



ASIC

Australian Securities & Investments Commission

Regulator Performance Framework: ASIC evidence metrics

October 2017

About this document

This document sets out the key performance indicators (KPIs) of the Australian Government's Regulator Performance Framework, our approach to self-assessment against these KPIs and the evidence metrics we will use to support our self-assessment.

We publish our self-assessment of ASIC's performance against the KPIs annually in a separate report.

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Overview

Regulator Performance Framework

The Government introduced the Regulator Performance Framework (Framework) to provide common performance measures to assess how Australian Government regulators operate. The Framework is designed to assess the extent to which regulators minimise the regulatory burden in the course of fulfilling their activities. It should be seen as one component of the broader performance of regulators.

There are six mandated common outcomes-based key performance indicators (KPIs) that cover reducing regulatory burden, communication, risk-based and proportionate approaches to regulation, efficient and coordinated monitoring, transparency, and continuous improvement of regulatory frameworks:

- KPI 1: Regulators do not unnecessarily impede the efficient operation of regulated entities
- KPI 2: Communication with regulated entities is clear, targeted and effective
- KPI 3: Actions undertaken by regulators are proportionate to the regulatory risk being managed
- KPI 4: Compliance and monitoring approaches are streamlined and coordinated
- KPI 5: Regulators are open and transparent in their dealings with regulated entities
- KPI 6: Regulators actively contribute to continuous improvement of regulatory frameworks

ASIC self-assessment

The Framework provides measures that set out what good regulatory performance looks like for each KPI. We have developed evidence metrics to assess our performance against each KPI in consultation with stakeholders.

This document sets out each KPI and its associated Framework measures of good regulatory performance, our approach to self-assessment against these KPIs and the evidence metrics we will use to support our self-assessment.

We report our self-assessment against the Framework annually. These [self-assessment reports](#) can be downloaded from our website

Update to ASIC evidence metrics

Following the publication of our first self-assessment against the Framework in 2015–16, we identified some ways we could improve our metrics. It had become apparent that some of our metrics had become outdated as business processes changed over time.

In June 2017, we undertook a targeted consultation with industry stakeholders in which we proposed some minor changes to our evidence metrics that would enable us to produce a more succinct, relevant and accessible self-assessment.

These changes include:

- (a) grouping related KPIs together, to tell a coherent performance story on discrete topics;
- (b) rationalising the evidence metrics so that each metric is only listed once and is placed under the most relevant KPI; and
- (c) amending some metrics that were previously excessively specific, to ensure they remain relevant as ASIC's processes change over time.

The outcomes of our consultation on these amended evidence metrics are contained in [Report 548 Response to submissions on amendments to ASIC's Regulator Performance Framework evidence metrics](#) (REP 548).

KPI 1 and KPI 6

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

Regulators demonstrate an understanding of the operating environment of the industry or organisation, or the circumstances of individuals, and the current and emerging issues that affect the sector.

Regulators take actions to minimise the potential for unintended negative impacts of regulatory activities on regulated entities or affected supplier industries and supply chains.

Regulators implement continuous improvement strategies to reduce the costs of compliance for those they regulate.

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

Regulators establish cooperative and collaborative relationships with stakeholders to promote trust and improve the efficiency and effectiveness of the regulatory framework.

Regulators engage stakeholders in the development of options to reduce compliance costs. This could include industry self-regulation, changes to the overarching regulatory framework, or other strategies to streamline monitoring and compliance approaches.

Regulators regularly share feedback from stakeholders and performance information (including from inspections) with policy departments to improve the operation of the regulatory framework and administrative processes.

ASIC's approach to self-assessment against these KPIs

We consider that KPIs 1 and 6 are complementary. KPI 1 relates to how we administer the regulatory framework to minimise any unnecessary regulatory burden. KPI 6 relates to how we contribute to the process of improving the regulatory framework itself, such as by providing policy advice to government. Both of these KPIs contribute to ensuring that our stakeholders are subject to efficient and appropriate regulation that minimises regulatory costs.

