



Australian Government

Proposed Industry Funding Model for the Australian Securities and Investments Commission

Consultation Paper
28 August 2015

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Consultation Process

Request for feedback and comments

The Government seeks your feedback and comments on the measures outlined in this consultation paper. The information obtained through this process will inform the Government's approach to implementation and aid it in meeting the objectives of best practice regulation.

While submissions may be lodged electronically or by post, electronic lodgement is preferred. For accessibility reasons, please email responses in a Word or RTF format. An additional PDF version may also be submitted.

All information (including name and address details) contained in submissions will be made available to the public on the Treasury website, unless you indicate that you would like all or part of your submission to remain in confidence. Automatically generated confidentiality statements in emails do not suffice for this purpose. Respondents who would like part or all of their submission to remain in confidence should provide this information marked as such in a separate attachment. A request made under the *Freedom of Information Act 1982* for a submission marked 'confidential' to be made available will be determined in accordance with that Act.

Closing date for submissions: Friday, 9 October 2015

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Foreword



On 7 December 2014, the Government released the Final Report of the Financial System Inquiry, which sets out a blueprint for Australia's financial system over the coming decades.

The Financial System Inquiry found that Australia's current regulatory architecture has many strong characteristics, and does not require major change. However, the Inquiry made a number of recommendations to strengthen the transparency, accountability and capabilities of our financial regulators. In the case of the Australian Securities and Investments Commission (ASIC), the Inquiry recommended that the Government should move to adopt an industry funding model, similar to that already in place for other Australian regulators.

The Financial System Inquiry found that an industry funding model for ASIC could provide more funding certainty and enhance the transparency of ASIC's costs and funding. In addition, the Government considers that an industry funding model for ASIC would:

- ensure that the costs of the regulatory activities undertaken by ASIC are borne by those creating the need for regulation (rather than all taxpayers);
- establish price signals to drive economic efficiencies in the way resources are allocated in ASIC; and
- improve ASIC's transparency and accountability.

Submissions on this consultation paper, together with the findings of the ASIC Capability Review which is due to report to Government by the end of 2015, will assist the Government's consideration of whether to accept the Inquiry's recommendation that ASIC's regulatory activities should be funded by industry.

I encourage all those who have an interest in the efficient operation of ASIC to comment on this consultation paper.

The deadline for submissions is 9 October 2015.

The Hon Josh Frydenberg MP
Assistant Treasurer

Chapter 1: Context and background information for consideration of an industry funding model

This chapter provides context for the Government's consideration of an industry funding model for ASIC, an overview of the Australian Government's Charging Framework (the Framework) and also describes the benefits of industry funding.

Context for Government's consideration of an industry funding model

In 2014, the Financial System Inquiry found that 'ASIC[']s costs are not transparent to regulated industry participants'. This has two clear ramifications:

1. industry and consumers have little understanding of the actual costs of ASIC supervision; and
2. ASIC has limited accountability to industry and consumers in the activities it undertakes and why it undertakes them.

In response to these issues, the Financial System Inquiry recommended the introduction of an industry funding model for ASIC's regulatory activities, in conjunction with enhanced accountability arrangements for ASIC. Similar recommendations have previously been made by the 1997 Financial System Inquiry (the Wallis Inquiry) and the 2014 Senate Economics Committee review of ASIC's performance.

As proposed in this paper, ASIC would continue to be funded from the Commonwealth Budget, with a much larger share of its budget offset by charging industry levies and fees. Recovering a greater share of ASIC's regulatory activities would be consistent with a number of comparable financial services and markets regulators in foreign jurisdictions where costs are recovered from industry, including: the United Kingdom's Financial Conduct Authority (FCA), United States' Securities and Exchange Commission (SEC) and Germany's Federal Financial Supervisory Authority.

This consultation paper seeks views on:

- the appropriateness of the proposed industry funding model;
- the costs and benefits of introducing an industry funding model for ASIC;
- the impact of the proposed model on competition and innovation; and
- the regulatory burden associated with the introduction of an industry funding model.

The Government recognises the need to ensure that industry is given sufficient time to adjust to the introduction of new cost recovery arrangements. The Government will consult with industry throughout both the development and implementation of such a model, if adopted.

The consultation will assist in ensuring, as required by the Framework, that any cost recovery charges are minimised through the efficient implementation of regulatory activities, in the context of specific policy outcomes and legislation.

In addition to feedback from stakeholders, the Government's consideration of an industry funding model for ASIC will be assisted by the broad findings of the Capability Review of ASIC, announced on 24 July 2015. As outlined in the Capability Review's Terms of Reference, 'the review will consider how ASIC uses its current resources and powers to deliver its statutory objectives and assess ASIC's ability to perform as a capable and transparent regulator.'¹

Background to ASIC

ASIC is responsible for the supervision of Australia's financial markets (including equities, foreign exchange, derivative and commodities markets), companies, financial services organisations and professionals who deal and advise in investments, superannuation, insurance, deposit taking and credit.

