

From: David Fagan
Sent: Sunday, 14 April 2019 5:18 PM
To: Sarah-Jane Farlow
Subject: Cost Recovery Implementation Statement 2018–19 [SEC=UNCLASSIFIED]

Dear Sarah-Jane,

I have now read the CRIS.

At the outset, and as noted in para 16 on page 9, ASIC's cost recovery levies will in 2018-19 generate \$273M towards ASIC's total budgeted resources of \$406M. This is a 67.24% recovery rate which seems commercially appropriate and justifiable given ASIC's role and vision as stipulated in Para 11 on page 7.

Three points regarding the CRIS:

1. Table 1 Method of cost recovery by regulatory activity on page 5 shows the following high level breakdown:

Cost recovery levies \$190.442M

Statutory industry levies \$42.481M

Fees for service \$20.607M

In respect of the final item, why is there no recovery on a fee for service basis against individual entities or individuals which contravene the law and cause regulatory activity for:

-Supervision and surveillance

-Enforcement

-Financial capability work

-Governance, central strategy and legal

Is this on the basis that such direct charges against offending corporations or individuals even on a simple cost recovery basis would be unenforceable as it is in effect a double penalty in the absence of direct legislative authority?

2. Para 27 on page 11 states that charities "...will not have to pay cost recovery levies....". I appreciate the rationale for doing this (and that it is Government policy) but large charities say over \$10M in assets should be included. Such charities have in many cases significant commercial activities. Why should they be exempt?

3. Para 34 on page 13 states "...We will begin to deliver on our new "Why not litigate?" enforcement stance and complete (and implement recommendations of) our internal enforcement review". In this situation, the budgeted amounts for Enforcement both individually (in particular \$25.522M for Listed Corporations as per Table 7 Budgeted costs to regulate listed corporations on page 37) and collectively (\$67.558M as per Table 89 Total regulatory costs recoverable through levies in 2017-18 for each sector by regulatory activity on page 181) seem too low. If ASIC intends to take a more robust approach, then the budget for enforcement costs must inevitably increase. Plus ASIC should also increase its budget to cover increased costs where it loses enforcement actions and is ordered to pay costs to the other party.

I am happy for ASIC to publish my submission.

Happy to discuss.

Kind Regards

David Fagan
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