

Mr Andrew Fawcett  
Senior Executive Leader, Strategic Policy  
Australian Securities and Investments Commission  
Level 5, 100 Market Street  
Sydney NSW 2000

6 December 2016

Dear Mr Fawcett

### **ASIC REGULATOR PERFORMANCE FRAMEWORK – EXTERNAL VALIDATION**

The Insurance Council of Australia<sup>1</sup> (the Insurance Council) welcomes the opportunity to provide feedback to the Australian Securities and Investments Commission (ASIC) on its self-assessment of performance against the Commonwealth Government's Regulator Performance Framework (the Framework) for the 2015-16 assessment period. We recognise that this is ASIC's first self-assessment under the Framework, following the publication of its performance metrics against the Framework in July last year.

We understand that the Framework is just one component of ASIC's suite of performance reporting tools, and that the Framework is intended to complement, not duplicate, other performance evaluation processes that ASIC already has in place (e.g. ASIC's obligations under the *Public Governance, Performance and Accountability Act 2013*).

The invitation we recently received from ASIC to provide feedback<sup>2</sup> also welcomed any suggested improvements to the evidence metrics underpinning the Framework. As you may be aware, the Insurance Council provided detailed feedback<sup>3</sup> to ASIC in May last year on its proposed evidence metrics under the Framework; given this, our feedback on the evidence metrics in this submission is general in nature.

The Insurance Council broadly agrees with ASIC's performance self-assessment. We consider that ASIC has demonstrated a strong understanding of current and emerging market issues in the financial sector. However, we note that the recent ASIC Capability Review<sup>4</sup> (the Review) recommended that ASIC introduce a more outcomes-focused and dynamic use of advisory panels. We understand that ASIC is seeking to address this by consulting with its advisory panels to examine ways to further enhance the use of their expertise and also other stakeholders to understand their varying needs and expectations.

We generally agree that ASIC has demonstrated a commitment to helping ensure its activities do not unnecessarily impede the efficient operation of regulated entities, such as through its implementation of measures to reduce ongoing compliance costs for business and facilitating relief from the law where

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<sup>1</sup> The Insurance Council of Australia is the representative body of the general insurance industry in Australia. Our members represent more than 90 percent of total premium income written by private sector general insurers. Insurance Council members, both insurers and reinsurers, are a significant part of the financial services system. September 2016 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross written premium of \$44.1 billion per annum and has total assets of \$120.5 billion. The industry employs approximately 60,000 people and on average pays out about \$124.6 million in claims each working day.

Insurance Council members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, commercial property, and directors and officers insurance).

<sup>2</sup> ASIC's invitation to the Insurance Council refers. Dated 9 November 2016.

<sup>3</sup> The Insurance Council of Australia's [submission](#) to ASIC, refers. Dated 21 May 2015.

<sup>4</sup> [ASIC Capability Review](#) – recommendation 15, refers. Dated December 2015.

appropriate. As one example, we note that in 2015–16, ASIC implemented measures to reduce ongoing annual compliance costs for regulated businesses by an estimated \$309 million<sup>5</sup>. Apart from providing regulatory relief where appropriate to reduce the regulatory burden on business, we submit that ASIC may also consider supporting law reform where the benefits are recognised by both industry and ASIC. An example of this is law reform to facilitate electronic disclosure by the insurance industry.

With respect to ASIC's communication with regulated businesses, we consider that this has been generally clear, targeted and effective. The Insurance Council emphasises that it is critical for ASIC to consistently maintain clarity and transparency when communicating its priorities and expectations to regulated businesses – we note that this was identified as an area for improvement in the Review<sup>6</sup>. We understand from ASIC's response<sup>7</sup> to the Review, that it is working on a new organisational-wide communication strategy that will, among other things, emphasise the significance of clear and consistent communication of ASIC's priorities, expectations and, where appropriate, risk tolerances.

The Insurance Council considers that ASIC has been generally effective in actively contributing to the continuous improvement of regulatory frameworks. We agree that ASIC has demonstrated a commitment to supporting international regulatory work, particularly through its membership of the International Organization of Securities Commissions Board.

With respect to the evidence metrics for the Framework, the Insurance Council remains of the view that these could be significantly improved through incorporating more quantifiable measures. While we appreciate that identifying quantifiable metrics may be challenging, we believe that there is significant benefit to rigorously measuring ASIC's performance. Indeed, additional metrics that objectively measure and benchmark performance would facilitate a more rigorous and historically comparable method for ASIC to assess its performance. A more comprehensive suite of quantifiable metrics will be particularly important in facilitating transparency with the impending industry funding of ASIC.

Once ASIC has considered this feedback, the Insurance Council would appreciate being informed of how it intends to address the points that we have raised.

If you have any questions or comments in relation to our feedback, please contact John Anning, the Insurance Council's General Manager Policy, Regulation Directorate, on tel: (02) 9253 5121 or email: [janning@insurancecouncil.com.au](mailto:janning@insurancecouncil.com.au).

Yours sincerely



Robert Whelan  
Executive Director and CEO

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<sup>5</sup> [ASIC 2015-16 Annual Report](#) – page 6, refers. Dated 14 October 2016.

<sup>6</sup> [ASIC Capability Review](#) – recommendations 16 through to 19, refer. Dated December 2015.

<sup>7</sup> [ASIC's response](#) to the ASIC Capability Review – page 8, refers. Dated 20 April 2016.