Under the *Australian Securities and Investments Commission Act 2001* (ASIC Act), ASIC is charged with:

- maintaining, facilitating and improving the performance of the financial system and entities in it;
- promoting confident and informed participation by investors and consumers in the financial system;
- receiving, processing and storing, efficiently and quickly, the information given to ASIC under the law;
- ensuring that information is available as soon as practicable for access by the public;
- administering the law effectively and with minimal procedural requirements; and
- enforcing and giving effect to the law.

Currently, only around 15 per cent of ASIC's costs are recovered through levies and fees on industry. For example, market operators and participants pay quarterly fees to offset the costs of market supervision; entities regulated by APRA pay annual levies to offset the costs of certain regulatory activities; and all regulated sectors pay fees for specific ASIC services.

1 <http://jaf.ministers.treasury.gov.au/media-release/036-2015/>

The Australian Government's Charging Framework

The Framework, as endorsed by the Government in 2015, covers activities where the government charges the non-government sector for a specific government activity such as regulation, goods, services or access to resources or infrastructure.

Under the Framework, industry funding for regulatory activities must be consistent with the Commonwealth Government's Cost Recovery Guidelines (the Guidelines). The Guidelines establish the framework under which Commonwealth entities design, implement and review cost recovered activities. Individual portfolio ministers are ultimately responsible for ensuring compliance with the Guidelines.²

The Framework and the Guidelines specify that cost recovery as a pricing mechanism is appropriate where there is an identifiable individual, organisation or group that receives the regulatory activity or creates the need for it. This ensures that regulatory costs can be allocated to those that create the need for regulation.

As noted in the Framework and the Guidelines, it is usually inappropriate to cost recover some government activities, such as general policy development, ministerial support and law enforcement. In certain circumstances, cost recovery may also be contrary to intended policy outcomes, such as the provision of community services.

It may also not be appropriate to cost recover or implement full cost recovery where it would have an adverse impact on competition, innovation or the financial viability of those who would pay the charges.

Under an industry funding model for ASIC, the Government would not seek to cost recover some of ASIC's budget funding, such as funding for the Enforcement Special Account, where the activities would fall into one of the above categories. The paper seeks stakeholder views on this approach. See Chapter 2.

Benefits of an industry funding model for ASIC

Introducing an industry funding model for ASIC's regulatory activities would:

1. ensure that costs are proportionately borne by those creating the need for regulation;
2. establish price signals to drive economic efficiencies in the way resources are allocated in ASIC; and
3. improve transparency and accountability.

2 The Guidelines can be found on the Department of Finance's website:
http://www.finance.gov.au/sites/default/files/australian-government-cost-recovery-guidelines_0.pdf

1. Ensure that those creating the need for regulation bear its cost

Industry funding would ensure that ASIC's regulatory costs were borne by those that drive the need for regulation (and their customers, if costs are passed through). This aligns with the user-pays principle. It would also ensure that a greater share of general taxation could be allocated to Government activities that benefit society more broadly.

2. Drives efficiency

Industry funding would drive economic efficiencies in the way that resources are allocated. Industry funding for ASIC's regulatory activities would establish clear price signals that would influence the behaviour of regulated entities that create the need for government oversight.

For example, if the Government introduced a fee for licensees based on the number of authorisations they hold, licence holders may apply for authorisation required to offer the financial services their business undertakes rather than apply for a broad range of authorisations in case they decide to offer those financial services in the future. This would ensure that ASIC's resources are targeted at entities actually providing specific services and would allow ASIC to better assess risks to the markets and sectors it regulates. This would improve ASIC's resource allocation.

In addition, by exposing ASIC to greater scrutiny of its regulatory costs (for example, through regular consultation), industry would be in a better position to hold ASIC more accountable for the efficiency in which it undertakes its regulatory activities.

3. Improve transparency and accountability

Industry funding would improve the transparency of ASIC's funding and operations.

As a Commonwealth Government agency, ASIC is already subject to a number of existing accountability mechanisms.

- ASIC is accountable to the Government for its costs through the annual budget process and its annual reports. For example, ASIC, like all Commonwealth bodies, has been subjected to efficiency dividends.
- ASIC is accountable to the Parliament, including parliamentary scrutiny of any legislative instruments made under the *Legislative Instruments Act 2003* as well as ASIC's appearances before parliamentary committees.

If the Government introduces an industry funding model for ASIC's regulatory activities, additional accountability mechanisms would be introduced. These are detailed in Chapter 5.

The Government is also considering the implementation of further accountability mechanisms for Australia's financial regulators, as recommended by the Financial System Inquiry.³

3 The Government is currently considering this recommendation and will respond later in 2015.

Chapter 2: ASIC's activities

This chapter provides an overview of ASIC's activities. Under an industry funding model, the Government would seek to recover the costs of most of ASIC's regulatory activities. The regulatory activities proposed to be funded by industry are outlined in this chapter.

Regulatory activities

ASIC undertakes a range of regulatory activities to satisfy its statutory functions. These activities can be broadly categorised as being: surveillance (which includes front line supervision); enforcement; guidance; policy advice; stakeholder engagement; education; professional registration and licensing; applications for relief and document compliance reviews. See Table 1.

