

# SUBMISSION

Submission to ASIC –  
Stamp duty and portfolio  
holdings disclosure  
requirements for  
superannuation funds

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20 February 2026

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20 February 2026

Dear Sir/Madam

### **Stamp duty and portfolio holdings disclosure requirements for superannuation funds**

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this response to ASIC's consultation on proposed changes to stamp duty and portfolio holdings disclosure requirements for superannuation funds.

#### **About ASFA**

ASFA has been operating since 1962 and is the peak policy, research and advocacy body for Australia's superannuation industry. ASFA represents the APRA regulated superannuation industry with over 100 organisations as members from corporate, industry, retail and public sector funds, and service providers.

We develop policy positions through collaboration with our diverse membership base and use our deep technical expertise and research capabilities to assist in advancing outcomes for Australians. ASFA's remit involves constructive engagement with regulators on reforms and improvements to the regulatory landscape to ensure that the superannuation sector is in a position to deliver on its core purpose and achieve the legislated objective of superannuation.

#### **1. ASFA's comments on proposed changes to stamp duty disclosure**

Currently, superannuation funds and investment managers must report all transactional and operational costs, including stamp duty, when disclosing fees and costs to consumers – in accordance with *ASIC Corporations (Disclosure of Fees and Costs) Instrument 2019/1070* and ASIC Regulatory Guide 97 *Disclosing fees and costs in PDSs and periodic statements* (RG 97).

ASIC's targeted consultation of 28 November 2025 proposes that stamp duty be disclosed as an average amount for the previous seven financial years (or the longest financial-year period relevant to a particular product or option) in fees and costs summaries – rather than the annual amount for the previous financial year.

ASFA considers that this 'smoothing' of stamp duty would not address fundamental concerns with the current disclosure requirements in respect of stamp duty (ASFA's technical concerns with ASIC's proposed approach are addressed in the next section).

Firstly, stamp duty is different to other transaction costs covered by RG 97: in effect, stamp duty is a tax on direct investments in Australian property assets. Unlike other types of transaction costs, portfolio managers cannot reduce the quantum of stamp duty paid by efficient portfolio management or by changing investment strategies, other than making a similar investment in an overseas jurisdiction with no stamp duty.

Secondly, treating stamp duty equivalently to management fees, by disclosing average amount over seven years, creates misleading cost comparisons between investments. This has the effect of making direct investments in residential property appear less competitive compared with foreign residential property or indirect property investments, such as through Real Estate Investment Trusts (REITs).

For the superannuation system as a whole, the current disclosure requirements mean that flows of superannuation capital to direct investments in Australian residential property are likely to be lower than otherwise would be the case. Within the context of the significant shortfall in Australia's housing stock, a likely impact of the current disclosure requirements is to impair development of the Australia's nascent build-to-rent (BTR) market.

ASFA recommends alternative reform to stamp duty disclosure, which would eliminate the distortionary impacts of the current requirements while maintaining transparency. In this regard, ASFA recommends either;

- reclassifying stamp duty as an excluded transaction cost; or
- reclassifying stamp duty as an incidental/operating cost reported separately as a statutory tax, rather than a fee or ordinary transaction cost.

Removal of stamp duty was the preferred position of the sector represented during ASIC working groups on this topic held in November 2025, and in the letter from the sector to ASIC on 5 September 2025. Note that ASFA's recommended approach would not impact how stamp duty costs are accounted for in the annual superannuation performance test.

ASFA considers that this reform could occur prior to the proposed broader review of RG 97 (which ASFA supports).

### ***The proposed amendments to Instrument 2019/1070***

Notwithstanding ASFA's primary policy position – as set out above – the sector has identified issues with the proposed calculation by which stamp duty is 'smoothed' in the draft amendments to Instrument 2019/1070.

- A core design principle should be to minimise the likely distortionary impacts on investment decisions and thus actual superannuation asset allocations.

As currently drafted, the amendments propose that disclosed stamp duty be calculated as an average of stamp duty costs over prior financial years (where the time period depends on the vintage of the product with a maximum period of seven financial years), to address concerns that stamp duty is a large, irregular cost that can distort how fees appear from year-to-year and potentially mislead consumers.

An unintended consequence of the proposed approach is that the calculated average stamp duty is higher for newer products. As an example, for a stamp duty cost incurred in the current financial year – that is, FY2025-26 – Table 1 shows the proportion that would be disclosed in each year for different product vintages (for simplicity, it is assumed that the proposed changes would be in force in FY2025-26).

- The proportion disclosed in FY2026-27 ranges from 0.14 for a product issued on 30 June 2018, to 1.00 for a product issued on 30 June 2025, and 1.00 for a product issued in the current financial year.

- The proportion disclosed in FY2025-26, is 1.00 for a product issued on 30 June 2025, and 1.00 for a product issued in the current financial year, but zero for older products.
- More generally, the proportion disclosed is higher and more persistent over subsequent years for newer products.

