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Promoting inclusive growth through better regulation: The role of regulatory impact assessment

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OECD REGULATORY POLICY WORKING PAPERS

PROMOTING INCLUSIVE GROWTH THROUGH BETTER REGULATION:

THE ROLE OF REGULATORY IMPACT ASSESSMENT

Rex Deighton-Smith*, Angelo Erbacci[+] and Céline Kauffmann[+]

JEL Classification: K2, K4, H11, I38

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PROMOTING INCLUSIVE GROWTH THROUGH BETTER REGULATION: THE ROLE OF REGULATORY IMPACT ASSESSMENT

By Rex Deighton-Smith*, Angelo Erbacci[+] and Céline Kauffmann[+]

ABSTRACT

Regulatory Impact Assessment (RIA) is a critical tool in the hands of governments to ensure that regulation achieves its objectives. Inclusive growth has become an important objective of the political agenda of OECD countries. This paper examines the potential contribution of RIA to better incorporating the inclusive growth perspective in regulatory decision-making. It does this by reviewing current RIA policies and guidance documents in a range of OECD countries, by reviewing the literature on the use of RIA to address social and environmental issues and by sampling a number of recent RIA from leading countries. Building on the available evidence, the paper proposes a number of principles and considerations for decision-makers to design appropriate systems and mechanisms for addressing inclusive growth in RIA.

JEL Classification: K2, K4, H11, I38

Key words: inclusive growth, regulatory policy, better regulation, regulatory impact assessment (RIA), social welfare, social impacts, environmental impacts, distributional impacts, evaluation

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INTRODUCTION: OBJECTIVES AND RATIONALE

The background

The OECD has, since 2011, identified the need for a focus on *inclusive growth* in member countries and beyond as a key requirement in achieving its mission statement of promoting "Better Policies for Better Lives". Going beyond "pro-growth" policies to "inclusive growth" outcomes requires a shift in economic thinking whereby improving societal wellbeing, rather than simply material living standards, is the ultimate objective of policy making. Broader measures of performance must be adopted, including the extent of access to, and the quality of, education, health and jobs. Various OECD publications, including "*The Governance of Inclusive Growth"* (OECD, 2015a) and *"All on Board: Policies for Inclusive Growth and Jobs*" (OECD, 2014), have underlined the ambitious economic, institutional and political change needed to address rising inequalities. One aspect of this is that the distributional consequences of policy interventions should be understood when assessing the effectiveness of policies in meeting societal objectives.

Together with spending and taxing, regulating is one of the key policy tools available to governments to promote social welfare and economic prosperity. The OECD Regulatory Policy Outlook (OECD, 2015b) argues that there is scope for more systematic consideration by countries of the opportunities provided by regulatory policy to promote inclusive growth. If applied systematically, the key principles and tools of regulatory policy can help to make explicit the broader consequences of regulatory decisions and the potential trade-offs across various dimensions of inclusive growth. For example, they can ensure the voices of regulated groups and other stakeholders are heard during rule-making, thus helping to identify how particular regulations affect specific groups and point to areas in which corrective actions may be needed. Thus, the application of regulatory policy principles can help to ensure the effectiveness and efficiency of regulation in achieving the inclusive growth objective.

However, evidence shows that the potential of regulatory policy in this regard remains largely untapped and that, despite progress, countries still struggle to ensure that inclusive growth issues are consistently and systematically addressed as part of the regulation-making process. This paper focuses on the potential of one key regulatory tool – Regulatory Impact Analysis (RIA) – to help integrate inclusive growth issues into regulatory decision-making. Its approach involves firstly reviewing the background to the adoption of the inclusive growth agenda and its key objectives, then considering the potential of RIA to contribute to the achievement of these objectives at a theoretical level. It then proceeds to analyse data on current efforts to integrate inclusive growth-related considerations into RIA processes in a range of OECD member countries and, based on this analysis and a review of previous research on these issues, identifies principles and practices that can help countries to better use this tool in future to promote inclusive growth.

What is inclusive growth?

The OECD definition

OECD (2013) defines inclusive growth as "economic growth that creates opportunity for all segments of the population and distributes the dividends of increased prosperity, both in monetary and non-monetary terms, fairly across society". The concept of inclusive growth is predicated on the view that economic growth is a necessary but not sufficient condition for improving social well-being over time. This, in turn, reflects the view that the concept of well-being goes beyond income levels and also includes access to high quality healthcare, education and employment as a critical driver of equal

opportunity and inclusion. The inclusive growth concept implies that economic policy should have regard to both growth *per se* and its distribution. A key insight underlying the inclusive growth concept is that, if the benefits of growth are poorly distributed, there will be negative implications for future growth rates. Thus, economic growth rates and the equity performance of societies are positively correlated.

OECD (2013) proposes a set of monetary and non-monetary determinants of inclusive growth, including income and wealth, jobs, skills and education, health status, environmental quality, personal security, infrastructure and housing. The concept of inclusive growth therefore has a *multidimensional* nature. However, addressing these various dimensions as part of the policy process entails several challenges, including the need to address possible trade-offs between different dimensions.

The relevance of inclusive growth

From an equity perspective, the focus on inclusive growth is a response to the observation of significantly widening degrees of income inequality across most OECD countries in recent decades. OECD research (2014) has found that the average income of the richest 10% of society is now 9.5 times that of the poorest 10% across the OECD membership as a whole, compared with 7 times that of the poorest 10% 25 years ago.[1] Moreover, the size of the gap has widened at a more rapid rate since the global financial crisis. This widening of income differentials represents a reversal of previous trends and is widely regarded as a negative socio-economic trend, particularly in the light of the increases in relative poverty that have accompanied it. Recent research by the OECD and other bodies has also highlighted the fact that income inequality is associated with inequality of access to key elements of social participation, such as jobs and education, and with increasing disparities in health outcomes between income groups.

Although there is still debate in the literature, evidence is increasingly pointing towards a negative impact of income inequality on growth performance. For example, a recent IMF-published paper (Dabla-Norris et al., 2015) concludes that income distribution affects growth performance, with increasing inequality reducing growth rates over the medium term. The authors argue that "The poor and the middle class matter the most for growth via a number of interrelated economic, social and political channels." They also cite previous IMF research establishing that income inequality negatively affects growth and its sustainability. In seeking to clarify the nature of this interaction, the OECD has argued that:

> "… inequality of opportunity can be particularly damaging when it locks in privilege and exclusion, which undermines intergenerational social mobility. Inequality is particularly likely to undermine growth if the income of the lower and middle-classes fall behind the rest – as it has in several OECD countries" (OECD, 2014).

Thus, governments must ensure that policies promote access to the key factors that determine social inclusion and mobility (notably including jobs, education and healthcare) if exclusion from these key quality of life determinants is not to yield negative impacts on overall growth.

The OECD efforts on inclusive growth

The OECD has developed several lines of work in relation to inclusive growth: *i)* work on well-being, notably the Better Life Index (OECD, 2011a); *ii)* work on income inequality and poverty (OECD, 2015c); *iii)* work on the effects of pro-growth policy reforms on income distribution (OECD,

1. These estimates represent differentials in "net" income, i.e. those which remain after taxes and welfare transfers have been taken into account.

2015d; Causa et al., 2015 and 2014) and *iv)* work on the governance of inclusive growth (OECD, 2015a). These streams of work emphasise the need to take into account a broader range of growth and quality of life determinants than those traditionally covered via the standard economic measures of income and wealth, in order to obtain more robust measures of societal well-being and, consequently, a better understanding of the effectiveness of policy. In particular, the OECD Better Life Index promotes a multidimensional policy framework favouring inclusive growth by deriving multiple indicators under each of the following broad headings: housing, income, jobs, community, education, environment, civic engagement, health, life satisfaction, safety, and work-life balance.

The adoption of a multidimensional approach to assessing policy outcomes leads inevitably to the question of the capacity and the tools available to deal with complex problems and to ensure that inclusive growth concerns are addressed systematically during policy formulation, implementation and review (OECD, 2015a). Within the regulatory context, this implies assessing the key elements of the regulatory management system to determine which ones can contribute to this goal, whether and how they should be adapted to better achieve this purpose and whether additional system elements are required. From this perspective, RIA, as one of the central elements supporting policy choice within the regulatory management system, could potentially be a significant contributor to inclusive growth.

The potential role of RIA in fostering inclusive growth

According to the *Recommendation of the Council on Regulatory Policy and Governance* (OECD, 2012), "Regulatory Impact Analysis (RIA) is both a *tool* and a *decision process* for informing political decision makers on whether and how to regulate to achieve public policy goals". As a *tool* supporting decision making, RIA focuses on ensuring that a systematic and rigorous process of identification and assessment of the potential impacts of government actions is undertaken and on quantifying the expected costs and benefits of a regulatory measure; on assessing the effectiveness of the measure in achieving its policy goals; and on determining whether there are superior alternative approaches available to governments. As a *decision process*, RIA complements other key elements of regulatory policy, such as public consultation, by developing a better understanding of the likely impact of regulatory options and communicating this information to policy makers, at a time and in a form that can be used to guide regulatory decision-making in relation to both proposed and existing regulations (OECD, 2009a).

The economic rationale for the use of RIA derives from its expected impact in increasing the effectiveness and efficiency of regulatory interventions and thus economic welfare (Box 1). Its ability to improve the information base for decision-making is one means by which it has this impact, while its role in enhancing transparency is another: by clarifying the range of regulatory options and the likely implications of each, the political cost of poor decisions is increased and the likelihood of "regulatory capture" and the consequent making of regulation that favours sectional over general interests is reduced. As a result, RIA has the effect of favouring rational, or empirical decision-making, at the expense of other models such as those based on expert opinion, consensus, political judgements and benchmarking (OECD, 2002).

Box 1. The economic rationale for regulation and regulatory management

Economic theory posits several rationales for regulation, with widely differing predictions as to its role in practice. The *normative economic theory*, argues that regulation can be used to improve welfare outcomes in the presence of market failure. Market failure (Bator, 1958) can be defined as "*the failure of a more or less idealised system of price-market institutions to sustain 'desirable' activities*" (1958, p. 351). Where market failure occurs, the production and allocation of goods and services in the market is inefficient and regulatory intervention can potentially move outcomes closer to the optimal position.

Box 1. The economic rationale for regulation and regulatory management (*cont.*)

Market failure may arise as the result of the existence of externalities (Arrow, 1969), market power (Baumol et al., 1982), asymmetric information (Akerlof, 1970) or the presence of public goods (Samuelson, 1954). In these cases regulatory intervention can improve the efficiency of markets by inducing market actors to include the effects of externalities in their decision-making, by limiting market power, by ensuring that more information is available in markets or by providing for public provision of public goods.

The *positive economic approach* to regulation rejects the idea that regulation is systematically motivated by public interest, arguing that the normative theory fails to identify a dynamic that would lead to this outcome. Instead, regulatory outcomes are seen as the product of the pursuit of self-interest by a range of actors. In this view, "regulatory failure" – i.e. the failure of regulation to improve welfare outcomes – is likely to result from "regulatory capture" (Stigler, 1971; Buchanan, 1972; Peltzman, 1976), i.e. from the distortion of regulatory goals to pursue political ends or the interests of specific lobbies (Laffont and Tirole, 1991). Under political capture, regulation becomes a tool of self-interest within government (Posner, 1974; Stiglitz, 1998).

A similar view is proposed by the public choice school, which highlights the concept of "rent-seeking" (Tullock, 1967; Rowley et al., 1988), defined as unproductive profit-seeking by special interest groups to secure favourable legislation.

The rationale for the adoption of regulatory policy tools such as RIA lies in the need to increase the effectiveness of regulatory intervention. Regulatory policy tools are designed to improve the delivery of high quality regulation (Baldwin et al., 2010). Importantly, RIA and other regulatory policy tools are logically capable of achieving this outcome – i.e. improving regulatory quality – regardless of which of the three explanations of the regulatory dynamic proposed above is adopted. The economics of regulation presents three different dynamics that explain the rationale for the adoption of RIA.

Delegation. Regulatory intervention is characterised by a problem of delegation when a principal (the parliament or other legislative authorities) delegates authority to produce regulation to an agent (i.e. a ministry or other agencies). In rational choice theory (Simon, 1955; Laffont and Martimort, 2002) the principal-agent model helps in understanding the rationale for RIA. Once power has been delegated, information asymmetries produce agency dominance, and agencies may produce rules that do not reflect the approach adopted (or outcome sought) by the principals. However, the likelihood that agencies will develop rules that are consistent with the views of the principals is enhanced if proper administrative procedures (such as RIA) are introduced (McCubbins et al., 1989). Posner (2001) suggests that Cost-Benefit analysis (CBA) – which is the core method of RIA – should be used to control agency behaviour, minimising error costs under conditions of information asymmetry. Thus, the use of RIA limits the potential influence of self-seeking interest groups by reducing the principal-agent slack and in assuring that agencies are responsive to the principal's interest.

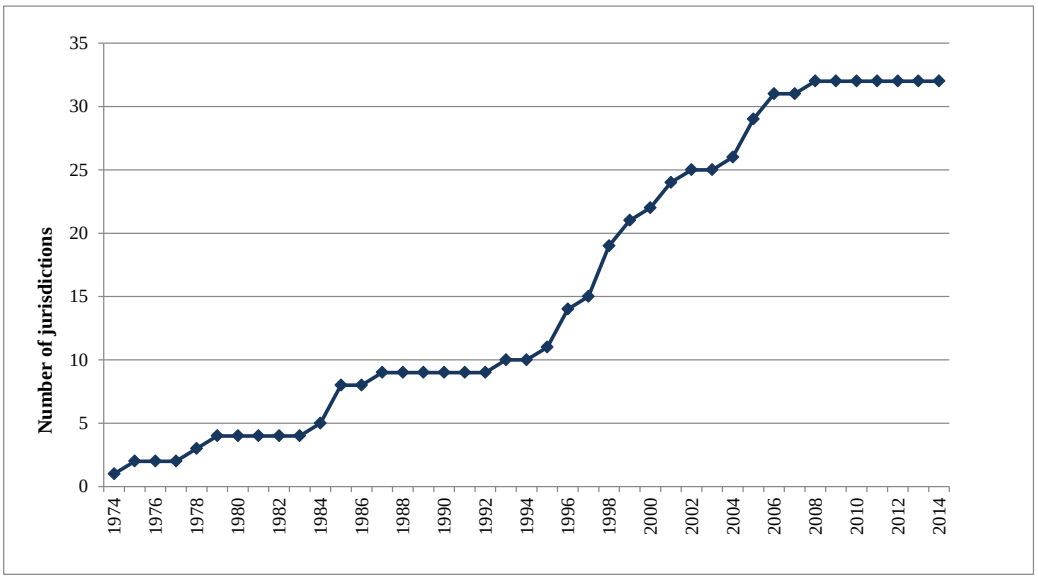
Democratic governance. Neo-pluralist theory (i.e. Manley, 1983; Arnold, 1987) suggests that regulatory policy tools (such as RIA) should be used to change the framework in which actors (the executive, agencies, and the pressure groups, including civil society associations) interact so that the rulemaking process is more open to diffuse interests and more accountable to citizens. RIA is adopted to help to ensure that all the major interested parties are heard in the policy-making process.

Rational policy making. The adoption of RIA helps in fostering regulations that increase the net welfare of the community (Arrow et al., 1996). This perspective is consistent with the civic republican theory (Sunstein, 1990; Ayres and Braithwaite, 1992; Seidenfeld, 1992) which argues that, under proper conditions, actors in the regulatory system are able to systematically pursue the broader community interest. Thus, the use of RIA ensures the engagement of public interest groups, civil society organisations, and citizens and enhances the likelihood that regulatory outcomes will be consistent with the requirements of the normative theory of regulation.

