Monday 12 August 2019

19-208MR ASIC updates guidance on climate change related disclosure

ASIC has today published updates to clarify the application of ASIC's existing regulatory guidance to the disclosure of climate change related risks and opportunities.

The updates are contained in:

- Regulatory Guide 228 *Prospectuses: Effective disclosure for retail investors*; and
- Regulatory Guide 247 *Effective disclosure in an operating and financial review*

ASIC reviewed its guidance following the recommendations of a Senate Economics References Committee report on Carbon Risk and the Government's response which encouraged ASIC to consider whether its high-level guidance on disclosure remained appropriate.

While ASIC's review found that its existing, principles-based regulatory guidance remains fit for purpose, to help stakeholders to comply with their disclosure obligations, ASIC has updated its guidance to, amongst other things:

- incorporate the types of climate change risk developed by the G20 Financial Stability Board's Taskforce on Climate Related Financial Disclosures (TCFD) into the list of examples of common risks that may need to be disclosed in a prospectus appearing in Table 7 of RG 228;
- in RG 247.66, highlight climate change as a systemic risk that could impact an entity's financial prospects for future years and that may need to be disclosed in an operating and financial review (OFR);
- in RG 247.66, reinforce that disclosures made outside the OFR (such as under the voluntary TCFD framework or in a sustainability report) should not be inconsistent with disclosures made in the OFR; and
- make a minor update to INFO 203*: Impairment of non-financial assets: Materials for directors* to highlight climate change and other risks that may be relevant in determining key assumptions that underly impairment calculations.

RG 247 has also been updated to make clear our general view that the risk of directors being found liable for a misleading or deceptive forward-looking statement in an OFR is minimal provided the statements are based on the best available evidence at the time, have a reasonable basis and there is ongoing compliance with the continuous disclosure obligations when events overtake the relevant statement made in the OFR.

ASIC's review of regulatory guidance follows last year's publication of ASIC Report 593: *Climate Risk Disclosure by Australia's Listed Companies* targeting listed companies,their directors and advisors. High-level recommendations set out in

REP 593 included to:

- adopt a probative and proactive approach to emerging risks, including climate risk;
- develop and maintain strong and effective corporate governance which helps in identifying, assessing and managing risk;
- comply with the law where it requires disclosure of material risks; and
- disclose meaningful and useful climate risk related information to investors –the voluntary framework developed by the TCFD has emerged as the preferred standard in this regard and ASIC strongly encourages listed companies with material exposure to climate change to consider reporting voluntarily under the TCFD framework.

ASIC commissioner John Price said, ‘Climate change is an area which ASIC continues to focus on. The updates to our regulatory guidance, together with the publication last year of Report 593, round out ASIC’s response to the Senate Report on Carbon Risk. Our updates will help stakeholders to comply with their disclosure obligations in prospectuses and the operating and financial review for listed companies’.

ASIC welcomes the continuing emergence of the TCFD framework as the preferred market standard, both here in Australia and internationally, for voluntary climate change related disclosures. ASIC considers this to be a positive development and we again strongly encourage listed companies with material exposure to climate change to consider reporting voluntarily under the TCFD framework.

‘While disclosure is critical, it is but one aspect of prudent corporate governance practices in connection with the mitigation of legal risks. Directors should be able to demonstrate that they have met their legal obligations in **considering**, **managing** and **disclosing** all material risks that may affect their companies. This includes any risks arising from climate change, be they physical or transitional risks.’ Mr Price said.

In the coming year, ASIC will conduct surveillances of climate change related disclosure practices by selected listed companies. ASIC will also continue to participate in the Council of Financial Regulators’ working group on climate risk and participate in discussions with industry and other stakeholders on these issues.

Download

- Regulatory Guide 228
- Regulatory Guide 247
- INFO 203
- Report 593

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