

3 Implementing RIA at Sunass

This chapter exposes specific topics to implement the RIA system at Sunass. The chapter describes the elements necessary to implement RIA: the design of legal reforms necessary for RIA; the material needed to carry out RIA; staff training; the development of technological tools; pilot testing; and communications campaign. The second part of the chapter shows a proposal for performing both the preparation and oversight of the RIA.

Elements of implementation

Recommendation 4. Sunass must conduct a progressive implementation, by stating clearly what is implicated for the different elements of RIA.

RIA systems must be in a constant status of reform, thus being benefitted from potential improvements and a higher specialisation through the time. Planning a gradual implementation with a progressive advance will help to ensure an adequate transition and a higher efficiency of resources. This is part of the principles recommended by OECD in a recent report on best practices on RIA (OECD, 2020^[1]). Having a specific implementation plan will allow Sunass to communicate clearly the progress of tasks for the different internal directorates, thus preventing potential uncertainties. Furthermore, to have a foreseeable timeline will allow a better accountability for the implementation.

Having a gradual implementation also means that the RIA staff must show a learning curve of the elements of the technical analysis of RIAs. In addition to benefit the internal organisation of Sunass, having well-defined elements will allow Sunass socialising the implementation process of the RIA with the regulated bodies and users of sanitation services. Every good regulation must be predictable to avoid uncertainties, and at the same time, this Sunass' new form for issuing and amending regulations, must be transparent. The indispensable elements for implementing the RIA system are shown below.

Element 1. Design and implementation of the legal framework of the RIA

The first step is to possess a legal framework creating obligations and incentives necessary for performing RIAs systematically. The legal technique option optimising the efficiency on process, clarity on attributions, and adequate incentives must be considered for the best possible preparation of RIA. This implies reforms including at least the following:

- Definition of RIA and assumptions that make mandatory its conduction.
- Definition of responsibility of the different areas involved in the preparation of the RIA.
- Definition of the members of the Supervisory Board of RIA, their powers and responsibilities.

Element 2. Approval of the material necessary for preparing RIA

To systematize the RIA quality, Sunass must have material standardising the reference and the preparation materials. Therefore, Sunass must develop and approve the following materials:

- Approval of technical guidelines for preparing the RIA. (Work for adapting and approving Chapter 4. Technical elements for preparing the RIA).
- RIA Reporting Form.
- Prior guideline report form for consultation.
- Reporting Form for notifying the outcomes of the public consultation.

Element 3. Staff training

To ensure that Sunass conducts RIA properly, a technical training for the staff must be performed continuously:

- Introduction to the RIA system: presentation of the elements of analysis and of the role of the *ex ante* assessment within the regulation issuance process. The training workshop by the OECD was held on 3 and 12 November 2020.

- Once officers are familiar with the RIA system, Sunass must ensure a continuous training about the more technical elements. For such purpose, it is recommended to add specific training courses to annual working plans of Sunass.

Element 4. Design and development of technological tools necessary to make the RIA process more efficient

OECD recommends the RIA systems to be subject to better regulation tools. The more efficient and transparent the RIA is, it will provide higher benefits for the quality of the regulation. In this sense, Sunass must ensure that the RIA management has the necessary tools for collaborating among the different directorates and with the public at large. In real terms, this raises the need for developing digital platforms to ensure the greatest efficiency. In principle, Sunass must develop two digital processes for RIA:

- Digital platform for interchanging information among the Sunass' directorates.
- Interactive platform, within the Sunass web page, for publishing RIA projects and receiving comments on the consultation stage.
 - The following elements must be published at least in the platform: RIA elements, outcomes of the public consultation, CSA approval for the RIA's exceptions.

Element 5. Development of RIA

- Preparation of pilot testing for the development of RIA.
- Once the Sunass completes pilot testing, the RIA must be performed selectively. It is recommended that Sunass chooses regulatory instruments of distinct nature. This will allow Sunass to know the challenges implied by the conduction of RIA in different types of legislative projects. It is also recommended to start introducing RIA elements for a limited number of tariff estimation studies.
- Once the capacity needed for the application of the RIA for all regulations demanded by the RIA regulations is created.
- Impact assessment:
 - Start efforts, mainly qualitative, to detail costs and benefits. It is recommended to start exploring categories of externalities and non-monetary costs.
 - More use of data and statistics for quantifying costs. Usage of higher complexity statistical methodologies. Sunass can start by establishing the database and indicators for performing more detailed analysis.

Element 6. Information and socialisation campaign with stakeholders and other instances of the Peruvian government.

A sound information campaign is essential for a successful adoption of RIA. To the extent that stakeholders understand the advantages and the process of the RIA, the engagement on consultations and the demand of a high-quality system will increase. Thus, Sunass must prepare the communication materials presenting information about the following:

- Summary with overall information of the RIA's purpose, its elements, and the preparation process.
- Time, elements, and tools for conducting the public consultation of the legislative project and the RIA.
- Objective and schedule for early consultation.

Preparation and oversight process of RIA at Sunass

Recommendation 5: Sunass must establish a clear process for preparing the RIA, defining the engagement of the different internal directorates.

The RIA implementation must imply a change to the legislation issuance process. This means that the RIA must not be a completion of a final form for creating a legislative project. The RIA starts even before having a legislative regulation. This section describes a proposal for conducting the RIA within a project of a legislative issuance. The process is divided in three stages: identification of a regulatory need, preparation process of RIA, and ultimately the public consultation of the RIA and the legislative project.