By requiring the use of RIA, principals can ensure that inclusive growth issues are addressed in agents' rule-making processes (*delegation*). The use of RIA also helps ensure that all interested parties are heard during the rulemaking process and that their perspectives are integrated as far as possible (*democratic governance*). Third, RIA favours more effective and efficient policy by systematically addressing all of the expected impacts of the various regulatory options identified (*rational policy making*).

The use of RIA has spread rapidly across the OECD membership, over the past twenty years in particular (see Figure 1), and RIA requirements are consequently now almost universal. According to the 2014 OECD *Regulatory Indicators Survey*, 32 of 35 OECD member countries have now adopted a formal RIA requirement.

Figure 1. Trend in RIA adoption across OECD countries



Note: This represents the trend in number of OECD jurisdictions with formal requirement for regulatory impact analysis (beyond a simple budget or fiscal impact).

Source: OECD (2015b), *OECD Regulatory Policy Outlook 2015*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264238770-en.

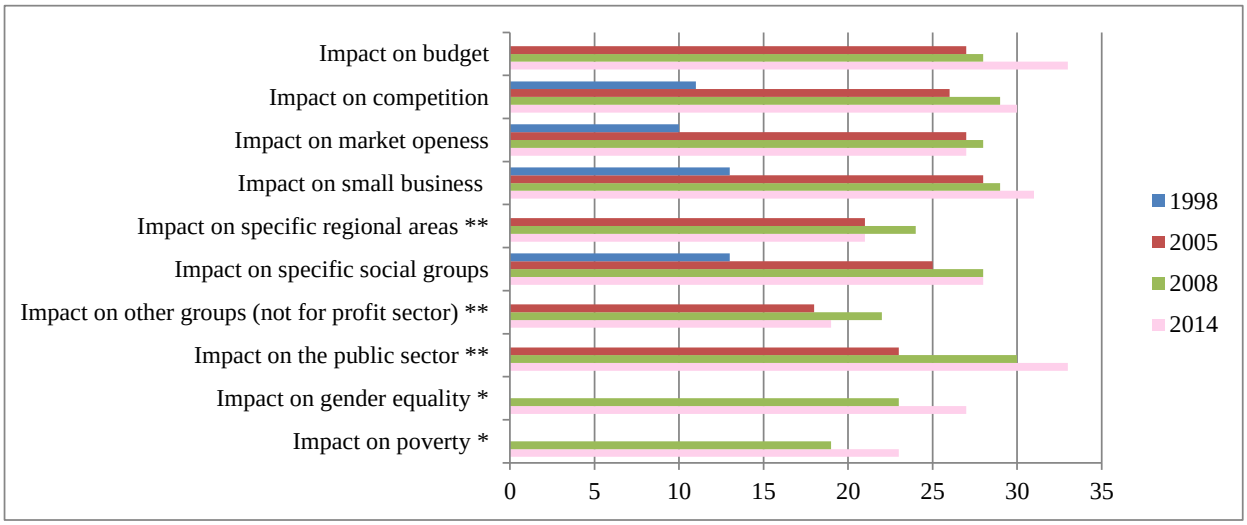
Historically, RIA has been criticised as focusing decision-making on economic factors, at the expense of social and environmental values. Critics have argued that Benefit/Cost Analysis (BCA) fails to take account of these broader factors. To the extent that such criticisms are valid, RIA would clearly have little or no role to play in promoting the inclusive growth agenda. However, both theoretical and practical considerations suggest this is not the case. At a theoretical level, BCA conducted within the RIA context should consider all *economic* benefits and costs, rather than simply *financial* ones. The concept of economic benefit (or cost) is a broad one, which should include all things to which members of society attribute a value. Thus, a full economic BCA necessarily includes consideration of social, distributional and environmental issues, *inter alia*. In addition, OECD work (e.g. OECD, 1997, 2002 and 2015b) demonstrates that, at least at the level of formal RIA requirements and guidelines, a wide range of countries have indicated a clear concern to ensure that social and environmental factors are, in fact, incorporated within these analyses. The fact that RIA are increasingly released as vehicles for public consultation processes further underlines this point, since greater interaction with stakeholders occurring within the RIA context will inevitably lead to an increased flow of information on, and increased discussion of, the distributional impacts of proposed regulation (across groups, sectors, regional areas, etc.) and the trade-offs between economic, social and environmental effects of potential regulatory responses.

Moreover, OECD (2009a) identifies clear evidence of a strong increase in focus on these broader impacts within formal RIA requirements and guidelines over the last decade or more. OECD member countries have adopted significant initiatives in recent years which aim to ensure that actual RIA practices pay sufficient attention to social, distributional and environmental issues. One substantial

element of this move has been the adoption of specific requirements for RIA to address the impacts of regulatory proposals on particular groups within society (e.g. women, residents of remote or regional areas, native populations) and on particular policy goals (e.g. the environment/sustainable development, poverty, human rights). A 2009 review of RIA practices in selected OECD countries (OECD, 2009a) used the term "partial impact assessments" to describe these requirements to discuss specific impacts as part of the broader RIA.

These partial impact assessment requirements have expanded rapidly and can increasingly be considered as an integral part of RIA practice in OECD member countries. The answers provided to successive OECD surveys (1998, 2005, 2008, 2014) indicate that a substantial number of OECD countries require impacts on specific groups or policy goals to be addressed explicitly as part of RIA. The number of specific groups/goals in respect of which explicit assessments are required is expanding. A large proportion of these specific assessment requirements are clearly relevant to inclusive growth. Examples include: impacts on particular social groups, on gender equality, on poverty, on social goals and on income inequalities. Figures 2 and 3 demonstrate an increasing trend in the adoption of these requirements over time, albeit that they remain less widespread than requirements for the assessment of economic impacts such as impacts on the budget, impacts on the public sector and impacts on competition.

Figure 2. Different types of impacts integrated into RIA for both primary and secondary legislation across OECD countries (1998-2014 data)

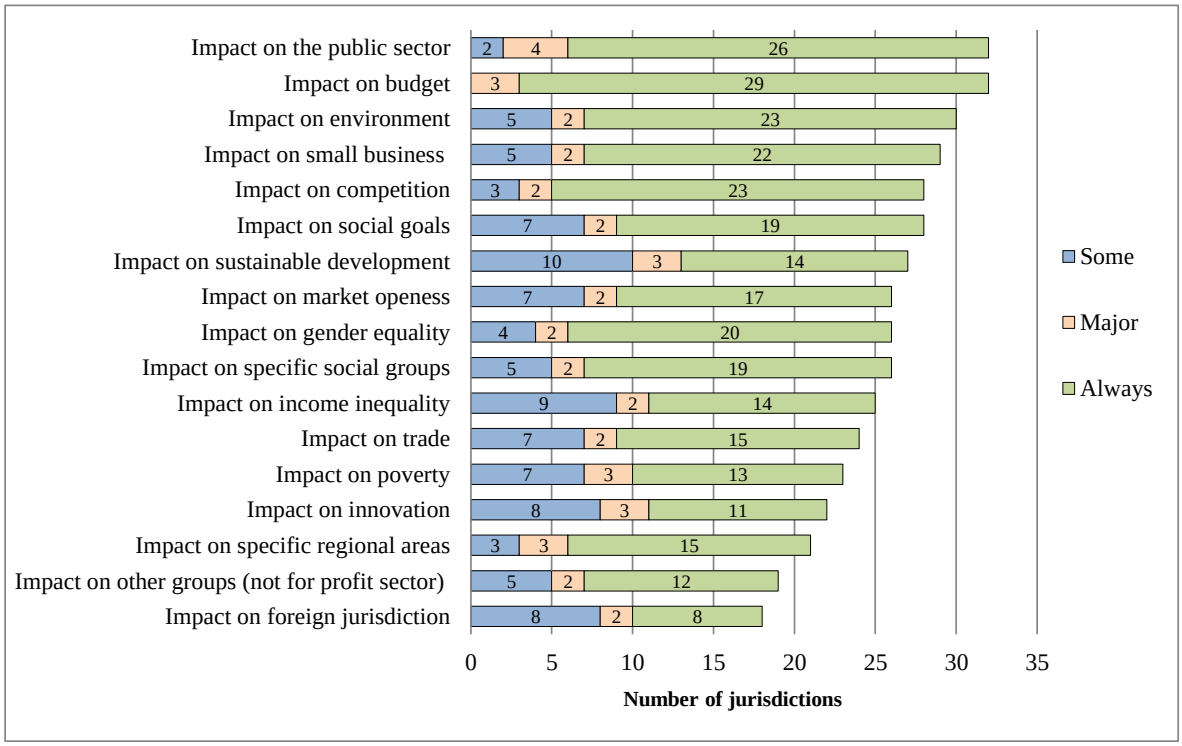


Note: Data for 1998 are not available for the European Union, Luxembourg, Poland and the Slovak Republic. This means that this figure is based on data for 27 countries in 1998, for 30 countries and the EU in 2005/2008 and for 34 countries and the EU in 2014.

(*) No data available prior to 2008; (**) No data are available prior to 2005.

Source: OECD (2009b), Indicators of Regulatory Management System – 2009 Report, Regulatory Policy Committee, and 2015 Indicators of Regulatory Policy and Governance, www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm.

Figure 3. Different types of impacts integrated into RIA conducted on primary laws (2014)



The 2015 Indicators of Regulatory Policy and Governance make a distinction between primary laws and subordinate regulations. This figure considers only the answers for primary laws.

Source: OECD (2015b), *OECD Regulatory Policy Outlook 2015*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264238770-en and 2015 Indicators of Regulatory Policy and Governance, www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm.

The overlap between partial impact assessments and the inclusive growth agenda remains however partial. The impacts reflected in Figures 2 and 3 do not cover the entire spectrum of considerations of relevance to IG. Typically, the critical dimensions of the distribution of health outcomes or opportunities provided by the educational system are not explicit in these graphs (they may be comprised under a generic "impact on social goals"). Nevertheless, the partial overlap between these partial impact assessments and the inclusive growth agenda suggests both that RIA is already playing an important role in supporting inclusive growth and that developing a more systematic approach to this aspect of RIA practice may constitute a key means of enhancing its performance in this regard.

Box 2. How can RIA support inclusive growth?

The use of RIA systematically favours rational or empirical (or "evidence-based") models of decision making over other models, such as those based on expert opinion, consensus, political imperatives or benchmarking (OECD, 2002). A fundamental part of the role of RIA in advancing empirical, evidence-based policy making is the fact that it clarifies the expected impacts of regulatory proposals and their incidence. When based on Benefit-Cost Analysis (BCA), RIA requires all expected regulatory impacts to be systematically identified and quantified as far as possible and their incidence highlighted. From an inclusive growth perspective, this has two implications.

First, the core objective of this approach is to clarify which policy option yields the greatest net benefit (i.e. benefits less costs) to society as a whole. The systematic tendency to favour options yielding net benefits – which the transparency element of BCA underpins – necessarily favours the adoption of policies that benefit the many, rather than the few. This characteristic of RIA has long been recognised; for example, the OECD noted as long ago as 1997

Box 2. How can RIA support inclusive growth? (*cont.*)

that "RIA emphasises openness and accountability and this systematically favours policy that serves the interests of the whole of society, rather than those of special interest groups" (OECD, 1997a). Openness and accountability raise the political costs of making decisions that favour particular sectional groups at the expense of society as a whole. Since it is generally better resourced groups that are able to lobby for policies that favour their sectional interests, undercutting such dynamics necessarily tends to have positive impacts on distributional outcomes. That is, policies that serve the interests of society as a whole, rather than those of particular interest groups, will almost always be preferable from the perspective of low-income and other socially marginalised groups. Thus, mechanisms that favour such policies are clearly consistent with achieving the objectives of the inclusive growth agenda.

Second, because it requires all impacts to be identified and assessed separately, the RIA process facilitates the conduct of additional analyses which focus on the impacts of policy proposals on one or more key groups in society. While not all RIA systems require or emphasise this "distributional" element of the analysis, the use of BCA provides a basis for such analysis to be undertaken – including by stakeholders using RIA to engage in consultation processes. This aspect of RIA allows adverse distributional consequences to be identified, weighed, and potentially averted. It also enables the policy options with the greatest distributional benefits attached to them (or those that achieve distributional or social goals at lowest cost) to be identified, where this is the fundamental purpose of policy action. RIA has also long been recognised as a tool that assists decision makers in integrating multiple policy objectives (OECD, 1997b). Policy trade-offs can be better managed if policy linkages are better understood and the decision process provides greater opportunities to refine regulatory design. RIA provides a common framework within which decision makers can assess linkages and weigh trade-offs. Thus, the benefits of RIA in helping to integrate multiple policy objectives are again largely the result of its ability to make policy impacts transparent and enable them to be better understood.

Research objectives and methodology

This paper seeks to better understand the potential of RIA to advance the inclusive growth agenda. It draws on a number of data sources, as well as a review of the relevant academic literature, to provide an overview of current practice. It considers both the formal requirements published by governments and observed performance in implementing them in practice.

The paper builds on:

1. The *2014 Regulatory Indicators Survey* and the 2008 OECD survey of *Indicators of Regulatory Management Systems* (OECD, 2009b)(hereafter the 2014 and 2008 OECD surveys), which provide information on how frequently RIA incorporates assessments of impacts on specific social groups, on gender equality and on poverty in all 34 OECD countries and the European Commission.
2. Formal RIA requirements as reflected in RIA guidance documents. Countries whose practices are reviewed include: Australia, Austria, Canada, Finland, France, Hungary, Indonesia, Ireland, Italy, Japan, Luxembourg, Moldavia, New Zealand, Portugal, South Africa, Sweden, Switzerland, Turkey, Uganda, the United Kingdom and the United States, as well as the European Commission. Both early adopters and new practitioners of RIA are analysed.
3. A review of relevant academic papers, including an unpublished OECD paper on the consideration of gender in RIA (OECD, 2011).
4. An examination of a selection of individual RIAs published in recent years and accessible on public websites to obtain a snapshot of current practices (Box 3). In order to identify individual RIAs, the authors reviewed RIAs recently published on official websites of OECD

governments and regulators and selected those that included specific impacts related to inclusive growth.

The analysis of these data sources is then used as the basis for developing a proposal as to when (i.e. for which regulations) and how (i.e. using what methods) RIA should incorporate issues of distributional and other inclusive growth goals.

Box 3. Sample RIAs reviewed to inform this paper

(*Australia*) Regulatory Impact Statement Prohibiting Discrimination on the Basis of Sexual Orientation, Gender Identity and Intersex Status, http://ris.dpmc.gov.au/summary-compliance-reporting/australian-government/.

(*Canada*) Order Declaring that the Reduction of Carbon-Dioxide Emissions from Coal-fired Generation of Electricity Regulations do not Apply in Nova Scotia, www.gazette.gc.ca/rp-pr/p1/2014/2014-06-28/html/reg3-eng.php.

(*Canada*) Regulation Amending the Immigration and Refugee Protection Regulations – Regulatory Impact Analysis Statement, www.gazette.gc.ca/rp-pr/p1/2014/2014-06-21/html/reg1-eng.php.

(*New Zealand*) Regulatory Impact Statement on Proposed Adoption of the Australian/New Zealand Sunscreen Standard AS/NZS 2604:2012 Sunscreen products – Evaluation and Classification by the Cosmetics Standards 2007, http://ris.dpmc.gov.au/files/2013/07/sunscreen-standards-RIS.pdf.

(*United Kingdom*) Anti Behaviour Bill: The Closure of Properties Causing Nuisance through the Supply or Use of Class A Drugs Regulatory Impact Assessment, www.parliament.the-stationery-office.co.uk/pa/cm200203/cmwib/wb 030405/wgp.htm.

(*United Kingdom*) Regulatory Impact Assessment of the Statutory Code of Practice on Racial Equality in Employment, http://webarchive.nationalarchives.gov.uk/20130128103514/www.homeoffice.gov.uk/documents/ria-cre-cop-employers-270605?view=Binary.

