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By email: Elizabeth.Hristoforidis@asic.gov.au

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Dear Ms Hristoforidis

REGULATOR PERFORMANCE FRAMEWORK

The Insurance Council of Australia (Insurance Council) welcomes the opportunity to provide feedback to the Australian Securities and Investments Commission (ASIC) on its proposed evidence metrics in response to the Government's Regulator Performance Framework. We are very supportive of ASIC's efforts to develop metrics in an attempt to quantify its performance. We acknowledge that the development of quantifiable and objective performance metrics for regulatory activities is a difficult exercise as many performance indicators are not easily measured. However, we consider that there is a great deal of value in thoroughly measuring regulator performance to help reduce the compliance burden on industry.

In response to ASIC's proposed evidence metrics, we will make some broad initial comments followed by more specific suggestions to address each KPI. The Insurance Council notes that although ASIC publishes consultation papers for major policy changes, this is not necessarily the case for minor policy changes. Feedback from our members is that some minor administrative/process changes can add substantially to compliance costs.

For example, ASIC did not adequately consult with regulated entities impacted by the recent changes to the Authorised Representatives (AR) register. While there was formal consultation on the development of the Financial Adviser Register, these changes were not relevant to many regulated entities in the General Insurance sector. ASIC could consider an annual exercise to map the number of policy/process changes against the number of formal and informal consultations conducted. This may give a more holistic picture of the comprehensiveness of consultation on changes that impact regulated entities.

The Insurance Council supports ASIC's inclusion of "number of repeat information requests made to regulated entities annually" to its performance measures. However, we would also like to highlight that information requests from ASIC should also be more targeted. Unfocussed information requests can be resource intensive for regulated entities and result in the production of information or data that is ultimately not needed. ASIC should consider informal consultation with entities for large information requests to ensure that the information sought is as targeted as possible and designed to meet ASIC's needs.

As outlined in the proposed performance measures, the Insurance Council recognises value in ASIC in holding regular meetings with key stakeholders, including small business through internal contact points. For regular liaison forums with stakeholders, the key objectives and mandate of the forum should be explicitly documented so that regular assessments of whether these objectives are being met can be conducted.

In addition to publishing feedback following consultation processes, we consider that ASIC should also consider seeking feedback on its consultation process. This would provide insights from stakeholders with particular consultation process experience, which may not be captured in other feedback mechanisms.

We also consider that ASIC could engage more with industry on its environmental scanning work. This engagement would be useful to ensure early informal dialogue on perceived risks and may help improve the use of ASIC's resources.

Increased quantifiable metrics

The Insurance Council would like to see the development of more quantitative measures to determine a base level from which ASIC's future performance can be measured. We consider that an adaptation of ASIC's annual stakeholder survey could assist the development of key performance metrics. However, a survey conducted for the purposes of measuring ASIC performance against the Regulator Performance Framework may need to narrow the scope of the regulated entities targeted.

In order to meet KPIs, the Insurance Council considers that ASIC should demonstrate a measurable annual improvement for related performance indicators until a certain threshold is achieved. We consider that modest improvements each year by a certain number of percentage points would be achievable.

Metrics to measure ASIC's performance could be derived from the results of survey questionnaires, review by an independent third party or data recorded internally. We outline below examples of questions where metrics could be developed under the associated KPIs.

KPI 1: Regulators do not unnecessarily impede the efficient operation of regulated entities

Use results from survey questionnaire to determine simple averages (e.g. respondents rate performance on a scale of 1 to 10). Set an annual increase as a measurable target:

- ASIC does not unnecessarily impede the efficient operation of your organisation
- The information collected by ASIC in the course of supervision is adequate to assess risks in your organisation
- ASIC is timely in response to queries

Survey questions could be supplemented by targeted focus groups where required.

KPI 2: Communication with regulated entities is clear, targeted and effective

Use results from survey questionnaire to determine simple averages (e.g. respondents rate performance on a scale of 1 to 10). Set an annual increase as a measurable target:

- ASIC is effective in communicating the findings of supervisory visits to your organisation
- ASIC's information requests are concise and targeted
- ASIC's written correspondence with regulated entities is clear, targeted and effective
- ASIC quickly responds (and appropriately addresses) questions relating to its correspondence with your organisation

An annual external review by an independent third party:

- An independent party could review a sample of ASIC's communication with regulated entities, and assess it against a benchmark.

KPI 3: Actions undertaken by regulators are proportionate to the regulatory risk being managed

Use results from survey questionnaire to determine simple averages (e.g. respondents rate performance on a scale of 1 to 10). Set an annual increase as a measurable target:

- In the course of supervision to assess risks in your organisation, ASIC does not collect information that is beyond what is necessary
- ASIC takes action only when there is proportionate regulatory risk
- ASIC is effective in identifying risks across your industry in general
- ASIC is effective in identifying risks and problems in that part of your organisation that ASIC regulates

Internal data recording (appropriate targets set for each):

- Frequency of visits to regulated entities
- Number ASIC staff at each supervisory visit

An annual external review by an independent third party

- An independent party could review ASIC's actions (in the context of the regulatory risk being managed), and assess it against a benchmark.

KPI 4: Compliance and monitoring approaches are streamlined and coordinated

Use results from survey questionnaire to determine simple averages (e.g. respondents rate performance on a scale of 1 to 10). Set an annual increase as a measurable target:

- ASIC meets its stated approach of being consistent in its supervision
- ASIC coordinates and streamlines its compliance and monitoring approaches where possible

Internal data recording (appropriate targets set for each):

- Number of repeat information requests made to regulated entities
- Number of ASIC only requests for information compared to those where ASIC has been able to co-ordinate activity with another regulator or service provider.
- Percentage of inspection visits coordination with other regulators
- Proportion of information gained from other sources, with input not sourced from regulated entities

An annual external review by an independent third party

- An independent party could assess ASIC's effectiveness of streamlining and coordinating its compliance and monitoring approaches against a benchmark.

KPI 5: Regulators are open and transparent in their dealings with regulated entities

Use results from survey questionnaire to determine simple averages (e.g. respondents rate performance on a scale of 1 to 10). Set an annual increase as a measurable target:

- ASIC is effective in is open and transparent in its dealings with your organisations

An annual external review by an independent third party

- An independent party could assess ASIC's level of openness and transparency in dealing with regulated entities against a benchmark.

KPI 6: Regulators actively contribute to the continuous improvement of regulatory frameworks

Use results from survey questionnaire to determine simple averages (e.g. respondents rate performance on a scale of 1 to 10):

- ASIC is forward looking in its supervision
- ASIC's publications address current and emerging issues or developments in the financial sector
- ASIC has made necessary improvements its regulatory frameworks
- ASIC has improved on its performance compared with two years ago

If you require further information in relation to this submission, please contact Mr John Anning, Insurance Council's General Manager Policy – Regulation Directorate by email: janning@insurancecouncil.com.au or tel: 029253 5121.

Yours sincerely



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