In 2014-15, the Government provided ASIC with approximately \$260 million (including funding for capital expenditure) to undertake its regulatory activities.

Under an industry funding model for ASIC's regulatory activities, the Government would seek to recover the costs of these activities, less the costs of activities that the Government determines should not be recovered.

Table 1: ASIC's Regulatory Activities

Activity	Activity Description
Surveillance	ASIC conducts surveillances by gathering and analysing information on a specific entity or range of entities, a transaction, a specific product or issue of concern in the market to test compliance with the laws ASIC administers and promote consumer and investor outcomes.
Enforcement	ASIC undertakes investigations, which may lead to enforcement action such as criminal action, civil action and administrative action (for example, banning or disqualifying persons from the financial services industry).
Guidance	ASIC provides guidance to industry about how ASIC will administer the law and their obligations under the law. This is achieved by issuing regulatory guides, consultation papers, reports and information sheets.
Policy Advice	ASIC provides policy advice to Government on the operational implications of Government policy initiatives and legislative change.
Stakeholder Engagement	ASIC engages with industry and stakeholders to set and maintain standards, to better inform its practices, to address stakeholder enquiries, to ensure issues in the market are identified and to ensure that ASIC's messages are communicated to industry.
Education	ASIC undertakes a range of educational activities. This includes developing tools and resources for its regulated population and consumers, its contributions to industry publications, and materials for the ASIC website.
Licensing and Professional Registration	ASIC administers the licensing regimes for Australian financial services, credit, markets, clearing and settlement facilities and trade repositories. ASIC also has responsibility for registering other entities, such as auditors.

Table 1: ASIC's Regulatory Activities (continued)

Activity	Activity Description
Applications for Relief	ASIC regularly receives and decides on applications from individuals and organisations seeking exemptions from, or modifications to, the law.
Document Compliance Review	ASIC regularly receives documents submitted by regulated entities for review and action by ASIC. They include disclosure documents, prospectuses, takeover documents and scheme compliance documents.

Regulatory activities not to be funded by industry

The Framework and the Guidelines provide that the scope of recoverable costs should be limited to specific government activities provided for identifiable non-government recipients. It is usually not appropriate to cost recover some government activities, such as general policy development and ministerial support. The levies and fees-for-service proposed in this consultation paper do not recover the costs of:

- the operation of, and funding to support, the Enforcement Special Account (ESA), which operates to support high-cost litigation activities undertaken by ASIC (additional information on the ESA is included below);
- the administration of the Government's Unclaimed Moneys programmes, under which companies and financial institutions are required to remit unclaimed bank account, life insurance and company moneys to ASIC after a certain period of inactivity and ASIC must return them to their rightful owners when required;
- financial literacy programmes to educate investors and consumers on financial matters;
- the operation and maintenance of an insurance aggregator for North Queensland residential property owners; and
- the administration of the Assetless Administration Fund, which is used to finance preliminary investigations and reports by liquidators into the failure of companies with few or no assets where ASIC considers that enforcement action may result from the investigation.

The paper seeks views on whether these exclusions are appropriate.

ASIC's Enforcement Special Account

ASIC's ESA was established to provide working capital or advanced funding for ASIC for its special enforcement activities.

The investigations and subsequent proceedings funded from the ESA typically relate to matters that ASIC cannot absorb the costs of without significantly curtailing its existing general enforcement role, or those matters which are critical to continued public confidence in the corporate regulatory framework. Consequently, the ESA was set up to maintain ASIC's operational independence in the enforcement matters it seeks to pursue.

When enforcement matters meet the criteria for funding from the ESA, the expenditure is debited from the ESA. Conversely, any costs recovered by ASIC by way of a cost order in ASIC's favour are returned to the ESA when received.

Under an industry funding model for ASIC's regulatory activities, the cost of ASIC's general enforcement activities (including enforcement activities currently cost recovered by APRA from ASIC regulated institutions) would be attributed to the relevant industry sectors and cost recovered. The cost of activities funded by the ESA, however, would be met by Government. Funds drawn from the ESA would not be recovered from industry.

Questions:

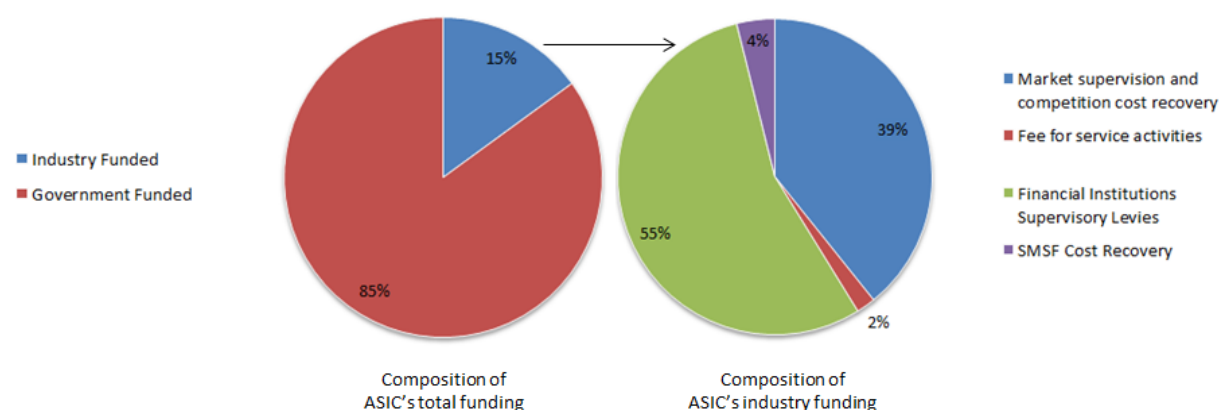
1. Do you agree that the exclusion of these activities from cost recovery is appropriate? If not, why not?
2. Are there any other specific regulatory activities undertaken by ASIC, such as those that support innovation, that should not be cost recovered from industry? If so, please provide examples.

Regulatory activities currently funded by industry

The following ASIC regulatory activities are already wholly or partly funded by industry through explicit cost recovery arrangements (see Chart 1):

- the supervision of financial markets (cost recovered by ASIC);
- the operation of the Markets Disciplinary Panel, a forum to resolve alleged breaches of ASIC market integrity rules by market operators and participants (cost recovered by ASIC);
- financial literacy programmes to educate investors and consumers on financial matters, including the operation of the MoneySmart website (mostly cost recovered by APRA);
- regulatory and enforcement activities relating to the products and services of APRA-regulated institutions (including the funding of the Superannuation Complaints Tribunal (SCT)) (mostly cost recovered by APRA);
- changes to the regulation of over-the-counter (OTC) derivatives markets, in line with Australia's international commitments (cost recovered by APRA); and
- the regulation of SMSF auditors (cost recovered by the Australian Taxation Office (ATO)).

Chart 1: the composition of ASIC’s funding for regulatory activities



If the Government introduces an industry funding model, responsibility for the recovery of these regulatory activities would be continued or be transferred to ASIC (with the potential exception of the SCT). That is, the above activities would be covered under a single industry funding model for ASIC and the ATO and APRA would no longer recover the costs of these activities on ASIC’s behalf. This would enhance transparency of the total amount being collected for ASIC and the activities that industry is funding.

If these mechanisms were subsumed into ASIC’s industry funding arrangements, the scheduled 2016 review of ASIC’s market supervision and competition cost recovery regime would not proceed.

Questions:

3. Do you support cost recovery arrangements for ASIC’s regulatory activities being consolidated within a single ASIC industry funding model? If not, why not?
4. Are there any activities cost recovered by other agencies on ASIC’s behalf that should continue to be recovered by the current responsible agency? If so, please give reasons why.
5. The Government currently recovers most of the costs of operating the MoneySmart website through APRA’s supervisory levies. Should these costs no longer be recovered from industry? Why or why not?
6. Do you support the SCT continuing to be funded through APRA’s levies on APRA-regulated superannuation funds? Why or why not?
7. If the Government decided to introduce an industry funding model for ASIC, would you support not proceeding with the planned review of ASIC’s market supervision and competition cost recovery arrangements? Why or why not?

ASIC's Registry Activities

ASIC operates a registry business. ASIC's registry business provides information about Australian companies, business names, Australian Financial Services (AFS) Licensees, Australian Credit Licensees and other professionals registered with ASIC. ASIC's registry business focuses on maintaining data on the 31 registers for which ASIC is responsible.

The Government does not propose to recover the costs associated with ASIC's registry business.

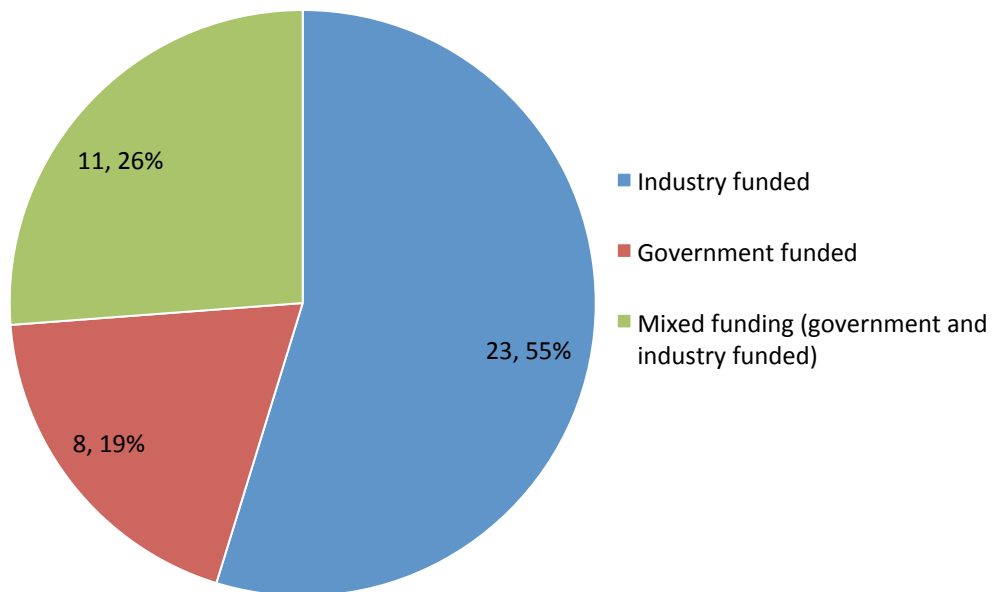
As announced in the 2015-16 Budget, the Government is undertaking a competitive tender process to market test the capacity of a private sector provider to upgrade and operate the ASIC Registry and develop value-added products.