(*United Kingdom*) Regulatory Impact Assessment on the Maternity and Parental Leave (Amendment) Regulation 2006 and the Paternity and Adoption Leave (Amendment) Regulation 2006, http://webarchive.nationalarchives.gov.uk/20070603164510/www.dti.gov.uk/files/file26943.pdf.

(*US*) Regulatory Impact Analysis on the Proposed New Source Performance Standards and Amendments to the National Emissions Standards for Hazardous Air Pollutants for the Oil and Natural Gas Industry, www.epa.gov/ttnecas1/regdata/RIAs/oilnaturalgasfinalria.pdf.

(*US*) Regulatory Impact Analysis for the Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone in 27 States; Correction of SIP Approvals for 22 States, www.epa.gov/airtransport/pdfs/FinalRIA.pdf.

(*US*) Regulatory Impact Analysis for the Proposed Carbon Pollution Guidelines for Existing Power Plants and Emission Standards for Modified and Reconstructed Power Plants, http://www2.epa.gov/sites/production/files/2014-06/documents/20140602ria-clean-power-plan.pdf.

IS RIA THE RIGHT TOOL TO PROMOTE INCLUSIVE GROWTH: AN ASSESSMENT OF THE RESEARCH LITERATURE

In recent years, a number of scholars have conducted comparative analysis of RIA practices among advanced countries or have produced detailed studies on the advantages and challenges of its use (see, for instance, Hahn et al., 1999; Radaelli, 2004; 2005). However, relatively few papers have addressed the specific issue of the connection between RIA and inclusive growth, or social inclusion. There is, nevertheless, an emerging literature on this theme. Much of this literature highlights the difficulties faced by countries in integrating consideration of inclusive growth issues with the broader RIA, leading some academics to question the role of RIA in addressing these issues in regulatory decision-making.

Similarly, the literature on environmental impact assessment (EIA) reveals that analysis of environmental issues is generally not well-integrated into RIAs, with this outcome being attributed to both lack of resources and limited organisational and political support (i.e. Russel and Jordan, 2007; Achtnicht et al., 2009). Consequently, this literature argues that environmental concerns are generally not adequately addressed in final policy decisions (i.e. Bekker et al., 2004; Cashmore, 2004; Owens et al., 2004; Richardson, 2005).

The challenges in addressing inclusive growth in RIA

Some authors argue that countries tend to avoid integrating social impacts in their assessments, even when this is expressly required by RIA guidelines or frameworks (e.g. Lee and Kirkpatrick, 2006; Bäcklund, 2009). Bäcklund (2009), for instance, examines how RIAs address the explicit requirements defined in the RIA guidelines and comprehensive RIA framework of the European Commission, which requires that RIAs assess three dimensions of sustainability: economic, environmental and social impacts. Table 1 provides a summary of the author's analysis of the performance of EU RIAs in addressing these three dimensions of sustainability.

Table 1. Quantification of impacts in EC RIAs – (2003-06)

	Economic Impact	Environmental impact	Social impact
Extensive	33%	11%	12%
Minimal	21%	12%	21%
No quantification	46%	77%	67%

Source: Bäcklund (2009).

Robinson et al. (2014) review a number of recent RIAs in the United States and examine the extent to which regulatory agencies assess distributional impacts, with specific regard to costs and health-related benefits for disadvantaged social groups. The authors identify a gap between guideline requirements and actual practice. They show that agencies provide little information on distribution, even when there are explicit requirements to include these types of assessments in RIAs. According to the authors, this gap may occur for a mix of reasons, i.e. *i)* regulators may worry that reporting the distribution of the impacts will raise issues they lack the legal authority to address (e.g. the distributional analysis could cause new groups to coalesce in opposition to the regulations, for example by identifying some who would be significantly harmed but were not previously aware of the regulation's impact); *ii)* regulators may believe that distributional impacts are too small to warrant attention; *iii)* regulators may lack needed data, technical guidance, time, or resources. Other

researchers explain the limited compliance with RIA guidelines as part of a general reluctance on the part of policy makers to include any elements other than economic/financial impacts into RIA (Wilkinson et al., 2004; Turnpenny, 2008; Ruddy and Hilty, 2008).

Nykvist and Nilsson (2009) identify *lack of political commitment* as the main reason for the limited assessment of these impacts. In their view, social issues are still considered a politically contested notion and, in the end, decisions are assessed against traditional criteria such as cost effectiveness rather than the impact on social issues. Thus, social and sustainability issues are constrained by the political context and considered to challenge the existing economic and job-growth paradigm, and therefore are not yet considered as an appropriate topic for impact assessment. Similarly, Ruddy and Hilty (2008) argue that there is an inherent conflict between using RIA to foster sustainability (and social) issues and its use by policy makers to achieve the goal of "better regulation" from an economic and competiveness perspective. For Robinson et al. (2014), policy makers tend not to include distributional assessment into RIA because consideration of distributional impacts may create coalitions against regulatory proposals, by identifying the winners and losers from each regulation.

In addition, the literature identifies a general *tendency to use RIA as a legitimisation tool* rather than as an informative instrument in support of decision-making. It is argued that the knowledge produced by impact assessments tends not to be used by policy makers and that, when it is used, it tends to be to bolster political positions and justify decisions already taken (Owens, 2005; Russel and Jordan, 2007; Turnpenny et al., 2008). This finding is corroborated by the OECD Regulatory Policy Outlook, based on the OECD Survey of Regulatory Indicators, which notes that "countries tend to adopt a procedural approach to regulatory policy and use its tools (RIA, stakeholder engagement and *ex post* evaluation) strictly in an administrative fashion, after policies and the regulatory decision have been made" (OECD, 2015b). For this reason, Bäcklund (2009) finds that the assessment of issues related to inclusive growth is not routinely mainstreamed into the RIA process. The outcome of such assessments is seen as having the potential to undermine regulatory choices already made.

Robinson et al. (2014) also highlight a point for debate, i.e. in the classical economic perspective the distributional and social policy goals can be achieved more effectively and efficiently by transferring money (through the tax and transfer system) than by modifying policies adopted in pursuit of other, economic goals in order to reduce undesirable social impacts. Under this hypothesis, while RIA may be useful in generating evidence of distributional and social impacts from the perspective of identifying and promoting appropriate taxes/transfers, it is less so in influencing choices between regulatory options or the design of particular regulatory proposals. A related, but distinct, view is put forward by Jacobs (2006), who argues that, since every regulatory proposal creates winners and losers, the idea of modifying individual proposals to address specific negative impacts is inherently unrealistic, except in extreme cases.

Finally, the literature recognises a number of *technical, methodological and organisational issues* that hinder the inclusion of these types of impacts into RIA. According to Wilkinson et al. (2004), RIAs tend to measure non-economic impacts only in qualitative terms (generally the impacts are described, but not quantified or monetised) since their quantification is too complex. Lee (2006) describes the limits of the most common methodologies (such as Benefit-Cost Analysis and Multi Criteria Analysis) in assessing social impacts. For Jacobs (2006), not only it is very difficult to perfectly distinguish different social groups, but it is also not clear how to weight the distributional effects on the various groups. Other academics identify issues ranging from lack of data to constrained resources and the limited skills of the personnel of regulatory agencies (i.e. Turnpenny et al., 2008; Nykvist and Nilsson, 2009; Robinson et al., 2014).

Alternative instruments to incorporate inclusive growth in regulatory policy making

These challenges have led a number of academics to question the adequacy of RIA to assess social impacts (i.e. Kidd and Fischer, 2007; Turnpenny et al., 2008; Ruddy and Hilty, 2008) and argue that separate, purpose-specific instruments, such as social impact assessment (SIA) or environmental impact assessment (EIA), may be better suited to this endeavour than is the integrated approach offered by RIA.

SIA is generally defined as the process of assessing and estimating, in advance, the social consequences that are likely to follow from specific policy actions or project interventions (Burdge and Vanclay, 1995; Burdge, 1999; Becker, 2011). While there is a degree of overlap between SIA and RIA, the two instruments differ substantially in their scope: RIA covers a broader range of issues, going beyond social dimensions, while SIA goes beyond the regulatory sphere to cover other tools of government policy, particularly expenditures on major projects.

Some literature identifies SIA as the best instrument for integrating the consideration of social impacts into policy decision-making (i.e. Joyce and MacFarlane, 2001; Burdge, 2002; Lane et al., 2003; Vanclay, 2003; Esteves et al., 2012). However, evidence suggests that only a limited number of policy actions have been modified (or even cancelled) as a result of on social impacts highlighted in SIA (see, for instance, the case of the Berger Inquiry in Canada (Gamble, 1978; Berger, 1983)). At the same time, scholars suggest that SIA has neither been widely adopted by governments as an institutional tool nor integrated with other impact assessment tools such as EIA or RIA. Esteves et al. (2012) for instance, show that SIA is still a secondary instrument, with limited impact on the decision-making process. Similar assessments are made of the use of EIA (de Ridder, 2006; Achtnicht et al., 2009) and many authors argue that, while the use of EIA is widespread, especially in infrastructure and environmental projects, the concerns of environmental assessment are generally not reflected in final policy decisions (i.e. Bekker et al., 2004; Cashmore, 2004; Owens et al., 2004; Richardson, 2005).

Given the range of available tools to account for various impacts (economic, social and environmental), the question of the merits of integrating them into a single assessment process necessarily arises. At a fundamental level, integration is essential in order to ensure that decision-makers clearly understand the trade-offs between different policy objectives and can make informed, conscious choices. However, integration of the various impact assessments is particularly important in the presence of significant inter-dependencies between the different types of impacts. As argued above, the inclusive growth agenda is driven in part by research indicating that there is a positive synergy between equity and growth performance. Many authors have also argued for the existence of similar synergies between growth and good environmental performance, although the most recent OECD research concludes that the stringency of environmental policies has only a limited and ambiguous effect on productivity (OECD, 2014a). To the extent that these synergies exist, integrating analysis of economic, social and environmental impacts and promoting understanding of the nature and extent of the interactions (i.e positive and/or negative synergies) is an essential step in coherent and effective policy making. Attempts to weigh the results of separate analyses in these three areas necessarily entail substantial risks of failing to identify or understand the nature and extent of these synergies and inter-relationships.

The literature on impact assessment generally advocates this integration as a means to make policy making more effective. *A priori*, the need for integration would seem to favour the use of a broad RIA over the alternative of a narrower RIA supplemented by separate EIA and SIA, since the former approach implies that integration of the assessments occurs from the outset, rather than having to be achieved *ex post*, with an additional step of unifying or at least balancing the results of separate

assessments being required. Conversely, however, a number of academic researchers argue that there is a risk that integrated approaches may lead to a reduction in the weight accorded to social and environmental considerations as a result of the overloading of RIA procedures (i.e. Morrison-Sounders and Fischer, 2006; Renda, 2006; Kidd and Fischer, 2007; Turnpenny et al., 2008). A further criticism, put forward by Kidd and Fischer (2007) is that social and environmental concerns will be given inadequate weight in the RIA process because the tool is characterised by the dominance of the economic perspective. Jacob et al. (2008) recommend that governments define a broad scope for RIA, but implement it through targeted and separate analytical methods and tools. Similarly, Ruddy and Hilty (2008) argue that the assessment of the social impact should be devolved from RIA to specific ad hoc tools that can rely on adequate resources and competences.

In sum, a review of the literature indicates that a majority of authors remark on the relatively poor performance of both IA options – i.e. integrated RIA, on the one hand, and separate EIA, SIA and (narrower) RIA, on the other – in ensuring that identified social and environmental impacts are taken into account in determining policy outcomes. Conversely, there are significant differences of view as to the theoretical merits of adopting one or the other model of integrated IA. That said, the need for the results of assessments conducted in the different policy dimensions (i.e. economic, social, environmental) to be properly integrated is generally accepted. This points to the importance of identifying and developing tools and processes that can better integrate various issues relevant to policy making and argues for a closer look at the potential of RIA processes to help in this integration. The remainder of this paper analyses RIA experience and practices in OECD member countries from this perspective.

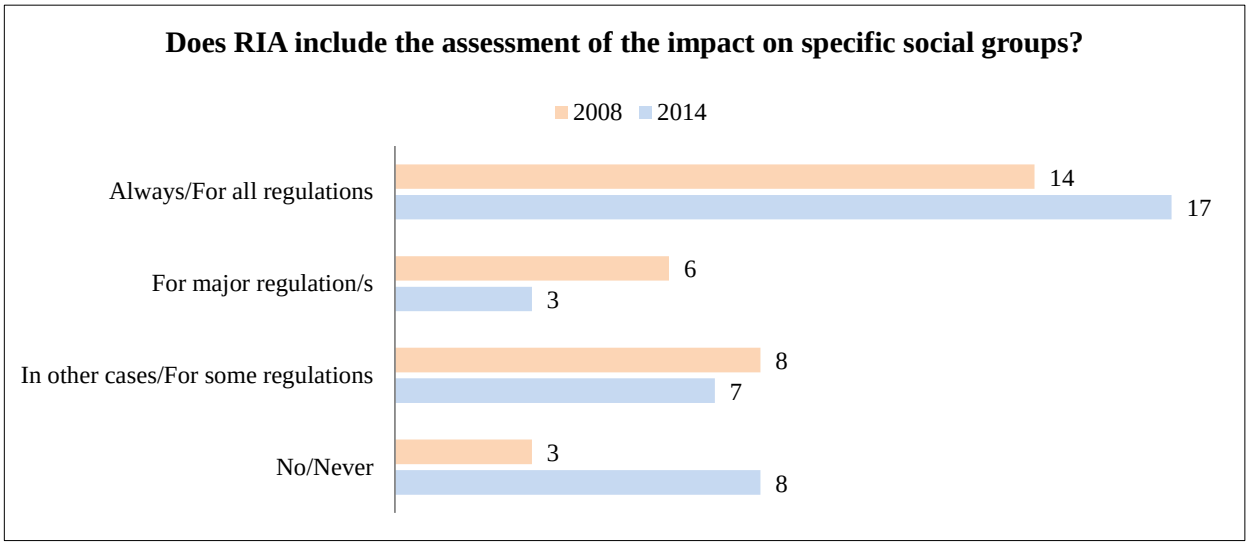
COUNTRIES' PRACTICES IN INTEGRATING ISSUES OF INCLUSIVE GROWTH IN RIA

This section investigates the current RIA practices of a number of OECD and non-OECD countries to identify the extent to which they include analysis of various dimensions of relevance to inclusive growth. Given the practice of regulators in evaluating specific impacts, as highlighted in Figure 3, the work focuses on: *i)* impacts on specific social groups and distribution; *ii)* impacts on gender equality; *iii)* impacts on poverty; and *iv)* impacts on employment/job creation. As noted above, however, this approach does not exhaust the scope of inclusive growth dimensions. There is in particular some anecdotal evidence that countries may address in their RIA process other dimensions of relevance to inclusive growth.[2] However, this report has focused on areas where systematic evidence on OECD practices in carrying out regulatory impact assessments was available.

Impact on specific social groups

Data from the *2014 Regulatory Indicators Survey* and the 2008 OECD survey of *Indicators of Regulatory Management Systems* (OECD, 2009b) show that a majority of OECD countries have formal policies requiring the assessment of impacts on specific social groups as part of RIA (Figure 4). These requirements seem increasingly widespread, with 17 countries reporting that impacts on specific social groups must be assessed in all RIA in 2014, compared with 14 in 2008.

Figure 4. Impact on specific social groups: Comparison among 2008 and 2014 data



Note: For this question, the range of possible answers differs in the 2008 and 2014 surveys. In the 2008 survey, the range is: always; for major regulation; in other cases; no. While in the 2014 survey, the range is: for all regulations; for major regulations; for some regulations; never.

