



2015-16 Pre-Budget Submission

6 February 2015

AIST Submission

## AIST

**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 \$600 billion not-for-profit superannuation sector, AIST plays a key role in policy development and is a leading provider of research.

AIST provides professional training, consulting services 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.

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## 1 Executive summary

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As the peak industry body in the not-for-profit superannuation sector, AIST is focused on outcomes that improve financial retirement sustainability, adequacy and security for all Australians. AIST is also committed to measures that improve the fairness of the superannuation system, and believes that it is a budget responsibility to ensure that the system's integrity is preserved and extended.

We are supportive of the Government's agenda to enhance productivity and to build a stronger economy while ensuring that debt is minimised but we also believe the Government needs to consider the far-reaching and long-term economic benefits of measures that improve the fairness, adequacy and sustainability of our superannuation system. While the current and yet-to-be-fully implemented Stronger Super reform agenda includes many such measures there remain a range other policy proposals that we believe are in the public's interest. While this submission covers some of these key proposals, it should be noted that AIST's position on a number of key superannuation tax measures will be refined and developed as part of our response to the Government's impending tax white paper to improve the fairness of the superannuation system

### 1.1 Improving the fairness of the superannuation system

We recommend the following measures to improve the fairness of the system:

- Remove the \$450 per month income threshold for superannuation guarantee contributions;
- Re-consider the Low Income Superannuation Contribution (LISC) to correct the tax inequity on low income earners;

As noted above, further tax measures to improve the fairness of the superannuation system will be raised in the context of our submission to the Government's upcoming tax inquiry.

### 1.2 Review rules relating to the age of superannuation fund members

AIST notes the problems associated with age limits on contributions that have not kept pace with Australians' longevity or working patterns.

AIST recommends that the following age-based restrictions be reviewed in order to provide a more comprehensive approach:

- Remove the age-based restrictions on contributions into superannuation;
- Remove work test requirements on contributions into superannuation for members aged 65 or over.

## 1.3 Review the fairness of existing arrangements for employees

AIST supports measures that would see employer superannuation arrangements improved for all employed Australians and makes the following recommendations:

- Ensure the availability of salary sacrifice contribution arrangements to all employees, or allow all Australians to make deductible contributions.
- Remove the loophole which allows employers to reduce Superannuation Guarantee (SG) contributions in situations where employees are also utilising salary sacrifice arrangements; and
- Link the Superannuation Guarantee to a gross remuneration measure.

## 1.4 Review the timeframe around increasing the Superannuation Guarantee to 12%

AIST supports an increase in the Superannuation Guarantee (SG) to 12%, however notes that this has been substantially delayed. We recommend ongoing review of budget improvement in order to see this delay rectified.

## 1.5 Address the inconsistencies with the Financial Supervisory Levy

AIST has noted in previous submissions to Treasury that a properly documented Financial Supervisory Levy needs to be constructed, with a process that is fair, consistent, transparent and accountable.

Since the last consultation on the levies in 2014, we note that a new Cost Recovery Impact Statement (CRIS) has been written, in line with new Cost Recovery Guidelines. While we welcome these, we do not agree that the standards of transparency and accountability described in the Guidelines are met by the new CRIS. Consequently, we recommend that the CRIS be reviewed.

We believe that a thorough overhaul of levy methodology will rectify this in the interests of superannuation consumer members, who ultimately will foot the bill for the Levy.

## 1.6 Increase funding for Indigenous identification schemes

We note the problems associated with a lack of appropriate identification in Indigenous communities.

AIST recommends that funding for indigenous identification schemes should be assured, in order to ensure that fraud and mistakes are minimised, and so that superannuation funds can best serve their Indigenous members without the roadblocks caused by a lack of documentation.

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## 2 Recommendations

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### 2.1 Improve the fairness of the superannuation system

#### 2.1.1 Removal of the \$450 per month superannuation guarantee (SG) threshold

AIST recommends the removal of the \$450 per month income threshold on the Superannuation Guarantee as a measure to improve fairness and remove red tape.