Chapter 3: International funding models

Many financial services and markets regulators are funded by industry, or by a combination of industry and government. In 2014, 23 corporate governance regulators (including corporate and securities regulators) were industry-funded (including through fees for non-compliance), eight were funded by both Government and industry, and eleven were funded by the Government.⁴

Chart 2 provides an overview of this distribution.

Chart 2: Distribution of funding models for global securities regulators



Regulators wholly funded by industry include: the UK's FCA, the US' SEC, Germany's Federal Financial Supervisory Authority and France's Autorité des Marchés Financiers. The New Zealand (NZ) Financial Markets Authority (FMA) is funded by both industry (60%) and the government (40%).

This chapter briefly examines the funding models for the FCA, FMA, and the SEC.

United Kingdom – FCA's funding model

The FCA is responsible for regulating the financial services industry in the UK. It is the conduct supervisor for approximately 26,000 financial services firms across all industry sectors and the prudential supervisor for about 23,000 of financial services firms that are not regulated by the UK's Prudential Regulation Authority.

Although it is accountable to Her Majesty's Treasury and the Parliament of the UK, the FCA is an independent body and does not receive government funding.

⁴ OECD 2015 (<http://www.oecd.org/daf/ca/Corporate-Governance-Factbook.pdf>, page 24)

Each year regulated firms are charged fees to carry out their financial activities. The amount that regulated firms are required to pay is determined by the type of business they operate and the activities that they carry out.

In order to calculate its fees, the FCA segments regulated firms into fee categories (often referred to as 'fee-blocks'). Each category is defined by grouping specific regulated activities that these firms are permitted to undertake.

Under the funding model, the FCA's regulatory costs are allocated to each fee category. All entities in the same fee category are generally charged using the same method.

For some major fee categories, regulatory costs are apportioned by metrics intended to proxy for the FCA's supervisory intensity (for example, assets, liabilities, and transaction numbers). For example, deposit acceptors pay a periodic fee based on the value of their 'modified eligible liabilities'. In contrast, firms holding client money, assets, or both, have their levies based on the amount of client money or secured custody assets that they hold.

Each year, the FCA consults on its fees as well as any updates or changes to specific aspects of its fees policy for the coming financial year. This consultation process starts in October of the prior year, with the final policy statement and annual fees published the following June. As part of this consultation process, the FCA seeks feedback from industry on the impact of its proposed changes, including on competition and innovation in affected sectors.

The levies are payable directly to the FCA and any revenue received by the FCA does not form part of the UK's government's consolidated fund. Any surplus collections are offset against costs the following year.

New Zealand – FMA's funding model

The FMA is responsible for enforcing securities, financial reporting and company laws as they apply to financial services and markets. It also regulates securities exchanges, financial advisers and brokers, trustees and issuers.

The FMA receives funding through appropriations from government. However, a proportion of these costs are recovered from industry by way of industry levies.

Under the FMA's funding model, entities required to pay a levy include:

- companies, registered banks and non-bank deposit takers and licensed insurers;
- managers of superannuation trustees and licensed supervisors of debt securities and managed investment products in registered schemes;
- financial service providers; and
- licensed market operators.

Levies are imposed on industry based on the activities they undertake. Regulated entities are required to pay a levy in relation to each of these activities.

Some levies have been tiered in order to recognise the variation in size and nature of different entities. For example, the levies payable by financial services providers are tiered by total assets, and the levies payable by superannuation trustees are tiered by assets under management and the number of persons authorised to undertake trading activities. In contrast, brokers and financial advisers are charged flat annual levies.

The levies currently in place were set in 2012 and are due to be updated later in 2015.

United States – SEC’s funding model

The SEC is responsible for regulating securities markets, issuers and participants, including investment advisers, fund managers, broker-dealers and security-based swap dealers.

The SEC is funded through an annual appropriation from the US Congress. However, this appropriation is budget-neutral, because it is offset by securities transaction fees payable by self-regulatory organisations. The transaction fees are collected, held and directly spent by the SEC.

Under the SEC’s funding model, transactions fees are predominantly based on securities turnover value (whether traded on- or off-exchange), but transaction fees on security futures transactions also contribute.

