



**ASIC**

Australian Securities & Investments Commission

**REPORT 535**

# **ASIC cost recovery arrangements: 2017–18**

July 2017

## **About this report**

This report updates industry on the changes to ASIC's cost recovery arrangements since the Government released its proposals paper *Proposed industry funding model for the Australian Securities and Investments Commission* in November 2016.

### About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

**Consultation papers:** seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

**Regulatory guides:** give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (for example, describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

**Information sheets:** provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

**Reports:** describe ASIC compliance or relief activity or the results of a research project.

### Disclaimer

This report does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this report are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements. Actual levies will vary with changes in the underlying estimates.

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## A Background to the industry funding model

### Key points

This section provides an update on the consultation ASIC and Treasury have conducted since the Government released its proposals paper, [Proposed industry funding model for the Australian Securities and Investments Commission](#) (PDF 1.35 MB), in November 2016.

### About ASIC

- 1 The Australian Securities and Investments Commission (ASIC) is Australia's integrated corporate, markets, financial services and consumer credit regulator.
- 2 Our vision is to allow markets to fund the economy and, in turn, economic growth. In doing so, we contribute to the financial wellbeing of all Australians. We do this by:
  - (a) promoting investor and consumer trust and confidence;
  - (b) ensuring fair and efficient markets; and
  - (c) providing efficient registration services.

### Purpose of this report

- 3 The purpose of this report is to update industry on the changes that have been made to ASIC's cost recovery arrangements since the Government released its proposals paper, [Proposed industry funding model for the Australian Securities and Investments Commission](#) (PDF 1.35 MB), in November 2016.
- 4 The arrangements outlined in the appendix summarise the provisions of the [ASIC Supervisory Cost Recovery Levy Regulations 2017](#) (Cost Recovery Regulations). The appendix also provides references to the relevant provisions of the Cost Recovery Regulations.

## Consultation process

### Levy methodology

- 5 In November 2016, Treasury hosted a number of industry roundtables to discuss the proposed cost recovery arrangements for each sector. The deadline for formal submissions was 16 December 2016.
- 6 As a result of the feedback received, a number of changes to the cost recovery methodology were recommended to the Minister. These changes were communicated to the relevant sectors' industry bodies and were incorporated into the exposure draft of the ASIC Supervisory Cost Recovery Bill 2017 and Cost Recovery Regulations (released for public consultation in February 2017 and April 2017, respectively).
- 7 A summary of the changes to the methodology is contained in Section C.

### ASIC's strategic risks

- 8 Our approach to identifying and managing strategic risks is outlined in [\*Proposed industry funding model for ASIC: Supporting attachment to the Government's proposal paper\*](#) (PDF 1.41 MB), which was released in November 2016.
- 9 In 2017 we consulted with ASIC's External Advisory Panel and Consumer Advisory Panel on anticipated 2017–18 strategic risks and long-term challenges. We also expanded consultation by conducting focused (one-on-one) consultation with industry experts that contemplate risk in the financial sector. Feedback from this consultation was incorporated into the final 2017–18 strategic risks to support our business planning. The updated long-term challenges, 2017–18 strategic risks and business activities we will undertake to address these risks will be detailed in *ASIC's Corporate Plan 2017–18 to 2020–21: Focus 2017–18*, which is due to be published in August 2017.
- 10 Our cost recovery implementation statement is scheduled to be published in October 2017. The statement will outline the estimated costs for the activities planned for each subsector in 2017–18 to address the strategic risks.

## B Implementation of cost recovery arrangements

### Key points

This section outlines the scope of our cost recovery arrangements .

### Costs to be recovered

- 11 ASIC undertakes a range of regulatory activities to satisfy our statutory functions. These activities can be broadly categorised as stakeholder engagement, education, guidance, surveillance, enforcement, and policy advice. Our cost recovery arrangements will recover the actual costs we expend during the financial year to undertake these regulatory activities.
- 12 Our 2017–18 regulatory costs for operating expenditure (excluding depreciation and fee-for-service activities) and capital expenditure will be recovered from the subsectors we regulate.
- 13 The levies will also include a clawback of prior year market supervision expenditure that remains unrecovered as at 30 June 2017: see Section 1.6 of [Cost recovery implementation statement: ASIC market supervision](#) (PDF 534 KB), updated in October 2016, for further details.
- 14 ASIC will not recover the non-ongoing costs associated with the ‘Improving outcomes in financial services’ budget measures, approved in the 2016–17 Budget; these will be recovered by the Australian Prudential Regulation Authority (APRA) through the financial institutions supervisory levies until 30 June 2019. From 1 July 2019, the ongoing costs associated with this measure will be recovered through the ASIC industry funding model.
- 15 APRA will continue to recover the costs of the Superannuation Complaints Tribunal through the financial institutions supervisory levies until the 2020–21 financial year, just prior to its abolition.
- 16 We attribute costs to each subsector based on the amount of effort we spend regulating that subsector. We prioritise our regulatory effort to support ASIC’s vision and address the key risks: see paragraphs 8–9.

