the scope and implementation strategy for the second cycle.

2. Summary of discussions at NRG meeting

CUTS project team proposed to cover the issue of foreign investment in insurance sector in India and presented a strategy to assess the impact of delay in increase of foreign investment cap. It was also proposed that since no investments have been made so far post the increase of the limit, the impact of regulatory ambiguity and uncertainty, could be estimated and highlighted for the benefit of the policymakers in India.

The NRG observed that politically sensitive nature of the issue, changing political regimes and priorities contributed to delay in passage of the legislation. In addition, since the legislation was adopted in early 2015, it would be too soon to expect regulatory certainty and clarity in regulations. It usually takes 1-2 years for related rules and regulations to be enacted.

Further, it was highlighted that once the legislation[2] was enacted, it could be argued that regulatory failure was corrected and there was nothing more that legislators could do. The need to correctly define regulatory/ market failure being addressed by the RIA was also highlighted.

It was also pointed out that while increase in foreign investment limit was the primary issue in amending legislation, there were several secondary and non-controversial reforms in the amendment, which were not adopted, owing to delay in achieving consensus on the foreign investment issue. The opportunity cost of non-adoption of such reforms could also be estimated and highlighted. Further, it was mentioned that investments in the sector were not being made, even after increase in foreign investment cap, because of low profitability expectations on account of several operational restrictions imposed on insurers by several regulations. The same could also be analysed, as part of research. .

The NRG also suggested the project team to examine other issues in insurance sector which were closer to the consumers, like crop insurance, examine the impact of inefficient policies, and provide better suggestions.

3. Proposed way forward

Subsequent to the NRG meeting, CUTS project team met with the CUTS senior management to discuss the proposed way forward for project. The suggestions received at NRG meeting were discussed at length. In light of progress made under the project, given the time left for completion of study (05 months), suggestions received at meeting of NRG, the following way forward is being proposed for the study by the project team:

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[1] Details of the project are available at http://www.cuts-ccier.org/BHC-RIA/
[2] The Insurance (Laws) Amendment Act, 2015

1. *Problem definition* – Low foreign investment in the general and life insurance sectors. It was felt that as increase in foreign investment was not recorded even after hike in foreign investment cap, the issue was still relevant for the stakeholders (evident from the debate in media) and policy makers.

2. *Establishing causal linkage* – In order to conduct RIA, it is necessary to identify the relevant market failure or regulatory failure and establish causation between such failure and the problem. To identify key causes for low investment, key informant interviews with select stakeholders, including, foreign investors, industry chambers, experts, etc, are proposed to be conducted. Preliminary literature review and interaction with experts at NRG meeting revealed low investments in the sector could be directly linked to burdensome regulatory regime in the sector. Consequently, the interviews would be designed in a manner to identify the regulations which appear to impose maximum burden on insurers and thereby limit profitability and foreign investment in the sector. Once we are able to map the various regulations, we will prioritise a specific regulation having the potential to impose maximum burden on the industry for undertaking the RIA. *The project team will require support from the NRG members to identify and interact with relevant market players; to identify and prioritise relevant regulations for conducting RIA.*

3. *Conducting RIA* – This will involve assessing baseline, estimating costs of inefficient regulatory provisions, and consequently costs of low foreign investment in the sector on different stakeholders, including existing and potential consumers. In addition, opportunity costs of delay in adoption of remaining reforms, as provided in the insurance legislation, will be estimated. This will be followed by development of alternatives to prevailing regulations, and estimation of economic, social and other costs and benefits of such alternatives on different stakeholders, including consumers. Alternatives having the potential to result in highest net benefit will be selected. The impact of alternatives on consumers will be separately highlighted to address concerns of NRG members regarding proximity of the study to concerns of consumers.

4. *Report preparation* – Findings of the RIA exercise which will be captured in the draft research report, which will be shared with shared with members of the NRG in early March 2016, for sharing their observations and comments.

5. *Advocacy and dissemination* – A national advocacy and dissemination seminar will be conducted in March 2016 to share findings of the research and call for adoption of RIA in India. Members of NRG will be invited to participate in the advocacy and dissemination seminar.

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