Access Economics<sup>1</sup> modelling showed in 2010 that while the aggregate impact of removing the \$450 monthly threshold would be small, industry experience suggests it is likely to be quite concentrated, resulting in significant improvements for those individual workers who are most disadvantaged by the current exemption. Access Economics has estimated that the cost to government of removing the exemption would be minimal (0.003 per cent of GDP in 2041).

AIST notes that the high concentration of females working part-time is a contributing factor to their relatively low superannuation balances. Women comprise over 67 per cent of the part-time workforce and have almost the same number of full time and part-time workers<sup>2</sup> (over twice as many full time workers are men as compared to part time). AIST has long argued that abolishing the exemption on compulsory superannuation contributions for those earning less than \$450 per month would benefit many women – as well as males – on low incomes, working on casual or part-time bases. In female-dominated industries where working for several employers is common (such as retail, hospitality and nursing), many employees are excluded from the SG system because the \$450 threshold applies only to a single employer, and not on a combined income level. Australia ranks 5<sup>th</sup> in the OECD for incidence of women in part time work at 38.5%.<sup>3</sup>

It should also be noted that at current SG rates, anyone earning just under the threshold would be eligible for \$41.63 per month: administration of this measure could cost more than this.

AIST recommends that the \$450 per month income threshold for the superannuation guarantee be abandoned.

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<sup>1</sup> Access Economics Pty Ltd. 2009. *Retirement Incomes Policy Simulations Paper*. [pdf] Melbourne: Australian Institute of Superannuation Trustees and Industry Superannuation Network. <http://tinyurl.com/l4g33n6> [Accessed: 30 Jan 2014]

<sup>2</sup> ABS, *Employee Earnings and Hours*, Australia, May 2010 (6306.0)- [Accessed 27 January 2012]

<sup>3</sup> OECD, <http://www.oecd.org/statistics/#d.en.199456>, Chart LMF1.6.A: Incidence of part-time employment, 2011, Sourced 04/01/2013.

## 2.1.2 Re-consider the Low Income Superannuation Contribution (LISC) scheme

AIST strongly recommends the retention of the Low Income Superannuation Contribution scheme, as it is sound and fair policy. Whilst we understand that the LISC is to be repealed from 2017 as part of the repeal of the Minerals Resource Rents Tax, AIST believes that the LISC is important enough to be reconsidered on its own merits.

At the time that it was introduced, AIST opposed the linking of the LISC to the MRRT. We recognised that in ordinary circumstances, the revenue from a taxation measure contributes to consolidated revenue, and expenditure measures are rarely included as part of a package with a revenue measure

AIST supports the LISC as a key to Australia's retirement policy, and points to this scheme as the most efficient method that we presently have to improve fairness in superannuation.

We therefore offer the following comments in support of the LISC:

### 1. The LISC scheme redresses fundamental inequities in the Australian taxation system

The LISC scheme overcomes a fundamental tax inequity within the compulsory superannuation system by ensuring that low income earners do not end up paying a higher rate of tax on their superannuation than their take home pay. .

Estimates from the end of the 2012-13 financial year are that over 3.6 million workers – or just over 30% of the Australian workforce - currently benefit from the Low Income Superannuation Contribution scheme. .

Unfairly taxing superannuation guarantee contributions reduces the level of superannuation savings in the accounts of workers who face the greatest challenges in achieving an adequate income in retirement.

### 2. The LISC scheme incentivises investors to save for their future

Economic theory has long held that individuals should be rewarded for the decision to forgo spending in the short term, in return for putting money aside for the future. Tax without the LISC on the contributions of low income earners at the same rate breaks this rule.

Given that Superannuation Guarantee contributions are taxed at a flat 15%, this gives rise to a tax benefit that is larger for higher income earners with higher marginal tax rates.

### 3. The LISC scheme helps to redress the retirement income savings gap of women – over 50 per cent of all women employees would benefit

Estimates from the end of the 2012-13 financial year note that of the 3.6 million workers who would benefit from the scheme, approximately two-thirds are women. This means that the scheme would

benefit over 50 percent of all women employed in Australia. On average, the retirement savings balances of men are almost twice that of women.