The *US Securities Exchange Act 1934* requires the SEC to annually set a fee rate — as a percentage of transaction value — that is reasonably likely to equal the annual appropriation. However, this fee rate can be adjusted by the SEC mid-year if necessary.

The SEC also has a reserve fund which can be used for the agency’s expenses under certain circumstances. The SEC is permitted to use up to \$100 million from this fund per year. Each year, \$50 million from transactions fees is deposited into the reserve fund. The remainder of the registration fees collected by the SEC are remitted to the US Treasury Department.

Question:

8. Are there any approaches to industry funding adopted by other regulators that you believe should be applied to an industry funding model for ASIC? If so, please describe and provide reasons why.

Chapter 4: The proposed industry funding model

Under an industry funding model, the costs of ASIC’s regulatory activities (including the costs of capital expenditure) would be recovered from industry through:

- annual supervisory levies that reflect the portion of ASIC’s activities dedicated to each of its regulated sectors; and
- fees-for-service that reflect ASIC’s actual costs in providing specific on-demand services to individual entities.

This chapter provides an overview of the Government’s proposed levy and fee arrangements and the activities intended to be funded by each arrangement.

Proposed levy arrangements

Under the Framework and the Guidelines, the costs of activities that cannot be attributed to a specific entity should be recovered through levies. Consequently, levies would be used to recover ASIC’s costs of:

- undertaking surveillance (which includes front-line supervision);
- enforcing the law;
- providing guidance;
- developing advice for the Government;
- engaging with stakeholders; and
- certain activities in relation to educating consumers and investors.

Table 2 summarises the industry sectors and sub-sectors regulated by ASIC that the Government intends to levy. Definitions of each sector and sub-sector can be found in **Attachment I**.

Table 2: ASIC’s Regulated Population

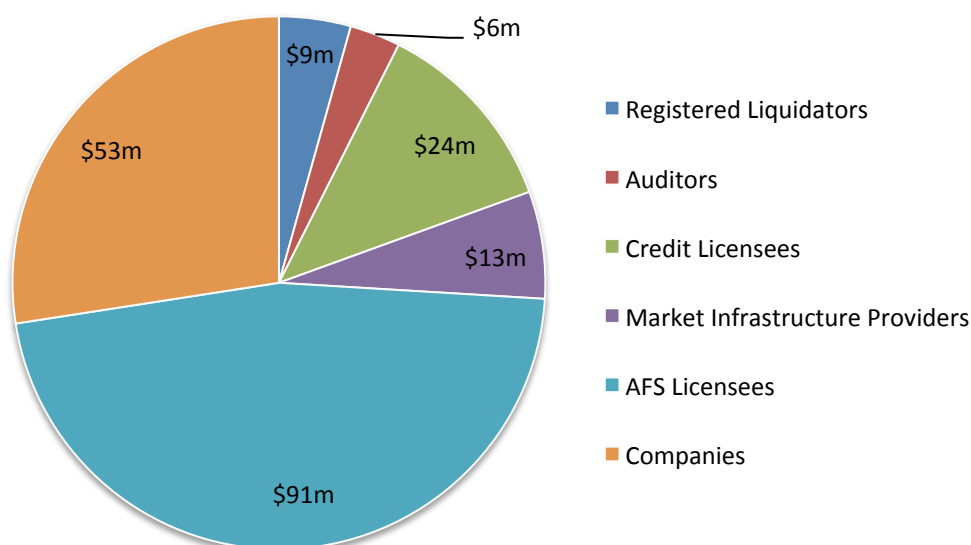
Industry Sector	Industry Sub-Sectors
Companies	<ul style="list-style-type: none">• Listed disclosing public companies• Non-listed disclosing public companies• Non-disclosing public companies• Large proprietary companies• Small proprietary companies
Australian Credit Licensees	<ul style="list-style-type: none">• Credit providers• Credit intermediaries

Table 2: ASIC’s Regulated Population (continued)

Industry Sector	Industry Sub-Sectors
AFS Licensees	<ul style="list-style-type: none"> • Deposit Product Providers • Payment Product Providers • Financial Advice Providers • General Advice Providers • Wholesale Advice Providers • Risk Management Product Providers • Investor Directed Portfolio Services Operators • Managed Discretionary Account Providers • Responsible Entities • Margin Lenders • Securities Dealers • Market Participants • Retail OTC Derivatives Issuers • Insurers • Trustees • Superannuation Trustees • Wholesale Trustees • Custodians • Investment Banks • Credit Rating Agencies
Registered Liquidators	
Auditors	<ul style="list-style-type: none"> • Registered Company Auditors • Authorised Audit Companies and Audit Firms • SMSF Auditors
Market Infrastructure Providers	<ul style="list-style-type: none"> • Authorised Australian Market Licence Holders • Clearing and Settlement Facility Licence Holders • Authorised Australian Derivative Trade Repository Licence Holders

Chart 3 provides an overview of ASIC’s forecast costs of regulating each industry sector in 2016-17. These costs include both ASIC’s cost of direct supervision and ASIC’s overhead costs. ASIC’s supervisory costs have been apportioned based on the time ASIC allocates to each sector. Overhead and capital costs have been apportioned to sectors in the same proportion as supervisory costs.