We assess our performance against these KPIs based on how we:

- (a) demonstrate an understanding of the markets in which our regulated population operate, and best practice regulatory approaches in those markets;
- (b) promote public discussion of market and regulatory developments by engaging with stakeholders through regular meetings, external committees and panels, and hosting the ASIC Annual Forum;
- (c) make it easier for regulated entities to do business, including by:
 - (i) implementing measures to reduce red tape and the compliance burden on business (including for innovative business models); and
 - (ii) effectively and efficiently considering applications by regulated entities for relief from the law; and
- (d) contribute to continuous improvement of regulatory frameworks by providing advice to government, and identifying where reform to existing regulatory frameworks may be required.

ASIC evidence metrics

1.1 Understanding the market

- 1.1.1 ASIC publishes an environmental scan and risk outlook as part of its corporate plan.
- 1.1.2 ASIC seeks regular feedback from stakeholders to measure perceptions of trust and confidence and market integrity.
- 1.1.3 ASIC holds regular meetings with key stakeholders—including industry, professional body representatives, consumer advocates and small business—through internal contact points.
- 1.1.4 Stakeholder panels meet regularly.
- 1.1.5 ASIC holds an Annual Forum.

1.2 Making it easier for business

- 1.2.1 ASIC complies with Office of Best Practice Regulation requirements, including preparing cost–benefit analyses in Regulation Impact Statements for significant regulatory changes.
- 1.2.2 New or revised guidance provides for reasonable transition periods where possible.
- 1.2.3 ASIC regularly publishes a report summarising examples of situations where it has exercised, or refused to exercise, exemption and modification powers in response to applications for relief from the law.
- 1.2.4 ASIC publishes service standards for making decisions about applications for relief and reports annually on its performance.

1.3 Continuous improvement of regulatory frameworks

- 1.3.1 Where appropriate, ASIC identifies and proposes opportunities to improve the regulatory framework, including as a result of post-implementation reviews.
- 1.3.2 ASIC attends relevant international meetings and participates in relevant committees to promote better coordination of regulatory activities internationally, participate in standard setting, and to learn from peer experiences and share best practice.
- 1.3.3 ASIC publicly reports peer review results against relevant international practices and standards when peer review is undertaken.
- 1.3.4 ASIC provides advice to the Minister and Treasury concerning possible improvements to the regulatory framework that it identifies in performing its functions.

KPI 2 and KPI 5

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

Regulators provide guidance and information that is up to date, clear, accessible and concise through media appropriate to the target audience.

Regulators consider the impact on regulated entities and engage with industry groups and representatives of the affected stakeholders before changing policies, practices or service standards.

Regulators' decisions and advice are provided in a timely manner, clearly articulating expectations and the underlying reasons for decisions.

Regulators' advice is consistent and supports predictable outcomes.

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

Regulators' risk-based frameworks are publicly available in a format which is clear, understandable and accessible.

Regulators are open and responsive to requests from regulated entities regarding the operation of the regulatory framework, and approaches implemented by regulators.

Regulators' performance measurement results are published in a timely manner to ensure accountability to the public.

ASIC's approach to self-assessment against these KPIs

We consider that KPIs 2 and 5 primarily concern how effectively we communicate our expectations around the behaviour of our regulated population. We assess our performance against these KPIs based on how we:

- (a) manage interactions with regulated entities in an efficient manner;
- (b) communicate with stakeholders on issues that affect our regulated population, such as our assessment of the key risks and long-term challenges facing our regulated population, through:
 - (i) our corporate plan;
 - (ii) guidance we provide about our regulatory expectations;
 - (iii) our approach to enforcement; and
 - (iv) our decisions on applications for relief;
- (c) consult with our regulated population on policy proposals that affect them; and
- (d) report to stakeholders on our performance.

ASIC evidence metrics

2.1 Interacting with ASIC

- 2.1.1 ASIC publishes service standards for registering companies, business names, managed investment schemes, auditors and liquidators, and reports annually on its performance.
- 2.1.2 ASIC publishes service standards for licensing financial services and credit businesses and reports annually on its performance.
- 2.1.3 ASIC publishes complaint guidelines and keeps them up to date.
- 2.1.4 ASIC addresses complaints in accordance with complaint guidelines.
- 2.1.5 ASIC publishes policies and procedures about rights of review.
- 2.1.6 ASIC seeks feedback on its level of openness and transparency in dealing with regulated entities.

