29 March 2019

Paul Atkinson
Board of Taxation Secretariat
The Treasury – Sydney Office
Level 5, 100 Market Street
Sydney NSW 2000
taxboard@treasury.gov.au

Dear Paul

Post-implementation review of the Tax Transparency Code

On behalf of the Australian Council of Superannuation Investors (ACSI), I am pleased to make this submission in relation to the Board of Taxation's Post-implementation review of the Tax Transparency Code (TTC).

Established in 2001, ACSI exists to provide a strong, collective voice on environmental, social and governance (ESG) investment issues on behalf of our members. Our members include 38 Australian and international asset owners and institutional investors. Collectively, they manage over $2.2 trillion in assets and own, on average, 10 per cent of every ASX200 company, on behalf of millions of beneficiaries.

As a representative of long-term investors, ACSI supports greater transparency in relation to tax and payments to governments. In a global economic landscape dominated by economic slowdowns and growing inequality, the issue of adopting aggressive tax planning strategies has become a key focus area for governments, international regulators and civil society.

An aggressive approach to tax planning is a concern for long-term investors as it has the potential to create earnings risks and lead to governance problems, damage a company's reputation, and cause macroeconomic distortions.

ACSI supports greater public disclosure of tax information by businesses. We have set out further comments below.

I trust that our comments are of assistance to the Review and please contact me, or Kate Griffiths, ACSI's Executive Manager - Executive Manager, Public Policy and Advocacy, should you require any further information on ACSI's position.

Yours sincerely

Louise Davidson
Chief Executive Officer

Overview

ACSI considers increased transparency can provide valuable information to investors and stakeholders. Investors benefit from tax-related disclosure addressing tax policy, governance and risk management, and performance, including:

- Disclosure of a tax policy approved by board-level representatives outlining the company's approach to taxation and how this approach is aligned with its business and sustainability strategy.
- Evidence of tax governance as part of the risk oversight mandate of the board and management of the tax policy and related risks.
- An overview of tax strategies, tax-related risks, inter-company debt balances, material tax incentives, country-by-country activities and current disputes with tax authorities.

We encourage organisations to adopt the TTC. Our view is that companies and their boards should be equipped to address potential changes in their business environments and that tax-related risks extend beyond short-term earnings risks.

We strongly encourage disclosure of an organisation's approach to risk management and oversight, as publishing details of the tax governance and control frameworks can provide valuable insights to a board's risk appetite and signal potential areas of exposure for investors.

The Government has stated it expects all responsible large and medium businesses operating in Australia to adopt the TTC, notwithstanding that the TTC is voluntary. In the light of this statement, it may be useful to consider whether a mandatory code would be appropriate.

New minimum standards

We support the introduction of the proposed two new minimum standards and offer some further comments below on the proposed reconciliation to Australian Tax Office (ATO) public data disclosures.

We agree that there are difficulties in reconciling the data in the ATO disclosures to information included in tax transparency reports as highlighted in the Consultation Paper. Accordingly, we support the proposal that additional information be provided to reconcile the ATO disclosures with those set out in a tax transparency report and believe this would contribute to greater clarity, and therefore usability, of the disclosed tax information for investors. On the proposed options for the 'reconciliation' disclosure, while we support timely disclosure, we also support businesses having flexibility to adopt the approach that is practical to implement and will provide investors with meaningful disclosure.

Best practice recommendations

We support the additional best practice recommendations as a means of encouraging businesses to publish more comprehensive disclosure including on international related party transactions and use of no, and low, tax jurisdictions. In addition, we believe that supporting narrative to provide context and explanation as to why particular structures and mechanisms are used is useful information for investors.

We also encourage substantive disclosure of an organisation's international transactions in an understandable and digestible form.

The UN Principles for Responsible Investor (PRI) *Investors' Recommendations on Corporate Income Tax Disclosure* and the draft GRI Standard Tax and Payments to Governments support alignment with the Country-by-Country reporting obligations of multinational groups under the Organisation for Economic Co-operation and Development's (OECD) Base erosion and profit shifting (BEPS) Action 13 minimum standards. Were the Board of Taxation to recommend disclosure of comparable information, we believe there is merit in aligning frameworks.