The 2015 Indicators of Regulatory Policy and Governance makes a distinction between *primary laws* and *subordinate regulation*. To take this specificity into account, the figure considers only the lower option when a country presents different answers for *primary laws* and *subordinate regulation*. The countries that present different answers are Belgium (For all primary laws / For some subordinate regulation) and Ireland (For all primary laws / For some subordinate regulation).

Source: OECD (2009b), *Indicators of Regulatory Management System – 2009 Report*, OECD, and 2015 Indicators of Regulatory Policy and Governance, www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm.

2. For example, Mexico is considering including a dimension on the coherence of regulation with human rights in its RIA process.

However, reviews of RIA practices (for instance, the 2014 US Office of Information and Regulatory Affairs report[3] or the 2009 UK National Audit Office report[4]) suggest that, in practice, the assessment of impacts on specific social groups in RIA remains relatively rare. For example, OIRA recently stated:

> "If a regulation would disproportionately help or hurt those at the bottom of the economic ladder, or those who are suffering from some kind of acute condition or extreme deprivation, relevant law may require or authorise agencies to take that fact into account. So far as we are aware, there is only limited analysis of the distributional effects of regulation in general or in significant domains" (US Office of Information and Regulatory Affairs, 2014).

This suggests the existence of a gap between what regulators are asked to do (by law or based on specific guidelines) and their actual practices. However, the poor performance identified may be explained by confusion over the definition of the "impact on specific social groups" – i.e. whether what is required is an assessment of *i)* the distributional impacts of a regulatory measure on different social groups; or *ii)* the specific impact on disadvantaged groups and inequalities. The first requirement involves identification of the effects on those groups that are most significantly affected by the regulatory proposals (i.e. identification of major winners and losers), whereas the second specifically reflects the "equity" perspective and, as such, is closely related to the inclusive growth paradigm.

Assessment of distributional impacts

A review of selected countries' formal policies regarding RIA reveals that the importance of assessing *distributional impacts* as part of the RIA process is widely acknowledged. In many countries, the RIA guidelines or handbooks explicitly require distributional impacts to be incorporated into the broader RIA. RIA guidebook requirements in OECD countries include the following:

- In the US the RIA guidelines (Circular A-4) expressly ask officials to assess the distributional impacts of new regulatory proposals, including outlining these types of impacts in a specific separate section of the RIA document (see Box 4).

- In the United Kingdom the RIA handbook (Impact Assessment Toolkit) states that the *"different parts of society which are likely to be affected also need to be identified, as well as the distribution of impacts between various groups"*.

- The Canadian RIA guidelines (RIAS Writer's Guide) suggest including distributional impacts in RIA: "*Where possible* [the RIA] *should show how the costs and benefits are distributed across various affected parties (e.g., men or women, business and government, sectors of the economy, and regions of Canada)*".

- The new RIA guidelines of the European Commission recommend considering distributional impacts on citizens, consumers, workers, enterprises, public authorities and third countries and monitoring of the distributional effects on other groups including students, youth, the

3. Draft Report to Congress on the "Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities", Office of Information and Regulatory Affairs, United States.

4. "Delivering High Quality Impact Assessment", Report by the Comptroller and Auditor General, National Audit Office, 30 January 2009, United Kingdom: www.nao.org.uk/wp-content/uploads/2009/01/0809128.pdf.

elderly, immigrants or people suffering for discrimination in particular cases where a proposed regulation may produce have significant impacts on them.

- In the Czech Republic the RIA framework requires that all groups affected by the regulation be identified through qualitative and quantitative analysis.

- In Mexico all the costs and benefits of a regulation must be evaluated separately, including the expected impact on each group of individuals, industries or regions that may be affected.

- In Australia the RIA guidebook (the Australian Government Guide to Regulation) requires RIA authors to "Identify who is likely to be affected by each regulatory option and assess the economic, social and environmental costs and benefits as well as how those costs and benefits are likely to be distributed".

Box 4. Requirement to assess distributional impacts (The US Circular A-4)

Distributional Effects

Those who bear the costs of a regulation and those who enjoy its benefits often are not the same people. The term "distributional effect" refers to the impact of a regulatory action across the population and economy, divided up in various ways (e.g., income groups, race, sex, industrial sector, geography). Benefits and costs of a regulation may also be distributed unevenly over time, perhaps spanning several generations. Distributional effects may arise through transfer payments that stem from a regulatory action as well. For example, the revenue collected through a fee, surcharge in excess of the cost of services provided, or tax is a transfer payment.

Your regulatory analysis should provide a separate description of distributional effects (i.e., how both benefits and costs are distributed among sub-populations of particular concern) so that decision makers can properly consider them along with the effects on economic efficiency. Executive Order 12866 authorises this approach. Where distributive effects are thought to be important, the effects of various regulatory alternatives should be described quantitatively to the extent possible, including the magnitude, likelihood, and severity of impacts on particular groups. You should be alert for situations in which regulatory alternatives result in significant changes in treatment or outcomes for different groups. Effects on the distribution of income that are transmitted through changes in market prices can be important, albeit sometimes difficult to assess. Your analysis should also present information on the streams of benefits and costs over time in order to provide a basis for assessing intertemporal distributional consequences, particularly where intergenerational effects are concerned.

Source: US Circular A-4, available at www.whitehouse.gov/omb/circulars_a004_a-4.

In several countries, there are methodological guidelines explaining how to assess distributional impacts.

- In the United States, the RIA guidelines (Circular A-4) provide some information on how to assess distributional impacts, specifying that the distributive effects should be described quantitatively, especially in situations where regulatory proposals would result in significant changes in the distribution of incomes across different groups.

- The UK Treasury Green Book provides detailed information and guidance on how the analysis of distributional impacts must be carried out. This material incorporates an assumption that distributional weightings, based on income quintiles, should be included in BCA.

In Switzerland the RIA guidelines offer detailed guidance on how to assess the distributional impacts of regulation, and propose some methodological approaches to capture the distributional effects, including: *i)* using the Gini index[5]; *ii)* examining the distribution of income among different groups through the use of quartiles or deciles; *iii)* using poverty indicators; *iv)* examining the different effects produced on men/women and married/cohabiting; *v)* examining the different effects on regions/areas.

Similar requirements for the assessment of distributional impacts can be found in the guidelines of other countries, such as Austria and South Africa. However few guideline documents provide guidance on when to carry out such an assessment and when not to do so.

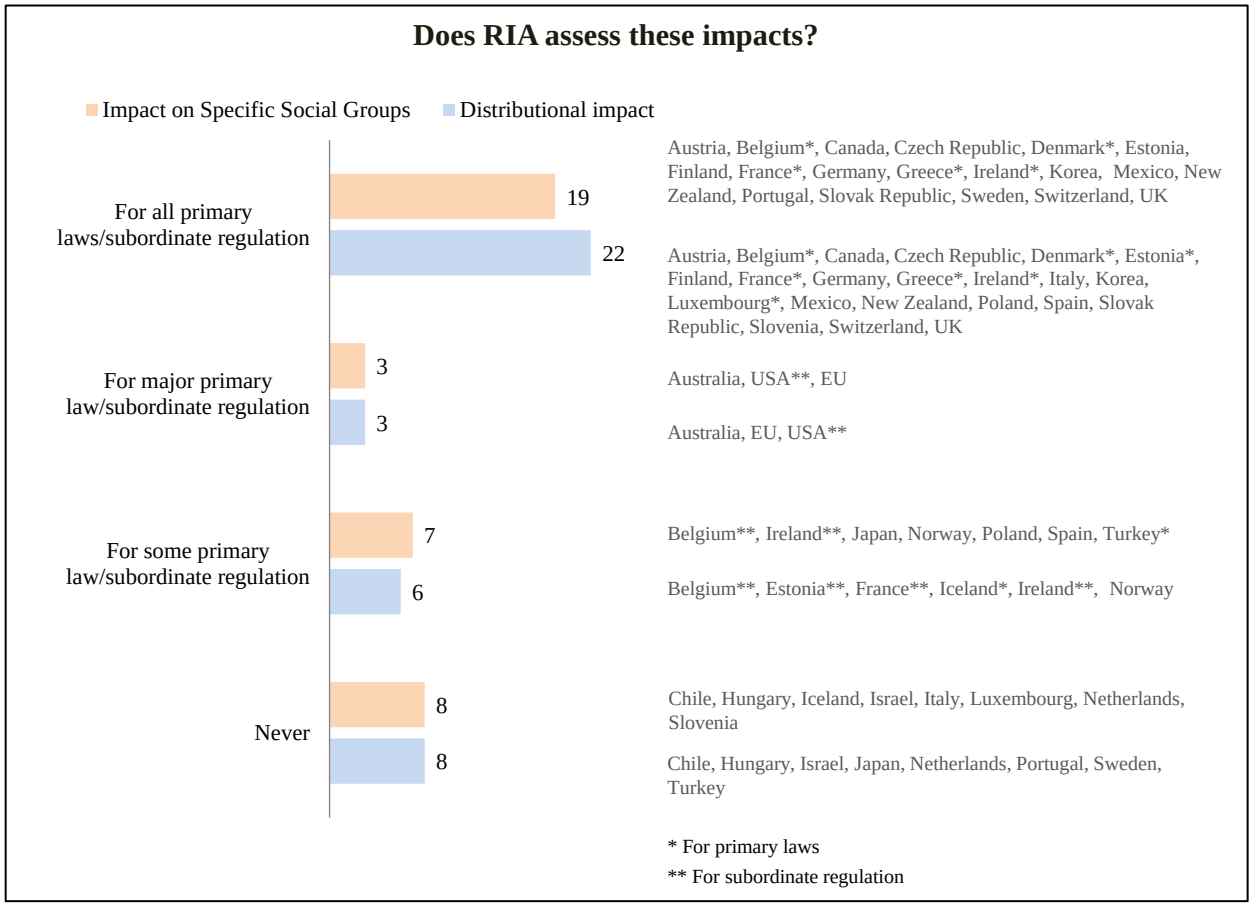
The widespread adoption of requirements to assess distributional impacts and impacts on specific social groups in RIA is confirmed by the preliminary results from the OECD *2014 Regulatory Indicators Survey*. According to this new survey, 22 countries require regulators to identify the likely distributional impacts of regulatory proposals in all cases, while 19 countries[6] require regulators to identify impacts on specific social groups of all regulatory proposals (Figure 5). A further 6 and 7 countries respectively require these impacts to be addressed specifically in at least some cases.

Despite these findings, the review of a sample of specific RIAs undertaken for this paper finds that in only a few cases do the RIA assessments of distributional impacts include detailed analysis of impacts on specific population subgroups. Examples of these are the UK RIA of the *Statutory Code of Practice on Racial Equality in Employment*, which focuses on the particular effects on ethnic minorities and the Canadian RIA on the *Regulations Amending the Immigration and Refugee Protection Regulations*, which monetises the costs imposed by the regulatory proposal on specific subgroups, such as students and workers who reside in Canada under a temporary student permit or a worker permit.

5. The Gini index (or Gini coefficient) is a measure of statistical dispersion intended to represent the income distribution of a nation's residents, and is the most commonly used measure of inequality.

6. This number differs from the number in Figure 4, since Figure 5 follows an *either/or* criteria of inclusion and considers both the answers for *primary laws* and the answers for *subordinate regulations.*

Figure 5. The impact on specific social groups and the assessment of distributional impacts (2014 data)



Note: The 2015 Indicators of Regulatory Policy and Governance make a distinction between *primary laws* and *subordinate regulations*. To take this specificity into account, this figure considers both the answers for *primary laws* and the answers for *subordinate regulations* (using an *either/or* criteria of inclusion). As a consequence, the sample of countries comprised is higher since it includes Belgium, Estonia, France and Ireland twice (these countries provided different answers for *primary laws* and *subordinate regulations*).

Source: 2015 Indicators of Regulatory Policy and Governance, www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm.

Assessment of the impacts on disadvantaged groups and existing inequalities

While general requirements for RIA to include discussion of distributional impacts are widespread, specific requirements that they should consider *impacts on disadvantaged groups and existing inequalities* are less common. RIA frameworks and guidelines recommend including these types of assessments into RIA in only a few of the countries reviewed. Moreover, even where this is done, the scope and depth of the required analysis varies widely across countries. Some examples are:

- In the United States, there are explicit requirements for the evaluation of impacts on specific disadvantaged social groups (i.e. Executive Order 13045 – *Protection of Children from Environmental Health Risks and Safety Risks*; Executive Order 12898 – *Federal Action to Address Environmental Justice in Minority Populations and Low-income Populations*).

- The UK National Audit Office used the assessment of social impacts (along with 28 other criteria) to assess the quality of impact assessments carried out between 2006 and 2008.[7] However, discussion of these impacts is not a mandatory requirement of the RIA guidance materials. Under the Equality Act 2010, the United Kingdom has a separate mandatory requirement to have regard to equality across a wide range of characteristics. It is common practice to meet this requirement by carrying out a separate Equality Impact Assessment.
- In some jurisdictions (for instance Canada), the RIA guidance explicitly requires the integration of different types of impacts (economic, social and environmental) related to inclusive growth. In Canada, the Triage template (the preliminary step in the RIA process) expressly requires consideration of the impacts on vulnerable social and economic groups, such as aboriginal communities, official language minorities, lower income Canadians, women, children, the elderly, cultural groups and recent immigrants (see Box 5).
- Similarly, the new RIA guidelines of the European Commission recommend giving consideration to a list of key impacts in order to identify all potential important effects of the policy options. Several of these key impacts relate to inclusive growth, including income distribution and social inclusion, social protection, equality of treatment and opportunities and non-discrimination and the rights of persons with disabilities.
- In Ireland the assessment of impacts on socially excluded and vulnerable groups, and on poverty generally, is one of the main pillars of the RIA system. Both the RIA guidelines and other official documents explicitly mention these among the specific impacts to be considered in RIA.

In the sample of RIAs from a number of OECD countries examined for the purpose of this paper, only a few assess impacts on disadvantaged groups or existing inequalities. There are examples of these assessments in the United States (see, for instance, the RIA for the *Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter or the Ozone in 27 States*) and in the United Kingdom (see, for instance, the RIA on the *Maternity and Parental Leave (Amendment) Regulations 2006 and the Paternity and Adoption Leave (Amendment) Regulations 2006*). In the United States, mandatory requirements (i.e. the Executive Orders 13045, 12898 and 13175) require many RIAs to assess specific issues, such as impacts on children or Indian tribal communities (see, for instance, the RIA on *Proposed New Source Performance Standards and Amendments to the National Emissions Standards for Hazardous Air Pollutants for the Oil and Natural Gas Industry*). These types of assessments are undertaken only when the regulatory proposal is likely to have significant impacts in these areas. However, it is not clear how the presence or significance of these impacts is appraised before the RIA is developed. For example, is this question assessed systematically *a priori* (i.e. through the use of specific threshold tests), or is it left to the discretion of regulatory agencies?

A number of countries including Canada and the United Kingdom, as well as the European Commission, use a preliminary evaluation of the likely impacts of the regulatory proposal on specific social groups (disadvantaged groups, tribal governments and people, etc.) as a *threshold test* to identify those that require an extended RIA process to be undertaken. In other cases, the recognition of inequalities between social groups is the driver of *the regulatory proposal*. For instance, the United States may justify new regulations on the grounds that they combat discrimination. Some countries use the likely impact on specific social groups *to define the level of detail or sophistication required in the*

7. "Delivering High Quality Impact Assessment", Report by the Comptroller and Auditor General, National Audit Office, 30 January 2009, United Kingdom: www.nao.org.uk/wp-content/uploads/2009/01/0809128.pdf.

RIA. In Ireland, for example, the more significant the impacts on socially excluded and vulnerable groups, the deeper the analysis that is required.

