



13 September 2019

Senior Adviser  
Banking and Access to Finance  
Financial System Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [supervisorylevies@treasury.gov.au](mailto:supervisorylevies@treasury.gov.au)

Dear Sir/Madam,

**Re: Financial Institutions Supervisory Levies methodology**

**In brief:**

AIST supports focussed and properly resourced regulators however recommends that the raising of any levies on the industry to cover this should be on a risk-weighted basis.

Furthermore, in order to make an informed assessment of the annual levies, it is imperative that in the future the annual 'Proposed Financial Institutions Levies' paper should be released simultaneously with a Cost Recovery Impact Statement and an updated Regulator Performance Assessment.

AIST welcomes the opportunity to provide a submission in respect of the Financial Institutions Supervisory Levies methodology discussion paper (**'the Discussion Paper'**).

AIST strongly supports focussed and properly resourced regulators. Understanding resourcing sufficiency needs transparency regarding alignment of resources and meeting the objectives set by Government. AIST reiterates its appreciation for the strategy underpinning the suite of Government guidelines, including:

- Australian Government Cost Recovery Guidelines<sup>1</sup>.
- Australian Government Charging Framework ('Charging Framework')<sup>2</sup>.
- Regulator Performance Framework ('Performance Framework').

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<sup>1</sup> Australian Government, Department of Finance, (2014). *Australian Government Cost Recovery Guidelines, July 2014 - Third edition*. Resource Management Guide No.304. [online]. Available at: <http://tinyurl.com/lplwh2g> [Accessed 10 September 2019].

<sup>2</sup> Australian Government, Department of Finance, (2015). *Australian Government Charging Framework*, Resource Management Guide no. 302. [online]. Available at: <http://tinyurl.com/grrwr8q> [Accessed 10 September 2019].

### AIST recommendations:

1. In order for stakeholders to make meaningful assessments of the annual proposed levies – as well as enabling greater adherence to the Australian Cost Recovery Guidelines, the annual ‘Proposed Financial Institutions Levies’ paper should be released with:
  - A Cost Recovery Implementation Statement (CRIS) – even if in a draft form.
  - The most up-to-date regulator performance self-assessment – even if in draft form.
2. The risk-based approach to levy raising should take into account the volume of regulator activities spent on various entities and sub-sectors.

### Timing of release of the Cost Recovery Implementation Statement (CRIS)

The Discussion Paper notes that further transparency of the process is achieved by a Cost Recovery Implementation Statement (CRIS), whilst acknowledging concerns previously raised that during annual consultations APRA publishes its CRIS after the consultation process.

We reiterate our concern that it is difficult for stakeholders such as the AIST to properly assess the annual ‘Proposed Financial Institutions Levies’ paper without a CRIS, as it is the CRIS that provides key information on how cost recovery for a specific government activity is implemented and how the activity is performing on an ongoing basis. We propose that even a draft CRIS would provide greater transparency.

The lack of a CRIS and the subsequent difficulty in stakeholders assessing the proposed levies is contrary to the Government’s Cost Recovery Guidelines (CRGs) which states that *‘Each cost recovered activity, regardless of financial value, must be documented in a cost recovery implementation statement (CRIS) before charges commence’*.

The CRGs further identify that the CRIS “circulation of the draft CRIS is a good basis for engagement with stakeholders”<sup>3</sup>, with the principles of transparency and accountability outlining that the draft CRIS should be circulated to stakeholders at the same time as the detailed cost recovery model.

### The release of current outcomes of the Regulator Performance Framework

AIST recommends that for there to be a direct connection between the risk-based regulatory approach and the raising of levies, the most up-to-date regulator performance self-assessment should also be released simultaneously with discussion papers and a CRIS. We appreciate the difficulties in relation to timing, but even a draft update would be of assistance in reviewing any levies.

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<sup>3</sup> Australian Government, Department of Finance (2014), cited in a previous footnote, para. 99.

### A risk-based approach to levy raising supported by collection of relevant data

The trustee-beneficiary nature of superannuation requires transparency, particularly because ultimately, Government levies are drawn from members' accounts. We acknowledge that the Discussion Paper highlighted that a key challenge of the methodology is the avoidance of cross-subsidisation within each industry and to mitigate this APRA periodically analyses detailed time-recording data on the actual cost of supervision available through its internal time recording system.

AIST supports that any risk-based approach to levy raising should take into account the volume of regulator activities spent on various entities and sub-sectors. Although APRA provides a breakdown of the average percentage of time spent supervising industries for each levy component in its annual 'Proposed Financial Institutions Levies' paper we highlight that there is currently no breakdown of which sectors within a superannuation system worth over \$2 trillion are causing greater regulatory focus.

The collection of such data and the consequent raising of levies is important to both protecting members and ensuring regulator accountability and efficiency. AIST recommends that such data could be collected and classified using the APRA categories (corporate, industry, public sector and retail). The need for this level of segmentation was highlighted in the APRA review of its reporting requirements for RSEs whereby it stated that 'A capacity to divide an industry into distinct groups of institutions, each of which may behave differently over time, can be beneficial for users seeking to better understand the industry and its participants.'<sup>4</sup>

As highlighted by the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, we believe that there is a specific demand for additional attention of regulators in the 'for-profit' superannuation sector due to the inherent conflict between the commercial interests of 'for-profit' superannuation funds and a trustee's obligation to give priority to duties to, and interests of, the beneficiaries. As evidenced by the Royal Commission, this conflict cannot be managed by disclosure alone and requires additional focus of regulators. The Royal Commission stated below in relation to this conflict;

*'The number of retail trustees who have failed to manage conflicts effectively, despite having elaborate written frameworks in place, suggests that this is not an isolated issue. No doubt APRA can and should 'get deeper' in its supervision and take appropriate steps to remedy issues with particular trustees.'*

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<sup>4</sup> Australian Prudential Regulation Authority (2015), Segmentation of superannuation entities. Available at: <https://tinyurl.com/y4dct9mc> [Accessed 10 September 2019].

*'Evidences showed that there are some recurring issues and difficulties to which trustees and the regulators need to give close and continuing attention<sup>5</sup>'.*

For further information in relation to our submission, please contact Zach Tung, Policy & Regulatory Analyst on 03 8677 3851 or at [ztung@aist.asn.au](mailto:ztung@aist.asn.au).

Yours sincerely,



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 \$1.4 trillion 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.*

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<sup>5</sup> Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (2019), *Final Report, Volume 1*, 226-7. Available at: <https://tinyurl.com/y93raay5> [Accessed 10 September 2019].