Outline

- Introduction
- RIA in India
- Making RIA useful for India
Introduction
Regulatory Impact Assessment

- A systematic policy tool used to examine and measure the likely benefits, costs, and effects of new or exiting regulation, and assist decision makers in taking correct decisions. (OECD, 2008)
- A mechanism for holding regulatory agencies accountable.
- Usual structure:
  - an evaluation of the problem
  - the objective and intended effect
  - consideration of alternative options
  - assessment of all their impacts distribution
  - results of public consultation
  - compliance strategies
  - processes for monitoring and evaluation
The Case for RIA

- The standard argument for regulation:
  1. *Competitive markets* maximise social welfare by efficiently allocating resources
  2. *Market failures* hinder efficiency: market power, information asymmetry, public goods, and externalities
  3. *Regulations may* correct market failures and enhance welfare

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- The regulatory state: relatively independent agencies with extensive powers.
- Problems of under-regulation, over-regulation, delay or haste.
- RIA can help improve efficiency by embedding a comprehensive assessment of impact in the making and review of laws/regulations.
The Case for RIA

- Helps answer the question: Is the law/regulation desirable?
  1. Benefits of the proposed regulation outweigh its costs to the society
  2. A proposed law/regulation is better than alternative solutions for a given problem
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  *Such analysis does not come naturally to humans.*
The Case for RIA

- We should be wary of any individual’s ability to reason, especially about public policy

Confirmation bias: we are good at finding evidence to support the position we intuitively hold (Haidt, 2012)

High bar for accepting evidence that goes against our intuitive views, but happy to accept even weak evidence to support what we believe.

In moral and political matters, we are particularly amenable to group think. Power makes good reasoning less likely to happen.

RIA can help overcome behavioral/cognitive biases: confirmation bias, availability heuristic, optimism bias, hindsight bias.
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FSLRC recommendations

- Section 52 of draft Indian Financial Code:
  - Draft regulations must be accompanied by an analysis of costs and benefits
  - As the proposals undergo changes, the analysis should be updated

- Section 53: Cost benefit analysis not required for emergency regulation-making

- Section 54: Consider costs and benefits for all affected stakeholders, and use best available data and best scientific method
Committee recommendations

- Committee for Reforming the Regulatory Environment for Doing Business in India (2013): A regulatory impact assessment of every proposed regulation should precede the public consultation process.

- Ajay Shankar Committee: Regulatory impact assessment with analysis of direct and indirect costs and benefits, conducted by a Standing Expert Committee
Making RIA useful for India
Effectiveness of RIA

- Potential uses and abuses of RIA
  - **Exploratory**: seek the truth and solve a problem
  - **Confirmatory**: provide evidence for a given conclusion
  - **Reputational**: signal credibility by conducting RIA in name only

- Specific use depends on the context
- Odds are against *exploratory use*
  - Human nature
  - Institutional design
  - Political economy
  - Weak external accountability mechanisms

*These are problems to solve*
Political vs. Technical Issues

- RIA methodologies are based on certain implicit moral philosophies
Making RIA useful for India

Political vs. Technical Issues

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- What should be
  - given in the primary law?
  - prescribed by the government?
  - decided by the regulator?

Examples:
- weightage of impact on low-income households
- inter-generational equity

Most of the existing models leave too much to the experts.
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Institutional Design of Agencies

- Board/commission structure Vs. all-powerful Chairperson (e.g. RBI Governor)

Emphasis on diversity of boards/commission, with at least a few non-experts

Emphasis on consensus, with possibility of majority decision-making - force them to reason (e.g. Jury)

Mandatory, transparent consultation process around RIA

Regulation-making process to be structured around RIA (not just delegated to staff)

Investment in information collection and research systems, and enable information sharing across agencies
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## Institutional Environment and Political Economy

<table>
<thead>
<tr>
<th>Description</th>
<th>Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>A dominant interest group hostile to agency’s goals</td>
<td>Central Drugs Standard Control Organization</td>
</tr>
<tr>
<td>Two or more rival interest groups in conflict over agency’s goals</td>
<td>AERA, TAMP</td>
</tr>
<tr>
<td>A dominant interest group favoring agency’s goals</td>
<td>ICAI, ICSI</td>
</tr>
<tr>
<td>No important interest groups</td>
<td>CCI</td>
</tr>
</tbody>
</table>
External accountability

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- Judiciary has occupied the space for accountability - this is far from ideal
- Civil society consumer groups are weak, but this may be changing (eg. net neutrality)
- Limited policy-relevant academic research in India
Introducing RIA in India

Allies:

- politicians interested in holding bureaucrats accountable
- businesses worried about ease of doing business
- bureaucrats keen to assert intellectual independence and enhance credibility
- consumers worried about under-regulation.
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- Primary laws must start mandating RIAs
- Modest beginning, and then gradual build-up of capacity and quality
- Mechanism for independent review of RIAs?
Thank you.