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ASIFMA AMG Response to the SEBI Consultation Paper on the Format for Business Responsibility and Sustainability Reporting

To:

Pradeep Ramakrishnan, General Manager (pradeepr@sebi.gov.in)

Ishita Sharma, Manager (ishitas@sebi.gov.in)

On behalf of the Asset Management Group (“AAMG”) of Asia Securities Industry & Financial Markets Association (“ASIFMA”)¹, we would like to submit our responses to the Securities and Exchange Board of India (“SEBI”) Consultation Paper on the Format for Business Responsibility and Sustainability Reporting (“BRSR”), in the form of general comments and references to specific sections of the proposed changes.

Our members who are predominantly global asset managers and owners, are pleased to have the opportunity to present our views during this consultation.

Overall comments

We commend SEBI on proposing a new format BRSR which if executed in an effective manner would raise Indian corporates’ scores on mainstream ESG scoring systems used by our members in evaluating investing opportunities, and also assist our members in engaging with their portfolio companies. We believe the proposed changes are very ambitious and we would ask SEBI to also consider the practical implementation, compliance and monitoring implications of this proposal. The proposal will no doubt also increase complexity and cost for corporate issuers.

Scope

The top 1,000 listed companies currently making up ~99.7% of market capitalization (National Stock Exchange of India Ltd, as at 31 March 2020) have been in scope for filing a current Business Responsibility Report (“BRR”) since the financial year 2019-20. This compares with the top 500 listed companies with a market capitalisation of ~97.7% who have been required to file a BRR since 2015-16.

¹ ASIFMA is an independent, regional trade association with over 100 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, professional and consulting firms, and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. AAMG advocates stable, innovative and competitive Asian capital markets that are necessary to support the region’s economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the [GFMA](#) alliance with [SIFMA](#) in the United States and [AFME](#) in Europe, AAMG also provides insights on global best practice and standards to benefit the region.

DEVELOPING ASIAN CAPITAL MARKETS

We wonder whether it would be more prudent to assess the ability of these much smaller companies to fulfil the requirements of the existing BRR before considering the roll out of additional requirements under the new BRSR, otherwise there is a risk of placing an undue reporting burden on these smaller companies. As institutional investors, our members are interested to ensure the operation of dynamic and efficient markets that do not place undue regulatory burden on smaller companies nor encourage market concentration in the top listed companies which may make the market susceptible to idiosyncratic shock.

On the other hand, ensuring that the top 100 listed companies, representing 76.7% of market capitalisation, disclose robust and comparable BRSR data is of more interest to our members. Our members are more concerned with ensuring the quality, that is, the completeness, timeliness, reliability and accuracy, of BRSR of these top 100 to 200 issuers as a first step. Poor quality disclosures create a vicious cycle diluting the efforts of report preparers and the market expectations of investors on these reports. To this end, we would want to better understand any intended enhancements to SEBI's surveillance and enforcement capacity in order to ensure compliance with the BRSR.

Timing

The scope of the requirements is generally very comprehensive. Compliance would require a significant investment in resources, especially for small companies. We agree with the transitional approach proposed allowing the adoption of the new enhanced format voluntarily for the financial year 2020-21 and mandatorily from the financial year 2021-22, although as stated earlier, we wonder if it would be more beneficial to delay the adoption of the proposal in order to evaluate the effectiveness of BRR adoption and enforcement to-date.

Audience

By identifying whom the report is being written for helps clarify the purpose and content. Our members see Annual Reports and BRSR Reports as primarily targeting investors, with other stakeholders of course having access and use of them, but not being the primary audience. We would therefore prefer that the SEBI emphasise this investor-audience first approach. Companies are also accountable to other stakeholders such as employees and the broader community, however the method of communication to them should be in a format meant for that audience.

Interpretation and Materiality

Terminology and disclosure items proposed in the BRSR leaves a degree of flexibility in implementation, for example, the definition of sustainable sourcing – this can be helpful but can also limit comparability for asset managers who will compare corporate issuers with relevant peers within the Indian market, in global emerging markets, and internationally. Therefore, we would prefer BRSR reporting standards to reflect conformity to international, generally accepted definitions, frameworks and methodologies where available. We reiterate that the primary audience of the BRSR should be investors, including global asset managers and owners.

Our members would recommend that SEBI make reference to international frameworks such Taskforce for Climate-related Financial Disclosure ("TCFD") and the Sustainability Accounting Standards Board ("SASB"). Other emerging markets regulators and exchanges have encouraged their listed corporates to follow these frameworks without having to create a unique reporting framework. We would highlight

the availability of comprehensive sector-specific SASB standards and climate-specific TCFD standards. Applying international standards which have been tried and tested internationally would potentially reduce the reporting burden for companies. Any India-specific custom requirements could also be built upon the existing international standards.

