

Mr Andrew Fawcett  
Senior Executive Leader, Strategic Policy  
Australian Securities and Investments Commission  
Level 5, 100 Market Street  
Sydney NSW 2000

27 June 2017

Dear Mr Fawcett

**PROPOSED CHANGES TO ASIC'S EVIDENCE METRICS UNDER THE  
REGULATOR PERFORMANCE FRAMEWORK**

The Insurance Council of Australia<sup>1</sup> (the Insurance Council) appreciates the opportunity to provide feedback on the proposed changes to the evidence metrics ASIC uses to measure its performance against the Regulator Performance Framework (RFP).

The Insurance Council provided detailed feedback<sup>2</sup> to ASIC in May 2015 on its proposed evidence metrics under the RFP; we also referred to that feedback in our December 2016 submission<sup>3</sup> to ASIC's draft self-assessment under the RFP. As the Insurance Council still holds the same views as previously expressed, our feedback on the current proposed changes is largely general in nature. We would urge ASIC to carefully consider our earlier comments, which detailed a number of possible improvements.

The Insurance Council considers that the proposed changes to the evidence metrics will not result in any material improvement in the way ASIC measures its performance. We remain strongly of the view that the effectiveness of the evidence metrics would be significantly improved by incorporating more quantifiable measures. While the Insurance Council appreciates that developing quantifiable metrics may be challenging, we believe that employing metrics which objectively measure and benchmark performance would facilitate a more rigorous and historically comparable method for ASIC to assess its performance.

The Government's decision to transition to an ASIC industry funding model makes it even more important to have in place an adequate performance framework to promote the appropriate and efficient use of industry funding.

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<sup>1</sup> 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. September 2016 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross written premium of \$44.1 billion per annum and has total assets of \$120.5 billion. The industry employs approximately 60,000 people and on average pays out about \$124.6 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).

<sup>2</sup> The Insurance Council of Australia [submission](#) to ASIC, dated 21 May 2015.

<sup>3</sup> The Insurance Council of Australia [submission](#) to ASIC, dated 6 December 2016.

On a more specific issue, we note that ASIC proposes to amend various evidence metrics under KPI 6: *Regulators actively contribute to continuous improvement of regulatory frameworks*. We consider that this KPI is a particularly critical performance objective, and suggest that its evidence metrics should also incorporate measures requiring ASIC to demonstrate that it has worked collaboratively with regulated entities, not only to identify improvements to the regulatory framework, but also to actively promote beneficial regulatory change.


The Insurance Council's engagement with ASIC on electronic disclosure provides a good example of an improvement to the regulatory framework that we believe ASIC should take a more active role in promoting.

Recognising the benefits to consumers of electronic disclosure, in July 2015, ASIC issued revised guidance and issued relief to remove barriers to electronic disclosure in the *Corporations Act 2001* (Corporations Act). One of the key changes made by ASIC was to enable a product issuer to provide a disclosure document electronically without the need to seek a client's consent. ASIC has also implemented relief to allow disclosure using any digital method to be made by notifying the client that the disclosure is available. However, insurers cannot rely on the relief and guidance provided by ASIC as it is confined to requirements under the Corporations Act. The disclosure requirements for insurance are not only set out in the Corporations Act, but also in the *Insurance Contracts Act 1984* (IC Act).

We appreciate that it is not ASIC's intent to limit the scope of the proposals in relation to general insurers, as it is not similarly empowered to provide relief under the IC Act as it is under the Corporations Act. Accordingly, the Insurance Council made a submission<sup>4</sup> to the Australian Treasury arguing the case for legislative change, but we have not been successful in obtaining ASIC's endorsement for reform. As the proposed amendment would only facilitate a consistent application of laws to achieve ASIC's policy position on electronic disclosure, we believe that it deserves ASIC's active support.

Once ASIC has considered this feedback, the Insurance Council would appreciate being informed of how it intends to address the points that we have raised. 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](mailto:janning@insurancecouncil.com.au).

Yours sincerely



John Anning  
General Manager Policy, Regulation Directorate

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<sup>4</sup> Insurance Council [submission](#) to the Australian Treasury refers, dated 10 August 2016.