Given that more women than men work part time, the LISC scheme helps redress lower retirement savings of women. The LISC scheme also better targets the growing trend to part-time and casual work by redressing a major tax inequity affecting lower income earners. Part time work has become an ever increasing and important form of employment.

According to a 2008 report from the Productivity Commission<sup>4</sup>:

	Total employment	Men	Women
1966	10%	4%	24%
2007	29%	15%	45%
From ABS <sup>5</sup>			
2011	30%	16%	47%

#### 4. The LISC scheme helps further increase confidence in the superannuation system

Member surveys consistently find that the major retirement concern for members is whether they will have an adequate retirement income. Equally, there are growing concerns that super tax breaks disproportionately benefit higher income earners. Member confidence in the superannuation system is assisted by the LISC through addressing such adequacy and tax equity issues.

## 2.2 Review rules relating to the age of superannuation fund members

### 2.2.1 Remove age-based restrictions on contributions into superannuation

We are mindful that Australians are living and working longer.

<sup>4</sup> Abhayaratna, J., Andrews, L., Nuch, H. and Podbury, T. 2008. *Part Time Employment: the Australian experience*. [report] Canberra: Productivity Commission.

<sup>5</sup> ABS. 2011. *Employee Earnings, Benefits and Trade Union Membership, Australia, August 2011*. Cat. No. 6310.0 Canberra: Australian Bureau of Statistics.

*The fact that we are living longer is great news. It is kind of remarkable that somewhere in the world today, it is highly probable a child has been born who will live to be 150. That is a long time. They would have said 100 years ago that living to 80 or 90 was a long time. The question is how do we live with dignity. How do we ensure that we have good quality of life the whole way through? This is the conversation we are going to be having with the Australian people over the next few months.*

**The Hon Joe Hockey MP, Treasurer<sup>6</sup>**

AIST believes that it is a good time to have the conversation about why age-based superannuation contribution restrictions are in place.

We are aware of the increasing problems that longevity risk is creating, notably with regards to Australians' retirement savings. As Australians live longer, the justifications for age-based restrictions on contributing into superannuation are disappearing, and we can no longer support the restrictions.

Age-based restrictions also add complexity and red tape to the system. In accepting contributions, a trustee must be mindful of whether a member is in a position to make a contribution, based upon their age. And although age-based restrictions on SG contributions ended last year, we note that there remain a plethora of regulations making it difficult or even impossible, for older working Australians to contribute to their retirement savings. The following is a list of some age-based restrictions presently in force with regards to contributions into superannuation:

- A work test (of gainful employment on at least a part-time basis) must be satisfied from the age of 65, if a member is making a personal contribution;
- If a member is making a contribution on behalf of an eligible spouse, the eligible spouse must satisfy the work test from age 65 onwards;
- The 'bring forward rule' which allows members making non-concessional contributions to bring forward two additional years of non-concessional contributions is no longer able to be used from age 65 onwards;
- Contributions on behalf of eligible spouses may no longer be made once the eligible spouse has turned 70;
- Eligibility for the government co-contribution ceases for financial years which end in the year that the taxpayer turns 71;

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<sup>6</sup> Hockey, J. (2015). *Mornings with Neil Mitchell* [radio], 3AW, 19 January 2015. Melbourne.

- Personal contributions may no longer be contributed to superannuation, once a member turns 75; and
- Retirement income streams may not be contributed to at all, once commenced, due to tax integrity rules. With some restrictions, these can be commenced from age 65, regardless of taxpayers' personal situation, however rules exist to commence these earlier under transition-to-retirement rules.

We note that in addition to these, the Government proposes to raise the Age Pension age to 70, meaning that where some of the above thresholds may have been linked to the Age Pension in the past, this no longer appears to be the case.

These rules appear both discriminatory and arbitrary. AIST recommends that age-based rules that prevent contributions be removed. Furthermore, we recommend a review of the tax integrity rules to ensure that retirees who legitimately supplement their retirement income with occasional work, or those who are genuinely transitioning to retirement, are able to 'top-up' their retirement income streams.

## **2.2.2 Removal of the work test requirement on contributions for superannuation fund members aged 65 and over**

In the process of removing age-based restrictions on superannuation contributions, AIST recommends removal of the work test.

