

2 June 2016

Consultation – AUSTRAC Industry Contribution  
Strategic Intelligence and Policy Branch  
PO Box 13173  
Law Courts  
MELBOURNE VIC 8010

Email: [Policy\\_Consultation@austrac.gov.au](mailto:Policy_Consultation@austrac.gov.au)

Dear Sir/Madam,

**Re: AUSTRAC Industry Contribution 2016-17 Stakeholder Consultation Paper**

**In brief:**

AIST welcomes the opportunity to comment on the Consultation Paper. AIST seeks clarification firstly as to the basis for excluding the AUSTRAC Industry Contribution from the requirements of the Government's Cost Recovery Guidelines, and secondly why so many entities are excluded from the Industry Contribution (this being difficult to gauge without a Cost Recovery Impact Statement having been prepared).

AIST welcomes the opportunity to comment upon the *AUSTRAC Industry Contribution 2016-17 Stakeholder Consultation Paper*.

**Querying reasons for exclusion from Government's Cost Recovery Guidelines**

AIST has consistently advocated that all amounts recovered from superannuation funds should be done so in a transparent fashion. AIST notes that AUSTRAC's charges are not currently subject to the Government's Cost Recovery Guidelines ('CRG') because it has been determined that they are neither a cost recovery nor a regulatory arrangement. Accordingly, a Cost Recovery Impact Statement ('CRIS') has not been prepared.

AIST queries why the Industry Contribution is exempt:

- While subsection 9(1) of the *Australian Transaction Reports and Analysis Centre Industry Contribution Act 2011* ('the Act') provides for the Minister of Justice (by legislative instrument) to determine the amount of any levy, it is the Draft Explanatory Statement to the Ministerial Determination which sets out that the Industry Contribution is a 'revenue measure, and as such fall(s) outside the requirement to prepare a Regulatory Impact Statement.' AIST notes that this confirms previous Government announcements.

- The CRG defines ‘cost recovery’ as the Australian Government charging the non-government sector some or all of the efficient costs of a specific government activity. That activity may include the provision of goods, services or regulation, or a combination.
- The CRG notes that Australian Government charges and payments that are not cost recoverable for the purposes of the CRG include ‘payments where there is no relationship between the payer of the charge and the recipient of the activity.’ Clearly, this does not apply in the case of the Industry Contribution.

These points are reinforced by the fact that 100 percent of AUSTRAC’s activities as AML/CTF regulator and financial intelligence unit will be funded through the Industry Contribution in 2016-17 (bringing this forward by one year). AIST queries whether a CRIS could have been prepared on an opt-in basis.

AIST would appreciate gaining an understanding whether the exclusion from the CRG arises from it being in the public interest to so exclude.

### Entities covered by the Industry Contribution

AIST is concerned that of the approximately 14,000 entities, only approximately 600 will be required to pay the levy. While we appreciate AUSTRAC’s comments that its modelling of lowering the earnings threshold to under \$100 million may be unlikely to result in any significant change to the levy distribution, it is difficult for AIST to assess this without their being a CRIS.

### Earnings component

AUSTRAC mentions an earnings component and define it as total earnings – AIST would appreciate further information as to how the concept of ‘total earnings’ is being applied to not for profit super funds.

### Transaction reporting component

AIST notes that the Industry Contribution includes a component which is based on both the volume as well as the value element of transaction reports that a leviabie entity makes. AIST would appreciate further discussions with AUSTRAC regarding how this impacts leviabie entities.

If you have any further questions regarding this submission, please contact Karen Volpato, Senior Policy Advisor on 0419127496 or at [kvolpato@aist.asn.au](mailto:kvolpato@aist.asn.au)

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tom Garcia'.

Tom Garcia  
**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 \$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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