### Levies charged on a pro-rata basis

- 17 For subsectors that use metrics that are measured at a point in time (as opposed to over a period of time), the graduated component of the metric will be calculated on a pro-rata basis, using the number of days in the financial year the entity was a participant in the subsector.

## C Changes to the cost recovery methodology for 2017–18

### Key points

This section provides a summary of changes (if any) to the levy methodology for each subsector, resulting from feedback received by Treasury in response to [Proposed industry funding model for the Australian Securities and Investments Commission](#) (PDF 1.35 MB).

### Corporate sector

#### Companies

- 18 The methodology for levying companies is substantially unchanged; however, the unlisted public company disclosing subsector and the unlisted public company non-disclosing subsector have been merged. All unlisted public companies will be charged a flat levy.
- 19 There is no longer a specific subsector for small proprietary companies. Our regulatory costs in relation to small proprietary companies will be recovered through an increase, from 1 July 2018, to the annual review fee for proprietary companies under the Corporations (Review Fees) Regulations 2003.

#### Company auditors

- 20 There are no changes to the methodology proposed in November 2016 for:
- (a) auditors of disclosing entities; and
  - (b) registered company auditors.

#### Registered liquidators

- 21 The fixed component of the registered liquidator levy has been reduced from \$5,000 to \$2,500.
- 22 The graduated component of the registered liquidator levy will be charged based on:
- (a) the number of ongoing external administration appointments at the beginning of the financial year and the number of new external administration appointments the liquidator accepts during the financial year; and

- (b) the number of prescribed documents lodged with ASIC during the year and number of prescribed notices published on the publications website maintained by ASIC during the year.

## Deposit-taking and credit sector

- 23 There are no changes to the methodology proposed in November 2016 for:
- (a) credit providers;
  - (b) small amount credit providers;
  - (c) deposit product providers; and
  - (d) margin lenders.

### Credit intermediaries

- 24 The graduated component of the credit intermediary levy will be charged on the number of authorised representatives the intermediary has at 30 June.

### Payment product providers

- 25 For payment product providers, a flat levy will apply in 2017–18. In 2018–19, this will move to a graduated levy based on revenue from payment product provider activity. A minimum levy of \$2,000 will be payable by all payment product providers.

## Investment management, superannuation and related services sector

- 26 There are no changes to the methodology proposed in November 2016 for:
- (a) custodians;
  - (b) managed discretionary account (MDA) providers; and
  - (c) traditional trustee company service providers.

### Superannuation trustees

- 27 The metric for superannuation trustees is the total value of assets as at 30 June in registrable superannuation entities, adjusted to exclude assets that are an interest in another registrable superannuation entity operated by the trustee.

### **Responsible entities**

- 28 The metric for responsible entities is the total value of assets as at 30 June in registered schemes, adjusted to exclude assets that are an interest in another registered scheme operated by the responsible entity.
- 29 Entities operating under the Asia Region Funds Passport regime are required to be a responsible entity and will therefore be captured in this industry subsector.

### **Collective investment vehicles**

- 30 The licence arrangements are not in place yet for entities wishing to act as a corporate collective investment vehicle.
- 31 During the finalisation of the licence arrangements, the Government will consider the appropriate mechanism to recover the costs related to the regulation of corporate collective investment vehicles.

### **Crowd-sourced funding intermediaries**

- 32 The licence arrangements are not in place yet for entities wishing to act as a crowd-sourced funding (CSF) intermediary.
- 33 During the finalisation of the licence arrangements, the Government will consider the appropriate mechanism to recover the costs related to the regulation of CSF intermediaries.

### **Wholesale trustees**

- 34 For wholesale trustees, a flat levy will be charged in 2017–18. In 2018–19, a graduated levy will apply based on the value of assets as at 30 June in all unregistered managed investment schemes issued by the trustee, and a minimum levy of \$1,000 will be payable by all wholesale trustees. The value of assets will be adjusted to exclude assets that are an interest in another unregistered managed investment scheme operated by the wholesale trustee.

### **Investor directed portfolio service operators**

- 35 For investor directed portfolio services (IDPS) operators, a graduated levy based on revenue from IDPS activity undertaken under the entity's Australian financial services (AFS) licence will apply. A minimum levy of \$10,000 will also be payable by all IDPS operators.

