



30 January 2019

Mr Andrew Fawcett
Senior Executive Leader
Strategic Policy
Australian Securities & Investments Commission
Level 7, 120 Collins Street
MELBOURNE VIC 3000
Via email: andrew.fawcett@asic.gov.au

Dear Mr Fawcett

ASIC's 2017-18 performance against the Regulator Performance Framework

Chartered Accountants Australia and New Zealand welcomes the opportunity to provide feedback on the Australian Securities & Investments Commission's (ASIC) 2017-18 performance against the Regulator Performance Framework (RPF). Appendix A includes our feedback on ASIC's self-assessment on their performance against each of the evidence metrics. Appendix B provides more information about Chartered Accountants Australia and New Zealand.

Key points

- A robust performance framework clearly identifies the outcome KPIs, or objectives that the entity aims to contribute to or influence. Outputs or activities should explain what and how an entity plans to intervene to help bring about the outcomes. We commend ASIC on their activities and outputs included in the draft RPF report for 2017-18 but consider that it does not adequately describe the outcomes ASIC has achieved.
- The activities and outputs achieved do not describe how ASIC's performance against the six KPI measures has contributed to ASIC's vision. It would be useful to include more qualitative metrics with a defined target so that readers can assess whether ASIC is achieving its objectives.
- We consider including key statistics around the number of ASIC's enforcement actions would increase consumer trust and protection.

Should you have any queries concerning the matters discussed above or wish to discuss them in further detail, please contact Karen McWilliams via email at karen.mcwilliams@charteredaccountantsanz.com or phone (612) 8078 5451.

Yours sincerely,

Simon Grant FCA
Group Executive
Advocacy & Professional Standing
Chartered Accountants Australia and
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Karen McWilliams FCA
Business Reform Leader
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Appendix A

General Comments

As we noted in our submission in June 2017 on the RPF, a robust performance framework clearly identifies the outcome KPIs, or objectives that the entity aims to contribute to or influence. Outputs or activities should explain what and how an entity plans to intervene to help bring about the outcomes. For a reader to understand how well an entity has achieved its objectives, it is important to provide a targeted level of achievement. For longer term objectives, this may be in the form of a general trend rather than a defined amount.

With ASIC now adopting an industry funding model, the importance of a clear and well-defined performance framework has increased. More organisations will be interested in assessing how well ASIC uses its regulatory powers entrusted to them.

We note that whilst the draft RPF report outlines ASIC's plans, procedures, activities, process and approaches to regulations, there is no adequate description of the outcomes achieved. We further note that the outcomes reported do not describe how the regulator's performance against the six KPI measures has contributed to its vision to create a fair, strong and efficient financial system for all Australians, specifically to:

- a) change behaviours to drive good consumer and investor outcomes;
- b) act against misconduct to maintain trust and integrity in the financial system;
- c) promote the strong and innovative development of the financial system; and
- d) help Australians to be in control of their financial lives.

We encourage the use of qualitative metrics as it would be useful to include defined targets so that readers can assess whether ASIC is achieving its vision and objectives. For example paragraph 81 notes the percentage of all enquiries answered on the spot, but a customer satisfaction survey might be more useful in determining whether the customer was satisfied with the response they received.

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

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

ASIC has referred to its understanding of the market as part of its supporting evidence for continuous improvement of regulatory frameworks, including its regular meetings held with key stakeholders such as professional body representatives (paras 42 and 43) and its stakeholder panel meetings (paras 44 to 47). We have actively participated in various meetings and panels with ASIC during 2017-18, including joint accounting body quarterly meetings with ASIC's Financial Advisers Senior Executive Leaders Team as well as ASIC's Business Advisory Committee. We found these forums valuable for consulting on policy matters, collaborating on communications and education materials to assist our members and discussing industry, consumer and market developments that impact members and the accounting profession.

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

We support the continued work between ASIC and the government to upgrade its enforcement powers and penalties, the review and analysis of its enforce policies, processes and decision making procedures including its use of court action in 2018. We also note that many instances of misconduct before the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry have been the subject of ASIC investigations and resulted in regulatory actions.

We support Commissioner Hayne's comments in the Interim Report about the need for better enforcement of existing laws and regulations, particularly in the financial advice sector. We consider that the role of the regulator needs to be more visible and effective.

In our view, there is value in exploring collaborative models which see regulators working more effectively with those professional associations, like Chartered Accountants Australia and New Zealand, which have already set a high bar for member skills and professional conduct.

The need to increase consumer trust and protection must be balanced with the need to reduce regulatory complexity and compliance costs, particularly in the financial advice industry. Standardised, best practice models for adviser – client – regulator engagement underpinned by technology should be recommended and developed collaboratively by relevant professional associations and regulators.

In our feedback on the ASIC Regulator Performance Framework from June 2017 we suggested that key statistics are published relating to enforcement and transparency. We also suggested key statistics around the number of enforcement actions and trend analysis linking areas where ASIC has enhanced policy to demonstrate whether policy changes have positively impacted compliance. We consider that the inclusion of such key statistics would increase consumer trust and protection.

Appendix B

About Chartered Accountants Australia and New Zealand

Chartered Accountants Australia and New Zealand is a professional body comprised of over 120,000 diverse, talented and financially astute members who utilise their skills every day to make a difference for businesses the world over.

Members are known for their professional integrity, principled judgment, financial discipline and a forward-looking approach to business which contributes to the prosperity of our nations.

We focus on the education and lifelong learning of our members, and engage in advocacy and thought leadership in areas of public interest that impact the economy and domestic and international markets.

We are a member of the International Federation of Accountants, and are connected globally through the 800,000-strong Global Accounting Alliance and Chartered Accountants Worldwide which brings together leading Institutes in Australia, England and Wales, Ireland, New Zealand, Scotland and South Africa to support and promote over 320,000 Chartered Accountants in more than 180 countries.

We also have a strategic alliance with the Association of Chartered Certified Accountants. The alliance represents 788,000 current and next generation professional accountants across 181 countries and is one of the largest accounting alliances in the world providing the full range of accounting qualifications to students and business.