**Unclassified** **GOV/RPC/RD(2015)3**

Organisation de Coopération et de Développement Économiques
Organisation for Economic Co-operation and Development **10-Apr-2015**

**English - Or. English**

**PUBLIC GOVERNANCE AND TERRITORIAL DEVELOPMENT DIRECTORATE**
**REGULATORY POLICY COMMITTEE**

GOV/RPC/RD(2015)3
**Unclassified**

# USING REGULATORY IMPACT ANALYSIS TO FOSTER INCLUSIVE GROWTH
**An expert perspective**

**12th meeting of the Regultory Policy Committee**

**14-15 April 2015**
**OECD Conference Centre**
**Paris, France**

*This document complements document GOV/RPC(2015)4 by providing the perspective of an expert on the contribution of Regulatory Impact Analysis to Inclusive Growth. It was developed by Rex Deighton-Smith.*

*Delegates are invited to discuss this draft at the forthcoming Roundtable of the RPC on Regulatory Reform in support of Inclusive Growth to be held on 15 April 2015 and to provide written comments to the Secretariat by 12 May 2015.*

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**JT03374119**



**English - Or. English**

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**Abstract:** OECD member countries have endorsed the inclusive growth paradigm as a new approach to economic growth that focuses on ensuring that the benefits of increased prosperity are more evenly shared, while also lifting levels of growth as a product of ensuring greater access to social and economic opportunity. Effective action will need to be taken at all stages of the policy cycle if the inclusive growth concept is to be appropriately reflected in government policy decision making. In the regulatory context, this implies identifying which regulatory quality tools can contribute to this outcome and how they can best be adapted to this purpose. Regulatory Impact Assessment (RIA) is sometimes criticised as having a narrow, economically focused approach to assessing the merits of regulatory options, however, previous OECD work has documented its widespread and increasing use to assess regulatory and other options in terms of their impact on a range of distributional and social factors. This work provides a sound basis for adapting RIA to deal explicitly with inclusive growth issues and, indeed, provides a potential organising principle which can place these existing initiatives on a firmer conceptual footing, as well as ensuring broader and more consistent approaches are taken across Member countries.

That said, some research suggests that the practical impact of adopting these requirements has been limited, with few impacts on policy outcomes being observable. The theoretical and practical limitations of RIA as a regulatory quality tool must therefore be recognised, with this recognition informing the choices made as to how RIA is adapted to better foster inclusive growth. In particular, a targeted approach is needed to ensure both that the scope of such analysis appropriately defined and that limited RIA resources are focused only on those regulatory proposals which are likely to have significant inclusive growth implications. This is likely to require preliminary assessments to be undertaken, potentially using a template to assist in identifying key areas of impact requiring further assessment. Finally attention will need to be given to the question of how to ensure that inclusive growth assessments are effectively integrated with the "core" RIA elements in order to effectively inform and influence policy choice. This is likely to require the use of a broader range of methodological tools, such as Multi-Criteria Analysis.

# 1. Introduction

### *Defining inclusive growth*

The OECD has called inclusive growth “a new approach to economic growth that aims to improve living standards and share the benefits of increased prosperity more evenly across social groups” and identifies it as a major challenge for many countries around the world (OECD, 2015b, p. 8). At its most basic, the inclusive growth concept can be seen as simply implying that economic policy should have regard to both growth per se and its distribution. However, 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. That is, rather than being independent (or even antagonistic) goals, the pursuit of growth and equity goals is, to a large extent, complementary.

Consistent with this latter insight, inclusive growth has been described 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” (OECD, 2015b, p. 79). “Fair distribution”, in this context, implies both:

- that people should have opportunities to contribute to growth (i.e. access to jobs and participation in social life); and
- that they should receive a fair proportion of the benefits from growth (measured in terms of both income, and access to services).

Thus, it embraces their engagement in the economy and society both as producers and as consumers.

These different dimensions of “inclusive growth” in turn imply that several specific policy objectives can be identified that will promote its achievement. These include, in particular, a focus on generating sufficient jobs to ensure a high level of employment (or low unemployment), a focus on generating higher than average income growth for the poorest (thus improving overall income distribution) and a focus on “*sharing the benefits of growth in terms of job quality, education and health status*” (OECD, 2015b, p. 80).

### *Policy background*

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. For example, OECD research 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 (OECD, 2015b, pp. 8-9). 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

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

social participation, such as jobs and education and increasing disparities in health outcomes between income groups.

From an economic efficiency perspective, widening income inequality is increasingly coming to be understood and accepted as a negative influence on growth performance. 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. (Ibid, p. 10)

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.

***Inclusive growth and the Better Life Index***

The inclusive growth agenda emphasises the need to take into account a broader range of quality of life determinants than those traditionally counted 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. The OECD Framework for Inclusive Growth allows policymakers to gauge developments in income and non-income outcomes for different social groups, providing a measure of multidimensional living standards which addresses the concerns noted above regarding the issue of social inclusion. Thus, for example, it includes factors such as risk of unemployment and health status in addition to household income. This is consistent with the view that economic and social policy choices should be made in the context of what they can do to foster both equity and growth objectives (OECD, 2015b, p. 11).

