26 April 2019

ASIC Industry Funding
Australian Securities and Investments Commission
100 Market Street
SYDNEY NSW 2000

By email to: policy.submissions@asic.gov.au

Cost Recovery Implementation Statement - ASIC Industry Funding Model (2018-19)

I write in response to the invitation to provide feedback on the draft Cost Recovery Implementation Statement (CRIS) for the ASIC industry funding model for 2018-19 (FY19).

Transparency of costs

As a general point, the lack of commentary around the variations in the budgeted and actual cost recovery amounts in the 2017-18 financial year (FY18) and how they relate to the estimates for FY19 makes analysis of ASIC's expenses difficult. While it is acknowledged, for example, that enforcement costs are difficult to estimate in advance, it is not clear if the significant 'underspend' in FY18 for participant regulation is largely related to this activity.

ASX notes that costs associated with ASIC's regulation of the securities and futures markets in FY19 are estimated to be around 10-15 per cent higher across all subsectors (both exchanges and participants) than the actual costs experienced in FY18. It would appear, at least in the case of levies on large securities and large futures market participants, that the increase is largely attributable to higher anticipated enforcement costs.

Levy for benchmark administrators

ASX notes that following the introduction of a new licensing regime for financial benchmark administrators, these entities have been added to the ASIC industry funding model with an annual levy estimated at $268,000.

Levy for large securities exchange participants

ASX's comments in relation to the methodology for allocating costs between regulated entities in the securities market subsector relate to the model for large securities exchange participants.

It is our understanding that ASIC will continue to determine cost recovery charges for large securities exchange participants in 2018-19 based on the existing real-time Australian Market Regulation Feed.

Levy for large futures exchange participants

In relation to the methodology for allocating costs between large futures exchange participants, ASX supported the amendments in July 2018 that changed the primary metric to the number of lots (away from transactions), with a small proportion based on messages. The design of the initial proposal would have adversely affected the operation of the futures market, and the amendment was a clear improvement. While the design of the amended model for futures market participants is similar to that for securities market participants, the differences better align the model to futures participants' systems and how futures market transactions are priced.

However, the difference in how the futures market operates suggests that there is still a strong argument for removing the message-based element of the allocation methodology completely. While this element remains a small proportion of the total costs recovered from this subsector it may still reduce the incentives for participants to provide liquidity, particularly in less liquid products and contracts. It is also not a metric which is easily tracked and managed by trading participants, and it is therefore very difficult for them to allocate the fee to relevant customers.

Yours sincerely

for

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