



## INITIATIVES ON REGULATORY IMPACT ASSESSMENT IN INDIA: RESEARCH, CAPACITY BUILDING AND ADVOCACY

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### 1. Introduction

1.1. During the last few years, CUTS International<sup>1</sup> has conducted regulatory impact assessment (RIA) exercises on several proposed and existing regulations in key economic sectors in India. The sectors include urban mobility, banking, insurance, electricity, and micro, small and medium enterprises (MSME) sector. In the process, it has gained unparalleled expertise in nuances of RIA and its implementation in an emerging economy like India, which has its unique challenges in terms of limited data availability, stakeholder discomfort in sharing relevant information, among others.

1.2. The objective behind conducting RIA exercises was to generate evidence of utility of RIA and raise awareness about benefits of RIA within the policy making community and regulatory agencies. In addition, CUTS International has undertaken several advocacy and capacity building initiatives on RIA, which has attracted participation from several government and expert agencies. Further, dedicated advocacy and capacity building programmes on RIA have been organised for the Government of Rajasthan and telecom regulator, the Telecom Regulatory Authority of India.<sup>2</sup>

1.3. The Government of India recently constituted an expert group entitled: Better Regulation Advisory Group (BRAG), with CUTS International as one of its members. Among other things, the BRAG is expected to suggest mechanism to adopt and institutionalise RIA in India, based on experience of other countries.<sup>3</sup>

1.4. The sections below provide a brief overview of RIA exercises undertaken by CUTS International, including regulations assessed, methodology adopted, findings and recommendations.

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<sup>1</sup> [www.cuts-international.org](http://www.cuts-international.org)

<sup>2</sup> Details of RIA initiatives of CUTS is available at <http://cuts-ccier.org/ria/>

<sup>3</sup> <http://pib.nic.in/newsite/PrintRelease.aspx?relid=176264>

# RESEARCH

## A. RIA in urban mobility sector<sup>4</sup>

### 1. Background

1.1. Innovation in urban mobility has benefitted all stakeholders. However, regulators are struggling to achieve optimal regulatory framework for such innovation.

1.2. In order to regulate licensing of taxis linked with app based aggregators, the Government of Maharashtra issued Maharashtra City Taxi Rules, 2017 (Rules).

### 2. Objective

2.1. The objective of the exercise was to assess if costs of select Rules outweighed benefits and if the Rules are likely to achieve their objectives. In addition, broad recommendations to reduce the costs and improve the benefits of select Rules were provided.

2.2. Rules relating to minimum engine capacity, fleet composition, fuel type, permit fee, Public Service Vehicle (PSV) Badge, and colouring of vehicles, were selected to assess impact on key stakeholders such as consumers, drivers, aggregators, and government.

### 3. Methodology and activities

3.1. The cost-benefit analysis tool was utilised to estimate, quantify and monetise the impact of select provisions of Rules. This involved direct in-person interactions with 1,000 consumers and 1,000 taxi drivers in the Mumbai Metropolitan Area.

3.2. Interactions were also conducted with representatives of government, experts, drivers of city taxis, taxi unions, consumer organisations, think tanks and experts. Review of existing literature on regulation in urban mobility and regulatory approaches adopted in other jurisdictions were studied to recommend amendments to the Rules. Outreach and advocacy activities are being conducted in Mumbai and Delhi to discuss findings and recommendations of the project, and regulatory approach in urban mobility sector.

### 4. Findings and recommendations

4.1. None of the select Rules are likely to have net positive impact on stakeholders taken together. While some Rules may achieve the desired objective, this would be at a prohibitively high cost.

4.2. The cost of daily commute for the consumers may increase up to 40 percent and the daily cost to taxi drivers may increase up to 93 percent.

4.3. Recommendations included: rationalising minimum engine capacity requirement; removing fleet composition requirement; reforming the permit scheme; regulating emission standards, not fuel type, and doing away with colour standardisation requirement. Rationalising regulatory framework for incumbents was also suggested.