The work test was designed for an earlier period, where superannuation benefits were subject to a reasonable benefit limit imposed through use of taxation, and the use of such disincentives tacitly noted that one's life expectancy was shorter.

We view the imposition of this requirement to be unnecessary, as well as being unable to be enforced. The removal of this limitation will enable all Australians to contribute as well as allow superannuation funds to get on with their job of processing contributions, unencumbered by this layer of regulation.

## **2.3 Review the fairness of existing arrangements for employees**

### **2.3.1 Ensure the availability of salary sacrifice contributions to all employees, or allow all Australians to make deductible contributions.**

Salary sacrificing into superannuation is a sensible means for employees to supplement their provision for retirement. Yet despite the tax advantages, it is not available to all employees, as it is generally dependent on the terms of modern awards, EBAs and individual contracts of employment. AIST recommends that the Government legislate to provide all workers with the ability to make pre-tax salary sacrifice contributions to their superannuation fund. Greater access to salary sacrifice should increase the effectiveness of superannuation as a long-term investment vehicle.

One of the reasons that this is not made available to employees is due to the perceived cost of implementation and processing, especially for small business. AIST points out that implementation of initiatives such as this on a large scale provides wholesale cost savings that are not apparent in a voluntary system, as payroll systems are required *en masse* to change over to support the new rules.

In addition to the lowered business costs from implementing this change, we point to the estimated low cost associated with this measure: Assuming that even a larger number of additional employees, such as 50,000 immediately took advantage of salary sacrificed superannuation contributions and sacrificed at a rate of about 5%, then this would result in an overall tax cost of \$37.5 million nationally (based on a median wage of \$50,000 per annum) .

In addition to the reasons outlined above, AIST sees the provision of salary sacrifice to all employees as a means to improve fairness.

A significant number of Australian workers do not have access to salary sacrifice arrangements .In many cases, information about salary sacrifice arrangements is only available to employees when they proactively seek the information from the employer.

We note that the ATO's Superannuation Industry Relationship Network (SIRN) is presently consulting on a measure that would affect this issue regarding the deductibility of contributions. We note that allowing the deductibility of contributions for all Australians would correct this situation immediately.

### **2.3.2 Abolish the loophole that allows a reduction of SG amounts due to salary sacrifice.**

Additionally, the Government should legislate that where employees partake in a salary sacrifice arrangement, their employer cannot base their SG obligations on the reduced 'take-home' salary amount.

AIST has long proposed the abolition of this loophole, as it allows employers to profit from diligent employees who are proactively contributing towards their retirement, and short changes employees, who in many cases are not even aware that their contributions are less than what they think.

### **2.3.3 Link the superannuation guarantee to a gross remuneration measure**

The SG is presently linked to ordinary time earnings, or OTE. OTE unfortunately only captures some of the many payments that can be paid to employees as part of their work.

Determining whether a payment forms part of OTE is presently indecipherable. In Superannuation Guarantee Ruling SGR 2009/2<sup>7</sup>, the Commissioner of Taxation considered the following payments and only concluded in 14 cases that these formed part of OTE:

Payment no.	Payments to an employee in relation to...	Salary or wages?	OTE?
<b>Awards and agreements</b>			
1	A simple overtime situation	Yes	No
2	Overtime hours - agreement prevailing over award	Yes	No
3	Agreement supplanting award removes distinction between ordinary hours and other hours	Yes	Yes
4	No ordinary hours of work stipulated	Yes	Yes
5	Casual employee - <i>shift-loadings</i>	Yes	Yes
	<i>overtime payments</i>	Yes	No
6	Casual employee whose hours are paid at overtime rates due to a 'bandwidth' clause	Yes	No
7	Piece-rates - no ordinary hours of work stipulated	Yes	Yes
8	Overtime component of earnings based on 'hourly driving rate' formula stipulated in award	Yes	No
<b>Allowances</b>			
9	Allowance by way of unconditional extra payment	Yes	Yes
10	Expense allowance expected to be fully expended	No	No
11	Danger allowance	Yes	Yes
12	Retention allowance	Yes	Yes
13	Hourly on-call allowance in relation to ordinary hours of work for doctors	Yes	Yes

<sup>7</sup> Australian Taxation Office, *Superannuation guarantee: meaning of the terms 'ordinary time earnings' and 'salary or wages'*, SGR 2009/2, 13 May 2009.

