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Dear Sirs

### **ICSA response to EU Commission consultation on Impact Assessments**

We set out below some general comments, followed by our responses to your specific questions.

#### **General comments**

We are in favour of rigorous Impact Assessments, especially given the Commission's better regulation objective. We regard it as essential that clear benefits are identified prior to any policy initiative being implemented. If benefits are not identified, we do not think the initiative should proceed.

There is reference in the consultation document to an Independent Impact Assessment Board. However, this is not referred to in the draft Guidelines and it is not clear what role, if any, it plays in the conduct of an Impact Assessment. For example, the Commission decides whether or not an Impact Assessment is required and then the Impact Assessment is carried out by the lead DG. We believe that the Impact Assessment process would benefit from independent and objective input.

The content of the draft Guidelines appears comprehensive and we do not suggest it be expanded further. Our only reservation would be that it might lead to a 'box-ticking' approach, since it imposes a necessity to demonstrate certain prescribed steps have been taken, whether or not they appear to be applicable.

We are concerned that the use of 'retrospective evaluations' might mean that out of date information could sometimes be used. For example, the Proposal for an Amending Directive on shareholder engagement and corporate governance (the 'Shareholder Rights Directive'), issued in April 2014, references public consultations in 2010 and 2011 which it appears to us



sought feedback on quite different matters. We have not had an opportunity to comment on many of the proposals contained in the Proposal for the Amending Directive.

In view of our previous comment, we think that the Impact Assessment process may, at times, be unwieldy and fail to allow for flexibility or investigating new developments.

## **Responses to specific questions**

### **General questions on the draft Impact Assessment Guidelines (annex I)**

1. In line with international best practice, the Commission's Impact Assessment system is an integrated one, covering costs and benefits; using qualitative and quantitative analysis; and examining impacts across the economic, environmental and social areas. Do you agree that this is the right approach?

Yes, but we would urge caution regarding 'social impact' since this is difficult to measure.

2. Do you agree with the scope of coverage of proposals requiring an impact assessment? If not, why not?

Yes, we agree.

3. Are the appropriate questions being asked in the Impact Assessment guidelines? Are there other issues that the impact assessment should examine? How would this help to improve the quality of Commission policy proposals?

Yes, but please see our comments above regarding retrospective evaluations.

4. Do you have any other suggestion on how to improve the guidance provided to Commission services carrying out an impact assessment and drafting an impact assessment report?

We think the emphasis on identifying as many options as possible may not always be appropriate. It could sometimes lead to a 'box-ticking' approach.

### **Specific questions (annex II)**

5. Problem analysis: do you think the draft text in annex II.B provides a clear description of the issues to be taken into account when analysing a problem? If not, how should it be improved?

Yes, we think this provides a clear description.

6. Subsidiarity: do you think the draft text in annex II.C provides a clear description of the issues to be taken into account when verifying compliance with the subsidiarity principle? If not, how should it be improved?

Yes. However we think it is extremely important that the principle of subsidiary, and the principle of proportionality, are considered properly at every stage.



7. Objectives: do you think the draft text in annex II.D provides a clear description of the issues to be taken into account when setting out objectives? If not, how should it be improved?

Yes, we think annex II.D provides a clear description of the issues.

8. Option identification: do you think the draft text in annex II.E provides a clear description of the steps to be followed when identifying alternative policy options? If not, how should it be improved?

Yes, we think that annex II.E provides a clear description of the steps.

9. Identification of impacts: Is the list of questions included in the 2009 guidelines (see annex II.F) considered complete and up-to-date? Are there any impacts that should be added or taken out?

We think that many of the questions will not be relevant to any given case.

We trust you find our responses helpful.

Yours faithfully



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