2.2 Communicating ASIC's expectations

- 2.2.1 ASIC uses a variety of media and direct channels to convey information to all stakeholders.
- 2.2.2 Extensive guidance and information is available on ASIC's website.
- 2.2.3 ASIC regularly publishes reports to inform regulated entities of ASIC's approach and expectations.
- 2.2.4 Regulated entities are able to access the information they need on ASIC's website; this information is available in accordance with government accessibility guidelines.
- 2.2.5 ASIC regularly reviews and updates resources in the Customer Contact Centre and makes them available for staff to use for routine inquiries.

2.3 Consulting with stakeholders

- 2.3.1 Consultation papers are published for new major policies, with clarity about where market failures are or may be.
- 2.3.2 Consultations are open for at least eight weeks for major new policies where possible, with user testing of proposals where appropriate.
- 2.3.3 Feedback is published following 100% of formal consultation processes.
- 2.3.4 ASIC seeks stakeholder feedback on the use and value of ASIC guidance and ASIC's responsiveness.

2.4 Performance measurement and reporting

- 2.4.1 ASIC's corporate plan is published annually.
- 2.4.2 ASIC publishes a Statement of Intent and a Statement of Expectations.
- 2.4.3 ASIC publishes a service charter and reports against it, including explanations where standards are not met.
- 2.4.4 ASIC's Annual Report is published and includes reporting against the corporate plan and service charter, including explanations where outcomes or standards are not met.
- 2.4.5 ASIC publishes its self-assessment report and external validation of the Regulator Performance Framework annually.

KPI 3 and KPI 4

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

Regulators apply a risk-based, proportionate approach to compliance obligations, engagement and regulatory enforcement actions.

Regulators' preferred approach to regulatory risk is regularly reassessed. Strategies, activities and enforcement actions are amended to reflect changing priorities that result from new and evolving regulatory threats, without diminishing regulatory certainty or impact.

Regulators recognise the compliance record of regulated entities, including using earned autonomy where this is appropriate. All available and relevant data on compliance, including evidence of relevant external verification, is considered.

KPI 4: Compliance and monitoring approaches are streamlined and coordinated

Regulators' information requests are tailored and only made when necessary to secure regulatory objectives, and only then in a way that minimises impact.

Regulators' frequency of information collection is minimised and coordinated with similar processes, including those of other regulators, so that, as far as possible, information is only requested once.

Regulators utilise existing information to limit the reliance on requests from regulated entities and share the information among other regulators, where possible.

Regulators base monitoring and inspection approaches on risk and, where possible, take into account the circumstance and operational needs of the regulated entity.

ASIC's approach to self-assessment against these KPIs

We consider that KPIs 3 and 4 primarily concern the effectiveness and efficiency of our approach to detecting, understanding and responding to regulatory risks and breaches, principally through surveillance and enforcement. We assess our performance against these KPIs based on how we:

- (a) take a risk-based approach to our surveillance activities;
- (b) adopt a proportionate approach to enforcement, including being transparent about how we approach our enforcement role and why we respond to particular types of breaches of the law in different ways;
- (c) minimise the impact on the regulated population of complying with requests for information, including improving our data management and analytics; and
- (d) cooperate and coordinate with other regulators when undertaking relevant surveillance activities.

ASIC evidence metrics

3.1 Risk-based surveillance

- 3.1.1 ASIC undertakes a strategic risk assessment annually, which is published as part of its corporate plan.
- 3.1.2 A documented, risk-based surveillance approach is available for staff use, with surveillances—including high-intensity surveillances—conducted using this approach.
- 3.1.3 ASIC trains relevant staff—including relevant new staff—in risk management policies, processes and procedures.

3.2 Enforcement and transparency

- 3.2.1 ASIC publishes its approach to enforcement, which includes options for a graduated approach to compliance and enforcement.
- 3.2.2 ASIC regularly publishes a report about its enforcement actions.

3.3 Information requests

- 3.3.1 Formal information requests to regulated entities are targeted and take into account other formal requests for information.
- 3.3.2 Formal sign-off, involving senior staff and legal officers, precedes all formal requests for information.
- 3.3.3 ASIC uses data from other sources where appropriate.

3.4 Cooperation with other regulators

- 3.4.1 ASIC establishes coordinated approaches with peer regulators, including publishing memoranda of understanding and undertaking joint surveillance where appropriate.