<b>Payment of expenses</b>			
14	Reimbursement	No	No
15	Petty cash	No	No
16	Reimbursement of travel costs	No	No
17	Payments for unfair dismissal	No	No
18	Workers' compensation -		
	Returned to work	Yes	Yes
	Not working	No	No
<b>Leave payments</b>			
19	Annual leave	Yes	Yes
<b>Termination payments</b>			
20	Termination payments -		
	In lieu of notice	Yes	Yes
	Unused annual leave	Yes	No
<b>Bonuses</b>			
21	Performance bonus	Yes	Yes
22	Bonus labelled as ex-gratia but in respect of ordinary hours of work	Yes	Yes
23	Christmas bonus	Yes	Yes
24	Bonus in respect of overtime only	Yes	No

Table 1

Although SGR 2009/2 forms guidance and is not binding upon the Commissioner of Taxation, the confusion that this creates is unnecessary. In addition, we are concerned that these payments are capable of being gamed by employers or employees in order to reduce an employer's SG liability, or inflate an employee's take-home pay at the expense of their retirement savings.

AIST proposes that SG be linked to an employee's gross remuneration rather than OTE to reduce confusion, red tape, and manipulation.

## 2.4 Review the timeframe around increases to the Superannuation Guarantee

We note that the changes to the schedule of increases to the Superannuation Guarantee (SG) which will see it eventually increase to 9.5% was formally delayed last year, in the repeal of the Mineral Resources Rents Tax.

Under the current timetable, the SG rate is set to increase to 12% from the earliest date of 1 July 2025, and will be fixed at 9.5% until 1 July 2021. This represents a major setback to a key long-term objective of superannuation, which is to ensure all working Australians enjoy an adequate retirement income. Delays to

the SG timetable will also create more fiscal pressure on future governments in regards to age pension funding. To this end, AIST recommends an annual review of the SG rate so that future budget improvement may see the SG rate increased sooner.

## 2.5 Address the inconsistencies with the Financial Supervisory Levy

### 2.5.1 Introduction

One of the OECD principles of financial consumer protection says that there should be responsible business conduct by financial services providers, drawing the nexus between consumer behaviour and increased transparency:

*The principle of responsible business conduct is important in order to ensure that financial services providers and authorised agents act fairly, honestly, professionally and with due skill, care and diligence when dealing with consumers. Duty of care is necessary in addition to improved transparency because consumers have bounded rationality and therefore cannot be expected to always make decisions that are in their own best interest<sup>8</sup>.*

We note that transparency was a key pillar of the election of the Government. Prior to the election, the Government, when they were in opposition, wrote this with respect to productivity and regulation<sup>9</sup>:

*Under Labor's own rules, government departments and agencies are required to prepare Regulation Impact Statements for regulatory proposals that are "likely to have a regulatory impact on business or the not-for-profit sector, unless that impact is of a minor or machinery nature and does not substantially alter existing arrangements.*

We pointed out in our submission to Treasury last year<sup>10</sup> that we agreed with this assessment, noting that the Cost Recovery Guidelines (CRGs) themselves were under review. However, we also noted that the existing CRGs had not been applied to either the existing levy structure, the changes that were proposed could not be seriously entertained. Hence AIST could not support the proposed changes.

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<sup>8</sup> Chapman, M. (2013). *The G20/OECD High-Level Principles on Financial Consumer Protection*. [presentation] Geneva: Organisation for Economic Co-operation and Development.

<sup>9</sup> Liberal Party of Australia, (2014). *Boosting Productivity and Reducing Regulation*. [online] Available at: <http://tinyurl.com/onm6lxz> [Accessed 12 Jun. 2014].

<sup>10</sup> AIST, (2014). *Financial Supervisory Levies 2014-15*. [pdf] Melbourne: Australian Institute of Superannuation Trustees. Available at: <http://tinyurl.com/kzeon3w> [Accessed 22 Jan. 2015].