Box 5. The Canadian RIA framework

The Canadian RIA framework requires consideration of some impacts related to inclusive growth, notably the impact on disadvantaged and vulnerable groups. The relevant requirements are found in two official documents:

Canadian Cost-Benefit Analysis Guide: Regulatory Proposals

Equity is frequently raised in the stakeholder analysis. There is no doubt that the impacts of policy actions on disadvantaged or vulnerable groups should be properly assessed and documented by analysts. However, incorporation of these impacts quantitatively into a cost-benefit analysis is nonetheless controversial. This reflects the complexity involved in trying to disentangle society's distributional preferences. **Because of these important concerns, analysts should identify the impacts on disadvantaged groups. Decision makers will almost certainly use this information in conjunction with the efficiency measure as captured by the cost-benefit analysis to evaluate trade-offs between equity and efficiency**. In reality, efficiency will frequently not be the only criterion used to guide decision making. Decision makers may place great importance on society's distributional objectives. There may sometimes be a trade-off between efficiency and equity but not necessarily so. The issue is how far a cost-benefit test should be moderated in the light of equity and distributional considerations. For example, in the case of health care, decision makers may seek a balance between maximizing the overall benefits of health care interventions and directing interventions (and resources) toward certain groups such as low-income native communities. In summary, the economic net benefits of a policy for society as a whole should be equal to the summation of the net benefits across all. **Therefore, the analysis is important to decision makers, as it lets them estimate the impact of a particular policy on specific segments of society and to predict which groups will be net beneficiaries and which groups will be net losers**.

Source: "Canadian Cost-Benefit Analysis Guide", available at: www.tbs-sct.gc.ca/rtrap-parfa/analys/analys-eng.pdf.

Canadian Triage assessment template

The template of the Canadian Triage assessment process (the preliminary RIA step) expressly asks to appraise social impacts, providing specific consideration to vulnerable social and economic groups.

SECTION II: EXPECTED IMPACTS

3) Social Impacts

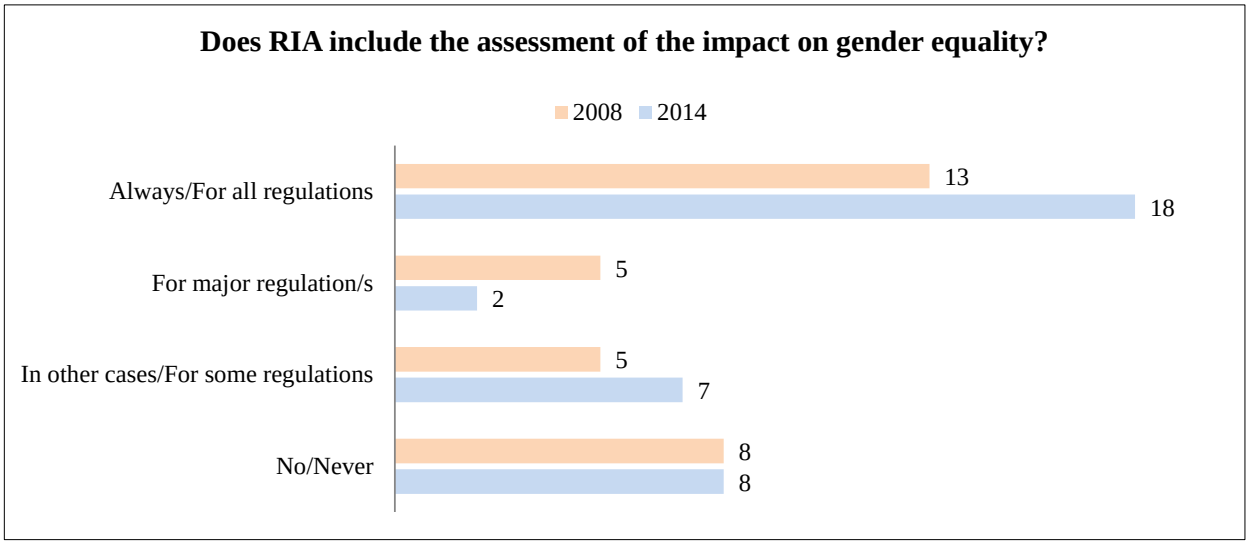
	No/NA	Low	Medium	High
If a regulatory proposal is expected to have no social impacts or implications (e.g., changes to people's way of life, culture, community, political systems, well-being, personal and property rights, fears and aspirations or raises ethical concerns) or is not applicable, it receives a No/NA rating. If a regulatory proposal is expected to have minimal impacts it receives a low rating; if it is expected to have some impacts, it receives a medium rating; if it is expected to have significant impacts, it receives a high rating. **Special consideration should be given to vulnerable social and economic groups (e.g., Aboriginal, official language minorities, lower income Canadians, gender, children, the elderly, cultural groups and recent immigrants).**	☐	☐	☐	☐
Describe the expected impacts only when the impacts are Low, Medium or High:				

Source: Triage Statement Guide, available at: www.tbs-sct.gc.ca/rtrap-parfa/gfrpg-gperf/gfrpg-gperf02-eng.asp#tphp.

Impact on gender equality

Evidence from the *2014 Regulatory Indicators Survey* and the 2008 OECD survey of *Indicators of Regulatory Management Systems* (OECD, 2009b) indicates that a majority of OECD countries consider impacts on gender equality in the RIA context (Figure 6). Requirements for this form of analysis to be undertaken have become considerably more widespread between 2008 and 2014: (18 of 35 respondents stated that they systematically consider gender impacts in their RIA in 2014, compared to 13 in 2008). This improvement is consistent with the *Recommendation of the Council on Gender Equality in Public Life* (OECD, Forthcoming), which suggests countries should "integrate gender impact assessments and gender considerations at early stages of the development, implementation and evaluation of policies, regulations and budgets (…) this would involve aligning *ex ante* gender impact assessments with broader government-wide policy development processes, such as regulatory impact assessment (RIA) and expenditure programme appraisal".

Figure 6. Impact on gender equality: Comparison among 2008 and 2014 data



Note: For this question, the range of possible answers differs in the 2008 and 2014 surveys. In the 2008 survey, the range is: *always*; *for major regulation*; *in other cases*; *no*. While in the 2014 survey, the range is: *for all regulations*; *for major regulations*; *for some regulations*; *never*.

The 2015 Indicators of Regulatory Policy and Governance makes a distinction between *primary laws* and *subordinate regulation*. To take this specificity into account, the figure considers only the lower option when a country presents different answers for *primary laws* and *subordinate regulation*. The countries that present different answers are Belgium (*For all primary laws* / *For some subordinate regulation*) and Ireland (*For all primary laws* / *For some subordinate regulation*).

Source: OECD (2009b), Indicators of Regulatory Management System – 2009 Report, Regulatory Policy Committee, and 2015 Indicators of Regulatory Policy and Governance, www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm.

In order to collect information about the various ways impacts on gender equality are integrated into RIA, the OECD administered a questionnaire to Regulatory Policy Committee (RPC) delegates in 2011.[8] Responses to the questionnaire confirmed that the majority of countries measure impacts on gender equality in the RIA process, at least formally. However, they also showed that there were few

8. OECD (2011), "Gender Analysis and Regulatory Impact Analysis", unpublished paper prepared by Gregory Bounds and Lisa Horsburgh for the Regulatory Policy Committee (RPC).

policy changes as a result of gender impact analyses in most countries. A number of countries were unable to identify any regulatory changes resulting from the introduction of gender analysis. Others stated that the introduction of a gender analysis into the RIA process has mainly served to increase awareness and dialogue on gender issues amongst policy makers.

On the other hand, some countries were able to provide specific examples of policies that were changed as a result of gender analyses. For example, when in 2002 Finland was drafting a new law for occupational health and safety, a gender analysis highlighted the need to reconsider the scope of what were identified as occupational safety and risks. This led to the scope of the legislation being extended well beyond physical risks posed in factories and construction to include concerns such as mental health issues and risks of violence in public healthcare. These inclusions were seen as substantially improving the new law.[9]

The questionnaire also revealed that the nature of the requirements to conduct gender analysis varies widely across countries, ranging from formal legal requirements to statements of policy and informal expectations. The form that the assessment takes also differs significantly across jurisdictions.

In some countries, legislation expressly requires that a gender impact assessment be completed as a separate analysis that accompanies RIA. This is the case, for example, in Sweden and Austria:

- In Sweden, a gender analysis is performed as part of the law drafting and preparation process, by the actors responsible for the process. In Bills and government inquiries a separate section (or chapter) is presented on the assessment of impacts on gender equality. The analysis is performed in relation to the gender equality policy goals, where an assessment is done concerning whether proposals contribute to, or hinder, the achievement of the gender equality goals.

- In Austria, the measurement of a regulation's impact on gender equality has been a requirement since a 2004 decision of the Austrian Council of Ministers. The new RIA process, introduced in 2013 for all laws and ordinances (*Wirkungsorientierte Folgenabschätzung*), contains an explicit set of rules for assessing impacts on gender equality, and is combined with a new handbook and training for the users and a mandatory *ex post* evaluation.

In other countries, legislation requires gender impacts to be taken into account within the RIA process. Thus, the examination of gender effects is carried out as a component of a unique impact assessment and not as a separate test from RIA:

- In Luxembourg, assessing impacts on gender equality has been a requirement of the RIA process since 2010. This analysis is required for every new legislative text. Results of this analysis are incorporated into the RIA, in a section entitled "*Égalité des chances*".

- In Portugal the assessment of impacts on gender equality is incorporated as part of the broader RIA assessment of legislative acts by the government, regulatory decrees and resolutions. The Portuguese RIA document includes an item describing whether the act does or does not have implications for gender equality.

9. For further information see: Finnish Ministry of Social Affairs and Health (2011), "Hallituksen tasa-arvo-ohjelma 2008-2011", Ministry of Social Affairs and Health, Helsinki.

- In Spain the gender impact assessment is a section within the RIA document that must accompany all regulations adopted by the government. The gender impact assessment is required for all policies that affect individuals.

- In Turkey, impacts on gender equality have been considered as an element of the RIA process since 2000. When identifying likely impacts on gender equality, relevant public agencies and ministries must answer specific questions that are outlined in the guidelines.

Finally, there are also countries that do not have explicit legislative requirements but have policies or expectations that impacts on gender equality should be integrated into RIA:

- In France, impacts on gender equality are included in the list of possible impacts to be examined in the RIA contained in the RIA guidance material. This element is included in the documentation under social impacts: "*Equality of treatment between men and women, and reduction of discrimination*".

- In Hungary, impact on gender equality is not a separate element for consideration within the RIA process but is expected to be part of the RIA's broader examination of social impacts.

- In Japan, impacts on gender equality can be considered as a factor which affects society and the economy in a broad sense. This impact is considered as an element of a broader assessment and thus does not require a separate test.

- In New Zealand, impacts on gender equality are not explicitly mentioned in the RIA requirements or guidance. However, it is expected that the regulatory impact statements will document all impacts, including effects on gender, should they be significant.

While the context is one of a RIA in respect of a regulatory proposal which has gender impacts as its core area of concern, the Australian regulatory impact statement on *Prohibiting Discrimination on the Basis of Sexual Orientation, Gender Identity and Intersex Status* represents a good example of gender equality analysis conducted within the RIA context. The RIA tries to quantify the costs and benefits of the proposed regulation, in terms of gender discrimination, on individuals, business and Commonwealth agencies.

In addition to formally or informally requiring the analysis of gender impacts, many countries provide detailed guideline on how to assess these impacts (Box 6). This is in line with the *Recommendation of the Council on Gender Equality in Public Life* (OECD, Forthcoming) to "provide clear guidelines, communication and expectations to public institutions about the process of the application of gender impact assessments". In some cases, countries supplement their guidance materials by providing tools and training to responsible officials. This is likely to support greater compliance with the requirements and more effective implementation.

Box 6. Advising policy makers on how to assess impacts on gender equality

The secondment of experts in Sweden

In Sweden, a manual with guiding questions to ask as part of the assessment process is provided for support within government offices. Moreover, experts are assigned to assist various ministries and departments in ensuring that a gender perspective is integrated into policy processes. These experts are temporarily seconded to various ministries and departments in order to help develop methods and routines to perform the gender analysis. Key elements are:

Box 6. Advising policy makers on how to assess impacts on gender equality (*cont.*)

- Seminars and training of leaders, officials, committees of inquiry
- Implementation of newsletters and networks
- The development of gender methods and methodology
- Analytical tools for gender analysis
- Gender approaches in evaluation systems

Source: European Union Regional Policy (2010), "Flying experts in Sweden", http://ec.europa.eu/regional_policy/sources/docgener/evaluation/evalsed/sourcebooks/method_techniques/boxes/flying_gend_exp_sweden_en.htm

Institutional set-up and training in Finland

In Finland, the Gender Equality Unit in the Ministry of Social Affairs and Health has, in recent years, organised training seminars for civil servants on the basics of gender impact analysis. The Unit has also produced a guidebook on gender equality mainstreaming, in which the basics and the means of gender analysis are presented. Additionally, in 2008 the government opened a Centre for Gender Equality Information, which provides information, research and news relevant to the gender equality perspective. The advice of the Gender Equality Unit in the Ministry of Social Affairs and Health can be used in all preparatory work for legislation and decision making, and in the preparation of broad projects, programmes and measures. Key elements are:

Step 1: Put on your gender glasses

Examine each matter at every stage of preparation from the perspective of women and men. At the start of the preparatory stage, examine:

- how the matter affects women and men, girls and boys;
- what you already know about the situations and needs of women and men;
- what more you need to find out; and
- Use the gender perspective (people = women and men) as one of the examination perspectives throughout the preparation work.

Step 2: Assess gender impact

Gender impact assessment refers to the separate assessment of impacts from the perspective of women and men and gender equality. Gender impact assessment is carried out as standard working practice. Gender impact is always assessed when operations have an effect on different groups of people.

Assess gender impact:

- by statistical analysis; how do women's and men's situations differ?
- by conducting further research; how do the differences in women's and men's situations affect issues in the preparatory work?
- by listening to experts and interest groups; how do they assess the gender impact?

Step 3: Take note of the results

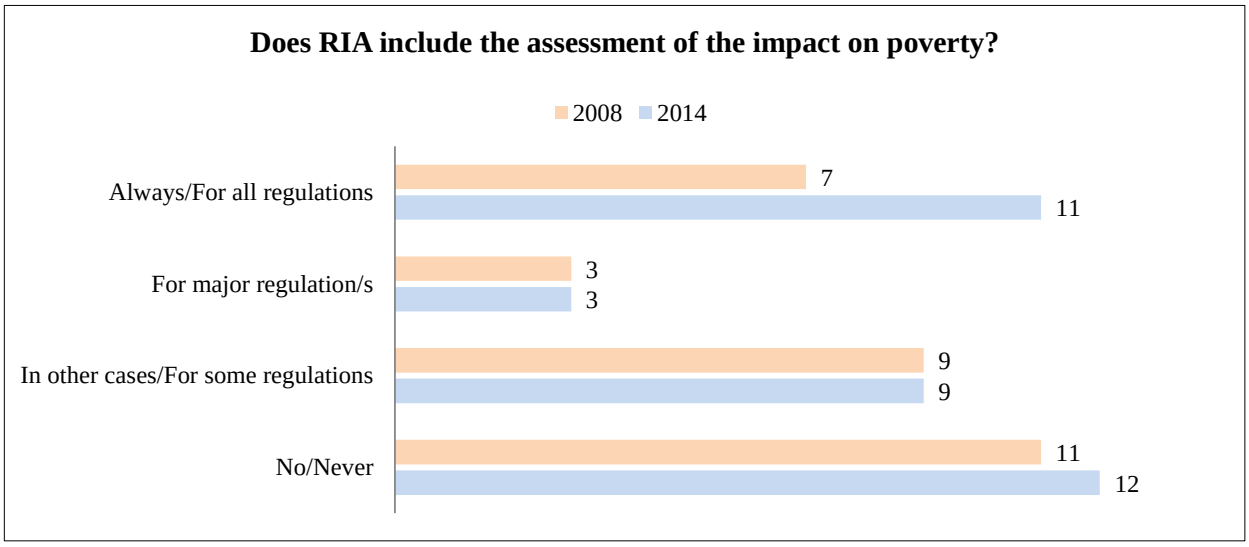
- Include the gender perspective when drawing up the final presentation.
- Examine the impact of gender perspective on the final content.
- Highlight the results of gender impact assessment and how the assessment was implemented.
- If an impact assessment was not carried out, present the reasons.
- Gender perspective must also be considered throughout the monitoring and follow-up stages.