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<sup>4</sup> [http://www.cuts-ccier.org/RIA\\_Maha\\_City\\_Taxi\\_Rules\\_2017/](http://www.cuts-ccier.org/RIA_Maha_City_Taxi_Rules_2017/)

## **B. RIA in MSME sector<sup>5</sup>**

### **1. Background**

1.1. The MSME sector is lifeline of the country as a significant majority of enterprises in the country fall in this category. However, MSMEs are required to bear a disproportionately higher burden of regulations. To promote ease of doing business for MSMEs, several state governments are amending their respective legislations relating to shops and establishments.

1.2. The Government of Rajasthan is planning to introduce amendments to the Rajasthan Shops and Commercial Establishments Act, 1958 (Act). These amendments relate to, among other things, online registration, deemed approval, electronic maintenance of records and registers, extra wages for overtime work, employment of women at night.

1.3. With support from the World Bank group, CUTS International has conducted a limited cost-benefit analysis exercise on the proposed amendments to the Rules.

### **2. Objective**

2.1. Whet the appetite of policy makers and regulatory agencies about benefit of regulatory impact assessment and promote conducting RIA on regulatory proposals in future.

2.2. Assess if proposed amendments are likely to achieve desired objective at least cost and provide broad recommendations to improve the proposed amendments.

### **3. Methodology and activities**

3.1. The cost-effective analysis tool was used to assess impact of relevant provisions of the Act and change in such impact if the proposed amendments come into force. Standard cost methodology was used to assess the compliance and administration cost.

3.2. In-depth interactions with close to 115 stakeholders from different locations in Rajasthan was carried out. Stakeholders included establishments, intermediaries, government, employees, experts. Also, review of literature on similar reforms undertaken in other jurisdictions. Broad recommendations aimed at reduction of costs of proposed amendments were made.

3.3. Advocacy activities are being planned to generate awareness about RIA.

### **4. Findings and recommendations**

4.1. The total cost incurred by an establishment is likely to increase by around 14 percent, should the proposed amendments come into force. Most of this increase is on account of substantial increase in maximum penalties. Disregarding such increase, the cost to government is likely to rise by around 79 percent.

4.2. Recommendations include doing away with registration fees, reducing the registration deadline from 30 days to 15 days, use of electronic copies as evidence, etc.

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<sup>5</sup> [http://www.cuts-ccier.org/RIA\\_RajSCE1958/](http://www.cuts-ccier.org/RIA_RajSCE1958/)

## **C. RIA in banking sector<sup>6</sup>**

### **1. Background**

1.1. The banking sector had been reeling under high non-performing assets (NPAs) and the recovery of debts had nosedived, owing to weaknesses in borrower interface.

1.2. In order to ensure speedy recovery of debts and adequately empower lenders, the Government of India had adopted legislations like Recovery of Debts due to Banks and Financial Institutions Act, 1993 (DRT Act) and Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Securitisation Act).

1.3. There was a need to assess if these legislations had achieved their objectives. Consequently, CUTS International undertook an RIA of DRT Act and Securitisation Act with support from British High Commission.

### **2. Objectives**

2.1. Highlighting deficiencies in the existing debt recovery legislations thereby generating evidence of adoption of RIA and enhanced stakeholder consultation.

2.2. Providing regulatory alternatives to address the situation and estimating costs and benefits of the recommendations.

### **3. Methodology and activities**

3.1. Data on matters pending under the Acts at DRTs based in Chandigarh, Delhi, Ernakulum, Hyderabad, Jabalpur, Jaipur, Lucknow, Pune, etc. were reviewed. Also, data of matters pending with the Debt Recovery Appellate Tribunals based in Chennai was analysed. Also, in-depth consultations with lenders, borrowers, experts, professionals involved were carried out.

3.2. Advocacy and capacity building initiatives were undertaken to generate awareness about RIA, its utility and generating demand for adoption of RIA in India.

### **4. Findings and recommendations**

4.1. The average time period for recovery of every INR 100 crore due at DRTs was estimated to be around 25 months, resulting in opportunity cost of around INR 6 crore.

4.2. Recommendations included upward revision of threshold of filing of applications, establishment of 24 new DRTs, provision of technical members, statutory penalties in case of unjustifiable challenge of action under Securitisation Act, among others.