It has been argued that “A multidimensional policy framework for Inclusive Growth can be built on the OECD’s work on well-being, income distribution and the effects of structural reforms on economic performance.” (ibid, p. 80). The concept of multidimensionality recognises the importance of jobs, skills and education, health status, environment, and civic participation and social connections, amongst others, in determining well-being. The concept of “economic welfare” can be seen as embracing all of these elements. The measurement of well-being is the core goal of the OECD’s Better Life Initiative, and the associated index. Hence, all the things included in the index are determinants of well-being and can be seen as forming part of “inclusive growth”, broadly considered. The index includes 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.

***Inclusive growth, wellbeing and Regulatory Impact Assessment (RIA)***

The adoption of the above conceptual framework for assessing policy outcomes by OECD Member countries leads inevitably to the question of what tools are available to ensure that inclusive growth concerns are addressed systematically during policy formulation, implementation and analysis. Within the regulatory context, this implies assessing the key elements of the regulatory management system to determine which elements of the RMS can contribute to this goal, whether and how these system elements should be adapted to better achieve this purpose and whether additional system elements are required.

This paper addresses the potential contribution of RIA to implementation of the inclusive growth agenda. RIA has become one of the central tools supporting policy choice within the regulatory framework. This central role suggests that it could potentially be a significant contributor to the inclusive growth agenda. However, the breadth of the analytical framework which underpins this agenda, as described above, raises questions as to whether RIA has a sufficiently broad analytical scope to support effective analysis of policies in terms of their contribution to inclusive growth. Alternatively, the question is whether RIA can be adapted to achieve the required analytical breadth.

The OECD has long argued that Benefit/Cost Analysis (BCA) is the methodological "gold standard" for conducting RIA, that it should be formally used as a methodology where feasible and, more broadly, that it should be acknowledged as an underlying frame of reference for all RIA activity and, by implication, policy choice. However, BCA has often been criticised for unduly emphasising a narrow concept of economic welfare, with its basic decision-rule of "maximising net benefits". Critics frequently argue that benefits (and costs) that cannot be valued in dollar terms are typically downplayed or ignored and that distributional issues are frequently – even usually – excluded from an analysis which has BCA at its centre.

Previous work addressing these criticisms has argued that, to the extent that such outcomes do occur, they reflect weaknesses with actual RIA practice, rather than underlying problems with BCA as a tool to inform policy choice, or with RIA as a policy process. A key consideration is the fact that "economic benefits" include, by definition, all those things that members of society value. Thus, at least at the theoretical level, a BCA is an analytical tool with an extremely broad scope and one which should be capable of addressing all of the dimensions of inclusive growth and wellbeing highlighted above.

Reflecting this perspective, OECD Member countries have adopted significant initiatives in recent years which aim to ensure that actual RIA practice reflects this broad theoretical view of what constitutes the appropriate scope for BCA. As RIA systems have matured, the focus on ensuring that the analytical frameworks used are sufficiently broad has tended to sharpen. 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, 2009, pp. 105-108) used the term "partial impact assessments" to describe these requirements to discuss specific impacts as part of the broader RIA.

As discussed further in Section 3, these partial impact assessment requirements have expanded rapidly and can increasingly be considered as an integral part of RIA practice in OECD Member countries. This fact, combined with the broad range of issues that are the subject of partial impact assessment requirements and the substantial overlap between these issues and the inclusive growth agenda, suggest both that RIA is already playing an important role in supporting the inclusive growth agenda 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.

***Other links between RIA and inclusive growth***

Some specific links between the inclusive growth agenda and the use of RIA were also identified in the OECD's 2014 report.[2] In particular:

- A key impact of RIA that has previously been documented is its role in strengthening evidence-based policy decision making. In so doing, RIA favours inclusive policy processes, which are characterised by "*effective and representative citizen participation, as well as mechanisms to curb the undue influence of money and power*".

- As a result of these characteristics, inclusive policy processes have been found to be linked with the achievement of inclusive growth outcomes. RIA is a policy lever that can build trust in the policy process, thus favouring the achievement of inclusiveness.

- Competition policy has been identified as being highly favourable to inclusive growth, given that it is the poor who suffer most from the existence of cartels and other anticompetitive practices. The OECD has previously recommended that competition policy should be integrated into RIA practice (OECD, 2011).

Sections 2 and 3 of this paper build on the above insights by considering the relationship between RIA and the inclusive growth agenda in more detail. Section 2 explores the conceptual linkages between RIA as a mechanism and its practical impact in the policy process and discusses how these dynamics can favour the achievement of the objectives underlying the inclusive growth agenda. Section 3 then considers the question of how, and to what extent, RIA can contribute to the analysis and assessment of the distributional and issues that are at the centre of the inclusive growth agenda. This discussion takes particular account of both theoretical and empirical critiques of the role of RIA in this regard that have been presented over a number of years. Sections 4 and 5 consider a range of practical questions that must be addressed in order to determine when RIA should be required to address inclusive growth issues, what should be the scope of this assessment and how these issues can be most effectively and efficiently analysed.

2. See, in particular, p. 168, p. 171, p. 12, p. 16.

## 2. What is the relationship between RIA and inclusive growth?

RIA has been defined as both policy tool and decision process. It does not determine what policy decisions will be taken; rather, it is an input to policy decision making. However, its impact is not a neutral one. The OECD has previously characterised its impact on the policy process in the following terms:

> Information is powerful, and the questions RIA addresses, the method of analysis and presentation it uses, and its placement and timing within the decision process can affect the relative influence of the values at stake. It can strengthen or weaken parties involved in the decision and their capacity to marshal arguments, and even render certain decisions impossible to take. (OECD, 2002, p. 47).