As another example, some disclosure items in the BRSR report require the disclosure of the top 3 items which is relatively prescriptive. We would encourage SEBI to apply the principle of materiality in determining the appropriate extent of disclosure, especially as they relate to sector and industry materiality. Reference is made to international standards, such as the Global Reporting Initiative's (GRI) materiality assessment process, and the regional example of the Hong Kong Exchange's revised guidelines on materiality.

Governance and Target Setting

Policies and procedures are certainly important, however we would suggest that due attention should also be given to ensuring an appropriate governance framework around business responsibility and sustainability and its reporting, as well as the strategic integration of environmental, social and governance concepts into the decision-making frameworks of the board of directors and senior management of listed companies.

To exhibit the commitment of the board of directors to business responsibility and sustainability, we would suggest that the director responsible for implementation of the Business Responsibility policy and the completion of the BRSR report also provide a message at the outset of the BRSR, to highlight major achievements and challenges, as well as medium-term targets of the company on sustainability related and other matters contained in the BRSR.

Currently the BRSR focuses on historical metrics, namely, essential and leadership indicators. Our members believe that these indicators would be more meaningful if set in the context of medium-term targets such as climate-related targets which align with country commitments to the Paris Agreement, which over time would allow companies to show progress towards those targets.

Specific comments

SECTION A: GENERAL DISCLOSURES

II. Products / services. Question 13 and 14

Comment / Rationale: Disclosure of business activities and the top 3 products / services sold is very important data that would be extremely useful for investors as it is often difficult to be obtained on a consistent and comprehensive basis. We welcome the disclosure of this information.

III. Operations. Question 16

Comment / Rationale: Location information on main plants and offices is useful information and we believe can be one of the India-specific enhancements / add-ons if an international standard is used as a baseline / backbone to the BRSR report. As the specific indicator currently stands, we would question how businesses with a significant share of mobile workforce that is loosely or if at all connected to a particular office would be able to report this metric.

III. Operations. Question 17

Comment / Rationale / Recommendation: We believe that the information on the top 3 plants or operations (by contribution to turnover) which are located near or in protected areas and other sensitive zones would provide useful information, although we would argue differentiation should be made between companies with manufacturing and non-manufacturing businesses, as their impact on the surrounding environment would be markedly different.

Additionally, for a diversified conglomerate, the top 3 plants or operations may be insufficient to inform about the full company exposure. Our member firms have engaged with, for example, investee companies with 10 or more factories, where all of the plants have been exposed to environmental risks such as water stress to varying degrees. We would suggest that the principle of materiality is applied to ensure that the disclosure requirements reflect a more representative measure such plants representing as a certain % of business turnover, rather than a prescriptive disclosure of the top 3.

IV. Employees . Question 19

Comment / Rationale / Recommendation: Our members would advise that employee turnover ratio is an important data point that global investors track and would like to see this metric disclosed. It would also be useful to disclose the comparison with prior year(s). We agree with the disclosure of ‘permanent’ and ‘other than permanent’ i.e. contractors or casual labour, as the latter may be used quite extensively in the construction industry, for example, which may give rise to issues around such ESG concerns as health and safety. The further breakdown between unskilled, semi-skilled, skilled and highly skilled is less relevant for our members.

Additionally, we would recommend the use of a non-gender-specific description of ‘workers’ as opposed to ‘workmen’ in this question although we understand this is terminology that is used in Indian labour regulations.

IV. Employees. Question 20

Comment / Rationale / Recommendation: The percentage of women on the Board of Directors or Key Management Personnel is data already available via readily published material by companies. For these and other metrics or datapoints that are already published elsewhere, we would prefer that an ‘cross-reference’ approach is taken with ready references to the appropriate location of such data.

VI. CSR Details. Question 25 and 26

Comment / Rationale / Recommendation: In some cases, we note that CSR funds are transferred to a group entity such as a foundation. While investors receive some information on the CSR work done, it is not common for the audited statements or audited ‘use of funds provided by the company’ of the foundation to be presented to the company’s shareholders. We think this is a gap that is worth closing, recognising the constraint that a foundation may be sourcing funds from multiple entities.

VI. CSR Details. Question 27

Comment / Rationale / Recommendation: This is currently a yes or no statement. It would be useful for high level commentary to be provided on how the company ensures CSR initiatives are undertaken responsibly, and not just the link to the CSR policy in the subsequent question.

