AUSTRALIAN SECURITIES & INVESTMENT COMMISSION AND SOCIALLY RESPONSIBLE INVESTING – TWO COMMENTS

COMMENT 1: Kathy Gibson, School of Accounting & Finance, University of Tasmania.

The Australian Securities & Investment Commission (ASIC) has released its Discussion Paper *Socially Responsible Investing Disclosure Guidelines* (ASIC, 2002). It aims to obtain the views of stakeholders on whether ASIC should produce guidelines on the new requirements of the Financial Services Reform Act "that all products with an investment component that have a product disclosure statement (PDS) … (should) disclose the extent to which labour standards or environmental, social or ethical considerations are taken into account in the selection, retention or realisation of the investment". The common name *socially responsible investing* (SRI) is used by ASIC to refer to these disclosures.

SRI is specifically recognised in the Discussion Paper as a growing area of the investment market, of interest to an increasing number of consumers. It is noted that at 30 June 2002, $13.9 billion was invested in SRI-type products in Australia, an increase of 32% from the $10.5 billion of the previous year. In addition, there were 74 SRI managed funds in Australia in 2002, representing a 61% increase over the 2001 figure of 46 funds. As a result of this growth, ASIC has identified a need for more consumer education, and plans to include some basic SRI investor education information on its website. Discussions on this proposed initiative are also sought with interested stakeholders.

The disclosure requirements, which are similar to those of the UK *Pensions Act*, now form part of the *Corporations Act 2001* (Part 7.9). In view of the removal of s.299 (1)(f), it is perhaps interesting that the *Corporations Act* no longer requires information about the environmental activities and effects of corporations, but does require information of this nature in relation to investing. In fact, all investment products now need to address SRI issues in their product disclosure statement (PDS), even if only to say that they have not been taken into account. SRI disclosure is also required in relation to the monitoring of ongoing compatibility of investments with the identified investment strategy, and also to indicate what action will be taken should the investments no longer meet the disclosed SRI approach.

ASIC is given power under the *Act* to develop guidelines that must be followed in cases where a PDS makes a claim in relation to socially responsible investing. The Discussion Paper examines the issue of whether ASIC should produce such guidelines, and, if so, what they should contain. ASIC is not required, nor does it intend, to specify SRI standards or considerations that should be taken into account, or methodologies that should be used. However, ASIC has indicated that it would take into account the disclosure principles of *Policy Statement 168* (ASIC,

2001) including the requirements that disclosure should be timely, relevant, complete, should promote product understanding and comparison, highlight important information, and have regard to consumers' needs.

In several forums already held, arguments for and against the development of guidelines by ASIC have been presented. The two main arguments in favour of ASIC guidelines are that greater certainty would be provided for industry about meeting its SRI disclosure obligations, and that consumers would be provided with better information to enable them to invest in accordance with their SRI goals.

Several arguments were, however, raised against the introduction of ASIC guidelines. They include the following:

- ASIC should wait until the law has been in operation for a period of time before assessing whether further guidance is needed;
- Guidelines may be prescriptive and thus not consistent with the flexible nature of the PDS regime;
- Costs will be incurred where a PDS already issued does not fully comply with the guidelines; and
- Guidance should be provided by industry associations, rather than ASIC.

In addition to a list of questions to which ASIC are inviting responses, the Discussion Paper raises many interesting research questions. These range from very basic considerations such as the quantity of SRI information that a retail consumer can reasonably require, to what constitutes reasonable disclosure and on to fundamental considerations of what constitutes SRI for these purposes.

ASIC considers that, should guidelines be provided, they are likely to be based on the Global Reporting Initiative (GRI) and work already done by organisations such as Environment Australia to encourage triple bottom line reporting. The Discussion Paper also provides some suggested performance indicators for labour standards, and environmental and social considerations, that are consistent with the GRI. Guidelines of this nature could well contribute to the further growth of SRI by providing consistent and comparable information to assist in reducing the overall risk of socially responsible investment, and, through greater availability of investment funds, ultimately assist in rewarding those companies that operate in a socially responsible manner.

Whilst the submission period closed on 28 February, the Discussion Paper is still available on the ASIC website www.asic.gov.au.

References

ASIC (2001) PS 168, *Product Disclosure Statements*, Australian Securities & Investments Commission, www.asic.gov.au

ASIC (2002) *Socially Responsible Investing Disclosure Guidelines?* Discussion Paper, Australian Securities & Investment Commission, www.asic.gov.au December

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COMMENT 2: Ross Kendall, Ethical Investment Association, 8 January 2003.

The Ethical Investment Association (EIA) has welcomed proposed Australian Securities and Investments Commission guidelines on socially responsible investment (SRI) disclosure, saying they will lift investor awareness causing a surge in the industry.

President of the Ethical Investment Association, Michael Walsh, said the Australian SRI industry could expect an increase in fund inflows if disclosure guidelines aired by ASIC in its discussion paper on regulation of SRI are implemented.

"The experience of countries across Europe shows a strong boost to SRI from the introduction of SRI disclosure regulation," he said.

Walsh indicated that disclosure of SRI practices would help reduce the significant gap between consumers willing to participate in SRI and the actual uptake of SRI products, as research showed improved knowledge of SRI improves its attractiveness to investors.

Under the Financial Services Reform Act (FSRA) all products with an investment component must include disclosure of "the extent to which labour standards or environmental, social or ethical considerations are taken into account in the selection, retention and realisation of the investment".

Financial product providers have already started to make some disclosures on SRI issues but the act allows ASIC to issue supporting guidelines if it chooses. In its discussion paper, released on December 19 2002, ASIC has asked for public comment on whether or not it should issue such guidelines, and if so, what form they should take.

The discussion paper seeks feedback on why financial planners should not ask their clients about their views on labour standards or environmental, social and ethical considerations.

Walsh said this is a substantial issue because it will connect the current SRI disclosure requirements directly to retail investors.

"In the past financial advisers have sat back and waited for their clients to raise the topic of ethical investments. It is now law for financial product providers to disclose what SRI policies they use and ASIC seems to be asking why financial planners should not go a step further and actively seek their client's views on these types of issues," he said.

Deputy chief executive officer of the Investment and Financial Services Association, Jo-Anne Bloch said on the whole ASIC's discussion paper was not controversial and the mainstream finance industry supports measures improving investor awareness.

But she said IFSA would be seeking further discussion with ASIC representatives to better understand what financial planners may be required to do under any new proposals being considered.

"We will discuss with ASIC what personal client views planners need (to find out) to provide good disclosure and advice, as opposed to going a bit too far and being invasive," she said. IFSA is in the process of finalising its own set of guidelines on SRI disclosure independently of ASIC.

Bloch said it was important that disclosure was custom built to match the type of investment under consideration and a uniform blanket approach was not practical.

The discussion paper also asks for comment on what type of consumer education ASIC could provide.

Walsh said ASIC's consumer booklet, produced in co-operation with the Financial Planning Association called "Don't kiss your money good-bye" was a good example of what it would like to see in this area.

The FPA booklet contains a list of questions consumers can put to their financial planners to keep themselves informed.

Executive director of the Institute of Public Affairs Mike Nahan said disclosure in the area is important because it affects superannuation.

He said where SRI funds charged high fees to cover the extra research costs involved with various screening techniques consumers needed to know exactly what they were paying for.

The EIA said that the *Disclosure Guidelines* will give ethical managers the opportunity to differentiate themselves from mainstream investment mangers in Australia

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