Source: Ministry of Social Affairs and Health Finland (2009), How to incorporate the gender perspective in your own work, www.stm.fi/en/gender_equality/gender_glasses.

Impact on poverty

Evidence from the *2014 Regulatory Indicators Survey* and the 2008 OECD survey of *Indicators of Regulatory Management Systems* (OECD, 2009b) shows that the number of OECD countries that always assess impacts on poverty as part of RIA has also increased in recent years. While, this improvement has occurred from a low base, 11 of 35 respondent countries now assess these impacts in all cases, up from 7 in 2008. Another 9 assess poverty impacts in at least some RIAs, while 12 countries do not undertake analysis of impacts on poverty at all.

Figure 7. Impact on poverty: Comparison among 2008 and 2014 data



Note: For this question, the range of possible answers differs in the 2008 and 2014 surveys. In the 2008 survey, the range is: *always*; *for major regulation*; *in other cases*; *no*. While in the 2014 survey, the range is: *for all regulations*; *for major regulations*; *for some regulations*; *never*.

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Source: OECD (2009b), Indicators of Regulatory Management System – 2009 Report, Regulatory Policy Committee, and 2015 Indicators of Regulatory Policy and Governance, www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm.

The number of countries that assess these impacts in RIA remains below that reported above for the other two types of impacts related to inclusive growth (impact on specific social groups and impact on gender equality), although there appears to be a convergence underway. In addition, poverty impacts might also be addressed in some cases through other requirements to assess equity concerns, such as impacts on vulnerable groups. In Canada, for instance, the guidelines recommend that RIAs assess and document the impacts of policy actions on disadvantaged or vulnerable groups (i.e. the lower income Canadian or recent immigrants), which indirectly capture poverty impacts. Few countries provide specific guidance in their RIA guidelines or handbooks on the assessment of impacts on poverty.

Ireland provides an example of a country where impacts on poverty are required to be assessed in significant detail. The Cabinet handbook requires RIA authors to "indicate clearly the impact of the proposal on groups in poverty or at risk of falling into poverty in the case of significant policy proposals". The RIA guidelines reinforce this requirement by recommending that authors systematically carry out a Poverty Impact Assessment (PIA) on the impacts of regulations on social

exclusion and vulnerable groups. The main elements of PIA are provided in Box 7. According to the guidelines, the impact on poverty should be estimated by quantifying the number of people affected and/or estimating the depth of poverty experienced (i.e how far below the poverty line people are, and the size of the effect of the regulatory proposal). Moreover, the PIA requires quantifying the extent of the impact on each of the groups identified as the most vulnerable to poverty (i.e. lone parent families, families with large numbers of children, people with disabilities, unemployed people, people experiencing rural disadvantage, people experiencing urban poverty, homeless people, migrants and ethnic minorities). In 2008 the Office for Social Inclusion within the Irish Department of Social Protection published a document[10] providing specific guidance on how to conduct a PIA[11].

A good example of PIA is the *Poverty Impact Assessment of the One Parent Family Payment Review*.[12] This PIA performs a full impact assessment of the likely effects produced by the regulatory proposal in terms of poverty creation. As a first stage, the PIA outlines the primary objectives of the regulatory proposal and the target groups that the proposal would reach. Then the PIA measures the impact on poverty that the proposal has for vulnerable groups (i.e. children and young people, people of working age, older people, people with disabilities, women, members of the travelling community, prisoners and ex-prisoners, people experiencing rural disadvantage, etc.). Finally, the PIA assesses how the proposal addresses the inequalities which may lead to poverty and contributes to the achievement of inclusive growth.

Box 7. The Irish poverty impact assessment process

Stage 1. Screening

This will inform the policy maker as to whether or not it is necessary to carry out a full poverty impact assessment. A brief overview or background of the proposal should be set out at this stage.

Stage 2. Full Poverty Impact Assessment

Step 1: Consultation

Step 2: Define Policy Aims and Target Groups

- What is the primary objective of this policy/programme/expenditure proposal?
- Who is the proposal aimed at and how would the proposal affect those persons or groups?
- What are the differences within the target group/between the target groups which might lead to them benefiting from the policy/programme in different ways and how could these be addressed?

Step 3: Identify Available Data and Research

Step 4: Assess Impacts and Consider Alternatives

- What type of impact on poverty (either in terms of numbers in poverty or level of poverty) would the proposal have on each of the vulnerable groups identified?

10. Department for Social Protection (2008), *Guidelines for Poverty Impact Assessment*, available at: www.socialinclusion.ie/documents/PIAGuidelineswithnewEU-SILCfigures_000.pdf.

11. From this perspective, PIA appears quite similar to a SIA focusing on poverty aspects.

12. Poverty Impact Assessment of the One Parent Family Payment Review, www.welfare.ie/en/downloads/OneParentFamilyPaymentReviewPIA.pdf.

Box 7. The Irish poverty impact assessment process (*cont.*)

- If the proposal would have no effect on poverty what options might be identified to produce a positive effect?
- If the proposal would have a positive effect would it help to prevent people falling into poverty, reduce the level (in terms of numbers and depth) of poverty or ameliorate the effects of poverty? (specify). Explain how these positive effects are achieved and consider whether the position could be improved upon.
- If the proposal would have a negative effect (i.e. it would increase either the numbers in poverty or the level of poverty experienced) what options could be considered to ameliorate this effect?
- Would the proposal contribute to the achievement of the inclusion goals and targets? If yes, explain how this is the case and whether the position can be improved further. If no, can anything be done so that it does contribute to the goals and targets?
- Would the proposal address the inequalities which may lead to poverty? If not, can anything be done to address the inequalities?

Step 5: Make Decision and Arrange Monitoring

- Will this proposal be adopted?
- If the proposal is to be adopted, how will its impact on poverty be monitored?

Step 6: Publish Results

Step 7: Return Summary Sheet to the Department's Social Inclusion Liaison Officer.

Source: Department of the Taoiseach (2009), "Revised RIA Guidelines: How to conduct a Regulatory Impact Analysis", www.djei.ie/publications/ria/RIAGuidelines2009.pdf.

Impact on employment / job creation

The 2014 and 2008 OECD surveys do not provide information on whether RIAs include an evaluation of impacts on employment or job creation. However, the examination of selected RIA guidelines and handbooks suggests that a number of countries have explicit requirements or recommendations to integrate this partial impact assessment into RIA.

In the United States, Executive Order 12866 requires a more rigorous RIA process to be adopted for "significant regulatory actions", and includes material adverse impacts on jobs among the criteria adopted to determine whether a proposal constitutes a "significant regulatory action". Thus, potentially material negative impacts on employment constitute one among a relatively large number of threshold tests used to identify regulatory proposals that require greater RIA scrutiny. However, it is not clear how the preliminary evaluation of the impact on employment is carried out before applying the extended RIA. A recent, very good example of this type of assessment is the US RIA for the *Proposed Carbon Pollution Guidelines for Existing Power Plants and Emission Standards for Modified and Reconstructed Power Plants*.

In the European Commission, the new RIA guidelines recommend monitoring some key impacts, including impacts on employment and on working conditions.[13] In Canada the cost-benefit analysis guidelines recommend adopting (in parallel with the cost-benefit analysis) a specific stakeholder

13. http://ec.europa.eu/smart-regulation/guidelines/index_en.htm

analysis that aims to assess the effect of regulation on various entities or stakeholders. The guidelines suggest including as part of the stakeholder analysis an estimation of the impact on employment (Box 8). However, little methodological information is provided on how to conduct the stakeholder analysis and how to integrate the impact on employment.

Box 8. Canada: Integrating the impact on employment into the stakeholder analysis

Regulations may impair the competitiveness of certain firms. Some firms may close as a result of extremely high compliance costs and low financial profitability. Such closures might have serious political ramifications for the region where the firm is located. This can vary from case to case. The analysis should examine the viability of the firms affected in terms of their profitability, liquidity, and cash flow It should assess the number of firms being affected in the industry and by region. **Since jobs are one of the most important concerns for workers and politicians, the number of workers affected by the plant closures should be estimated**.

That being said, it should be noted that the social loss or loss of private incomes as a result of plant closures should be carefully assessed and included as part of the stakeholder analysis. It should be measured by the earnings prior to the closure in excess of the economic opportunity cost of the laid-off workers. The opportunity cost of workers will vary by occupation, skill level, working environment, market condition, region, and unemployment insurance scheme.

Source: Treasury Board of Canada Secretariat (2007), "Canadian Cost-Benefit Analysis Guide: Regulatory Proposals", www.tbs-sct.gc.ca/rtrap-parfa/analys/analys-eng.pdf.

There are a number of methodological challenges related to the assessment of the impact of regulatory proposals on employment/job creation. The US Office of Management and Budget (OMB)[14] identifies three main pitfalls in undertaking these types of assessments:

- *Expecting a precise, measurable impact from most individual regulations*. Only a small fraction of individual regulations or agency actions will have a large enough effect to allow for measurement of changes in gross domestic product (GDP) or national employment. It is the cumulative sum over time of many small changes that may be significant in these areas.

- *Ignoring long-run or indirect impacts*. Many regulatory actions have direct, short-run effects that are mitigated by long-run market adjustments. Indeed, apparent reductions or increases in employment often will, in the medium or long run, turn out to be shifts in employment between economic sectors.

- *Ignoring the importance of timing*. With employment-related policy goals, timing is often fundamental, e.g. spurring job creation is much more desirable during an economic downturn than during expansionary portions of the business cycle. Regulatory development, meanwhile, typically involves years of assessing evidence on the need for, and effect of, regulation; also, once issued, many regulations will remain effective indefinitely. Given their development and effectiveness timeframes, very few regulations that were originally motivated by policy goals unrelated to employment will be well-suited to targeting job creation when it is most needed.

14. The Office of Management and Budget (OMB), which is part of the Executive Office of the US President, through the Office for Information and Regulatory Affairs (OIRA), has the responsibility for overseeing RIAs and providing information and guidance on how conducting RIA.

While a number of RIA guidebooks require consideration to be given to employment or job creation impacts, there are significant limitations on the ability of RIA to address these issues. One key limitation is noted in the US OMB guidance cited above – i.e. that few regulatory proposals are sufficiently far-reaching as to have observable impacts on macroeconomic variables such as job creation. In addition, previous OECD publications dealing with RIA have noted that RIA is essentially a micro-economic tool, which is generally ill-adapted to addressing macro-economic issues, while most macro-economic modelling tools are both poorly adapted to analysing the impacts of individual micro-economic changes and extremely resource-intensive to adopt (OECD, 2009a). These limitations should be taken into consideration in determining the extent of any requirements of this type incorporated in RIA guidance.

Conclusions and discussion points

Countries' practices in integrating selected issues of relevance to inclusive growth into RIA are quite heterogeneous. Evidence shows that general requirements to identify the groups most affected by a regulatory proposal as part of a RIA are widespread, with many RIA guidelines and handbooks addressing these issues. Requirements to evaluate specific impacts on disadvantaged groups and/or existing inequalities are less widespread, though they are becoming increasingly common. The review of a sample of specific RIAs undertaken reveals that, in practice, these assessments focus only on macro groups (e.g. government, firms/business, citizens) in the majority of cases, with few RIA addressing the effects on specific population subgroups. This suggests that there may be compliance issues in relation to the formal requirements established in these areas.

There is also heterogeneity as to the specific impacts required to be addressed. A relatively common requirement is that of integrating *impacts on gender equality* into RIA. However, countries' practices in meeting this requirement also vary widely. In some cases, the legislation expressly requires effects on gender equality to be addressed within the broader RIA while, in others, there is no explicit requirement to address gender equality other than where it is identified as a significant impact. In only a few cases the legislation does require a gender impact analysis to be carried out as a specific test, separate from the RIA *per se*.

The results of the OECD *2014 Regulatory Indicators Survey* (OECD, 2014) show that the most rapid growth in terms of requirements to assess impacts on individual groups has occurred in relation to impacts on poverty: around two-third of countries now require this impact to be assessed in at least some cases and more than a third require it to be assessed in all RIAs. Conversely, few countries integrate *impacts on employment / job creation* into RIA. This is likely to be due to the methodological difficulties inherent in measuring these impacts and the essentially micro-economic focus of RIA.

As a general observation, most countries appear to be at a relatively early stage in adopting requirements for RIA to address inclusive growth issues. Many countries have only adopted requirements for a number of specific inclusive growth-related impacts to be addressed in RIA in recent years. A more systematic integration of inclusive growth issues would require greater knowledge of the dimensions that matter for inclusive growth (going beyond income impacts on specific social groups and on gender and evaluating the impact on distribution of health and education outcomes). It would also require that the necessary data and analytical tools to undertake the evaluation are available. In addition, while a majority of OECD member countries now have requirements in place to evaluate a broad range of impacts related to inclusive growth, specific guidance on what must be achieved and how is often lacking and the review of individual RIA documents suggests that there are problems of practical compliance with these, often relatively newly adopted, IA requirements.

INCORPORATING DISTRIBUTIONAL AND OTHER SOCIAL DIMENSIONS INTO THE RIA

As discussed above, countries wishing to address issues relevant to inclusive growth face two broad choices: they can require specific tools (such as SIA, PIA or EIA) to be employed separately to address social impacts, while adopting a narrow, economic focus for the RIA, or they can seek to address both social and economic impacts within a broader RIA framework. Supporters of using separate tools to address social/environmental impacts frequently argue that integrated approaches may lead to the analysis of social and environmental considerations being downgraded, whether because the "economic" RIA is given greater priority, or because the assessment process becomes "overloaded", or unduly complex, in an environment of inadequate resources and expertise. Conversely, however, an integrated approach necessarily provides better opportunities for explicit consideration of the trade-offs between the various policy objectives and a more coherent approach to policy making. Recognising this, the *Recommendation of the Council on Regulatory Policy and Governance* (OECD, 2012) advocates the adoption of an integrated approach, stating that that countries should: "Adopt *ex ante* impact assessment practices that …include benefit/cost analyses that consider the welfare impacts of regulation taking into account economic, social and environmental impacts including the distributional effects over time, identifying who is likely to benefit and who is likely to bear costs".

The scope of this paper has not enabled the extent to which separate analytical tools, such as SIA, PIA or EIA, are used in practice to be assessed systematically. However, it is clear that, for many OECD countries, the scope of RIA has been broadened to include requirements to assess systematically at least some impacts that are fundamental to the inclusive growth agenda. While this has occurred on an ad hoc and inconsistent basis and to differing degrees across the OECD membership, it indicates that many countries already see RIA as an appropriate mechanism for addressing inclusive growth issues. To this extent, the core question to be addressed is arguably not whether RIA is the appropriate tool to address inclusive growth but, rather, how to ensure that the progress already made in this regard is built upon effectively. This implies ensuring inclusive growth issues are addressed more consistently, in order to maximise the contribution of RIA to their achievement.

In sum, explicitly requiring inclusive growth issues to be considered within RIA would not represent a fundamental departure from current practices. Rather, it would involve recognising the extent to which OECD member countries have already adapted the RIA tool to address many of the policy concerns that fall under this heading and, in light of the high level of political commitment to the inclusive growth agenda in recent years, attempting to ensure these aspects of the broader RIA are given greater prominence in practice than they have had to date. Importantly, it would also involve locating these assessments within a clear theoretical framework and, as a corollary of this, making them more consistent, more systematic and, wider ranging.