Put alternatively, 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, p. 46). By bringing objective evidence and empirical approaches to centre stage, it changes the expected outcomes of the policy decision-making process, at least in a probabilistic sense. Jacobs and Associates (2006), p. 102, identifies an international convergence of regulatory styles and values, based on "…the growing importance of empirical modes of decision making in national regulatory processes formerly dominated by consensual, expert, and political modes of decision making" and identifies the use of RIA as a key driver of this trend.[3]

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 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 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, p. 212)

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.

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3. That said, RIA's impact in this regard is necessarily limited. RIA results do not, of themselves, determine final policy decisions, both because of data and analytical limitations and the fact that multiple policy objectives can render policy choice complex and subjective. In addition, RIA exists within a larger political context. Thus, its results necessarily form only one input – albeit one – within a framework in which the necessary independence and legitimacy of political decision-making remains central. For these and other reasons, the other decision-making models highlighted above also continue to be influential.

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 (see, for example, OECD, 1997b, p. 214). 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.

This characteristic of assisting policymakers to reach decisions that effectively integrate multiple policy objectives favours the achievement of inclusive growth objectives, as these necessarily involve simultaneously assessing policies for their impacts on the multiple – though related – policy objectives of economic growth, income distribution and equity of access to fundamental public services and opportunities.

Conversely, however, aspects of the inclusive growth agenda such as employment prospects, job satisfaction, health outcomes and educational opportunities are unlikely to be able to be measured in quantitative terms in the RIA context, and particularly not in terms of dollar values. RIA has sometimes been criticised for allegedly failing to take account of these a broader policy objectives and, indeed, for supposedly downplaying the importance of any regulatory impacts that cannot readily be expressed in monetary terms. The merits of these criticisms are discussed in the next section.

***RIA and consultation***

Much of the OECD's work on regulatory policy has emphasised the importance of ensuring effective linkages between RIA and public consultation. Strong RIA/consultation links will improve the effectiveness of both tools in supporting regulatory quality generally.

The linkage between RIA and consultation is a two directional one. On the one hand, public consultation is an important means of gathering data to be used as inputs to the RIA. Thus, effective public consultation supports high quality RIA. On the other hand, publishing high quality RIA will, in its turn, support more effective public consultation. Providing stakeholders and the public with detailed information on policy options and the expected impacts of each, together with background information on the policy problem being addressed, helps to focus the consultation process and supports the ability of stakeholders to engage effectively with it.

The effectiveness of these linkages between RIA and consultation may be particularly important in ensuring inclusive growth issues are effectively addressed. Enabling all stakeholders, including those who are less organised and less well resourced, to participate in the policy-making process necessarily helps to ensure disadvantaged in vulnerable groups can influence policy, thus favouring more inclusive outcomes. Ensuring that RIA explicitly addresses inclusive growth issues means that affected stakeholders are better placed to engage effectively in promoting consideration of these issues during public consultation. The RIA process therefore also has an indirect impact in favouring inclusive growth outcomes.

## 3. Is RIA the right policy tool to ensure that distributional and other social goals are achieved?

### *Inclusive growth and the policy cycle*

As discussed in Section 1, the inclusive growth agenda has been adopted by OECD Member countries as a major framework for the development of long-term policy initiatives. This perspective is expected to guide decision making across a wide range of areas of policy. Consistent with this, it can be anticipated that consideration of inclusive growth issues will be integrated into all stages of the policy cycle, including initial policy formulation and development, stakeholder consultation, implementation and enforcement and review and reform. In the regulatory sphere, a wide range of regulatory quality tools would, similarly, be expected to be adapted to take account of inclusive growth issues.

In this context, the issue addressed in this section is that of how, and to what extent RIA can contribute to this larger process of ensuring that the inclusive growth framework is appropriately reflected in policy and regulatory decision making.

### *Inclusive growth and the analytical framework of RIA*

RIA, and specifically BCA, have often been criticised as constituting unduly narrow approaches to policy analysis. Some critics argue that RIA is inherently unsuitable as an approach to policy analysis,[4] while others accept its utility in assessing and comparing the relative performance of policy options measured against efficiency criteria, but argue that it requires supplementation with other tools in order to ensure that policy analysis takes adequate account of distributional and other social goals.

The former set of critiques can be considered as beyond the scope of the current paper, given that the use of RIA has been adopted as a mandatory part of the regulatory policy system in all OECD Member countries and that BCA has long been promoted as the methodological "gold standard" for RIA by the OECD. However, the question of whether RIA is, or can be made to be, sufficiently wide ranging as to deal systematically and effectively with the distributional dimensions of policy is clearly fundamental to its ability to contribute to the inclusive growth agenda.

In addressing this issue, it is useful to consider both the formal requirements that OECD member countries (particularly the leaders in this field) have adopted in their RIA systems and the results of research in to the practical performance of RIA in these areas and its consequent impact on regulatory outcomes.

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4. Many of these effectively that RIA introduces systematic bias into the analysis due to factors including the alleged inability of this approach to give adequate weight to impacts that cannot be quantified and, in particular, those that cannot be expressed in terms of monetary values, while the allegedly inappropriate use of discounting of future streams of benefits is also often criticised. More philosophically, some argue that the "simplistic utilitarianism" on which it is allegedly based is inconsistent with social values. For an overview of some of these critiques and some responses from supporters of RIA and BCA, see: Heinzerling and Ackerman (2002); Kelman (1981); OMB Watch (2005); Zerbe (2007); Carlin (2005).