4.3. The initial cumulative cost of all the recommendations put together was estimated to be around INR 100 crore, in addition to indirect, infrastructure, management, administration, training and capacity building costs on stakeholders. However, the costs of recommendations under the report are expected to be outweighed by the benefits.

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<sup>6</sup> <http://www.cuts-ccier.org/BHC-RIA/>

## **D. RIA in insurance sector<sup>7</sup>**

### **1. Background**

1.1. The insurance sector has failed to attract investments while insurance penetration remaining abysmally low in the sector. The regulators have attempted to regulate investment in insurance companies, expenditure by insurance companies and retention of consumers.

1.2. A need to assess impact of such initiatives was felt, while also suggesting recommendations to improve the regulatory framework. Consequently, a regulatory impact assessment exercise was implemented with support from British High Commission.

### **2. Objectives**

2.1. Highlighting deficiencies in the existing regulations pertaining to investment and penetration of insurance, thereby generating evidence of adoption of RIA and enhanced stakeholder consultation.

2.2. Providing regulatory alternatives to address the situation and estimating costs and benefits of the recommendations.

### **3. Methodology and activities**

3.1. Data of several insurance companies with respect to commission payouts, operating expenses, persistency ratios, consistency ratios, surrender payouts, was collected, tabulated, compared and analysed.

3.2. Interaction with stakeholders and experts, and literature of review was also carried out to understand the baseline scenario, estimate impact and design regulatory alternatives.

3.3. Advocacy and capacity building initiatives were undertaken to generate awareness about RIA, its utility and generating demand for adoption of RIA in India.

### **4. Findings and recommendations**

4.1. It was found that sub optimal regulatory scenario with respect to investments in life insurance sector is delaying potential investments. In addition, persistency rate in insurance products is less than 50 percent while complaints of unfair business practice comprise more than 50 percent of the total complaints received by life insurance companies.

4.2. Recommendations include improved and comparative disclosure of similar products; checking surrender and mis-selling of policies rather than regulating commission; and establishment of single window clearance system for regulatory approvals.

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<sup>7</sup> <http://www.cuts-ccier.org/BHC-RIA/>

## **E. RIA in electricity generation sector<sup>8</sup>**

### **1. Background**

1.1. Optimal electricity generation is crucial for industrial development and consumer welfare. One of the key reasons for limited number of electricity generation plants was delays involved in the grant of environment clearance and forest clearance process.

1.2. CUTS International, with support from Asian Development Bank, conducted RIA of Environment Impact Assessment Notification, 2006, with respect to coal based power plans in Rajasthan. Similarly, RIA was conducted on Forest Clearance Rules, 2003, with respect to hydel based power plants in Rajasthan.

### **2. Objectives**

2.1. Assessing the costs imposed on power producers and consumers owing to inefficient environment clearance process and forest clearance process.

2.2. Suggesting recommendations to reduce costs involved in establishment of power plants and improving the environment and forest clearance process.

### **3. Methodology and activities**

3.1. Data of 11 coal based power plants based in Rajasthan which were involved in the process of obtaining environment clearances up to five years preceding to the study was collected, and analysed to ascertain impact of environment clearance process.

3.2. Similarly, data of 81 hydro based power plants based in Himachal Pradesh which were involved in the process of obtaining forest clearances up to five years preceding to the study was collected, and analysed to ascertain impact of environment clearance process.

3.3. Advocacy and outreach activities were carried out to generate awareness about findings.

### **4. Findings and recommendations**

4.1. During the five years preceding the study, around 70 percent of the environment clearances granted to coal based power plants in Rajasthan, did not meet the statutory time period, as prescribed in the EIA Notification, causing delay in commissioning of power plants. Key reasons for delay include inefficient EIA consultants, absence of public engagement in decision making, abuse of discretion, limited regulatory capacity. Recommendations included regulation and supervision of EIA consultants, and public consultation throughout the clearance process.

4.2. The study estimated a notional loss of up to Rs 8 lakh/hour for delay in decision-making on forest clearance applications. To address such deficiencies, recommendations were focused on improving accountability of government departments, improving transparency, and resolving conflicts.