## 2.5.2 Lack of transparency and accountability

Since our submission on financial levies was lodged in June 2014, we note that a new CRIS has been issued<sup>11</sup>. Additionally, we note that the Department of Finance has issued new CRGs<sup>12</sup>.

We note that the new CRGs state categorically, at paragraph 15, that:

*Government entities should aim to minimise cost recovery charges through the efficient implementation of cost recovered activities, in the context of the specific policy outcomes and legislation. The cost recovery framework is underpinned by three principles that must be applied across all stages of the cost recovery process:*

- *efficiency and effectiveness*
- *transparency and accountability*
- *stakeholder engagement.*

AIST believes that the standard of transparency and accountability has demonstratively not been met by the new CRIS and recommends that the new CRIS be reviewed.

## 2.5.3 The new Cost Recovery Guidelines (CRGs) and new Cost Recovery Impact Statement (CRIS)

AIST welcomes and supports the updated CRGs. In addition, we welcome the new CRIS, which has been prepared following the updated CRG. AIST notes (and strongly supports) that at page 12, a “well documented costing model is fundamental to transparency and accountability. The level of detail in the costing model should be balanced against the cost of developing and maintaining the model and proportional to the size and complexity of the activity. The documentation for a specific cost should be detailed enough to allow the Parliament, those who pay cost recovery charges, and other stakeholders to analyse the activity.”

AIST believes that while the CRIS does provide more information than previously, there is insufficient information to meet the above overall requirements set out in the CRG. AIST strongly believes in a well-regulated superannuation system, with sufficient safeguards (including prudential supervision, consumer protection, and enforcement activities). The new CRIS contains insufficient information to determine, for

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<sup>11</sup> APRA, (2014). *Cost Recover Implementation Statement - Financial Institutions Supervision*. [pdf] Canberra: Australian Prudential Regulation Authority. Available at: <http://tinyurl.com/p2ot29b> [Accessed 22 Jan. 2015].

<sup>12</sup> Department of Finance, (2015). *Cost recovery*. [online] Available at: <http://tinyurl.com/pjfv69t> [Accessed 22 Jan. 2015].

example, whether levies are being applied to what appears to be insufficient resources for, e.g. ASIC, to properly carry out investigations and enforcement activities.

AIST also notes the need for end users to have a consistent methodology that can be well understood. In particular, we note the need for broad support across the industry, and consider that a well-educated industry will be better receptive to more efficient and consistent cost recovery bases.

## **2.5.4 The need for a methodology which is consistent, transparent and accountable**

A more rigorous CRIS would greatly assist any consultation process (including this pre-Budget process).

The new CRGs are welcome. AIST in particular applauds paragraph 29, which states that:

*A well-documented costing model is fundamental to transparency and accountability. The level of detail in the costing model should be balanced against the cost of developing and maintaining the model and proportional to the size and complexity of the activity. The documentation for a specific cost recovered activity should be detailed enough to allow the Parliament, those who pay cost recovery charges, and other stakeholders to analyse the activity.*

Taking this analysis to the next level, we see that, in the CRGs in paragraph 52:

*In developing a high-level cost recovery model, entity staff should:*

- *provide estimates of expenses and revenue for the activity*
- *discuss how changes in the underlying assumptions will affect financial estimates*
- *demonstrate the potential to align expenses and revenue*
- *propose how the activity could be broken down into distinct outputs (e.g. assessments of permit applications, registrations of goods or compliance audits) that facilitate the achievement of the government policy outcomes*
- *identify high-level business processes for the outputs of the activity*
- *identify appropriate types of cost recovery charges (fees, levies or both)*
- *produce estimates of the cost recovery charges.*

In applying the requirements of the new CRG to the new CRIS, the following gaps between the new CRG and the new CRIS become apparent:

- AIST is concerned about the lack of any information regarding the levies raised to fund ASIC, the ATO, and DHS. Such information should be available, particularly given ASIC's consumer protection role, and the increasing role of the ATO in superannuation.
- We question whether the CRIS contains enough examination of the activity itself, in order to provide end users with enough information to enable us to properly evaluate whether entities that

use the services provided by regulators are getting sufficient ‘bang for our buck’, and that the regulators are suitably resourced to carry out their investigation and enforcement activities. The new CRG requires government agencies to document outputs with discernible links to costs.