***Partial impact assessments***

A 2009 review of RIA requirements in selected OECD countries (OECD, 2009, in particular pp. 105-108) documented and analysed requirements for the use of what were described as “partial impact assessments” as part of broader RIA. These were defined as requirements for the RIA to include explicit consideration of the impacts of a regulatory proposal on particular groups within society (e.g; women, residents of remote or regional areas, native populations) or on particular policy goals (e.g. the environment/sustainable development, poverty, human rights). It found that there was a significant trend toward adoption of such requirements and that its origin lies in concerns by governments to address the criticisms highlighted above – i.e. that RIA has historically focused unduly on a narrow range of “economic” impacts, particularly those capable of expression in monetary terms – thereby paying inadequate attention to important intangible impacts.

The nature of and extent of these partial impact assessment requirements was determined through analysis of the RIA guidance documents published in a selected group of OECD Member countries. At least one of these partial impact assessments was found to be required in every one of the 10 jurisdictions whose RIA guidance material was reviewed as part of the research. The number of the specific assessments required was found to vary widely, from a low of one (the United States) to a high of five (Australia, Norway, United Kingdom). Similarly, the treatment of this issue in RIA guidance varied from an approach that suggested that these issues were essentially ancillary to the main goal of RIA to one that places them at the centre of the analysis.[5] It was found that more than three separate “partial impact assessments” were required on average, while a tendency toward proliferation in these requirements over time was also identified. It appears likely that the extent of these partial impact requirements has undergone further significant expansion in the several years since this analysis was completed; for example, the current Irish RIA guidance identifies seven partial impact assessment requirements, compared with the three noted in the previous analysis (see Department of the Taoiseach, 2009, p. 27).

The most common requirements for specific impacts to be considered explicitly were found to be the following:

- administrative burdens;
- small business;
- the environment (including sustainable development);
- gender equality; and
- regional and/or remote areas.

However, a wide range of other partial impact assessments was identified as being used in at least some jurisdictions. These included assessments of impacts on:

- poverty, vulnerable groups and social inclusion;

5. For an example of the latter, see Department of the Taoiseach (2009), especially pp. 26-32.

- the rights of citizens;
- health;
- competitiveness and jobs;
- racial equality;
- voluntary organisations and charities;
- consumers;
- the disabled;
- those of differing sexual orientations; and
- members of the traveller community.

Little consistency was found between the countries studied as to the combination of matters required to be assessed. Clearly, however, most or all of the above issues would be widely regarded as legitimate matters to be considered in policy deliberations. Consequently, the wide variation between countries as to which specific partial impact assessments were required was seen as being likely to be largely reflective of the medium-term currents in the political debate within particular countries, rather than long-term differences in values, or social/economic circumstances.

The lists of partial impact assessment requirements set out above clearly include a large number of issues that fall within the OECD Inclusive Growth Framework. Thus, for example, the framework posits that inclusive growth can be measured as a function of a combination of household income, longevity, unemployment and income inequality. Partial impact assessments that bear on these factors include equality and social inclusion, health, competitiveness and jobs. More generally, a majority of the assessments identified above are, or can be interpreted as, largely concerned with equity or distributive issues, and hence relate to aspects of the inclusive growth agenda and/or the better life initiative.

A corollary of this trend toward requiring partial impact assessments is that there has been an increasing focus, at least among countries with the most highly developed RIA systems, on working to achieve a sophisticated integration of quantitative and qualitative analyses and monetised and non-monetised data, to produce RIA that are as wide ranging and relevant to policy decision making as possible and effectively recognise these policy trade-offs and interactions (OECD, 2009, p. 35). The European Commission has also recognised the potential benefits of such integration of quantitative and qualitative analyses, arguing that "deepening the economic pillar of impact assessment does not compromise the importance of "sustainable development" and the integrated approach, which remains the basis of the Commission's approach." (European Commission, 2005, p. 5).

*Implications for RIA and inclusive growth*

The above discussion demonstrates that many elements of the inclusive growth agenda have already been explicitly identified as issues that should be addressed systematically in RIA. While this has occurred on an ad hoc and inconsistent basis, and to differing degrees across the OECD membership, it indicates that many OECD Member 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 systematically and consistently, in order to maximise the contribution of RIA to their achievement. That is, the *explicit* acknowledgement of RIA as a tool to promote inclusive growth – embracing the concept of multi-dimensional wellbeing – can be seen as placing these previously adopted initiatives within a larger theoretical framework and thus placing them on a firmer footing as a necessary part of RIA. It also implies a further broadening of the factors brought within the analysis – something that is in any case consistent with the trend already identified.

Such a move would imply that a more consistent approach to these issues would be taken across OECD Member countries, in contrast to the widely differing current practices. A general requirement to address inclusive growth issues could be adopted as a replacement for the current range of partial impact analyses. Review of the range of individual issues required to be addressed specifically in one or more Member countries as part of their RIA systems suggests that virtually all could be conceived as falling within the limits of the inclusive growth framework. Hence, this approach would not appear to imply any reduction in the scope of the assessment conducted. Rather, it would in most cases broaden the range of issues potentially needing to be addressed, vis-à-vis existing practice. A key benefit of this approach would be its potential to address the previously identified risk of “fragmentation” of the regulatory impact analysis and the consequent reduction in its effectiveness as a guide to decision makers. That is, ensuring that a wide range of distributional/social issues were addressed under one heading would help to ensure the consideration of these various impacts was conducted in an integrated fashion.

