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Australian Securities and Investments Commission  
5/100 Market Street  
Sydney NSW 2000

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**RE: Regulator Performance Framework – ASIC measures**

Dear Greg,

The Financial Planning Association of Australia (FPA) welcomes the opportunity to provide feedback on ASIC's proposed evidence metrics in response to the Regulator Performance Framework key performance indicators.

The FPA is encouraged that Federal regulators are now expected to actively minimise the regulatory burden that arises from the regulator's activities. Our view is that the Regulator Performance Framework offers an excellent opportunity for Federal regulatory agencies to reflect on their processes.

The evidence metrics that ASIC has proposed in response to the Framework are clear and generally measurable. However, we request that the metrics include more quantitative evidence metrics, and include evidence metrics that measure the quality of stakeholder engagement with ASIC.

Thank you again for the opportunity to provide feedback on ASIC's draft evidence metrics. If you have any questions, please do not hesitate to contact me

Yours sincerely,

**Dante De Gori**  
General Manager Policy and Conduct  
Financial Planning Association of Australia<sup>1</sup>

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<sup>1</sup> The Financial Planning Association (FPA) represents more than 10,750 members and affiliates of whom 8,055 are practicing financial planners and more than 5,500 CFP professionals. The FPA has taken a leadership role in the financial planning profession in Australia and globally:

- Our first "policy pillar" is to act in the public interest at all times.
- We banned commissions and conflicted remuneration on investments and superannuation for our members in 2009 – years ahead of FOFA.
- We have an independent conduct review panel, Chaired by Dr June Smith, dealing with investigations and complaints against our members for breaches of our professional rules.
- The first financial planning professional body in the world to have a full suite of professional regulations incorporating a set of ethical principles, practice standards and professional conduct rules that explain and underpin professional financial planning practices. This is being exported to 24 member countries and the 150,000 CFP practitioners that make up the FPSB globally.
- We have built a curriculum with 17 Australian Universities for degrees in financial planning. All new members of the FPA are required to hold, as a minimum, an approved undergraduate degree.
- CFP certification is the pre-eminent certification in financial planning globally. The educational requirements and standards to attain CFP standing are equal to other professional bodies, eg CPA Australia.
- We are recognised as a professional body by the Tax Practitioners Board



## Regulator Performance Framework – ASIC measures

### Stakeholder engagement and communication

In our view, the most important factor in ASIC's deregulatory impact stems from the quality of its stakeholder engagement and communication. Stakeholder engagement is important for reducing regulatory burden for regulated entities because miscommunication of Government policy and regulatory activity results in significant costs for regulated entities.

Evidence metrics that describe ASIC's stakeholder engagement and communication should be measured as a *two-way* approach. We are concerned that the evidence metrics proposed only describe ASIC's engagement with stakeholders, and not stakeholder engagement with ASIC. For example, the only proposed evidence metric for regular, ongoing consultations or engagement with stakeholders are ASIC's stakeholder panels. This is a process managed by ASIC at a very high level, and does not facilitate breadth or depth of consultation with regulated entities or individuals.

Another example is ASIC's proposed evidence metric regarding responsiveness to feedback from regulated entities. The proposed evidence metric does not establish a "documented responsiveness to feedback" with respect to stakeholder surveys, only that the surveys are conducted and the results are published. We expect that ASIC provides avenues for stakeholders to raise concerns with ASIC about activities that unnecessarily impede the efficient operation of regulated entities, and that ASIC's evidence metrics specifically address the timeliness and effectiveness of ASIC's response to those concerns.

ASIC could use its stakeholder engagement and guidance processes for the Financial Adviser Register as an example in its self-assessment against KPI 1 and KPI 2. The feedback to the FPA from our members is that the guidance ASIC provided on using the register, as well as communications regarding deadlines and updates relating to the register, was well received. More importantly, our members found it easy to ask questions about the register via email, and that responses were timely and accurate. ASIC should consider implementing evidence metrics (both quantitative and qualitative) that capture this data and align it to ASIC's efforts to meet the KPIs.

Lastly, ASIC's KPIs should be sensitive to ASIC's engagement with stakeholders at a variety of levels of engagement. It is not sufficient for ASIC to report on stakeholder engagement with Panels, as those represent a fraction of those entities and individuals who are regulated by ASIC. Deep and broad consultation ought to be a fundamental element of stakeholder engagement and communication, and ASIC's performance ought to be measured against this outcome.

Our suggestions for suitable evidence metrics are:

- ASIC provides avenues for stakeholder feedback and questions regarding administrative processes that are available at a variety of levels of engagement. (KPI 1)
- ASIC staff complies with clearly stated service standards with respect to stakeholder questions and feedback. (KPI 2)
- ASIC uses stakeholder feedback to design guidance documents on administrative processes, compliance, and other interaction with ASIC systems. (KPI 2)

These comments apply equally to ASIC's proposed evidence metrics for KPI 3 to the extent that ASIC measures stakeholder engagement and communication regarding the risk basis for its regulatory activities.



## Metrics for measuring future performance

In order for ASIC's self-assessment to provide meaningful ways to decrease the regulatory burden of its activities, qualitative and quantitative metrics should be implemented that examine ASIC's future performance, and assess ASIC's activities against a goal or standard.

For example, one of ASIC's draft evidence metrics is that ASIC should provide extensive guidance and information on the ASIC website. This evidence metric is linked to KPI 5 regarding the openness and transparency of ASIC's dealings with regulated entities. However, this evidence metric includes no assessment of the responsiveness of ASIC to developments in the law and how these developments affect its regulatory policy.

Regulated entities rely on ASIC to provide clear, timely, and relevant information in response to developments in the law. An example is ASIC's response to the disallowance of the Corporations Amendment (Streamlining of Future of Financial Advice) Regulation 2014. ASIC's response to the disallowance was immediate, and described its approach to the FOFA laws as 'facilitative' in order to give regulated entities an opportunity to implement compliance systems that appropriately address the changes. ASIC also offered clarity to regulated entities regarding the length of ASIC's facilitative approach.

Our suggestions for suitable evidence metrics are:

- ASIC publicly responds to developments in the law within clearly stated timeframes that adjust to the complexity of the change, the impact of the change on regulated entities, and any time constraints for ASIC and/or regulated entities to respond to the change. (KPI 5)
- ASIC uses stakeholder feedback to design guidance documents on administrative processes, compliance, and other interaction with ASIC systems. (KPI 2)

## Measuring coregulatory efficiency

The FPA is concerned that none of the proposed evidence metrics reflect any improvements in efficiency gained from coregulatory activities. Our view is that the duplication of information-gathering activities, communication efforts, and stakeholder engagement avenues between industry bodies (such as professional associations) and ASIC is a significant contributing factor to regulatory burden and the volume of administrative activity.

An example of an effective means by which the FPA and Federal regulatory bodies work together has been including articles from state and Federal agencies in our regular communication with members. Not only do these articles deliver information in a targeted manner to an interested audience, but they enable ASIC and other Federal agencies to collect data and feedback from regulated entities and individuals through the industry association.

In our view, the evidence metrics need to specifically address ASIC's engagement with industry groups, professional associations, and other membership-based entities in order to accurately measure the efficiency and effectiveness of its engagement with stakeholders.

Our suggestion for a suitable evidence metric is:

- ASIC engages with industry groups, professional associations, and other membership-based entities in the financial services sector in order to accurately target and extend its communication efforts. (KPI 2)