26 April 2019

Australian Securities and Investment Commission
Level 5
100 Market Street
Sydney NSW 2000

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

Dear Sir/Madam

ASIC Cost Recovery Implementation Statement: ASIC industry funding model 2018-19

Chartered Accountants Australia and New Zealand (CAANZ) welcomes the opportunity to comment on ASIC's cost recovery implementation statement (CRIS) concerning its industry funding model for 2018-19.

The ASIC industry funding model affects our members in a variety of ways as our members include auditors, insolvency experts, superannuation advisers, and financial services advisers. Our submission sets out some general comments then addresses particular issues for Australia Financial Service Providers including direct feedback from our members in Appendix A. Appendix B provides more information about Chartered Accountants Australia and New Zealand.

Lack of a true 'user pays' system

The figures set out in the CRIS fortify our belief that the model does not represent a true 'user pays' system. In almost every area of ASIC's operations, enforcement actions are the largest component of the ASIC's costs. CAANZ is of the opinion that the majority of enforcements costs should be borne by the entities and individuals who are the subject of the actions, not by the sector as a whole.

Significant increases

There have been significant increases in some of the costs associated with listed entities and Australian financial service providers.

Listed entities

The budgeted cost recovery amount for listed entities is 72% more on average per entity compared to the CRIS for 17/18[1]. This is in addition to the levy for entities subject to close and continuous monitoring, who will also bear an additional $713,000 per annum fee.

[1] ASIC's costs to be recovered have increased from $33.959M for 2,026 entities (average of $16,761 per an entity) to $62,923M for 2,177 entities (average of $28,904 per an entity).

CAANZ is concerned that the CRIS proposes that 2,177 (an increase of just 151 over 17/18) listed entities are bearing an additional $29m in budgeted cost recovery between them, which includes an additional $10m for enforcement activity. As noted above, we don't consider it appropriate for all entities, including those doing the 'right thing' to pay as 'users' of enforcement actions against a few companies who do the 'wrong thing'.

We recommend ASIC consider a more reasonable mechanism to recover the costs of enforcement actions from companies who breach the law or are investigated by the new governance task force. A greater focus on education and other pro-active engagement could help to reduce the incidences of enforcement required and provide benefit to entities who are trying to do the right thing.

We also note that ASIC's increased budgeted costs focus on enforcement and surveillance of listed entities. Innovation is critical to Australia's future success and we consider it important that ASIC's approach does not stifle innovation within listed entities.

Australian financial service providers

Australian financial service providers have been struggling with the cost, both financial and emotional, in dealing with additional red tape as a result of the removal of the accountant's exemption. These costs encompass additional continual professional development as well as CRIS levies. Many of our members that are Australian financial service providers have to comply and pay other CRIS levies as well. The cumulative effect of levies, especially on small businesses which need the multiple registration is significant.

Members who have limited licences are finding these costs particularly onerous and many are looking to exit this industry at a time when the government is trying to increase the level of qualification and professionalism of the industry. Further information about the particular concerns of our members, including selection of comments from our members, can be found in Appendix A.

CAANZ recommends that ASIC take into consideration when determining the CRIS levy how the levy affects the business models of limited licencees. A reduction in these fees could be achieved by waiving the fixed levy, reducing the per adviser levy or charging a fee aligned with revenue (which was the original intention and the reason advisers are required to submit business metrics). CAANZ would be pleased to discuss how ASIC could achieve the goal of retaining accountants in superannuation through development of a more appropriate fee structures.

Inconsistency in fee structures

There appears to be some inconsistency in fees for similar services. To reduce this difference we recommend that in relation to specific fees for service as set out in Table 91 of Appendix 2: Fees-for-service schedules:

- Form code 5112 Application fee for consent to remove compliance plan auditor $791 be reduced to the equivalent fee for the application for consent to resign as a public company auditor or be removed. (From 4 July 2018 there is no equivalent fee for the consent to resignation/removal of an auditor of registered scheme and the previous fee was only $39).

- Form code SFREG Self-managed superannuation funds - Application to register as an auditor $1,927 must be reduced. The equivalent fee for the application to be registered as a company auditor is $338 and it is unclear why the SMSF fee should be so much higher.