While the above would imply a significant convergence of practice across countries in the analysis of inclusive growth issues in RIA, it is important to note that – as demonstrated in the work undertaken to date on the Better Life Index – while there is general agreement on the range of relevant issues, there is substantial divergence of opinion as to the weight to be given to these different factors. For this reason, the Index is designed in such a way as to enable users to specify their own weights and even to investigate the differences in outcomes consequent on changing the weights assigned in different ways.

The adoption of a similarly broad approach to wellbeing in the RIA context would appear also to imply a similar approach to weighing and comparing the different constituent factors. That is, OECD Member countries, having collectively endorsed the Better Life Index, can presumably agree that all of these factors are relevant to the assessment of the merits of policy and so, at least in theory, should be assessed in the RIA context. However, the weighting to be applied to the different dimensions or indicators of well-being must be determined by individual countries, as must the means of assessing different trade-offs between them.

The fact that many OECD countries already require RIA to, in effect, take account of inclusive growth issues suggests that the key issues to be explored in this paper are, in fact, largely pragmatic in nature: That is, as a matter of practical reality, to what extent can RIA as a policy tool be used to address inclusive growth issues as part of the policy process and how can this be achieved in practice? These issues are discussed in the following sections.

***Practical experience with analysis of inclusive growth topics***

The above discussion shows that *formal* requirements for inclusive growth issues to be assessed in RIA are already quite widespread. However, an important additional consideration is that of how effectively these formal requirements have been adopted in practice. A recent OECD paper (OECD, 2015a) summarises a range of research literature on this point.

The broad conclusion of this review of the relevant literature is that most countries have struggled to implement their formal requirements in practice, with little prominence being accorded to many of these specific, inclusive growth related topics in individual RIA, even in cases in which, *a priori*, they would expected to constitute a significant part of the analysis. For example, reviewing a number of RIA prepared in the US, Robinson *et al.* (2014) considered the extent to which they assessed distributional impacts, with specific regard to costs imposed on, and health-related benefits obtained by, disadvantaged social groups. The authors identified a substantial gap between guidelines' requirements and actual practice, showing that little information on distribution was provided, even when there are explicit requirements to include these types of assessments into RIAs. Similarly, Russel and Jordan (2007) and Achtnicht et al. *(*2009) both found that environmental impacts are generally not well integrated into RIAs.

A number of potential explanations for this gap between formal requirements and actual practice have been advanced. Russell and Jordan (2007) highlight both a lack of resources and limited organisational and political support as probable explanatory factors. Nykvist and Nilsson (2009) suggest that the identification and addressing of social impacts do not constitute significant political priorities in most contexts and that the lack of focus on these matters in RIA reflects this underlying lack of underlying political commitment. Robinson *et al.* (2014) provide an explanation for this view, highlighting the general preference of the economics discipline for the achievement of distributional and social policy goals through cash transfers via the tax and welfare systems, due to the greater efficiency (at least theoretically) of this approach. In this view, seeking to identify negative distributional/social consequences of regulatory changes through the RIA system and address them through modifications to regulatory proposals is likely to constitute a second best solution. A slightly different perspective is provided by Jacobs and Associates (2006), who focuses on the fact that "winners" and "losers" can be identified in respect of most, if not all, regulatory interventions, an idea which perhaps necessarily casts doubt on the potential to seek to enhance the distribution of outcomes associated with individual regulatory interventions.

Given these conclusions, some authors have argued that RIA is not the most appropriate tool to adopt in order to ensure that these broader social and distributional issues are taken into account in the policy decision-making process, with separate Social Impact Assessment (SIA) and Environmental Impact Assessment (EIA) processes often being promoted as preferable alternatives. However, several factors can be identified which would call such conclusions in question and would, instead, favour the continued and expanded use of RIA to address issues related to the inclusive growth agenda, either in preference to, or in conjunction with, these other, separate tools of regulatory analysis.

A key point is that a number of the causes of poor performance identified above are not specific to the analysis of distributional, social or environmental issues but are, rather, more general issues in RIA implementation. These issues have been identified and discussed in previous OECD work on RIA and the need to address the relevant RIA systems elements has been highlighted as a critical success factor for RIA as a whole. Thus, for example:

- several of the authors cited above highlight a problem of lack of political commitment, while the OECD has highlighted the importance of maximising political commitment to the RIA system generally at least since 1997, when it was identified as one of 10 RIA best practices;

- Russell and Jordan (2007) highlight a lack of resources and organisational commitment, both of which are challenges that have been underlined repeatedly in previous OECD work on adopting RIA best practice and maximising the effectiveness of RIA systems.

These issues might, therefore, better be described as endemic challenges in ensuring high quality regulatory processes. To the extent that this is true, the proposition that adopting mechanisms separate from RIA will better address impacts that extend beyond the narrowly "economic" (e.g. Social Impact Analysis or Environmental Impact Analysis) is questionable. Indeed, several authors have highlighted the fact that these separate analytical approaches have similar weaknesses in this regard to those they identify in relation to RIA, in particular, that they have rarely been influential in modifying, or leading to the abandonment of, policy (including regulatory) initiatives that have been found to have negative impacts in these dimensions. As noted in the recent OECD paper:

> …scholars suggest that SIA has not yet been widely adopted by governments as institutional tool nor integrated with other impact assessment tools ... A similar assessment can be made of the use of EIA … while the use of EIA is widespread… the concerns of environmental assessment are generally not reflected in the final policy decisions. (OECD, 2015a)

By contrast, a key potential benefit of addressing inclusive growth within the RIA context is that of promoting an integrated analytical approach, in which impacts occurring in a range of policy dimensions (e.g. environmental, social, distributional) are brought into the core BCA, rather than the BCA being limited to considering narrower, financially based conceptions of economic welfare. OECD (2009) highlighted the risk that, even where they form part of the RIA, these "partial impact assessments" could lead to fragmentation of the impact assessment and a loss of coherence. Such risks of fragmentation can only be heightened where the various impact assessment processes are conducted entirely separately.