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<sup>8</sup> <http://www.cuts-ccier.org/ADB-RIA/>

# CAPACITY BUILDING & ADVOCACY

## A. Capacity building initiatives

1. Two training programmes on RIA for TRAI officials<sup>9</sup>
2. A five-day training programme on RIA for relevant stakeholders<sup>10</sup>
3. A session on RIA during a training programme for South Asia Forum for Infrastructure Regulators<sup>11</sup>
4. A session for Government of Rajasthan on regulatory reforms

## B. Training materials

1. Two briefing papers on RIA<sup>12</sup>
2. A brochure on RIA<sup>13</sup>

## C. Advocacy

1. Three seminars on Integrating RIA in law-making in India<sup>14</sup>
2. A session on RIA during the State level consultation seminar on Indian Financial Code<sup>15</sup>

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<sup>9</sup> [http://www.cuts-ccier.org/Event-2Days\\_training\\_programme\\_on\\_RIA\\_for\\_TRAI\\_officials-Apr16-2018.htm](http://www.cuts-ccier.org/Event-2Days_training_programme_on_RIA_for_TRAI_officials-Apr16-2018.htm) and [http://www.cuts-ccier.org/BHC-RIA/event-Training\\_Programme\\_on-Regulatory\\_Impact\\_Assessment\\_\(RIA\).html](http://www.cuts-ccier.org/BHC-RIA/event-Training_Programme_on-Regulatory_Impact_Assessment_(RIA).html)

<sup>10</sup> [http://www.cuts-ccier.org/BHC-RIA/event-Training\\_Programme\\_on-Regulatory\\_Impact\\_Assessment.html](http://www.cuts-ccier.org/BHC-RIA/event-Training_Programme_on-Regulatory_Impact_Assessment.html)

<sup>11</sup> <http://cuts-ccier.org/safir/index.htm>

<sup>12</sup> [http://www.cuts-ccier.org/BHC-RIA/pdf/Publications-Consolidated\\_Briefing\\_Papert.pdf](http://www.cuts-ccier.org/BHC-RIA/pdf/Publications-Consolidated_Briefing_Papert.pdf) and [http://www.cuts-ccier.org/BHC-RIA/pdf/Draft\\_Briefing\\_Paper\\_on\\_RIA-What\\_Why\\_and\\_How.pdf](http://www.cuts-ccier.org/BHC-RIA/pdf/Draft_Briefing_Paper_on_RIA-What_Why_and_How.pdf)

<sup>13</sup> [http://www.cuts-ccier.org/BHC-RIA/pdf/Brochure-Promoting\\_Regulatory\\_Impact\\_Assessment\\_for\\_Better\\_Regulation.pdf](http://www.cuts-ccier.org/BHC-RIA/pdf/Brochure-Promoting_Regulatory_Impact_Assessment_for_Better_Regulation.pdf)

<sup>14</sup> [http://www.cuts-ccier.org/BHC-RIA/event-Seminar\\_on-Integrating\\_Regulatory\\_Impact\\_Assessment\\_in\\_law-making\\_in\\_India.html](http://www.cuts-ccier.org/BHC-RIA/event-Seminar_on-Integrating_Regulatory_Impact_Assessment_in_law-making_in_India.html) and [http://www.cuts-ccier.org/BHC-RIA/event-Seminar\\_on\\_Regulatory\\_Impact\\_Assessment-RIA.html](http://www.cuts-ccier.org/BHC-RIA/event-Seminar_on_Regulatory_Impact_Assessment-RIA.html) and [http://www.cuts-ccier.org/BHC-RIA/event-National\\_Advocacy\\_Seminar\\_on-Regulatory\\_Impact\\_Assessment\\_\(RIA\)\\_in\\_India\\_Need\\_and\\_Importance.html](http://www.cuts-ccier.org/BHC-RIA/event-National_Advocacy_Seminar_on-Regulatory_Impact_Assessment_(RIA)_in_India_Need_and_Importance.html)

<sup>15</sup> [http://www.cuts-ccier.org/BHC-RIA/event-State\\_Level\\_Consultation\\_Seminar\\_on\\_Indian\\_Financial\\_Code.html](http://www.cuts-ccier.org/BHC-RIA/event-State_Level_Consultation_Seminar_on_Indian_Financial_Code.html)