- Form code New TBC Self-managed superannuation funds - Application for cancellation of registration as SMSF auditor $899 should be removed. From 4 July 2018, there is no fee for the equivalent cancellation of a registration for a Registered Company Auditor or an Authorised Audit Company (and the previous fee was only $39).

Costs will continue to escalate

We note that the 2019/20 Budget includes additional funding for ASIC, which was indicated as being partially offset by revenue received through ASIC's industry funding model. The budget papers indicate the revenue to be $40.5m in 20/21, $122.2m in 21/22 and $128.5m in 22/23.We are concerned at the level of these anticipated increases in the future. The amount which can be recovered through this model needs to be considered not just from ASIC's perspective to recover costs but also the reasonableness of the levy's on the entities and professionals being charged.

Questions regarding the calculations

We also question the validity of some of the numbers used in the calculations. For example, the CRIS states that there are 718 registered liquidators yet ASIC's report of the sector states that there are 663 registered liquidators at 30 June 2018. It is also noted that the number of small proprietary companies in the 2018-19 CRIS is identical to the number in the 2017-18 CRIS.

If you wish to discuss our comments, please contact the following people:

- Audit – Amir Ghandar on 02 9080 5866 or Amir.Ghandar@charteredaccountantsanz.com
- Insolvency and Listed entities – Karen McWilliams on 02 8078 5451 or Karen.McWilliams@charteredaccountantsanz.com
- Financial services – Bronny Speed on 02 8078 5442 or Bronny.Speed@charteredaccountantsanz.com
- Superannuation – Tony Negline on 02 8078 5404 or Tony.Negline@charteredaccountantsanz.com

Yours sincerely

Simon Grant FCA
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Chartered Accountants Australia and New Zealand

Appendix A

Australian Financial Service Providers

On 1 July 2016, the accountants' exemption was repealed which meant that our Members were no longer able to recommend on SMSFs or superannuation without being appropriately licensed under an AFSL. At the time, many of them applied for limited licences and undertook the requisite additional training prescribed by ASIC (RG 146) in order to be able to continue to provide SMSF/superannuation advice to their clients. Since then, these members have continued to meet the costs of compliance with the licence.

Following the issuance of the industry funding invoices earlier this year, Chartered Accountants ANZ consulted with Members and received a considerable amount of feedback in relation to the fees. The resounding message that Members were shocked by the quantum of fees and were considering cancelling their licences.

It is important to note that this increase in compliance costs (in some cases almost 500%) comes at a time when limited licensees are now also required to comply with the Financial Adviser Standards & Ethics Authority (FASEA)'s reforms including passing an exam and undertaking additional study which will come at a time and dollar cost. The amount of additional study our Members will be required to do is not yet known however, at a minimum it will be a bridging course at AQF level 8 (university level – approximately 120 hours), a considerable burden to shoulder in order to be able to continue to provide superannuation advice. At a maximum it will be 3 bridging courses plus a FASEA approved course.

We have undertaken extensive member consultation on FASEA's proposed reforms. Many of our members have told us that they have serious concerns about the new standards, and will likely leave the financial advice industry if they are required to do further study. They are further disincentivised to remain in the financial advice space by the industry funding levies. We believe that our members are regarded by their peers, and the public alike, as highly skilled, trusted advisers. CAANZ provides to its members a professional framework that underpins community trust, respect and recognition of the accounting profession. Members understand they have obligations to the public, clients and fellow members to maintain the status of the profession.

An exodus of accountants from the financial advice industry, at a time when the government (through FASEA) is trying to increase the level of qualifications and professionalism, would not be in the public interest. Furthermore, Chartered Accountants who elect to remain will have little choice but to pass on their increased costs to their clients which is again at odds of the government's objective of making quality financial advice accessible for all Australians.