- We question the appropriateness of retaining, for funding purposes, the Superannuation Complaints Tribunal as a subordinate entity to ASIC for both levy collection and other purposes. Not only should the SCT operate independently of ASIC, it should be seen to do so. Regulated superannuation funds are required by law to use the SCT as part of their dispute resolution process, and the SCT in turn deals with complaints about superannuation in the areas of these super funds.

The smooth and timely operation of complaints about superannuation is a factor in the level of community support for the superannuation system. By virtue of the Financial Industry Levies, super funds pay for the SCT and its operations. Super funds and their members already wait long periods for the resolution of complaints, and there is a correlation between this period and the level of funding received by the SCT. In the interests of transparency and the smooth operation of the superannuation system, the cost allocation for the SCT should be separately identified in the documentation supporting the levies.

Furthermore, the SCT is an ASIC-approved dispute resolution scheme. It should not have its independence compromised by ASIC controlling its funding. ASIC has had its funding reduced in the recent federal budget, and is now reviewing its priorities and expenditure. We are concerned that this could mean a reduction in the commitment that ASIC has toward funding the SCT, and result in less efficient and timely handling of disputes.

AIST recommends that documentation supporting the application of the levies explicitly identify component funding the SCT, as we recommend for all the other bodies that the levy funds.

## 2.5.5 The levies as a collection measure

As stated on page 2 of the new CRG, “A cost recovery levy ... differs from general taxation as it is ‘earmarked’ to fund activities provided to the group that pays the levy.” AIST notes that the imposition of such a levy therefore requires documentation of clear levy calculation methodologies. In this regard, AIST draws attention to the following:

- *A lack of transparency surrounding the breakdown of restricted/unrestricted components regarding agencies other than APRA:* The proposed levies document of 2014 provided a breakdown of restricted/unrestricted components by industry (e.g. superannuation, ADIs) – but this is only in relation to APRA. AIST believes that the CRIS should outline the cost recovery in relation to other regulatory activities (ASIC, ATO, DHS).
- *SuperStream, financial literacy, OTC derivatives:* Page 3 of the CRIS notes that ASIC financial literacy, ASIC OTC derivatives, and ATO (and other agencies) SuperStream are identified as activities outside the cost recovery recovery arrangements but are for further consideration. AIST seeks

clarification as to how these issues will be dealt with. AIST notes Treasury's Response Paper, which states these activities 'include instances where a number of entities that give rise to the need for regulation do not contribute to the levy and/or there is not a strong link between those who pay for the levy and those who create the need for the activity. Our other concern with relation to the SuperStream portion of the levies relates to coverage.'

This was best explained in our submission of May 2013<sup>13</sup>, where we wrote that:

Despite a share of the superannuation market that is just under one third of the total funds under management in the superannuation industry, SMSFs are presently exempt from contributing towards the costs of SuperStream. The benefits to SMSFs are openly supported throughout the industry, as the SMSF Professionals Association of Australia (SPAA) explained in 2011<sup>14</sup>:

*New data transfers standards for rollovers and employer contributions, to be introduced as part of SuperStream, will benefit self-managed super funds (SMSFs), according to SMSF Professionals' Association of Australia (SPAA) technical director, Peter Burgess.*

*"Ensuring all rollovers and employer contributions must be accompanied by mandatory sets of data will eliminate the need for SMSF administrators (sic) to chase up missing data and undertake time consuming reconciliation processes," he added.*

Indeed, our submission to the Parliamentary Committee on Corporations and Financial Services of February<sup>15</sup> of [2013] re-iterated the omission of SMSFs from the list of superannuation entities that are expected to contribute towards the costs of the SuperStream reforms. As in our submission to Treasury on the industry levies for 2012-13, we calculated that a pro-rata proportion of the total cost of SuperStream attributable to the SMSF sector (\$146 billion) would be calculated as \$311 per fund.