Chart 3: ASIC’s forecast costs of regulating each industry sector in 2016-17



Note: these costs do not reflect the forecast costs of fee-for-service activities or the costs of activities proposed not to be cost recovered.

Exempt Operators

In addition to the sectors to be levied, ASIC also regulates entities who rely on an exemption under ASIC's Class Order Instruments ('exempt operators').

Exempt operators include foreign financial service providers, some non-cash payment product providers, charitable investment schemes, entities relying on ASIC's group insurance relief in ASIC Class Order [CO 08/1] and exempt managed investment schemes such as horse breeding and racing, greyhound breeding and racing, some timeshare schemes and serviced strata schemes.

Even though these entities operate through an exemption in the law, ASIC still regulates these entities in regards to their obligations under the *Corporations Act 2001* (the Corporations Act), the ASIC Act and the conditions imposed by the relevant Class Order.

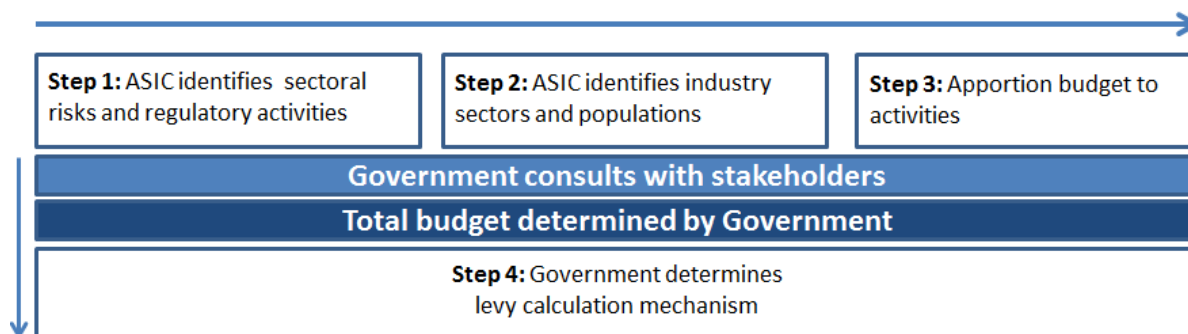
Due to data limitations, exempt operators will not be levied from the commencement of ASIC's industry funding model. The treatment of exempt operators will be revisited during the first methodology review of the industry funding model. As part of this process, the Government will identify the data that must be collected for these entities to be levied appropriately.

How will ASIC's levy mechanisms be determined?

ASIC's total funding will be that set out in the Commonwealth Budget estimates, adjusted for any relevant Government decision during the Commonwealth budget process.

The levies to be collected from industry sectors would be determined each year to cover the relevant shares of ASIC's budget funding for that year. Figure 1 illustrates how levies would be determined under an industry funding model.

Figure 1: Determining annual levies under an industry funding model



Step 1: Identify risks and the regulatory activities required

ASIC tracks the strategic and emerging risks in the industries that it regulates on an ongoing basis.

The nature of the risks identified as well as relative changes in the risks presented by each subsector are critical to determining the activities that ASIC will undertake.

ASIC also undertakes activities aimed at reducing regulatory burden on industry, such as working to improve the operation of existing regulatory requirements.

ASIC will communicate its views on risks to the markets and sectors it regulates and the activities it plans to undertake through its annual Strategic Outlook.

Step 2: Identify population of each industry sector

ASIC will determine the population of each of its regulated industry sectors. This will be based on the data contained in the industry registers.

Step 3: Apportion budget to completing activities and identify best proxy for supervisory intensity

ASIC will calculate the levies to apply to regulated entities for the coming financial year. The potential levy mechanisms for industry will be proposed to Government. The levy mechanisms will be determined with reference to ASIC's total budget to undertake regulatory activities.

In industry sub-sectors where different entities have different risk profiles and receive higher levels of supervision, a different mix of supervisory activities, or both, the levy mechanisms will include tiers. These tiers will be based on a proxy for ASIC's supervisory intensity to ensure that the levies payable by each entity match the cost of their regulation. As these tiers will generally not be applied in a graduated way, the levy for each regulated entity per unit of measure will differ. This approach has been taken in order to limit the complexity of the model.

Proxies for supervisory intensity have already been identified for the model outlined in this consultation paper. These proxies were developed by the Government in consultation with ASIC. To minimise the regulatory burden on industry, proxies for supervisory intensity have generally been limited to metrics that ASIC already collects data on.

The question of the most appropriate proxies for supervisory intensity will feature in all methodology reviews of the funding model.

Step 4: Finalise levy calculation mechanism

The Government will consult with industry on the proposed levy calculation mechanisms.

The Government will consider the feedback from consultation in its determination of ASIC's total funding and final levy calculation mechanisms. These will be communicated to industry through the budget process and the making of legislative instruments.

Attachment A to Attachment F detail the levies to apply to each of ASIC's regulated sectors. Levies for 2017-18 and beyond would be calculated in line with the methodology detailed above.