## Market infrastructure and intermediaries sector

### Market infrastructure providers

- 36 There are no changes to the methodology proposed in November 2016 for:
- (a) clearing and settlement (CS) facility licensees;
  - (b) credit rating agencies;
  - (c) exempt market operators and exempt CS facility licensees; and
  - (d) trade repositories.

### Australian market licensees and exchange operators

- 37 With the exception of large securities exchange operators, there are no changes to the methodology proposed in November 2016.
- 38 The levy for large securities exchange operators will be graduated based on the value of transactions traded on each exchange.

### Market intermediaries

- 39 There are no changes to the methodology proposed in November 2016 for:
- (a) retail over-the-counter (OTC) derivatives issuers; and
  - (b) wholesale electricity dealers.

### Market participants

- 40 The costs related to regulating market participants will now be split between large securities exchange participants and large futures exchange participants.
- 41 Participants in these subsectors will be charged a fixed levy of \$9,000 for each exchange they are a participant of, plus a graduated levy based on their share of the subsector's messages sent and transactions reported to a large securities or futures exchange that is recognised by ASIC's Market Surveillance System.

**Table 1: Levy arrangements—Large securities exchange participants and large futures exchange participants**

Cost type	Levy calculation
IT costs	Based on messages
Carried forward unrecovered market supervision costs	Based on messages
10% of non-IT costs	Based on messages

Cost type	Levy calculation
90% of non-IT costs	Fixed levy and graduated based on transactions

### Securities dealers

- 42 The definition of ‘securities dealers’ has been changed to exclude dealers with a transaction value of less than \$250,000 in the year.

### Investment banks

- 43 Our costs related to regulating investment banks will now be split between the corporate advisers subsector and OTC traders subsector.
- 44 Corporate advisers will be charged a fixed levy of \$1,000 and a graduated levy based on revenue above \$100,000.
- 45 OTC traders will be charged a fixed levy of \$1,000 and a graduated levy based on the number of full-time equivalent (FTE) staff engaged in OTC trading activities.

## Financial advice sector

- 46 A fixed levy of \$1,500 has been introduced for AFS licensees authorised to provide advice on relevant products. The graduated levy for these licensees is based on the number of advisers on the [Financial Advisers Register](#), subject to the exclusions outlined in paragraph 47.
- 47 For securities dealers, large securities exchange participants and large futures exchange participants, the number of financial advisers used to calculate the levy will not include advisers who only provide advice on quoted products, products traded on a foreign financial market or basic banking products.
- 48 There are no changes to the methodology proposed in November 2016 for the remaining financial advice subsectors: see the appendix.

## Insurance sector

- 49 The definition of ‘insurance product issuers’ has been expanded to include AFS licensees who make offers to arrange for the issue of insurance products under an intermediary authorisation with an APRA-regulated insurer that does not hold an AFS licence.

50            There are no changes to the methodology proposed in November 2016 for insurance product distributors and risk management product providers.

## Appendix: 2017–18 cost recovery arrangement summary tables

**Table 2: Cost recovery summary—Corporate sector**

Corporate subsectors	Cost Recovery Regulations	Levy metric	Minimum levy	Threshold for graduated levy
Listed public companies	Regulation 19	Market capitalisation	\$4,000	\$5 million
Unlisted public companies	Regulation 17	Flat levy	N/A	N/A
Small proprietary limited companies	N/A	Flat levy, to be charged via an increase in the annual review fee for proprietary companies	N/A	N/A
Large proprietary limited companies	Regulation 16	Flat levy. To ensure large proprietary companies are not overcharged, the actual levy will be reduced by the increase in the annual review fee for proprietary companies	N/A	N/A
Registered liquidators	Regulation 20	Number of new and ongoing external administration appointments and notifiable events	\$2,500	No threshold
Auditors of disclosing entities	Regulation 15	Audit fee revenue	None	No threshold
Registered company auditors	Regulation 18	Flat levy	N/A	N/A

**Table 3: Cost recovery summary—Deposit taking and credit sector**

Deposit taking and credit subsectors	Cost Recovery Regulations	Levy metric	Minimum levy	Threshold for graduated levy
Credit providers	Regulation 26	Credit provided under contracts other than small amount credit contracts	\$2,000	\$100 million
Small amount credit providers	Regulation 24	Credit provided under small amount credit contracts	N/A	No threshold

Deposit taking and credit subsectors	Cost Recovery Regulations	Levy metric	Minimum levy	Threshold for graduated levy
Credit intermediaries	Regulation 25	Authorised representatives	\$1,000	No threshold
Deposit product providers	Regulation 27	Total deposits	\$2,000	\$10 million
Payment product providers	Regulation 28	Flat levy. From 2018–19 the levy will be graduated, based on revenue from payment product provider activity	N/A	N/A
Margin lenders	Regulation 23	Flat levy	N/A	N/A

