

Mr Andrew Fawcett
Senior Executive Leader, Strategic Policy
Australian Securities and Investments Commission
Level 7, 120 Collins St
Melbourne VIC 3000

17 November 2017

Dear Mr Fawcett

ASIC REGULATOR PERFORMANCE FRAMEWORK – EXTERNAL VALIDATION

The Insurance Council of Australia¹ (the Insurance Council) appreciates the opportunity to provide feedback to the Australian Securities and Investments Commission (ASIC) on its self-assessment of performance in 2016-17 against the Commonwealth Government's Regulator Performance Framework (the Framework).

We note that ASIC's self-assessment is based on revised² evidence metrics, following its consultation in June this year on proposed changes to its metrics. As you are aware, the Insurance Council made a submission³ to ASIC on its proposed changes – our submission reiterated the need for material changes to the metrics, chiefly in order to incorporate more quantifiable measures. However, it appears that only minor revisions were made, which do not materially change the way that ASIC assesses its performance against the Framework.

In this respect, the Insurance Council remains of the view that ASIC's evidence metrics could be significantly improved by including more quantifiable measures. While identifying more quantifiable metrics may be challenging, there is significant benefit to rigorously measuring ASIC's performance – in particular, additional metrics that objectively measure and benchmark ASIC's performance against the Framework would facilitate a more rigorous and historically comparable method for ASIC to review its performance over time. This is particularly important in supporting a transparent industry funding model.

Notwithstanding this, we broadly agree with ASIC's self-assessment and would like to point out some areas for potential improvement. Provided below are more specific observations about ASIC's self-assessment against the Framework's key performance indicators (KPIs).

With respect to KPI 1 and KPI 6⁴, the Insurance Council's view is that ASIC has continued to demonstrate an understanding of current and emerging market issues in the financial sector,

¹ 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. June 2017 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross written premium of \$45 billion per annum and has total assets of \$124.9 billion. The industry employs approximately 60,000 people and on average pays out about \$135 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).

² ASIC [17-353MR](#) 20 October 2017, *ASIC releases update to evidence metrics for performance reporting*.

³ Insurance Council of Australia [submission](#), 27 June 2017.

⁴ KPI 1 and KPI 6: Regulators do not unnecessarily impede the efficient operation of regulated entities; and Regulators actively contribute to continuous improvement of regulatory frameworks.

and has generally demonstrated a commitment to helping ensure its activities do not unnecessarily impede the efficient operation of regulated businesses. We also consider that ASIC has generally been effective in contributing to the continuous improvement of the relevant regulatory frameworks. In this regard, we note the importance of a facilitative approach to regulation for areas such as effective disclosure where a purely enforcement driven regulatory approach may hinder innovation in industry efforts to improve.

The Insurance Council suggests that ASIC consider a mechanism to obtain regular feedback from industry on its regulatory approach. While we recognise that there is data⁵ on the number of meetings that ASIC held with senior executives and other representatives of regulated businesses, it is not clear from these data whether ASIC seeks feedback from those stakeholders. A feedback mechanism – such as via a survey – would enable ASIC to consider (and report on) regular feedback on matters such as: ASIC’s approach to commercial sensitivity and application of the law (such as during investigations). This could help provide ASIC further insight into, for example, the commercial impact of ASIC’s interactions with regulated businesses and improvements that could be made; it could also further enhance ASIC’s understanding of the constantly evolving commercial environment.

In regards to KPI 2 and KPI 5⁶, the Insurance Council considers that ASIC’s communication with industry has been generally clear, targeted and effective. Our members have generally found ASIC to be approachable and available when contacted directly or through the Insurance Council – as ASIC would appreciate, it is critical for financial regulators to consistently maintain clarity and transparency when communicating their regulatory priorities and expectations to industry.

With respect to KPI 3 and KPI 4⁷, the Insurance Council considers that there are significant opportunities for ASIC to work more closely with the general insurance industry, and other financial regulators and stakeholders, to help reduce the cost of compliance, particularly given the broad adaptation to more innovative and efficient technologies. For example, we consider that ASIC should work closely with APRA on its future data collection solution (the D2A replacement project), to ensure that there is no regulatory overlap and, where possible, APRA’s future data collection platform is also able to meet ASIC’s data requirements.

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.

Yours sincerely



Robert Whelan
Executive Director & CEO

⁵ ASIC’s draft *Regulator Performance Framework: ASIC self-assessment 2016-17*. Page 10 refers, as one example.

⁶ KPI 2 and KPI 5: Communication with regulated entities is clear, targeted and effective; and Regulators are open and transparent in their dealings with regulated entities.

⁷ KPI 3 and KPI 4: Actions undertaken by regulators are proportionate to the regulatory risk being managed; and Compliance and monitoring approaches are streamlined and coordinated.