



RE: Regulator Performance Framework [SEC=UNCLASSIFIED]
Gerard Brody
to:
Greg Kirk

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Dear Greg

Thanks for seeking our feedback on ASIC's proposed evidence metrics for reporting against the Regulator Performance Framework.

I'm not sure our comments offer much value for you. However, here are a few points for consideration.

- While we acknowledge it is not ASIC's doing, we find the regulatory performance framework and KPIs troubling. Your letter states that the 'framework is designed to assess only one aspect of the regulator's performance—the extent to which it minimises regulatory burden in the course of fulfilling its other activities'. The Framework and KPIs don't seem to acknowledge the risk that the focus on minimising regulatory burden may limit the ability of the regulator to fulfilling its other activities, particularly public interest outcomes. None of the KPIs measure the achievement of the 'same regulatory outcomes'. Might this be dealt with in the metrics somehow?
- The metrics for KPI 1 and KPI 3 refer to the various ASIC stakeholder committees as ways in which ASIC can obtain feedback and understand the external environment and emerging issues. You could consider adding a more proactive stakeholder engagement strategy, of which these committees will be part. ASIC already undertakes a lot of informal meetings and seeks feedback in other ways, it might be useful to recognise this work and bring it into the framework to ensure it is prioritised.
- KPI 4 refers to regulators being open and transparent. While this would be additional work for ASIC, one way to improve openness and transparency would be to publish consumer complaint data. NSW Fair Trading is [proposing](#) to do this, and it is done by other regulators such as the Consumer Finance Protection Bureau in the US. This would help regulated entities and the public better understand one of the bases ASIC assesses when considering matters for investigation, and also would provide evidence for a clear, accessible and understandable risk-based regulatory framework.
- KPI 6 refers to ASIC contribution to continuous improvement of regulatory frameworks. One additional evidence metric may be the extent ASIC provides feedback to industry self-regulation measures and processes—I know this occurs, so it could be useful evidence. I also strongly support the metric around ASIC identifying and proposing opportunities to improve the regulatory framework.

I note in your letter the reference to the parliamentary committee considering broader regulatory accountability measures. If you think it was useful, we could provide that committee with our 2013 Regulator Watch report which makes a number of points about why accountability measures for regulators (particularly in relation to enforcement activities) should be different from accountability measures for other public sector institutions.

Best regards
Gerard

Gerard Brody
Chief Executive Officer



Consumer Action Law Centre
Level 7, 459 Little Collins Street
Melbourne Vic 3000



www.consumeraction.org.au

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