**Table 4: Cost recovery summary—Investment management, superannuation and related services sector**

Investment management, superannuation and related services subsectors	Cost Recovery Regulations	Levy metric	Minimum levy	Threshold for graduated levy
Superannuation trustees	Regulation 36	Adjusted total assets	\$18,000	\$250 million
Responsible entities	Regulation 35	Adjusted total assets	\$7,000	\$10 million
Wholesale trustees	Regulation 37	Flat levy. From 2018–19 the levy will be graduated, based on adjusted total assets.	N/A	N/A
IDPS operators	Regulation 34	Revenue from IDPS activity	\$10,000	No threshold
Custodians	Regulation 31	Flat levy	N/A	N/A
Traditional trustee company service providers	Regulation 33	Flat levy	N/A	N/A
MDA providers	Regulation 32	Flat levy	N/A	N/A

**Table 5: Cost recovery summary—Market infrastructure and intermediaries sector**

Market infrastructure and intermediaries subsectors	Cost Recovery Regulations	Levy metric	Minimum levy	Threshold for graduated levy
Large securities exchange operators	Regulation 51	Value of transactions	None	No threshold
Large futures exchange operators	Regulation 52	Number of markets	N/A	N/A
Small securities exchange operators	Regulation 48	Number of markets	N/A	N/A
Small futures exchange operators	Regulation 49	Number of markets	N/A	N/A
Small securities exchange operator with self-listing function only	Regulation 47	Number of markets	N/A	N/A
Small derivatives market operators	Regulation 50	Number of markets	N/A	N/A
Overseas market operators	Regulation 46	Number of markets	N/A	N/A
Australian derivative trade repository operators	Regulation 59	Number of trade repositories	N/A	N/A
Exempt market operators	Regulation 53	Number of markets	N/A	N/A
Credit rating agencies	Regulation 60	Flat levy	N/A	N/A
Tier 1 CS facility operators	Regulation 54	Number of facilities	N/A	N/A
Tier 2 CS facility operators	Regulation 55	Number of facilities	N/A	N/A
Tier 3 CS facility operators	Regulation 56	Number of facilities	N/A	N/A
Tier 4 CS facility operators	Regulation 57	Number of facilities	N/A	N/A
Exempt CS facility operators	Regulation 58	Number of facilities	N/A	N/A

Market infrastructure and intermediaries subsectors	Cost Recovery Regulations	Levy metric	Minimum levy	Threshold for graduated levy
Large securities exchange participants	Regulation 65	Relative volume of transactions and messages on large securities exchanges	\$9,000	No threshold
Large futures exchange participants	Regulation 64	Relative volume of transactions and messages on large futures exchanges	\$9,000	No threshold
Securities dealers	Regulation 67	Annual transaction turnover value	\$1,000	No threshold
Corporate advisers	Regulation 63	Revenue from corporate advisory activity	\$1,000	\$100,000
OTC traders	Regulation 66	FTE staff engaged in OTC trading activity	\$1,000	No threshold
Retail OTC derivative issuers	Regulation 61	Flat levy	N/A	N/A
Wholesale electricity dealers	Regulation 62	Flat levy	N/A	N/A

**Table 6: Cost recovery summary—Financial advice sector**

Financial advice subsectors	Cost Recovery Regulations	Levy metric	Minimum levy	Threshold for graduated levy
AFS licensees authorised to provide financial product advice on relevant products to retail clients	Regulation 43	Adjusted number of advisers on the Financial Advisers Register	\$1,500	No threshold
AFS licensees authorised to provide financial product advice to retail clients, only on products that are not relevant products	Regulation 42	Flat levy	N/A	N/A
AFS licensees authorised to provide general advice only	Regulation 40	Flat levy	N/A	N/A

<b>Financial advice subsectors</b>	<b>Cost Recovery Regulations</b>	<b>Levy metric</b>	<b>Minimum levy</b>	<b>Threshold for graduated levy</b>
AFS licensees authorised to provide financial product advice, only to wholesale clients	Regulation 41	Flat levy	N/A	N/A

**Table 7: Cost recovery summary—Insurance sector**

<b>Insurance subsectors</b>	<b>Cost Recovery Regulations</b>	<b>Levy metric</b>	<b>Minimum levy</b>	<b>Threshold for graduated levy</b>
Insurance product providers	Regulation 72	Net premium and policy revenue (in relation to Australian business)	\$20,000	\$5 million
Insurance product distributors	Regulation 70	Flat levy	N/A	N/A
Risk management product providers	Regulation 71	Flat levy	N/A	N/A