As this discussion highlights, many OECD Member countries already adopt complementary impact assessment requirements which operate separately from RIA. Such requirements will undoubtedly continue to be used, particularly given that the scope of many extends beyond the use of the regulatory tool and into other policy contexts.[6] Thus, a recommendation that RIA should incorporate consideration of the inclusive growth issues does not suggest that this should be to the exclusion of the use of these other tools for this purpose. Conversely, the expansion and modification of RIA requirements to include inclusive growth related issues over many years has occurred in the presence of these other impact assessment tools (such as SIA and EIA), indicating that Member country governments see these mechanisms is essentially complementary in nature.

***Micro- vs macro-economic analysis***

An important qualification regarding the potential utility of RIA in addressing the inclusive growth agenda must be identified. Previous discussion of the scope of RIA as a regulatory policy tool (see, in particular, OECD (2009), pp. 104-105 and Jacobs and Associates (2006), has highlighted the fact that RIA

6. i.e. They are also used to assess other proposed policy interventions that do not rely on regulation.

is essentially a microeconomic tool and, as such, has limited ability to address the question of the macroeconomic impacts of regulatory proposals.

A small proportion of regulatory proposals may have impacts in numerous parts of the economy and, as a result, may potentially have a discernible impact on macroeconomic variables. In such cases, including macroeconomic analysis may, at least in theory, substantially enhance the value of RIA. However, practical constraints exist. One is that conducting this kind of macroeconomic analysis is highly resource intensive and may often prove impracticable within the RIA context. Another is that it may be difficult or impossible to identify appropriate analytical tools. In particular:

> … Most available general equilibrium models have been designed to model changes in economic variables such as public spending, tariffs and taxation, rather than changes in regulation. Thus, they will often be limited in their ability to analyse such regulatory changes. (OECD, 2009, p. 104).

While dedicated models have been developed to address such circumstances in some cases, their use is rarely likely to be justified in practice. Consequently, it must be recognised that requiring macroeconomic analysis to be conducted as a part of RIA will rarely be justified.

This, in turn, implies the need to recognise the practical limitations on the use of RIA to assess the inclusive growth implications of regulatory proposals. This issue may be of particular relevance in relation to the synergy between distributional gains (notably in terms of access to fundamental services such as health and education) and growth performance, which is asserted within the inclusive growth framework. As a practical matter few, if any, RIA in respect of individual regulatory proposals are unlikely to be able to estimate the extent of such impacts, but including a qualitative discussion to highlight potential benefits of this type will typically be feasible and appropriate. That said, however, in a small number of cases where more far-reaching regulation is concerned, the issue of whether a wider analytical approach is appropriate would require consideration.[7]

***Conclusion***

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. This implies the need to move cautiously in moving to better reflect the inclusive growth agenda in RIA, to undertake adequate assessments of practical performance (including sufficient *ex post* analysis) and to ensure that effective policy feedback mechanisms are adopted to further develop and refine these requirements.

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7. For an example of a RIA document addressing a far reaching regulatory proposal that consequently incorporates an analysis of the expected macroeconomic impacts, see: HM Treasury (2013).

## 4. When and how should RIA incorporate consideration of distributional and other social goals and issues?

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. If existing RIA requirements are to be broadened to address the inclusive growth agenda, a key question is that of when and how RIA should be required to address these issues. 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. Given that no OECD country is known to have adopted an explicit requirement to include inclusive growth issues in RIA to date, and there is limited experience with implementing many of the partial impact assessment requirements that have been adopted, 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 adopting requirements to include inclusive growth issues 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.

***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 identifiable 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 the adoption of an evolutionary approach, with any requirement for a broader analysis of inclusive growth impacts to be conducted as part of RIA being implemented on a similar basis.

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. 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 were prescriptive requirements to be 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 both risks misdirecting limited RIA resources and risks 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 RIA to address inclusive growth subject to a preliminary assessment***

This option would require a preliminary assessment to be undertaken to determine address directly the question of whether a regulatory proposal was likely to have significant implications for inclusive growth. A full assessment would be required to be undertaken only in cases where this question is answered in the affirmative. 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, were this approach to 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.[8]

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

8. See OECD (1999), *Regulatory Reform in the Netherlands.*

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 impact 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.

## 5. Procedures for implementing the inclusive growth assessment

### *5.1 Options for addressing inclusive growth in the RIA context*

Regardless of which of the above approaches is taken to decide when an inclusive growth assessment is required, choices must be made as to the means of integrating this assessment into the wider RIA and using and interpreting the results of the assessment to guide policy decision making.

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 RIS which, in most if not all cases, explicitly identifies the preferred regulatory option on the basis of the BCA or other analytical method adopted. An RIS 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 RIS 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*

Section 3 included discussion of the question of whether other, existing analytical requirements such as Social Impact Assessment and Environment Impact Assessment – 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.

