

1 November 2017

Australian Securities and Investments Commission

Email: [policy.submissions@asic.gov.au](mailto:policy.submissions@asic.gov.au)

Dear Sir/Madam

**Re: Cost Recovery Implementation Statement: Levies for ASIC industry funding (2017-18)**

We welcome the opportunity to provide feedback on ASIC's Cost Recovery Implementation Statement: Levies for ASIC industry funding (2017-18) dated October 2017 (**CRIS**).

We acknowledge and support the important role ASIC plays in contributing to Australia's economic reputation and wellbeing by ensuring that Australia's financial markets are fair and transparent, supported by confident and informed investors and consumers. Whilst we believe that it is important that ASIC is appropriately funded to perform its role effectively, it is also equally important that the implementation of the relevant funding model should not result in an unreasonable cost burden for the entities it applies to.

Our feedback relates to the aspects of the proposed implementation of ASIC's cost recovery approach outlined in the CRIS that we believe will likely affect our business and those of our authorised representatives.

**Background**

Capstone Financial Planning Pty Ltd (**Capstone**) is a national privately owned and operated financial services business that has been the holder of Australian financial services licence (**AFSL**) 223135 since 14 October 2002.

Capstone currently authorises and provides support services to a panel of 153 authorised representatives via a tiered authorisation offering ranging from the provision of limited scope financial services suited to accountants to broader authorisations for traditional financial advisers offering more holistic financial planning services to clients. Capstone's authorised representatives are in the main, small business owners.

60 of our 153 authorised representatives at present, are accountants who hold limited authorisations akin to the scope of ASIC's limited Australian financial service license offering.

**Feedback**

(a) Lodgement fees currently paid by Australian financial services licensees

Paragraph 22 of the CRIS indicates ASIC's intention to abolish certain lodgement fees (which are used to support ASIC's work across an industry rather than activities undertaken for an individual entity). We note that the CRIS does not however identify the particular lodgement fees ASIC intends to abolish.

We commend ASIC's intentions in this respect and suggest identifying the particular lodgement fees ASIC's intends to abolish in the final version of the CRIS in order to provide further clarity and certainty to affected stakeholders.

(b) Levy for licensees that provide personal advice to retail clients on relevant financial products

By virtue of its current AFSL authorisations, we understand that the levy that would apply to Capstone will be calculated in accordance with the graduated levy formula (consisting of a minimum levy of \$1,500 and a graduated levy based on Capstone's total number of advisers registered on the Financial Adviser Register). The exemptions to the afore-mentioned approach that are discussed in paragraph 48 of the CRIS do not apply to Capstone.

We note that ASIC has approached the calculation of the levy for this subsector on the basis that the greater the number of advisers, the larger the number of clients able to be serviced and the higher the level of regulatory oversight required.

Whilst this is generally true of financial advisers offering a holistic financial planning proposition, it is in our experience, quite different for accountants with limited authorisations for whom the provision of financial advice often only forms a very small portion of the services they provide clients.

Further, we also note the limited nature of authorisations generally taken up by accountants are restricted to the provision of advice and dealing services relating to self-managed superannuation funds and the provision of 'class of product' advice relating to certain types of relevant financial products only.

For the reasons above, it is our view that ASIC's application of the graduated levy component of its funding model should be further tailored to take into account the restricted nature of limited authorisations held by accountants, thereby resulting in a more equitable outcome for affected AFSL holders. We believe this may be achieved either by exempting or applying a lesser graduated levy for the aforementioned class of authorised representatives.

(c) Levies for insurance product distributors

Paragraph 250 of the CRIS indicates ASIC will apply a flat levy to AFSL holders deemed to be insurance product distributors.

Capstone's AFSL authorises it to carry on a financial services business to "deal in a financial product" including life insurance products (amongst other things). By extension, it appears that Capstone may be deemed an 'insurance product distributor' pursuant to Regulation 70 of the *ASIC Supervisory Cost Recovery Levy Regulations 2017*.

In the circumstances and as implied in the CRIS, it seems that AFSL holder's such as Capstone may be charged a separate flat levy under this subsector (over and above the graduated levy formula). This, in our view, will result in an unnecessary duplication of levies.

Capstone does not 'distribute' insurance products (in the literal sense), provide brokerage services and does not act as an agent of any insurer to distribute their products – our authorisations allow our advisers to provide and implement personal financial advice relating to life risk insurance products. This activity is also reflected in the subsector relating

to the provision of personal advice to retail clients on relevant financial products and a corresponding levy will be charged accordingly.

In light of the above, it is our view:

- i) In the interest of fairness, AFSL holders that provide personal advice to retail clients on relevant financial products should not be subjected to a duplicate levy just because they may also (by definition) fit within the insurance product distributor subsector; and
- ii) The CRIS should expressly address the practical application of multiple levies to AFSL holders who fit within more than one subsector.

We thank you again for the opportunity to provide our comments and we welcome the opportunity to discuss our comments further.

If you have any questions, please contact me directly on [g.oriley@capstonefp.com.au](mailto:g.oriley@capstonefp.com.au) or 03 8622 0701.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Grant O'Riley', with a stylized flourish at the end.

**Grant O'Riley**  
Managing Director  
Capstone Financial Planning