That said, both the long-term experience with RIA systems in general and practical experience in analysing inclusive growth issues within RIA underline the challenges involved. Conducting high quality RIA is a relatively resource intensive process and available resources are typically constrained. This implies a need for careful design of specific RIA requirements to ensure these resources are allocated to their best uses. Key design issues are discussed in turn in the following sections. The first section addresses the fundamental question of when RIA should be required to address inclusive growth issues. The second section addresses the question of how inclusive growth assessments should

be integrated into the wider RIA. The third section identifies considerations that should enter in the choice between key options in these areas.

When should RIA incorporate inclusive growth considerations?

Four key options can be identified:

- Inclusive growth issues could be discussed in all RIA;
- Inclusive growth issues could be discussed in RIA in which the identified policy objective is distributional or social in nature;
- Inclusive growth issues could be discussed in RIA when a preliminary assessment has indicated the likelihood that these issues will be important to the policy choice to be made; or
- Inclusive growth issues could be discussed in RIA only where certain identified kinds of distributional or social impacts are assessed as being likely to occur.

This section discusses the relative merits of each of these options, highlighting the key strengths and weaknesses of each, in general terms. Table 2, below, summarises the findings. Given that there is limited experience with implementing many of the partial impact assessments related to inclusive growth, the following discussion draws from relevant aspects of general RIA experience and combines this with a theoretical, or "in principle" discussion of the characteristics of each option. The intent is not to identify good practices *per se*, but to assist countries considering the use of inclusive growth assessments in RIA to design requirements and processes that meet their specific objectives and are consistent with the requirements of their existing RIA systems and processes.

Table 2. Summary assessment of possible options for incorporating inclusive growth in RIA

Possible options	Benefits	Challenges / risks
All RIAs	Limits likelihood that significant issues will be omitted, as IG considerations are systematically considered in all cases,	Burdensome Risks confusing the RIA Risk acquiring a procedural, rather than policy-based focus
RIAs for proposals with social objectives	Targeted approach	May exclude proposals with significant IG impacts ancillary to key regulatory objectives
RIAs subject to preliminary screening	Supports adoption of a proportionate approach.	May be resource-intensive. Methodology for conducting preliminary assessment must be specified.
RIAs likely to have distributional impacts	Flexible, less costly	Less effective filter

Source: Authors' analysis.

Requiring all RIA to address inclusive growth

This approach would imply that all RIA would be required to address explicitly the question of whether a regulatory proposal would have impacts on inclusive growth issues. A similar approach is adopted in some OECD countries in the context of their partial impact assessment requirements. Where such requirements are in place, there may be merit in adopting an evolutionary approach. That is, any requirement for a broader analysis of inclusive growth impacts to be conducted as part of RIA would be implemented on a similar basis to the existing partial impact assessment requirements.

The key advantage of this approach is that it allows each RIA to demonstrate clearly that these issues have been identified and weighed. Arguably, this ensures transparency in relation to compliance with the policy and thus addresses concerns that integrated RIA can lead to these issues being downplayed. The inclusion of an explicit discussion of inclusive growth impacts in all RIA – or, where relevant, of the basis for concluding that there were no such impacts of significance – would enable stakeholders to assess, and potentially to challenge, both the analysis provided and its conclusions.

Against this, this approach could risk being unreasonably burdensome and detracting from the clarity and coherence of the overall RIA. These risks would be particularly acute if prescriptive requirements were created in this area. As an example of this issue, many countries' RIA guidance documents include such detailed, prescriptive requirements in respect of the assessment of administrative burdens, often summarising the "Standard Cost Model" methodology. This can mean that administrative burdens, while typically accounting for only a quite small minority of overall regulatory costs, are subject to a more detailed analysis than are the (typically much larger) substantive regulatory compliance costs and that a rigid, predetermined analytical method must be used. This risks misdirecting limited RIA resources and undermining the clarity and focus of the RIA by, and least apparently, giving undue weight to one particular category of costs.

Given this, the question of what specific analytical requirements should be created in respect of inclusive growth issues would require particular attention if this approach were to be adopted. A requirement that allows for a relatively brief and simple analysis, leading to a conclusion that there would be zero or minor impacts on inclusive growth issues, could help to minimise the risks cited above. Conversely, it may raise the prospect that inclusive growth issues will receive only cursory treatment in many cases. The role of the regulatory oversight body in ensuring compliance would necessarily be significant in averting this risk.

Requiring RIA to address inclusive growth only where policy proposals have distributional/social objectives

This approach would involve only requiring inclusive growth issues to be addressed in a subset of RIA. The requirement for an assessment of inclusive growth issues would be triggered by a determination that at least one of the primary objectives of the regulatory proposal are distributional or social in nature, rather than pursuing economic efficiency ends.

The main potential advantage of this approach lies in the fact that the requirement for an inclusive growth assessment would be targeted, coming into play only where the policy proposals in question relate to these objectives. However, a practical issue would be the need to ensure that judgements about the key objectives of the policy (and therefore the triggering of the inclusive growth assessment requirement) were made on a consistent and appropriate basis. This suggests a need for the regulatory oversight authority to address this question with the ministry responsible for the regulatory proposal at an early stage of the RIA process and agree on whether or not an inclusive growth assessment was

required. To this extent, this option has similarities to the preliminary assessment option highlighted below.

A significant potential concern with this approach is that it may unreasonably exclude some regulatory proposals that do have significant impacts on inclusive growth related issues from the assessment requirement. Some policies which may primarily address economic issues will nevertheless have important distributional or other social impacts and, consequently, should merit inclusion in the scope of inclusive growth assessments. Thus, this "filter" is likely to err on the side of not applying the requirement to analyse inclusive growth impacts sufficiently broadly.

Requiring a preliminary assessment to determine whether RIA should address inclusive growth

This option would require a preliminary assessment to be undertaken to determine directly the question of whether a regulatory proposal is likely to have significant implications for inclusive growth. A full assessment would be required to be undertaken only in cases where such significant impacts are found to be likely. This approach may be preferable to the above option in that it deals specifically with the question of whether policies are likely to have significant implications for inclusive growth, rather than using an indirect, or "proxy" measure.

Again, the use of preliminary assessments is an existing feature of some RIA systems. Initial screening requirements include screenings to answer the threshold question of whether RIA is required (as in Australia) and screenings to determine whether specific types of partial analysis are required (e.g. Ireland's required screening to determine if a full poverty impact assessment is needed). In both cases, the purpose of the screening is clearly to identify whether the size of the expected impacts is sufficient to justify a full analysis.

As a general comment, the adoption of a broader impact analysis requirement – i.e. by requiring inclusive growth issues to be addressed – would seem to strengthen the case for undertaking screening. This reflects the fact that the specific content of individual RIA is likely to differ more widely in such a context, as the key impacts that must be addressed are identified from a wider "menu" of possible impacts. Undertaking initial screening and agreeing (i.e. between regulatory agency and regulatory oversight body) the scope of the required analysis and specific areas to be included prior to the substantive analytical work being commenced is thus likely to have increased benefits in reducing the extent of reworking of the draft analysis and the time taken to complete a complying RIA.

The adoption of a screening requirement to determining when inclusive growth assessments are required would appear to impose little additional compliance burden in systems in which some form of screening is already required. However, should this approach be adopted where no requirement for preliminary assessments currently exists, consideration would need to be given as to whether the scope of the preliminary assessment should be limited to the inclusive growth issue, or whether a broader approach should be preferred. *A priori*, a generic approach, which sees preliminary assessments as determining the appropriate scope of the whole RIA, via agreement between the regulatory agency and the regulatory oversight body, would appear more consistent and logically defensible. This approach has historically been adopted in the Netherlands, for example (OECD, 1999).

While a need for preliminary assessments to be conducted clearly creates additional resource requirements at this early stage of the RIA, the logic of this process step is that there are likely to be offsetting savings at later stages in the RIA, since a level of clarity as to analytical expectations should have been achieved prior to the substantive assessment process been commenced and the need for subsequent reworking of draft RIA following review by the regulatory oversight body should be minimised as a result.

Guidance would presumably need to be issued by the regulatory oversight body to facilitate the preliminary assessments. The OECD Competition Assessment Toolkit, which has been designed to facilitate the integration of competition assessment into RIA, provides a potential model in this regard. The toolkit combines simple guidance based on a number of key questions, which can be addressed by non-specialists, with more detailed material that is intended to be used for reference where the initial screening indicates that there is a potentially significant competition impact.

Requiring RIA to address inclusive growth when certain identified kinds of distributional or social impacts are assessed as being likely

This option can be considered as a variant of the above approach. It would similarly require that an initial assessment of the likely impacts of the regulatory proposal be undertaken in order to determine whether a full inclusive growth assessment is required. However, rather than being a "preliminary impact assessment", which seeks to assess in broad terms whether substantive impacts on inclusive growth issues are likely, it would use a checklist-based approach to make a simple, binary judgement as to whether certain types of impacts that are relevant to inclusive growth are likely to occur. That is, the initial assessment would not address the size of these impacts, but simply their existence.

This approach could be said to have the advantage of not requiring any significant investigation to be undertaken in circumstances in which no readily identifiable inclusive growth impacts are likely. Conversely, it is likely be less effective in acting as a "filter", potentially requiring inclusive growth assessments to be undertaken even where only minor potential impacts exist. To this extent, it may be less efficient in terms of its implications for the overall application of resources to RIA tasks. It may also have negative implications for acceptance of the inclusive growth assessment requirement among regulators, to the extent that it results in analyses being undertaken that are considered unnecessary, given only small inclusive growth related impacts.

How should inclusive growth be integrated into RIA?

This section considers the different ways in which assessments of inclusive growth can potentially be integrated with the broader RIA requirement. It highlights the fact that there is a continuum between the option – identified above – of considering inclusive growth issues via an essentially separate analysis, with integration being limited to an attempt to bring together and weigh the final conclusions of the RIA, SIA and EIA (for example) and the option of fully integrating inclusive growth assessments into the core RIA at all levels. For each option, key benefits and drawbacks are identified.

Table 3. Benefits and challenges of possible options for incorporating inclusive growth in RIA

Options	Benefits	Challenges
Low integration Addressing inclusive growth outside the RIA context	No risk of overloading RIA procedures Less resource intensive process / possibility to implement the IG analysis in a second period	The results of the IG analysis does not influence the RIA process The focus is put on capturing possible latent social impacts
Medium integration Inclusive growth assessment as a separate screen	The scope of the RIA is increased since it focuses also on the possible ancillary interventions needed	The results of the IG analysis are only partially reflected in the RIA process The IG analysis does not affect the selection of the regulatory option (Cost-Benefit Analysis) rather the focus is on clarifying the nature of social / inclusive impacts
Strong integration Inclusive growth analysis as a mandatory check	The results of the IG analysis directly affects the selection of the regulatory option (Cost-Benefit Analysis)	Resource intensive Risk of overloading RIA procedures

Inclusive growth analysis as a parallel process

A simplified approach would involve the presentation of the assessment of each regulatory option's performance in relation to identified inclusive growth criteria alongside the core BCA (or other RIA method employed) as an additional input to decision makers, without any explicit attempt being made to integrate the results of the two types of assessment. In practice, this leaves the issue of what relative weight to apply to the two forms of assessment to policy decision makers, without providing any explicit guidance on this issue.

A key objection to this approach is that it is inconsistent with the general structure of the RIA which, in most if not all cases, explicitly identifies the preferred regulatory option on the basis of the BCA or other analytical method adopted. A RIA which identified a preferred option purely on the basis of a BCA, without explicitly discussing the results of the "inclusive growth assessment" in the final conclusion would be criticised as failing to give appropriate weight to the latter analysis. Conversely, a RIA which did not identify a preferred option on the basis that inclusive growth considerations were rated as significant, but no means of weighting them in relation to the BCA was adopted, would imply a significant departure from the basic presumptions of RIA.

Inclusive growth analysis as a mandatory check

A variation on this approach, therefore, would construe the inclusive growth assessment as a mandatory check to be applied, and passed, before the preferred option is proposed. That is, the preferred option would be identified on the basis of the BCA, while the inclusive growth assessment would determine whether or not it features significant negative distributional and/or social impacts. Where such impacts are identified, these would be incorporated into the concluding discussion, with the option entailing the next highest net benefit, while performing better on the inclusive growth criteria identified, also being highlighted. The recommended option could then be identified on the basis of a simultaneous assessment of their performance in relation to both aspects of the analysis.

Inclusive growth assessment as a separate screen

A further, related option would see the inclusive growth assessment as a separate screening process, to be conducted once the regulatory option has been chosen. The separation of the inclusive growth assessment would arguably imply that underlying purpose would be to determine whether ancillary remediation measures are potentially necessary or desirable in order to offset any identified negative impacts in relation to the relevant inclusive growth criteria, rather than as a basis for influencing the regulatory choice to be made in the larger sense.

Thus, the focus of the inclusive growth assessment in this case would be on clarifying the nature (including the incidence) and extent of these negative impacts. Conversely, this approach could involve identifying major positive impacts in respect of inclusive growth criteria that would potentially justify departure from the presumption in favour of adopting the option with the highest net benefit, measured in strictly economic terms.

The approach of identifying offsetting, or remediating initiatives to address negative impacts on inclusive growth effectively implies an additional stage, or at least an extra element, being incorporated into the analysis beyond that of the inclusive growth assessment *per se*. That is, the analysis would be expanded to incorporate consideration of the appropriate nature and extent of any such additional measures.

However, the costs of any recommended ancillary remediation measures would need to be added to the costs identified in the core BCA in order to provide a clear understanding of the full cost implications of proceeding with the recommended option, including those of the remediation measures. This implies that it would not be possible for the inclusive growth assessment to function as an entirely separate screening process – i.e. there would potentially need to be feedback to the RIA itself.

Such an approach arguably represents a significant expansion in the scale and scope of the overall RIA requirement, with attendant resource implications. This would need to be recognised and addressed in order to ensure that it had good prospects of succeeding in practice.

Addressing inclusive growth outside the RIA context

The preceding sections of this paper have discussed the question of whether other, existing analytical tools such as Social Impact Assessment (SIA) or Environment Impact Assessment (EIA) – which are specifically focused on key inclusive growth issues – are more appropriate vehicles for including inclusive growth issues in regulatory decision making. However, another option in terms of addressing inclusive growth outside the RIA *per se* can be identified.

This would involve conducting an assessment that is not part of *ex ante* RIA but, instead, is conducted as part of an *ex post* assessment of the predictions contained within RIA. That is, where an *ex post* assessment requirement exists or is adopted, it would be broadened to include consideration of inclusive growth issues alongside the core economic analysis contained in the RIA. This could be considered a preferable approach on the basis that many of the impacts to be taken into account in an inclusive growth assessment are likely to be "second round", or indirect effects and therefore more difficult to estimate accurately on an *ex ante* basis.

Some precedent exists for this approach. In particular, the Irish RIA guideline document requires the RIA to include information on how the impact on poverty of a proposed regulation will be monitored over time. As noted above, the indirect nature of many of the impacts on inclusive growth

issues implies that the role of subsequent, *ex post* analysis in ensuring that RIA is effective in promoting these objectives may be particularly important. An implication of explicitly adopting requirements to consider inclusive growth within the RIA system could therefore be a need to reconsider and strengthen existing arrangements for *ex post* analysis of regulatory proposals, possibly with a particular focus on key areas of uncertainty in the *ex ante* analysis (which would be likely to include inclusive growth issues).

From a policy perspective, this approach would be predicated on the notion of identifying circumstances in which the outcome of the *ex post* analysis gave rise to a need for additional policy measures to be taken to remediate actual negative outcomes, or for reassessment of the regulatory regime in light of revealed negative performance in these dimensions. The fact that this option involves responding to actual, identified implementation problems implies that any remedial actions would be able to be better tailored to address the specific problems identified, however, it would also be liable to criticism of not acting to address foreseeable concerns in a timely fashion – i.e. during the policy development stage.