A selection of comments for Members of CAANZ who hold limited licences in relation to industry funding levy
I get no services from ASIC but was forced to pay $4612 for 2017/18. I suppose there will be a fee for another $4612 for 2018/19 shortly. My hourly rates are going to have to increase substantially to cover all the extra costs…
I have recently received an ASIC Industry Funding Levy for $2,434.00. My business holds a Limited Australian Financial Services Licence and during the year ended 30 June 2018 it earned gross income from tax and accounting services of $107,191 and gross income from Financial Services of $Nil. It appears that I have been charged a minimum levy plus a levy per financial adviser. For a small business entity these costs are a significant impost on the business.
Our firm holds a limited AFSL. The three directors are all financial advisors and I am the licence holder. We are astonished to have received an invoice of $4,302 comprising $1,500 as the fixed levy and $2,802 as graduated levy ($934.14 for each financial advisor). When we applied for the limited AFSL, our sole objective was to continue providing the existing service which is assisting clients in setting up a SMSF which was provided under the accountants exemption. As chartered accountants, we cannot understand the reason behind having to share the financial services industry costs when we only have a limited financial services licence. We have no intention to go over the boundary as a limited financial services advisor for any other financial products as this would be outside the scope of our licence. We are in no way similar to those financial advisors who charged excessive fees to clients. We have performed an internal assessment and note that in addition to the costs of applying for the licence, the ongoing compliance costs to maintain a licence significantly outweigh the benefits of the licence. Our estimates show that the costs to our firm would annually be in excess of 20 times the value of any fees raised and therefore we are currently considering various options including cancelling this licence. Ultimately, it is ridiculous to implement a change so radical in requiring a limited AFSL holder who undertook further qualifications (RG 146), then a few years later hit accountants with such excessive fees and only to then announce all this is irrelevant as we now need to go and get further qualifications under the new regime.
I am a sole practitioner and have tried to do the right thing by having all my qualifications and registrations up to date – including having a limited AFSL licence. I currently have a client list that has about 60 SMSF on it. I do give advice mainly about it being time to wind up the funds – especially for the oldies – when they can no longer manage what they have. In the 2018 financial year I did not establish any new funds. 99.9% of my work with superannuation is to prepare the financial accounts and income tax returns, and advise clients what the minimum pension requirements are – not what to actually withdraw. The latest ASIC fee is more than the charge out of what is billed for so called “financial advice”. Yes – if the fee is not reduced – then I will openly admit that I will cancel the licence…
I have received from ASIC an invoice of $2434, for the new “Industry Funding Levy”. I have completed my Financial diploma just to simply continue in advising in the SMSF area. My revenue has been NIL

in the last few years for any activity needing my Limited Licence, hence my frustration.
I am emailing you in relation to an Industry Funding levy I recently received from the ASIC. I am a sole practitioner. In 2016 I completed all requirements required to obtain a Limited AFS Licence for superannuation. At the time the yearly ASIC lodgement fee was quoted as being $563 a year. I have just received an invoice for the year ended June 18 for $2,434 which is an increase of almost 500%. I have never had to use this qualification because when I explain to prospective clients that I can give general advice or personal advice but personal advice requires me to go through certain procedures which will cost $ than all request that I provide general advice only. It is unfortunate that this is the case because those clients are seeking advice from a trusted advisor but are not getting a full service. I have made up my mind to cancel my licence…
It has cost, and is continuing to cost, thousands of dollars to be able to give the same superannuation advice I have always given to my clients, throughout my professional career, i.e. how superannuation works, how to open or close a super fund or to commence an income stream from a superannuation fund. I do not promote or recommend products and I am not a financial planner in any sense of the term. On top of my limited-licence authorised representative fees, I have been levied with an ASIC user-pays fee of $984 for the financial year 2017/8. I will have no choice but to cease providing the limited advice I am providing at present, in the face of the mounting fees and educational requirements/examination which have little relevance to my situation. The only outcome of this is to add to my clients' inconvenience and costs, all to no ultimate purpose that I can see.
I currently hold a limited AFS Licence. As a result of the ASIC fees increasing from $608 for the past two years to $2,434 for the 2018 year, I have made the decision to apply to cancel my licence & submitted paperwork to ASIC earlier this week. I am a sole practitioner with no other staff. I obtained the licence so that I could have it "just in case", but it was never the main focus of my practice. Despite having the licence, I have not provided any financial advice since obtaining it. For $608 per year, I could absorb that into my costs, however the new fees were completely unexpected and were 4 times what was paid previously!! I believe there should have been a distinction between full licences and limited licences, and the costs & changes will mean that many accountants can no longer sustain having the limited licence.
Why does our small associated financial planning firm with two full time and one part time advisor have to pay another annual fee to ASIC for $4,695? The financial planning firm has been in business for 16 years have not had any interactions with ASIC whatsoever. Why do the small players have to pay for the sins of the big banks and others?
To provide my clients with adequate advice in relation to Superannuation, I am required to be licensed. The Licence fee is $3,000 pa +GST Insurance is $700 pa + GST Training as required in excess of $1,000 pa + GST ASIC fee is now added at $934. Total cost of $5,634