VII. Transparency and Disclosures Compliances. Question 30

Comment / Rationale / Recommendation: We welcome the requirement to indicate high priority responsible business conduct and sustainability issues, however we encourage SEBI not to limit this to 3 environmental, social and governance issues only, as many businesses face more material issues than that. We refer to our general comments around materiality and would also encourage companies to disclose their actual process of identifying material issues.

SECTION C: PRINCIPLE WISE PERFORMANCE DISCLOSURE

Principle 1. Businesses should conduct and govern themselves with integrity in a manner that is Ethical, Transparent and Accountable

Comment / Rationale / Recommendation: Section A. General Disclosures VII. Transparency and Disclosures Compliances highlight grievance redressal mechanisms available to stakeholders, and Principle 3 Question 3 also expects disclosure of 'mechanisms available to receive and redress grievances' in relation to employee matters. However, it would be helpful for companies to also disclose whether they have a whistleblower programme in place. Our members believe that elements of an effective whistleblower program such as protection of identity and protection from unfair treatment are necessary to ensure that grievances can actually be brought up in the first place. Our members believe that the United Kingdom's new Corporate Governance Code which has been in effect since 1 January 2019 is an appropriate example of the importance of having a whistleblowing programme in place with further strengthening of the board's responsibilities around whistleblowing.

In order to ensure businesses are governed with integrity, questions in relation to fines and cases of bribery and corruption should disclose not just those against the company but any involving board members and key managerial personnel.

Principle 2. Businesses should provide goods and services in a manner that is sustainable and safe

Comment / Rationale / Recommendation: Many of the metrics focus on the manufacturing sector and will be less relevant for financials and many other service companies etc. We would suggest that companies are able to opt in or out of certain metrics depending on the principal business of the company (please refer to our general comments on materiality).

In Question 4 we are also unclear how sustainable sourcing is defined. When considering the sustainability of supply chains, we believe it should take into account industries such as forestry, and considerations such as biodiversity. As mentioned in our comments on interpretation, we would suggest that SEBI make reference to generally accepted definitions used internationally.

Principle 3. Businesses should respect and promote the well-being of all employees, including those in their value chains

Comment / Rationale / Recommendation: We welcome the requirement to disclose employee data, including welfare measures, complaints, assessment for labour standards, health and safety, and training. Disclosures around health and accident insurance, maternity and paternity benefits are less

meaningful indicators that reflect well-being for our members but we appreciate these may be pertinent indicators amongst Indian companies.

In Question 6, we would like to understand what is deemed as acceptable assessment. We would question if self-assessment would provide valuation information, versus the assessment of an independent assessor or auditor.

Principle 4. Businesses should respect the interests of and be responsive to all its stakeholders

Comment / Rationale / Recommendation: We believe that disclosure around stakeholder groups should be made with reference to materiality assessments as outlined in our general comments.

Principle 5. Businesses should respect and promote human rights

Comment / Rationale / Recommendation: We are unclear how human rights is defined. As mentioned in our general comments on interpretation, we would suggest that where SEBI adopts any international standards, specific reference be made, for example, to the United Nations Guiding Principles on Business and Human Rights.

Principle 6. Businesses should respect and make efforts to protect and restore the environment

Comment / Rationale / Recommendation: Rather than to “protect and restore” the environment, we suggest that this principle be expanded more broadly to include risks of environment to the business so that the disclosures can be more applicable to businesses such as life insurance which can be adversely by environmental risks from, for example, increased frequency of storms and flooding.

For Question 7, we would suggest that SEBI clearly distinguishes air emissions (SOX, NOX, PM) from greenhouse gas (“GHG”) emissions. For GHG emissions, we encourage SEBI to extend beyond carbon to include other GHG per the GHG Protocol, and to reference Paris Agreement commitments (refer to our general comment on target setting). Our members would also recommend the disclosure of Scope 3 GHG emissions by the top 200 companies.

Principle 7. Businesses, when engaging in influencing public and regulatory policy, should do so in a manner that is responsible and transparent

Comment / Rationale / Recommendation: Details of the membership of industry groups is generally available from other sources. More useful information to disclose is any monetary or non-monetary benefits transferred to these associations or organisations, the advocacy stance taken by the company on ESG matters and identifying where the company may have a different view from the industry group. This can be a requirement for the top 200 companies only.

Principle 9. Businesses should engage with and provide value to their consumers in a responsible manner

Comment / Rationale: We welcome disclosures on customer engagement and complaints.