### *5.2. Suggested principles for determining preferred approaches*

The above discussion indicates that a number of different approaches to formally incorporating the analysis of inclusive growth aspects into RIA can be identified. The choices to be made among these options will, in most cases, not be informed by a substantial body of experience. That is, while many OECD Member countries have requirements for "partial impact assessments" to be conducted within the broader RIA context, there is limited experience in their implementation and, according to some research (cited in Section 3, above), relatively limited success in using these requirements to affect regulatory outcomes.

This implies that choices among the above options will need to be made on other grounds. The specific characteristics of existing national RIA processes and, more broadly, the institutional and procedural framework for legislative development will necessarily be important considerations. However, a number of general principles can be proposed to guide the choices to be made.

- ***Ability to integrate aspects of the analysis, facilitating coherent decision making;***

High quality RIA that can act as a significant influence on policy decision making must present a coherent analysis that effectively integrates assessments of impacts in a range of dimensions. It has previously been noted that a risk of expanding the scope of RIA to include requirements for a wide range of specific impacts to be addressed is that this coherence will be undermined.

The adoption of the inclusive growth framework is an organising principle for the range of partial impact assessments currently required provides an opportunity to address this problem. However, for this potential to be realised, the inclusive growth assessment must itself be coherent and integrated.

This criterion appears to imply the use of checklists of potential inclusive growth impacts and a tailored approach to their application to individual RIA, based on use of preliminary analysis, with processes involving extensive co-operation between regulatory agencies and regular tree oversight bodies.

- ***Recognising the limitations of the RIA tool & avoiding "overloading" the analysis;***

A corollary of the above is a need to recognise both the practical and theoretical limitations of RIA as a tool. This implies the need to take a relatively narrow interpretation of the potentially very broad scope of inclusive growth issues, focusing carefully on what are likely to be the key impacts and, in most cases, limiting the analysis to microeconomic issues.

- ***Ensuring adequate transparency and accountability***

Notwithstanding the above points, it is clear that inclusive growth assessments are likely to prompt substantial stakeholder interest in many or most cases. This implies a need for transparency as to threshold issue is of what potential impacts have been included in, and excluded from, the analysis and that the reasoning behind these threshold decisions is also made clear. Such an approach can clearly also functions as a quality assurance mechanism in itself, in that it would enable stakeholders to challenge the decisions made and highlight significant impacts that may have been overlooked.

### *5.3. Related policy considerations*

To the extent that inclusive growth is brought within the mainstream of the RIA process, the nature and extent of the RIA task will necessarily be changed and broadened. This, in turn, implies that a number of aspects of that process may require reconsideration and possible amendment. This issue, of the broader implications for the design of RIA systems, is a substantial one clearly meriting further research. However, the following issues are highlighted as high level concerns that would be likely to require further consideration in most RIA context.

*Methodological guidance (1)*

As discussed above, the OECD has long promoted the primacy of BCA as both the underlying frame of reference for RIA and, more specifically, as a "best practice" methodology, that should be used where feasible, albeit in a flexible fashion taking account of individual circumstances. Other widely used RIA methods such as cost effectiveness analysis and breakeven analysis arguably constitutes "partial" versions of the BCA. However, an increased focus on inclusive growth may imply a need for more flexible methodological approaches to be adopted.

While many inclusive growth related issues may be amenable to qualification, including in dollar terms, it is likely that adopting a greater emphasis on these effects within RIA will imply that the smaller proportion of 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, in promoting a systematic approach to applying subjective or qualitative, judgements across a range of dimensions, and is likely to lend itself to this task of integrating consideration of a broader range of impacts into RIA. The context of these observations is one in which, as noted above, there are already reservations as to countries' performance in integrating social, distributional and other impacts into RIA.

*Methodological guidance (2)*

A second methodological issue arises from the observation that the RIA guidance material establishing many of the existing requirements for specific social/distributional impacts to be assessed indicate that a key element of the analysis should be to identify means by which any negative impacts on the specific issue in question might be ameliorated. While this general requirement is set out in a number of RIA guidebooks, it appears that there is currently for it little guidance provided as to how this requirement should be implemented in practice.

If the formal adoption of inclusive growth into the RIA is to be adopted, there is likely to be significant merit in addressing this issue and providing broad guidance as to how to undertake this part of the analysis. Such guidance would presumably need to be expressed in quite general terms, perhaps addressing 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 how their merits should be addressed;
- how to address the threshold 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
- when and how broader policy considerations should be taken into account in addressing the above issues.

***Expanding the role of* ex post *analysis***

A theme highlighted in much recent work on regulatory policy is that the regulatory quality agenda has tended to be focused in particular 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 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.

This general observation has also been given specific expression in the RIA context, where it is frequently observed that the predictions contained in RIA dealing with new regulatory proposals are rarely be verified following regulatory implementation. As noted above, the broadening of scope of RIA implies that this issue will become increasingly significant. Two related issues would appear to require consideration in this regard.

First, 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.

Second, 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.

***Process redesign***

OECD best practice principles have long identified the need to carefully allocated RIA system elements appropriately, particularly the need to establish a balance between the primary responsibility of regulatory agencies for the conduct of RIA and the necessary an appropriate level of supervision and quality control by a regulatory oversight bodies. 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 and the appropriate specific inclusions (i.e. specific impacts to be considered). This, in turn, would appear to imply a more significant role for regulatory oversight authorities, probably within the context of the establishment of a more formalised initial screening process, to be undertaken before the RIA proper is commenced.