I earned last year $1,200 for providing advice to my clients, at a loss of $4,434. The Royal Commission recommend customer-centric, so I have a licence. ASIC levy should be based on income from financial advice.
We are a small boutique 2 partner accounting firm. We obtained our AFSL (limited) to be able to continue to provide the same advice we have been providing for 20 plus years and where appropriate establish a SMSF. Our annual ASIC fee is $3,338. This is completely over the top. Our understanding is that Parliament intended that these fees be set on a cost recovery basis. We also object to having to login to obtain our invoices. How hard do they want to make it. Why don't they just email them.
The levy is significant for us as a relatively new sole practitioner firm. The fee represents 2% of our revenue for the 2017-18 year and is more than six times the annual fee under the previous fee structure. My focus remains on having the limited AFSL for the purpose of providing my clients with the best possible service by having the scope to provide the relevant superannuation advice and recommendations. The higher ASIC fees and expected additional costs associated with the new FASEA education requirements may result in us cancelling our licence affecting our scope to provide this advice to our clients. This, I believe, would not the best outcome for our clients.
Just wanted to provide my feedback on the ASIC Industry Funding Levy. It is absolutely insane! Not only the quantum of the levy but also the level of complication of dealing with ASIC now is almost too much. Furthermore, if you try and contact anyone at ASIC to obtain any guidance on how best to jump through the hoops that they have set out for us, absolutely nobody has any idea about anything. If I had a dollar for every time someone at ASIC has told me that I'll need to obtain independent legal advice on how to comply with THEIR requirements I could actually just retire now. We now have multiple login requirements reporting the same information once, twice and three times to different parts of ASIC. Company info, AFSL holder, Adviser, Moneysmart……… The Industry Funding Levy of $2,434 is simply not on. On top of registration fees, company fees, licensing application fees, it is simply making it almost impossible to provide advice to clients at a reasonable price. I continue to hope that CAANZ are highlighting to the appropriate regulators, government departments and politicians, the significant burden that all of this excessive regulation and compliance, from both a time and cost perspective, is placing on small firms. If this continues then small firms will simply cease to exist.
I'm sure you are aware that industry funding invoices have just been received. I was shocked to find that the fee for my limited license has gone up 300% from last years' fee! I am still very confused as to why I am paying a "financial advisors" fee when as far as I am concerned I am not and cannot call myself a financial advisor. I don't provide any financial advice and merely talk to my clients generally about superannuation matters as I have always done in the past. I am considering cancelling my licence…

Appendix B

Chartered Accountants Australia and New Zealand

Chartered Accountants Australia and New Zealand is a professional body comprised of over 120,000 diverse, talented and financially astute members who utilise their skills every day to make a difference for businesses the world over.

Members are known for their professional integrity, principled judgment, financial discipline and a forward-looking approach to business which contributes to the prosperity of our nations.

We focus on the education and lifelong learning of our members, and engage in advocacy and thought leadership in areas of public interest that impact the economy and domestic and international markets.

We are a member of the International Federation of Accountants, and are connected globally through the 800,000-strong Global Accounting Alliance and Chartered Accountants Worldwide which brings together leading Institutes in Australia, England and Wales, Ireland, New Zealand, Scotland and South Africa to support and promote over 320,000 Chartered Accountants in more than 180 countries.

We also have a strategic alliance with the Association of Chartered Certified Accountants. The alliance represents 788,000 current and next generation professional accountants across 181 countries and is one of the largest accounting alliances in the world providing the full range of accounting qualifications to students and business.