**Table 1: For a stamp duty cost incurred in 2025-26, the proportion that is disclosed in each subsequent year**

Date when a product was first offered	For stamp duty incurred in 2025-26, the proportion that is disclosed in each year								
	2025-26	2026-27	2027-28	2028-29	2030-31	2031-32	2032-33	2033-34	2034-35
30 June 2018	0.00	0.14	0.14	0.14	0.14	0.14	0.14	0.14	0.00
30 June 2019	0.00	0.14	0.14	0.14	0.14	0.14	0.14	0.14	0.00
30 June 2020	0.00	0.17	0.14	0.14	0.14	0.14	0.14	0.14	0.00
30 June 2021	0.00	0.20	0.17	0.14	0.14	0.14	0.14	0.14	0.00
30 June 2022	0.00	0.25	0.20	0.17	0.14	0.14	0.14	0.14	0.00
30 June 2023	0.00	0.33	0.25	0.20	0.17	0.14	0.14	0.14	0.00
30 June 2024	0.00	0.50	0.33	0.25	0.20	0.17	0.14	0.14	0.00
30 June 2025	1.00	1.00	0.50	0.33	0.25	0.20	0.17	0.14	0.00
In 2025-26	1.00	1.00	0.50	0.33	0.25	0.20	0.17	0.14	0.00

With respect to asset purchases that incur stamp duty, newer products would be at a competitive disadvantage compared with older products.

- For example, Fund A and Fund B each purchase 50 per cent of a shopping centre, and thus incur an identical stamp duty cost. Fund A launches a new option in which to hold the investment, while Fund B holds the investment within an existing option. Fund A's product will disclose higher transaction costs for stamp duty than Fund B's product, which would make Fund A's product relatively less attractive to investors and skew the ability for investors to compare costs – which is the fundamental purpose of RG97.

The proposed approach may inadvertently discourage the development of new products, even in circumstances where those products would deliver improved or more efficient offerings to members. It may also reinforce the use of outdated or inefficient legacy structures: providers may be disincentivised from modernising or restructuring products, even when such changes would be in investors' best financial interests.

In addition, the proposed approach would lead to double-disclosure of stamp duty costs.

As noted above, the proposed approach means that disclosed stamp duty would be calculated as an average of stamp duty costs over prior financial years – where the time period depends on the vintage of the product (with a maximum period of seven financial years). Currently, for most products, disclosed stamp duty is the full stamp duty cost incurred during the previous financial year.\* For existing products, the proposed approach would entail the re-disclosure of stamp duty costs that previously were disclosed in full.

A further complicating issue is that, for individual stamp duty costs, the 'quantum' of re-disclosure would depend on the timing of the historical stamp duty cost relative to the timing of implementation. For example, for a stamp duty cost incurred in the financial year immediately preceding implementation, the quantum of re-disclosure would be one-seventh of the full historical amount, each year, for seven consecutive years following implementation. For a stamp duty cost incurred seven (financial) years preceding implementation, the quantum of re-disclosure would be one-seventh of the full amount, in the first year following implementation only.

\*Note, the calculation is slightly different for products with less than a full financial-year of history.

While ASFA has previously raised concerns with 'smoothing' approaches to stamp duty disclosure generally – due to their distortionary impacts – a forward-looking, amortisation-based approach would not lead to the above outcomes. Alternatives to the proposed approach could be considered in the context of the broader review of RG97.

#### ASFA's comments on proposed changes to portfolio holdings disclosure of private debt assets

ASFA supports the proposed class order relief in respect of disclosure of private debt arrangements, which would align portfolio holdings disclosure obligations for internally-managed private debt assets with those for externally-managed private debt assets.

For private debt assets that are internally managed, the current disclosure arrangements require disclosure of the value/weighting of investments aggregated at the issuer or counterparty level. Where a trustee holds a single internally-managed private debt asset, the current disclosure requirements mean that the value of that asset will be made public.

It is likely that the current disclosure requirements are distorting investment decisions of superannuation trustees. In particular, and as ASIC notes, in order to protect commercially-sensitive transactions and maintain confidentiality of private arrangements, the current settings incentivise trustees to outsource the management of their private debt assets – which may increase costs to members.

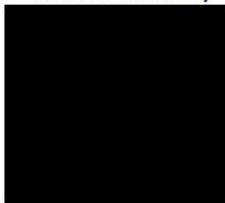
The proposed class order relief requires superannuation trustees to disclose only the aggregated value and weighting of internally-managed private debt assets.

ASFA considers that the proposed class order relief would address industry concerns with the current disclosure requirements, while maintaining transparency. The proposed change is also consistent with current approach in respect of funds' holdings of externally-managed private debt assets, where disclosure is aggregated by fund manager.

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If you have any queries or comments in relation to our submission, please contact [REDACTED]

Yours sincerely



Chief Policy and Advocacy Officer