

26 May 2017

The Treasury
Langton Crescent
PARKES ACT 2600

Email: ASICfunding@treasury.gov.au

Dear Sirs

Re: ASIC Supervisory Cost Recovery Levy Regulations 2017 – exposure draft

In brief:

AIST supports the introduction of an ASIC industry funding model. We reiterate our lack of support for any carve-outs (eg the 'Statutory Levy') from the Government's Cost Recovery Guidelines. Given ASIC's concerns about the poor culture within the banks and resultant consumer losses, AIST strongly recommends that the draft Regulations should enable raising of levies by volume of ASIC work, ie by APRA industry sub-sector (profit-to-member, for-profit, etc). AIST also advocates for separate accounting of dispute resolution body funding (AFCA). AIST also strongly recommends that an industry roundtable to discuss the calculation methodology is needed.

Thank you for the opportunity to comment on this exposure ASIC Supervisory Cost Recovery Levy Regulations 2017 ('the draft Regulations'), which will introduce set out the levy calculation methodology for ASIC levies.

Before turning to the draft Regulations, AIST briefly reiterates its policy concerns with the ASIC Supervisory Cost Recovery Levy Bill 2017 and Related Bills ('the Bills'):

- The Bills – if passed – would enable carve-outs from the Australian Government Cost Recovery Guidelines ('the AGCRG'). AIST strongly opposes any carve-outs as it firmly believes that transparency and consistency are key principles which should underpin the Australian financial system – and this includes levies which are raised by the regulators. These carve-outs have been announced through the items covered within the 'Statutory Levy' within the Federal Budget 2017. The items in the Statutory Levy would not be recoverable under the AGCRG.
- The Bills (and draft Regulations) do not support that the levies being raised should reflect the volume of ASIC's focus on sub-sectors within the Australian superannuation system, including profit-to member superannuation funds and for-profit superannuation funds.

ASIC has repeatedly pointed out that poor culture within banks (for-profit sector) is a driver of poor conduct, regulatory failures and associated consumer losses. It is therefore critical that as part of the industry funding model, regulatory focus should enable an assessment of risks by industry sub-sector. Levies should be raised accordingly. This would also be a signal that poor culture will not be tolerated.

The draft Regulations could also address this concern through including within the definition of 'sub-sector' the industry sub-sector categories used by APRA (profit-to-member, for-profit, etc).

We now turn to the draft Regulations.

AIST supports the following:

- **Greater transparency** through the funding model charging being based on actual regulator performance and activity in the previous year.
- The **minimum and maximum levy style of the graduated levy component**. While at first this may appear inequitable, it is consistent with the original foundation for the levy collection, where it was found that¹:

In relation to the policy justification for the sectoral approach to APRA funding, the sectoral model is aimed at achieving a result which sees institutions pay in proportion to the share of the benefits that the sector receives from the system of prudential supervision. It also ensures that each sector pays for the cost that the regulator incurs in supervising that sector.

The use of minimum and maximum amounts reflects the view that there are certain minimum costs incurred in regulating even the smallest institutions but beyond a certain size there is no extra cost in regulating the institution. Imposing a cap also prevents larger institutions funding the costs of prudential regulation and supervision to a far greater extent than would be justified by the share of APRA's expenditure on those institutions.

¹ Dudley, S. (2005) *Financial Institutions Supervisory Levies Collection Amendment Bill 2004*. Bills Digest no. 100, 2004–05, ISSN 1328-8091. [report] Canberra: Commonwealth of Australia, p.3.



AIST has concerns regarding the following:

- **There is need for an industry roundtable before settling the Regulations.** It is difficult to assess the impact of the draft Regulations until such time as a Cost Recovery Impact Statement being prepared. AIST would greatly appreciate an industry roundtable to discuss this with both Treasury and ASIC before the draft Regulations are finalized – in particular, indicative modelling examples would be most welcome.
- **AIST has long advocated the need to separately account for financial dispute resolution body funding** – and this does not appear to have been allowed for in the draft Regulations. AIST believes the \$4.3million funding of for the Australian Financial Complaints Authority should be separately accounted for.

AIST would be very pleased to be part of any roundtable or further consultations regarding the draft Regulations.

Please contact Karen Volpato, Senior Policy Advisor on 0419127496 or at kvolpato@aist.asn.au should you wish to discuss our submission. .

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Eva Scheerlinck', is written over a horizontal line.

Eva Scheerlinck
Chief Executive Officer

The Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.

As the principal advocate and peak representative body for the \$700 billion profit-to-members superannuation sector, AIST plays a key role in policy development and is a leading provider of research.

AIST provides professional training and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members. Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.