



CHARTERED ACCOUNTANTS  
AUSTRALIA + NEW ZEALAND

14 August 2015

Ms Karen Chester  
Chair, Expert Panel  
ASIC Capability Review  
Treasury  
GPO Box 89  
Sydney NSW 2000

By email: [capabilitypanel@treasury.gov.au](mailto:capabilitypanel@treasury.gov.au)

cc: Panel Members David Galbally AM QC and Mark Gray  
Mr Rupert Jolley, Chief Adviser Treasury by email: [rupert.jolley@treasury.gov.au](mailto:rupert.jolley@treasury.gov.au)

Dear Ms Chester

**Re: Capability Review of the Australian Securities and Investments Commission**

Chartered Accountants Australia and New Zealand welcomes Treasury's invitation to consult on the expert panel's capability review of the Australian Securities and Investments Commission (ASIC).

Australia's continued prosperity relies on business confidence, which in turn requires a level of trust in how business is regulated. Australia has largely managed to balance regulation and oversight with the freedoms necessary to allow businesses to do business as easily as possible. However, Australia's past reputation is no guarantee of our future success.

The business landscape is changing rapidly, in a number of important ways. The four megatrends we believe will shape the economy and society in the coming decades are globalisation, particularly in the context of Asia; demographic changes dominated by the ageing population; urbanisation; and technological change. The common theme across each of these megatrends is the rapid pace of change relative to prior years. This presents significant challenges for business and for the regulator.

We believe that at the heart of this capability review is the assessment of the skills, capabilities and culture of ASIC and its staff. Ensuring the right skills, capabilities and culture is the foundation for improving business confidence by increasing trust in the regulator and ensuring it is fit for the future.

We note that there has been much reporting and discussion on future funding models for ASIC. However, we are strongly of the view that it is only appropriate to address questions of funding and resourcing after completing a full examination of the skills, capabilities and culture of ASIC and its staff, and allowing for recommendations to be progressed.

Whilst this is only a brief letter we are clear that this is an important issue for business and the community. Should you wish to discuss this further please contact me at [lee.white@charteredaccountantsanz.com](mailto:lee.white@charteredaccountantsanz.com) or on +61 2 9290 5598.

Yours sincerely

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## Capability Review of the Australian Securities and Investments Commission

### Summary of matters relevant to the scope of this review and any consultation

14 August 2015

- The evolution and expansion of ASIC's role in recent years brings the risk that ASIC will lose its regulatory focus and will be spread too thinly across multiple functions. This challenge must be met by a continuous review of the effectiveness and efficiency of ASIC's programs and resource allocation, as well as development of a more cohesive approach to working within Australia's co-regulatory environment.
- The effectiveness of ASIC's own self-improvement programs, particularly in respect of ASIC's overall culture and how that culture is reflected in the conduct of its staff.
- The effectiveness and efficiency of ASIC's resource allocation, particularly in regard to allocating resources based on a risk assessment of market segments.
- ASIC's level of willingness to engage proactively in meaningful consultation and dialogue with its stakeholders; to welcome, utilise and acknowledge its stakeholder's expertise and contributions; to provide guidance and assistance to stakeholders where necessary; and to work collaboratively on new solutions which may be outside the scope of ASIC's existing structures and frameworks.
- The quality of the consultation processes used by ASIC, particularly with reference to the standards set by other regulatory agencies, such as the ATO.
- The quality of ASIC's inter-agency relationships (e.g. with the ATO) including collaboration and information sharing to achieve common goals.
- The quality of ASIC's communication with its stakeholders, to ensure that it is not only clear, targeted and effective, but also perceived as valuable by stakeholders. For example, valuable and educational communication could include details not only of what is being done incorrectly, but also examples of what is being done well.
- The timeliness of ASIC's responses to complaints or information received, particularly in the case of whistleblowers.
- The appropriateness of ASIC's key performance indicators and accountability framework. It is important that ASIC's capability, regulatory performance and accountability measures are robust, particularly in the event of introducing a new funding model. It is especially important that the KPIs measure actual performance and are not just measures of activity. It is also important that ASIC staff receive the necessary level of training and development to deliver the required outcomes.

- ASIC's review of its programs and processes to reduce business costs and the burden of red tape. Compliance costs are significant for business, particularly for small to medium enterprises. For example, a small accounting practice may require several registrations with ASIC such as being a Registered Company Auditor, a registered Self-Managed Super Fund auditor, and hold an Australian Financial Services Licence. ASIC must develop better ways to integrate the various registration and licensing requirements, including streamlining of ASIC forms and allowing for simplified registration, such as through a single portal.
- Digital transformation at ASIC – the impact of the Digital Transformation Office and the concept of a whole of government approach to the collection of data i.e. involving ASIC, ATO, the Australian Bureau of Statistics and industry assistance.
- Determining the capability of ASIC to scope and develop new assurance roles that can be performed by members of professional bodies such as Chartered Accountants Australia and New Zealand as part of the 'new' ASIC.



## Capability Review of the Australian Securities and Investments Commission

### Feedback to Treasury's expert panel on improving ASIC's performance measures

19 October 2015

- Effective performance measures are critical to transparency and accountability. Key performance indicators must be clearly aligned with appropriate strategic objectives and must measure outcomes rather than activity.
- In our view, the strategic priorities outlined in ASIC's 2015 to 2019 Corporate Plan (attached) places too much emphasis on surveillance and enforcement. We would encourage a stronger focus on effective communication, stakeholder engagement and education, including training for ASIC staff to ensure they have the necessary skills required. It should be made clear how ASIC staff will acquire the capability to be able to perform some of its proposed work.
- The performance measures in ASIC's Corporate Plan overly emphasise generic surveillance and enforcement activities. For example (1) numbers of failures to comply with conduct obligations identified and addressed; and (2) successful enforcement or other regulatory action. Greater focus should be given to measures of specific outcomes achieved which demonstrate improvements in market behaviour. The performance evaluation framework statement on page 27 of ASIC's Corporate Plan highlights this emphasis on measuring activity over outcomes.
- ASIC's regulatory risk performance measures, including its risk based surveillance approach, could be improved by providing further clarity to stakeholders on its expectations and level of risk tolerance as well as appropriate training to staff to ensure they understand this risk framework. This is necessary to ensure that any enforcement action is proportionate to the underlying risk. It will also help to clarify the relationship between enforcement activity and measures to improve trust and confidence in the market.
- Stakeholder surveys are one of the better performance measures used by ASIC. A Net Promoter Score could be used to measure stakeholder experience and satisfaction with ASIC, through surveys conducted by phone, online or via focus groups. However, developing appropriate survey methodology and conducting stakeholder consultation through panels or focus groups requires that staff have adequate training on industry issues and/or recruiting staff with relevant industry backgrounds.
- ASIC's performance should be subject to regular self-assessment combined with periodic independent reviews, by the Auditor-General for example.
- ASIC should be required to demonstrate success in delivering on outcomes focused performance measures as a pre-requisite to approval of any industry funding model.
- ASIC's performance indicators should include robust accountability measures for any industry funding received.