Considerations for selecting appropriate approaches to integrating inclusive growth considerations into RIA

The above discussion highlights the existence of a range of options for addressing inclusive growth-related issues in the RIA context, addressing both the questions of when and how these issues should be incorporated in RIA. Each of these options presents specific advantages and challenges, while the choices made among these options will also need to take into account the specific circumstances in which these choices are being made. Relevant factors include institutional conditions (e.g. availability of resources, political objectives, etc.), the specific characteristics of existing national RIA processes and, more broadly, the institutional and procedural framework for legislative development. However, a number of general considerations may guide the choices to be made. These are discussed below.

A RIA methodology that provides the basis for a coherent assessment of a wider range of impacts

To influence decision making, RIA must present a coherent analysis that effectively integrates assessments of impacts in a range of dimensions. The integration of an inclusive growth assessment within RIA provides an opportunity to enhance this necessary coherence by providing an organising principle for the range of partial impact assessments related to inclusive growth that have already been adopted in many countries.

Conversely, however, while many inclusive growth related issues may be able to be quantified, and even monetised, it is likely that adopting a greater emphasis on these effects within RIA will imply that a smaller proportion of the identified, significant impacts of regulatory proposals can be fully quantified and expressed in dollar terms. Thus, the issue of how best to integrate quantitative and qualitative aspects of the analysis will become increasingly important.

This, in turn, may suggest that the role of other RIA methodologies will need to be reconsidered and, potentially expanded. In particular, Multi-Criteria Analysis may become an increasingly important element of RIA. The key characteristic of this tool is that it promotes a systematic approach to applying subjective or qualitative, judgements across a range of dimensions. This characteristic means this methodology is likely to lend itself to the task of integrating consideration of a broader range of impacts into RIA.

Embedding proportionality and materiality in the approach

The *Recommendation of the Council on Regulatory Policy and Governance* (OECD, 2012) advocates a proportionate approach to RIA, recommending that countries: "Adopt *ex ante* impact assessment practices that are proportionate to the significance of the regulation, and include benefit cost analyses that consider the welfare impacts of regulation taking into account economic, social and environmental impacts including the distributional effects over time, identifying who is likely to benefit and who is likely to bear costs".

This principle of *proportionality* necessarily suggests that analyses of inclusive growth issues within RIA should focus on the expected impacts of greatest significance and would not, in all cases, need to consider all aspects of the inclusive growth agenda. This concept is commonly used by companies in their corporate reporting: According to the IASB Framework, "information is material if its omission or misstatement could influence the economic decisions of users taken on the basis of the financial statements". Materiality therefore relates to the significance of transactions, balances and errors contained in the financial statements. Materiality defines the threshold or cut-off point after which financial information becomes relevant to the decision making needs of the users[15]. Transposing this concept to the question of what inclusive growth issues are material clearly suggests that all those impacts that may substantively influence the outcome of decisions made on the basis of the RIA should be incorporated in the RIA document, while those falling below this threshold can reasonably be excluded.

The proportionality principle may also be read as suggesting proportionality between the size of specific inclusive growth impacts and the extent of efforts to incorporate them into the core BCA by quantifying and monetizing them as far as possible. That is, where inclusive growth impacts are likely to be of major importance in determining the policy option, those impacts should be integrated into BCA as far as possible, potentially by using indirect valuation techniques. The provision of an integrated analysis will necessarily form a better basis for decision-making which takes full account of all impacts and is less vulnerable to the common criticism, noted above, that integrated RIA often unduly downplay social or environmental impacts. Another element of this issue is that, where indirect valuation mechanisms to enable quantification and monetisation are not available, or are not satisfactory, and inclusive growth impacts are substantial, greater priority should be given to the development of a more detailed and sophisticated Multi-Criteria Analysis and to ensuring that it is adequately considered in the conclusions of the RIA document.

Responding to identified negative impacts on inclusive growth

As suggested above, the inclusion of inclusive growth assessments within RIA will only be regarded as credible if the inclusive growth analysis is significant in determining policy choices. The purpose of highlighting inclusive growth issues is necessarily to enable consideration of modifications to regulatory proposals that would improve their performance in this respect. In some cases, this may be achievable in a way that has few cost implications in relation to the primary objectives of the regulatory proposal. However, in others, addressing identified issues may potentially have significant implications for net benefit outcomes.

A primary issue is the "threshold question" of how to determine when integrated growth impacts are sufficiently significant as to require modification of a policy proposal. This then leads to the issue of how policy makers should revise the proposal. Current practice in addressing these issues varies

15. See http://accounting-simplified.com/financial-accounting/accounting-concepts-and-principles/accounting-materiality.html#sthash.TqyuLrJm.dpuf

significantly, although a general observation is that the threshold for determining when a policy response to an identified inclusive growth issue must be adopted is quite low, with a response often being formally required in any case in which there is a negative impact in terms of a particular inclusive growth related issue.

One distinction is between guidance that focuses specifically on negative impacts and that which also creates a responsibility on regulators actively to seek positive inclusive growth outcomes, even where these do not form the core objective of the proposed regulation. Thus, for example, the UK RIA system includes a presumption that small and micro-businesses will be exempted from new regulatory requirements[16] but specifies that, where this is not done, any "disproportionate impacts" of the regulation on this sector must be "fully mitigated" and that details of the mitigation options proposed and their effect should be included in the analysis. Conversely, the Irish poverty impact assessment requirement is that:

- If negative impacts on poverty are identified, potential means of minimising them through policy change are identified;
- If no impacts are identified, potential changes to the proposal that would improve current performance should be considered; and
- Similarly, if positive impacts are identified, potential means of further enhancing these impacts should be considered.

The underlying distinction appears to be between a view of these partial impact assessments as being focused on mitigating negative by-products of regulatory proposals and a requirement to attempt to identify means of improving performance on the specific issue as part of *all* proposed regulatory initiatives. The latter requirement is clearly substantially more demanding and is suggestive of a far higher degree of priority being accorded to the issue (i.e. the subject of the partial analysis) within the policy process.

While the question of how to respond, in policy terms, when the above thresholds are crossed is discussed in general terms in a number of RIA guidebooks, it appears that there is currently little specific guidance on practical implementation. Addressing this would seem to be a significant requirement were a more systematic approach to integrating inclusive growth assessments to be adopted. However, such guidance would to be sufficiently broad and flexible to be applicable across the wide the range of policy contexts and inclusive growth impacts that will require consideration. A feasible approach could be to address issues of principle such as:

- when consideration should be given to revising the regulatory proposal in response to identified negative impacts;
- what types of revisions should be considered and how their merits should be addressed;
- how to address the issue of whether compensation for negative impacts on inclusive growth issues should be undertaken in other contexts, rather than through changes to the regulatory proposal; and

16. Where the underlying regulatory objective can still be "substantially achieved".

- when and how broader policy considerations should be taken into account in addressing the above issues.

The third point above – that of determining whether the policy response to IG issues should involve modification of the specific regulatory proposal or the adoption of countervailing policies in other areas – is particularly important. A key perspective is provided by the general preference of economics for distributional and other issues to be addressed through the tax and transfer systems, rather than through specific policy changes. This is due to the observation that such approaches tend to be more efficient – i.e. to be able to achieve objectives at lower cost. Indeed, as noted above, some research literature identifies this preference as one explanation for the limited discernible impact on policy outcomes of tools such as SIA.

Conversely, arguing that negative IG impacts should be offset through separate policy actions is likely to give rise to political difficulties in many cases, as there may be limited confidence that the promised "policy offsets" will actually be delivered. This is necessarily a realistic concern, given the nature of government policy making, particularly in relation to the allocation of responsibility for issues across different portfolios. Thus, pragmatic considerations may militate in favour of addressing IG impacts within the context of the specific regulatory proposal, even where there may be reason to believe that other options would be more efficient.

Ensuring adequate transparency, stakeholder engagement and accountability

Inclusive growth assessments are likely to prompt substantial stakeholder interest in many or most cases. This implies a need for transparency as what potential impacts have been included in, and excluded from, the analysis and a need to ensure that the reasoning behind these threshold decisions is also made clear. That is, transparency about the basis for policy decisions generally underpins public confidence and perceived legitimacy, while this dynamic is likely to be particularly important in the context of issues of particular public interest, which will include many inclusive growth impacts.

In addition, transparency functions as a quality assurance mechanism in itself, as it enables stakeholders to challenge decisions made and highlight significant impacts that may have been overlooked. Again, this dynamic may be particularly important in the inclusive growth context, as many the potential impacts on social and distributional issues (e.g. gender, poverty, etc.) will be indirect in nature, giving rise to a larger than usual risk of them being overlooked in the development of the RIA. In sum, both of the above issues suggest that particular attention should be paid to ensuring that high quality stakeholder engagement processes are in place where RIA requirements are expanded to include inclusive growth impacts.

Expanding the role of* ex post *analysis

As highlighted in the OECD Regulatory Policy Outlook and many other studies, regulatory policy has tended to focus on the earlier phases of the policy cycle; i.e., on problem identification and analysis, the identification of policy options and their subsequent development and *ex ante* assessment. By contrast, less emphasis has been given to the subsequent stages of policy evaluation (i.e. *ex post* assessments of the actual performance of policy initiatives adopted) and policy revision/reformulation. A practical illustration of this trend is the fact that the predictions contained in RIA dealing with new regulatory proposals are rarely verified following regulatory implementation, through *ex post* evaluation for instance.

Consideration should be given to modifying RIA systems to ensure that they establish explicit requirements for *ex post* review of RIA, at least where major regulatory initiatives are concerned. This could include, for example, a requirement to set out in the *ex ante* RIA how such *ex post* review will be undertaken, including identifying data collection strategies, relevant timelines and other factors that are tailored to the specific regulatory context in question. Consideration could also be given to accountability mechanisms that would ensure that the results of this *ex post* review activity form an effective policy feedback loop.

The institutional conditions for incorporating IG in RIA

OECD best practice principles have long identified the need to allocate RIA system elements carefully, particularly by balancing the primary responsibility of regulatory agencies for the conduct of RIA and the necessary supervision and quality control by a regulatory oversight body. As the above analysis suggests, the inclusion of the inclusive growth concept may have implications for the respective roles of these major players and, hence, for RIA process design.

In particular, the potential inclusion of a broader range of issues within the scope of the RIA implies that a greater degree of judgement will be required to determine the scope of the analysis required in individual cases, the level of integration and the appropriate specific inclusions (i.e. specific impacts to be considered). This, in turn, will imply a more significant role for regulatory oversight authorities, probably via the establishment of a more formal screening process, to be undertaken before the RIA proper is commenced.

Other factors may also increase the role of regulatory oversight bodies. The need to adopt a wider range of methodological approaches and to exercise greater judgement as to which should be adopted in particular cases and how they should be combined will also create pressure in this direction. More generally, a greater degree of analytical sophistication will be needed in many cases and consideration should thus be given to steps that could be taken to better support regulatory agencies in achieving high standards in this regard.

CONCLUSIONS

This paper examines the potential contribution of a specific regulatory policy tool – Regulatory Impact Assessment – to better incorporating the inclusive growth perspective in decision-making. It does this by:

- Combining analyses of the nature of the inclusive growth agenda and its relationship with other policy goals and of the role of RIA within the regulatory process. This analysis has made the theoretical case that RIA can be influential in advancing the inclusive growth agenda in the regulatory context;

- Reviewing current RIA policies and guidance documents in a range of OECD countries. This review demonstrates, first, that most countries seek systematically to address a range of social and environmental issues within the RIA context, consistent with the *OECD Recommendation of the Council on Regulatory Policy and Governance* (OECD, 2012); second, that the specific set of issues addressed varies widely between countries; and, third, that there is rapid growth in number of countries requiring these issues be addressed as part of RIA;

- Reviewing the research literature on the use of RIA to address social and environmental issues and supplementing this review with the authors' own review of a sample of recent RIA from leading OECD countries. These reviews have demonstrated that actual practice frequently falls short of the formal requirements established in RIA policy and guidance, but that there are some examples of sophisticated and policy-relevant analysis of social and environmental issues being completed within broader RIA.

This research leads to several, related conclusions. First, at a theoretical level, there appears to be substantial potential for RIA function as an important tool for implementing the inclusive growth agenda within the regulatory context. Second, this potential has already been recognised in a large number of OECD countries, who have adopted requirements for an increasing number of specific issues, many of which fall under the inclusive growth umbrella, to be assessed within RIA. There is also a strong trend evident in recent years for a wider range of such impacts to be included in RIA analytical requirements and for more countries to adopt these practices.

To this extent, the core question that the paper tries to address is not whether RIA is the appropriate tool to address inclusive growth but, rather, how to ensure that an integrated RIA – that is, RIA that addresses inclusive growth issues, as well as other relevant social and environmental issues – is effective. The analysis of actual practice highlights the fact that it frequently falls short of both the theoretical potential of RIA in this area and the specific requirements of current guidance material. This is perhaps unsurprising, given the rapid recent expansion in requirements in this area, and the data and methodological challenges associated with the evaluation of IG impacts and the paucity of guidance and other support mechanisms provided to regulators in certain areas. However, it implies that significant improvements must be made in the way that RIA systems address inclusive growth related issues if the potential of this tool is to be realised.

The analysis contained in this paper indicates that the challenge is both theoretical and practical, suggesting that actions in response must be taken at both levels. In the former context, the OECD is developing in 2016-17 a set of best practice principles for RIA that will help address the broader challenges relating to RIA, including the effective incorporation of the inclusive growth perspective.

This will complement corporate efforts to improve more generally the knowledge on different IG dimensions (for instance, going beyond income distribution, to the distribution of health or educational outcomes), both from the analytical point of view and the availability of data. At the practical level, improving current analytical performance requires better elaboration and communication of methods for evaluating and, in particular, quantifying and monetising the range of social, distributional and environmental impacts associated with regulatory proposals and integrating this analysis with the narrower "economic" perspectives that traditionally form the core of RIA. Additional work is needed to support regulators in undertaking such analysis and effectively communicating the results to decision-makers.

That said, the limits to this endeavour must also be recognised. RIA is essentially a tool of microeconomic analysis. Few individual regulatory interventions have identifiable and measurable macroeconomic impacts, while macroeconomic tools are arguably not well adapted to assessing the impacts of individual, micro-economic interventions. Moreover, RIA is subject to significant resource constraints in most countries, while macroeconomic analysis is a highly resource intensive exercise. There are, therefore, both theoretical and practical limitations on the use of macroeconomic analysis in the RIA context. These factors necessarily limit, to some extent, the role of RIA in relation to the inclusive growth agenda and imply that, while RIA is a potentially important tool in this regard, it will necessarily be complemented by others.

Third, the impacts of regulatory interventions on inclusive growth related objectives will often be indirect in nature, making *ex ante* estimation of these impacts a particularly challenging task. This implies that consideration will need to be given to the issue of what *ex post* evaluation requirements may need to be adopted in order to verify outcomes in this regard. While the OECD has promoted the use of *ex post* evaluation for some time, the limited use of this form of analysis generally and to address inclusive growth issues more specifically further underlines the importance of designing and implementing appropriate initiatives in this area.

This paper identifies and analyses the merits of a range of options as to when and how inclusive growth issues can be addressed in RIA. Recognising both the range of impacts that fall under the inclusive growth rubric and the wide range of policy areas addressed in regulation (and hence RIA), flexible and responsive approaches will be required. The paper therefore elaborates a number of principles that aim to assist decision-makers in designing appropriate systems and mechanisms for addressing inclusive growth in RIA. However, given the relatively early stage of development of attempts to address inclusive growth issues in RIA, there are necessarily significant gaps in the current state of knowledge on these issues. Several have been identified in the paper and provide several directions for further work in this area. The potential for RIA to contribute to the achievement of the objectives of the inclusive growth agenda is substantial, but will require sustained research and development over the medium term if it is to be realised in practice.

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