

1 May 2017

Chairman
International Integrated Reporting Council

Via email: www.integratedreporting.org/invitation-to-comment

Dear Sir/Madam

The Australian Institute of Company Directors (AICD) welcomes the opportunity to make a submission on the International Integrated Reporting (IR) Framework Implementation consultation.

The Australian Institute of Company Directors is committed to excellence in governance. We make a positive impact on society and the economy through governance education, director development and advocacy. Our membership of more than 40,000 includes directors and senior leaders from business, government and the not-for-profit sectors.

The AICD has not been involved in the implementation of the IR Framework and cannot provide specific comments regarding our experience. However, we have discussed and received comments from directors regarding the limited (to date) adoption of the IR Framework in Australia.

Key issues raised include:

- The limited amount of useful information able to be provided around forward looking information, considering the current directors liability risks for Australian directors, outlined below;
- Ongoing work to improve strategy disclosure through existing reporting mechanisms;
- The lack of direct market demand for reporting under the IR framework;
- The challenge of adding additional reporting obligations over and above the legislated Australian Operating and Financial Review requirement;
- Concern over inadequate exemption for commercially sensitive disclosures; and
- The challenge of reporting against the IR capital pillars to some businesses as this is not always how the business is managed.

The AICD is supportive of improved corporate reporting in Australia. We consider that to encourage voluntary adoption of the IR Framework in Australia it is important to improve the flexibility of this Framework. We suggest three areas that could be explored further to achieve this aim.

Firstly, the IIRC should address the competitive harm exemption.

Secondly, the IIRC should look to remove the requirement for a compliance statement from those charged with governance.

Thirdly, the IIRC should encourage entities to report against those of the six pillars which are most relevant to their organisation, rather than all capital pillars.

Competitive harm

Paragraph 1.17 of the IR Framework allows organisations to not apply all the black letter requirements of the IR Framework in those instances where the disclosure of material information would cause significant competitive harm. However, the paragraph related to this section, paragraph 3.51, indicates that the 'essence of the matter' should be described. We consider that this paragraph is not helpful as describing the 'essence of the matter' still has the potential to provide significant insights to competitors.

Those charged with governance statement

The AICD does not support the inclusion of a specific requirement that those charged with governance of an organisation include a statement in the Integrated Report which states their responsibility and collective decision in the preparation of the Integrated Report. We are concerned that such a statement would risk increasing the potential for personal liability of the directors of the organisation in Australia and thereby undermine the principles based framework that the IIRC is looking to achieve.

The 'comply or explain' approach taken in section 1.20 of the IR Framework has a limitation of three years. We understand that this statement is not being made by those charged with governance for any organisations in Australia, even those preparing an integrated report for their third year.

Legislative reform in Australia, in the form of a safe harbour for directors covering forward looking statements, would be required for directors to provide comfort to sign off on such a statement in its current form.

Capitals

We have understood from the IIRC and sections 2.16 – 2.19 of the IR Framework that it is not the intention to require reporting on the business on each of the capitals as a mandatory component of the IR framework. From discussion with directors, it appears that this remains unclear. The IR Framework could benefit from being restructured to have less focus on the specific capitals identified.

Previous AICD comments

The Basis for Conclusions, which accompanied the IR Framework when it was released in December 2013, still states our current position in regards to director liability, as follows:

"The AICD is supportive of many of the goals included in the framework, especially those related to long term thinking. However, AICD is very concerned that director liability should not be increased by the introduction of the Framework even if the Framework is adopted voluntarily. The lack of an effective business judgement rule and directors liability provisions in Australia, particularly in relation to forward looking statements are inconsistent with many of the Framework's principles."

We note that we have also commented previously about the need for the inclusion of cautionary language in the Integrated Report that advises users that some information disclosed may be future orientated and as such inherently uncertain, and users should exercise caution when using such information in decision making. While the IR Framework does not specifically require the inclusion of forecasts, the AICD considers that qualitative disclosures about future matters may place the organisation and/or the directors at risk of increased liability, in the absence of legislative reform. Therefore, such cautionary language may legally assist organisations and directors in some jurisdictions, such as the US, and may simply be useful information for users in other jurisdictions, such as Australia.

We hope our comments will be of assistance to you. Should you wish to discuss these, please contact our Senior Policy Adviser, Kerry Hicks on khicks@aicd.com.au or 61 2 8248 6635.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Louise', with a long horizontal flourish extending to the right.

LOUISE PETSCHLER
General Manager, Advocacy