Other factors may also tend to 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 need for a greater degree of analytical sophistication can be foreseen and consideration should thus be given as to steps that could be taken to better support regulatory agencies to achieve high standards in this regard.

***Offsetting measures***

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 threshold issue arises as to when positive consideration must be given to such offsetting measures.

Current practice in this regard varies significantly. In some cases, such requirements are triggered only where negative impacts are identified while, in others, the requirement is more general. Thus, for example, the UK RIA system includes a presumption that small and micro-businesses will be exempted from new regulatory requirements[9] 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:

9. Where the underlying regulatory objective can still be “substantially achieved”.

- 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 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.

The breadth of the inclusive growth agenda is such that it would seem problematic from a practical perspective to adopt a positive requirement to identify performance improvements in all dimensions relevant to it, as per the Irish example cited above. However, a more limited requirement, as part of the inclusive growth assessment, to indicate what consideration had been given to these issues during regulatory design and what changes (if any) to the initial regulatory proposal had been adopted as a result would potentially be feasible and help to give weight to an inclusive growth assessment requirement.

A second threshold question arises where specific actions to ameliorate negative inclusive growth implications have been judged to be necessary. This is the question of whether such actions should be taken within the context of the specific regulatory proposal under consideration, or whether a broader approach may be preferable.

As noted in Section 3, one explanation for the observation that tools such as SIA have had limited discernible impact on policy outcomes lies in 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 preference is due to the observation that such approaches tend to be more efficient – i.e. to be able to achieve objectives at lower cost. A conclusion that the use of more generic policy tools should be preferred might, similarly, be drawn in many cases in which assessments conducted within RIA reveal negative inclusive growth implications.

This raises the issue of whether the RIA system would require explicit rules, or at least guidelines, to address the issue of whether or when offsetting regulatory changes (or supplementary initiatives) should be included as part of the proposal subject to the RIA.

## 6. Conclusion

RIA is well established as a fundamental regulatory quality tool across the great majority of OECD countries. As s such, it should clearly be the subject of close consideration as to its potential to advance the implementation of the inclusive growth agenda.

The analysis contained in this paper demonstrates that, at a fundamental level, the specific characteristics of RIA inevitably tend to work in favour of the achievement of the directives of the inclusive growth agenda, regardless of whether or not RIA is modified to require explicit consideration of these issues. Specifically, the fact that RIA is predicated on making transparent the impacts of different policy options, including the incidence of those impacts, tends to favour equity and inclusion by highlighting which policies tend to favour organised, sectional interests at the expense of the wider society and making it more politically costly to adopt such policies. This dynamic therefore tends to favour less well-resourced and organised groups in society in relative terms.

In addition to these general characteristics of RIA, actual practice for many years across a large number of OECD countries has increasingly focused on broadening RIA requirements to ensure that issues of equity and inclusion, which lie at the heart of the inclusive growth agenda, are fully addressed within RIA. This trend clearly indicates that RIA has already been adapted, to some extent, to explicitly addressing the requirements that are embodied within the inclusive growth agenda. Given this, there is already a significant body of experience with using this policy tool as a means of advancing inclusive growth. In this context, adopting explicit policies requiring that inclusive growth be specifically addressed in RIA involves building on an existing body of practice and expertise.

Importantly, it also implies adopting a more coherent, systematic and consistent approach to this existing body of practice. That is, inclusive growth supplies an organising principle that can and should be applied to a range of existing requirements for specific “partial impacts” to be addressed in RIA. Given the scope of the inclusive growth concept, this would necessarily tend to have the effect of broadening the current scope of these requirements and making more systematic this part of the analysis. This implies that there is significant scope to enhance the effectiveness of these existing elements of countries RIA requirements. In addition, adopting inclusive growth as the organising principle for these elements of the RIA implies achieving a greater degree of consistency across OECD Member countries in terms of the issues addressed: as highlighted above, there is currently wide variation as to the particular social, distributional or other concern is required to be addressed explicitly in RIA in different countries.

Notwithstanding the above, some important caveats as to the potential role and effectiveness of RIA as a tool to promote the inclusive growth agenda must be recognised. First, as highlighted above, and in another recent OECD paper addressing this issue, actual performance to date in meeting the analytical requirements set out in RIA guidance material in relation to inclusive growth related issues has been poor in many or most countries. There are reasons to believe that placing these requirements within the broader inclusive growth context may help to improve performance, particularly given the current high level of political commitment to the inclusive growth concept. However, significant challenges exist and will need to be addressed.

Second, 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 such impacts. Moreover, RIA is subject to significant resource constraints in most countries, while macroeconomic analysis is a highly resource intensive exercise. There are, therefore, on 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* RIA requirements may need to be adopted in order to verify outcomes in this regard. While the OECD has promoted the use of *ex post* RIA for some time, the use of this form of analysis to address inclusive growth issues further underlines the importance of designing and implementing appropriate initiatives in this area.

More generally, while this paper sets out a clear case for the ability of RIA to be used as a tool to promote inclusive growth and suggests specific mechanisms by which this can be achieved, there will be a clear need to monitor the practical performance of this tool when adapted to these purposes. Such monitoring should form the basis of future assessments of the performance of RIA in this regard and consideration of whether it should continue to be used in this way and, if so, what improvements to RIA processes and methods may be required in order to maximise its contribution in these areas.

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