Identification of a regulatory need

The first step in designing a new regulatory project is to have tools to identify a public policy problem. Sunass can define structured processes to be aware of policy problems on an ongoing basis. Some examples of tools include the following:

- Early consultation allows Sunass to understand problems from the point of view of users, the regulated industry, experts or even other government agencies. This helps to improve policy design by having a broader context of public problems. These consultations can be periodic and do not necessarily address a specific issue. Early consultation would be carried out by the Directorate of Users. This directorate has experience in implementing stakeholder participation tools, such as users' councils (Chapter 4 provides a detailed explanation of consultation tools and mechanisms).
- Legislative changes derived from legislative reforms coming from the Congress.
- Amendments from the Executive Branch obliging changes in the regulations of Sunass.
- Identification of problems by Sunass.

Preparation of RIA

Once a policy problem has been identified, the process of developing the RIA begins, with the definition of the problem.¹ This, as well as the next step of defining the objective of the regulation, must be carried out by the directorates of tariff regulation, users, supervision or sanctions, depending on the subject. These are the ones that deal with the technical problems of regulation and have the closest approach to the issues.

Once these two elements are written, a stage of collaboration between the DPN and the technical areas begins. The process outlined in Figure 3.1 suggests a sequence of steps for developing the RIA. This includes writing the proposal, as the DPN already does, identifying alternatives, conducting a cost-benefit analysis, and identifying the selected proposal. Given the profile of the NPD staff, this directorate should lead the development of the cost-benefit analysis. By collaborating with the technical directorates, it will have greater input to carry out a high-quality evaluation. This is followed by the development of a monitoring and evaluation plan for the normative proposal. In this stage it is recommended that the Directorate of Control participate. In this way, the DPN will have greater visibility of the challenges to monitor the new normative projects.

Figure 3.1. Preparation process of RIA

1. Definition of the problem	Directorate of tariffs regulations, users, inspection, or sanctions, depending on the topics.
<ul style="list-style-type: none"> • Once Sunass has identified the need for conducting a legislative issuance or amendment project, the process for the RIA preparation must be started, addressing the definition of the public problem. 	
2. Objectives of the regulation	Directorate of tariffs regulations, users, inspection, or sanctions, depending on the topics.
<ul style="list-style-type: none"> • With the definition of the public problem, Sunass must define which are the objectives that the eventual legislative proposal must solve. These objectives must be clearly linked to the causes of the problem previously defined. 	
3. Regulatory alternatives	Directorate of tariffs regulations, users, inspection, or sanctions, depending on the topics.
<ul style="list-style-type: none"> • Before having a defined legislation project, Sunass must consider at least two plausible proposals for solving the public policy problem. 	
4. Impact analysis	Directorate of Policies and Rules
<ul style="list-style-type: none"> • The DPN has to conduct the impact assessment analysis, by taking into account the technical opinions of the directorate that started the procedure. 	
5. Compliance	Directorate of tariffs regulations, users, inspection, or sanctions, depending on the topics.
<ul style="list-style-type: none"> • The RIA must include an analysis of strategies and budget in order that the authority ensures the appropriate compliance of the regulation. Also, there must be a regulatory design encouraging the compliance. 	
6. Monitoring and evaluation	Directorate of Inspection
<ul style="list-style-type: none"> • This section must include an analysis of the strategies for assessing the performance of the regulation, including the development of indicators, goals, and tools for monitoring the progress. 	
7. Preparation of the final report	Directorate of Policies and Rules
<ul style="list-style-type: none"> • DPN must fill the final report containing the above mentioned sections. This report is the document that will be subject to public consultation and the Supervisory Board of the RIA will review it afterwards. 	

Recommendation 6: The public consultation should be transparent, accessible and should inform about the legislative projects.

Once the RIA project is in place, Sunass should publish it to receive comments from stakeholders. The minimum required includes publication of the draft regulations and the RIA on the Sunass website. However, the specific context of each regulation must be considered. There are instances of regions or parties affected or benefitted with scarce access to Internet, where Sunass must use other instruments for public consultation to ensure that all the affected parties have the chance of expressing their opinions.

Once Sunass responds to the comments and, if necessary, edits the RIA, it passes for the oversight process.

Recommendation 7: Sunass must have an oversight process where the outcomes of the RIA are assessed in a diligent manner.

CSA should be involved in two stages of the RIA process: Before its preparation for authorising the exceptions of RIA, or if applicable, reject them and after the preparation, to assess the RIA quality. Before starting a RIA (or proceeding with a legislative project without a RIA), CSA must approve the type of RIA or its exception. For such purpose, DPN must write the grounds, either for the conduction of a low-impact RIA or to request an exception. Once CSA approves the type of RIA, the preparation process must begin.

After the preparation, CSA must start the process of dictating the RIA. CAR must decide if the RIA is approved and the legislative issuance continues, or on the contrary, if the RIA is rejected with the possibility of edition or if the analysis clarifies that the legislative project is not justifiable. For performing an assessment, it is recommended to consider at least the three following elements:

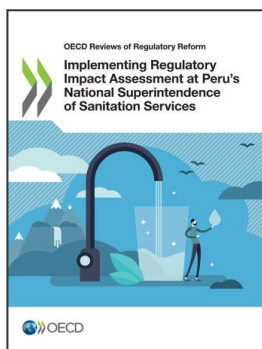
- RIA quality: Check that each element is presented clearly. There is a clear and direct link between the public policy problem and the legislative proposal.
- Assessment of costs and benefits: The relevant costs and benefits are assessed in a clear and detailed manner. The benefits outweigh the costs, and justify the implementation of the regulation.

Note

¹ Chapter 4 presents the elements in a comprehensive manner. A proposal for defining the preparation process is presented in this section.

Reference

OECD (2020), *Regulatory Impact Assessment*, OECD Best Practice Principles for Regulatory Policy, OECD Publishing, Paris, <https://dx.doi.org/10.1787/7a9638cb-en>. [1]



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