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<sup>13</sup> AIST, (2013). *Financial Industry Supervisory Levy Methodology Discussion Paper*. [pdf] Melbourne: Australian Institute of Superannuation Trustees. Available at: <http://tinyurl.com/c3zeobd> [Accessed 11 Jun. 2014]

<sup>14</sup> Pokrajac, M. (2011) New SuperStream measures to benefit SMSFs: SPAA. *Super Review*, [online] 9 August. Available at: <http://is.gd/GrQG2R> [Accessed: 27 Feb 2013].

<sup>15</sup> Garcia, T. (2013) *Re: Superannuation Legislation Amendment (Reform of Self-Managed Superannuation Funds Supervisory Levy Arrangements) Bill 2013*. [pdf] Melbourne: Australian Institute of Superannuation Trustees. <http://tinyurl.com/bp7g8hr> [Accessed: 29 Apr 2013].

This would translate as revenue of approximately \$166 million from the 530,000 funds that were in existence at the end of the 2013-14 financial year.

We noted last year that members in the SMSF sector have recently crept above the one million mark. We recommend that that this may be an appropriate time to consider the levying of SuperStream on SMSFs.

### **2.5.6 The need for a costing model which is well-documented**

As noted on pages 11 and 12 of the new CRG, “Transparency is about openness, two-way communication and a willingness to explain activities and actions. It allows appropriate scrutiny of government activities, decisions and processes by providing access to information. ... A well-documented costing model is fundamental to transparency and accountability. ... The documentation for a specific cost recovered activity should be detailed enough to allow the Parliament, those who pay cost recovery charges, and other stakeholders to analyse the activity.”

While some information has been provided in the CRIS regarding both the restricted and unrestricted components (percentage of time by each sector, e.g. superannuation), AIST believes that there is still insufficient detail given the activity size and complexity.

AIST notes – and welcomes – the comment that APRA has commenced an analysis of the actual cost of supervision. However, more detail is needed – see next comment.

### **2.5.7 Better align expenses and levy revenue**

On page 32, the new CRG notes the requirement to align expenses and levy revenue: “Entity staff should break down the activity into distinct outputs (e.g. registrations, audits, or the development of standards) and the key business processes that are used to produce these outputs. Outputs should have a discernible link with the costs, charges and performance of the activity, which should be explained in the CRIS.” Page 43 of the new CRIS notes that the CRIS should include “an explanation of the costing model for the activity – a description of how the activity has been broken into outputs and processes and how those have been costed, including cost drivers and assumptions; the design of cost recovery charges – which types of charges have been used and why, including their link to the outputs and processes of the activity.”

As previously mentioned, AIST is very keen to ensure that the regulators are suitably resourced and funded to help ensure a strong financial system. AIST is concerned that, for example, ASIC is insufficiently resourced to properly undertake compliance investigations and enforcements.

Activities and revenue of agencies other than APRA should be transparent. Although APRA collects the levy on behalf of other agencies such as ASIC, ATO, etc, these entities should be treated in the same way as APRA.

AIST strongly endorses the CRG requirement that the CRIS should outline the agency activities, outputs, and costing methods. This has not occurred in this version of the CRIS. AIST contends that a breakdown of agency activities and outputs such as approvals, investigations, enforcements, and compliance checks together with costings should be included. This information is needed to ensure that levies are being spent on key regulatory activities, which include compliance, investigations, enforcement.

## 2.5.8 Other levy requirements

AIST notes that the new CRG requires that cost recovery should remove incentives for cost padding, inefficiencies and expansions of activity beyond the original policy intent. AIST believes that the current lack of transparency surrounding the costings do not enable an analysis of either how the levies have been used or to benchmark the costs to determine efficiencies.

## 2.6 Increase funding for Indigenous identification schemes

AIST notes that in many Indigenous communities, a significant number of individuals do not possess sufficient identification documentation to claim their superannuation benefits.

We are aware of two notable schemes that exist in the Northern Territory where tribal elders verify individuals and provided with photographic identification; however funding to these schemes is uncertain.

AIST recommends the Government re-commit to funding these schemes to ensure that fraud and mistakes are minimised, and so that superannuation funds can best serve their Indigenous members without the roadblocks caused by a lack of documentation.

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