

6th June 2022

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CC: [REDACTED]

Dear Sir or Madam

We write to provide feedback and query the quantum of the funding levy as it applies to Managed Discretionary Account (MDA) providers. IMAP and its MDA Provider members are concerned that the proposed increases in the funding levy which will apply to MDA Providers for the 2022 year is unfair. This opinion is based on three principal areas:

- The magnitude of the levy on MDA Providers and the increase
- The relationship between the indirect cost allocations assessed on MDA Providers relative to Responsible Entities of Managed Investment Schemes
- The potential for misallocation of enforcement costs to MDA Providers.

We would also like to bring to your attention that we noticed an apparent error in the CRIS which divides the levy cost among 270 AFSLs whereas ASIC records show only 240 AFSLs with MDA Provider authorisation, of which 8 have been issued in the past 6 months.

Increase in the Levy

The cost for AFSLs has risen at a rate significantly in excess of the rate of inflation. Over the period from introduction of levies in the 2017-18 year, levies imposed on the 200 to 250 MDA providers have risen from \$0.742m in aggregate to a 2021 levy of \$2.4m, an average of 48% annual rate of increase.

Also, when correcting the number of MDA AFSLs and dividing the proposed cost of \$2.8 m among 240 AFSLs equates to \$11,666 per AFSL rather than \$10,292 cited in the Summary. This is an annual increase of 15% per AFSL, compared to the 2021 cost of \$10,160.

Basis of Concerns

As an industry body in regular communication with the Licensees in this sector we are unaware of any material complaints or enforcement or investigation of our members. Further, this is an area that when we have had open dialogue with the ASIC stakeholders it has been clarified that there have been no complaints to ASIC, and the data cube with AFCA notes there have been no complaints in this sector for some time.

Enforcement Costs

The cost recovery levy relating to enforcement in this sector equates to \$1.1m when there is no apparent enforcement action or industry issues.

We as an industry have a sense that there may be a misallocation of this cost. As there were past complaints of CFD operators using MDAs, perhaps it is this group to which the enforcement action relates. These costs should be attributed to the CFD or derivative sector rather than the more vanilla MDA sector if this is the case.

Complaints as an indicator

Complaints relating to MDA recorded by AFCA were nil in the six months to December 2021 and 4 in the 6 months to June 2021. We draw from this that there are no particular issues from a client perspective.

As noted above we are aware of CFD complaints in prior years.

Governance, central strategy and legal

Whilst we appreciate that the managed investments team are responsible for supervision of the MDA participants it is unclear how the indirect costs to this sector equate to \$1.2m when there has been no change to the regulation of this industry sector.

General Levy Comments

2021 Levy

The estimates published in the 2021 CRIS (November 2021) estimated total costs of \$1.183m and included an estimate of \$134,000 for enforcement and \$580,000 for indirect costs of a total levy of \$1.183m. This would have been a cost per licensee of ~\$5,000.

The actual cost published levy cost of \$2.4m issued in December 2021 was approximately \$10,000 per Licensee, a significant increase from the month before and a significant impost and bore no relation to the consumer harm from this segment of the managed account market. It amounts to 10% of the 2021 levy imposed on Responsible Entities (\$25.204m) against a pool of assets of only 3.4%¹ of those which Responsible Entities manage.

2022 Levy

The estimates of the next levy released on 6 June 2022 makes this even worse with an estimate of \$2.8m levy on MDA Providers (estimated at \$10,292 each). This is an increase of 16%. This increase arises from an increase in enforcement costs and a substantial increase in the attribution of ASIC internal costs – between 80% and 166% depending on category - and capital expenditure – up 166% - to MDA Providers. Meanwhile engagement with the MDA Providers has fallen between 80% and 100%. IMAP's experience is that despite regular requests to meet, this has been difficult to arrange.

This compared to a total 2022 cost of \$20.749m for all Responsible entities, a fall of 17.5% on the 2021 year. This amounts to a levy on MDA Providers of 13.5% of the amount levied on Responsible Entities with an implied pool of assets of \$1.64 Tn whereas MDA assets account for 3.1% of the assets held by Responsible Entities.

The allocation of costs is completely disproportionate and appears arbitrary.

We set out the comparisons in the attached table.

Allocation of Internal Costs

We find it hard to accept that ASIC is spending an amount equivalent to 16% of its internal costs and capital expenditure for Responsible Entities – a \$1.6 Trillion sector – on MDAs. Either a disproportionate amount of ASIC time and resources are being allocated to a sector that appears to operate without incident, or there has been a misallocation of costs in fact incurred on other sectors.

Summary

We support the current simple cost per AFSL with MDA Provider authorisation as being simple and coherent for a small sector.



We recommend and request further review of the allocation of the costs to this sector to ensure they are fair and reasonable. Where costs have been incurred from other operating sectors that incidentally have MDA authorisations, ASIC should consider the cause and effect of how this impact the rest of the sector.

¹ ASIC Funding levy model for RE's implies a pool of assets of \$1.511 Tn. IMAP research as at December 2021 identified MDA assets of \$52 bn.

If there is truly enforcement action in this sector which is a possible risk to consumers, we would like insight to these risks to be able to address them with members and have an opportunity to consider how to protect our members and their clients from further cost increases in the future.

We would welcome further engagement with ASIC on this and other matters


Chair
IMAP Regulatory Group



Chair
Institute of Managed Accounts Professionals Ltd


Attachment: ASIC funding levy comparison table

Expense	Proposed MDA Providers 2021-22 Levy	Actual MDA Providers 2020-21 Levy			Proposed Responsible Entities 2021 - 22 Levy	
	Cost recovery levy 2021-22	Cost recovery levy 2020-21	\$ Change in MDA Levy 2021 to 2022	% Change 2021 to 2022	Cost recovery levy 2021-22	MDA 2021-22 as % of RE 2021-22 Levy
Supervision and surveillance	\$0.013	\$0.175	-\$0.162	-93%	\$2.127	0.6%
Enforcement	\$1.109	\$0.134	\$0.975	728%	\$2.253	49.2%
Other regulatory activities						
<i>Industry engagement</i>	\$0.004	\$0.024	-\$0.020	-83%	\$0.635	0.6%
<i>Education</i>	\$0.000	\$0.005	-\$0.005	-100%	\$0.002	0.0%
<i>Guidance</i>	\$0.006	\$0.062	-\$0.056	-90%	\$0.872	0.7%
<i>Policy advice</i>	\$0.009	\$0.053	-\$0.044	-83%	\$1.508	0.6%
Indirect costs						
<i>Governance, central strategy and legal</i>	\$0.326	\$0.163	\$0.163	100%	\$2.081	15.7%
<i>IT support</i>	\$0.311	\$0.117	\$0.194	166%	\$1.919	16.2%
<i>Operations support</i>	\$0.226	\$0.097	\$0.129	133%	\$1.228	18.4%
<i>Property and corporate services</i>	\$0.372	\$0.205	\$0.167	81%	\$2.053	18.1%
Total operating expenditure	\$2.377	\$1.035	\$1.342	130%	\$14.678	16.2%
Allowance for capital expenditure	\$0.242	\$0.091	\$0.151	166%	\$1.478	16.4%
Less costs funded by own-source revenue	\$0.000	\$0.000	\$0.000		-\$0.180	
Adjustment for prior year (under or over recovery)	\$0.045	\$0.058	-\$0.013		-\$0.005	
Total levy to recover costs	\$2.664	\$1.184	\$1.480	125%	\$15.971	16.7%
Statutory Levy	\$0.136				\$4.778	
Total	\$2.800	\$1.184	\$1.616		\$20.800	13.5%