Where an entity provides multiple regulated services (that is, falls within more than one regulated industry sector), that entity would pay the levy that applies to each category of service it provides. There is no discount for entities that operate across a range of sectors or subsectors because ASIC's supervisory teams focus on the specific activities of regulated entities, rather than the entity in its entirety. Therefore, there are no efficiencies of scope for ASIC in regulating more complex entities.

ASIC's Strategic Outlook

As part of the Commonwealth Performance Framework requirements under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), ASIC must produce an annual corporate plan (its Strategic Outlook).

The Strategic Outlook must be published by 31 August each year, with reference to ASIC's budget.

The Strategic Outlook will set out ASIC's objectives and priorities (and strategies to achieve them) over the forward estimates period. It will set out key strategic risks and opportunities facing the sectors regulated by ASIC and the regulatory activities that ASIC will undertake in response.

The Strategic Outlook must also include information on how ASIC's performance will be measured.

How ASIC assesses risk

ASIC's assessment of the risks that each regulated sector presents, as well as the ways in which ASIC can assist the operation of regulated entities, is central to the activities that ASIC plans to undertake.

ASIC determines risk through a 'top down' and a 'bottom up' process. The 'top down' process:

- identifies underlying risk factors, such as information asymmetries, market structures and business conduct; and
- considers broader developments in the environment such as economic and market trends, demographic shifts, investor and consumer behaviour and technological developments.

This assessment of the risks present in regulated sectors is supplemented by ASIC's advisory panels' and internal risk committees' assessment of sectoral risks, as well as a 'bottom up' assessment of risks in specific sectors. ASIC's assessment of the likelihood and the potential impact of each risk identified is then used to determine the supervisory intensity required for each sector.

Question:

9. Is the proposed methodology for determining the levy mechanisms appropriate? If not, why not?

Proposed fee arrangements

Under an industry funding model for ASIC's regulatory activities, the Government would charge entities an ex-ante fee for the following regulatory activities: licensing and professional registration services; the processing of applications for relief lodged with ASIC; and ASIC's formal compliance review of documents lodged by entities under the Corporations Act. This is because these activities are completed at the request of a specific entity.

ASIC's fee-related regulatory activities are driven by the different form types it receives. In 2014-15, fee-related activities represented approximately 12 per cent of ASIC's total regulatory costs.

The Government already charges industry lodgement fees for around 180 separate regulatory forms, however these fees do not accurately reflect ASIC's costs in processing and assessing these forms. Under an industry funding model, fees would be set to match ASIC's costs in processing and assessing these forms.

To determine the fees payable, ASIC has calculated the total amount to be recovered from each form type based on the total cost of actioning these forms. The average cost for each form is then calculated with reference to the volume of those forms to be processed in a year. This is based on historical volumes.

Under this model, the fees payable may not match ASIC's exact costs in all cases. This is particularly likely for fee-for-service activities that can vary widely in their complexity, such as notice of changes to operating rules. However, a more granular approach to determining the fees payable (for example, based on the complexity of the application) has not been taken. This is to ensure that regulated entities have certainty as to the fees payable and to ensure that fees do not discourage product or service innovations that may take a long period of time to approve in the first instance (and therefore cost more), but could be approved relatively quickly for firms that subsequently sought to compete.

Table 3 outlines the activities where costs will be recovered through fees. The specific fees proposed in relation to each of the below activities are detailed in **Attachment G**.

Table 3: Specific Fee-for-Service Activities

Activity	Affected sectors or sub-sectors
Document compliance reviews (such as prospectuses, compliance documents)	Companies (all sub-sectors) AFS Licensees (all sub-sectors)
Licence applications or variations	Australian Credit Licensees (all sub-sectors) AFS Licensees (all sub-sectors) Market infrastructure providers (all sub-sectors)
Applications for registration	AFS Licensees — Managed investment schemes Liquidators (all sub-sectors) Auditors (all sub-sectors)
Requests for changes to market integrity rules or procedures	Market infrastructure providers (all sub-sectors)
Applications for relief⁵	All sectors and sub-sectors

ASIC has determined that there are approximately 40 ASIC forms for which lodgement fees are used to support work across an industry, rather than activities undertaken for an individual entity. For example, the lodgement of annual compliance certificates for Australian Credit Licensees. In these cases, fees will be abolished and these activities funded by ongoing annual levies.

Attachment H contains a list of fees proposed to be subsumed into annual levies.

⁵ Different fees would apply to applications for relief depending on whether they are classified as 'standard', 'minor and technical' or 'novel'. This approach has been adopted to reflect the differing amounts of effort involved in processing each type of application for relief.

Questions:

10. Are there any activities proposed to be recovered through fees that you believe should be collected through annual levies? If so, which activity or activities and why?
11. Is the proposed approach for calculating fees-for-service appropriate? If not, why not?
12. Do you have any suggestions for how the proposed methodology for calculating fees-for-service could be modified? If so, please provide details.

Chapter 5: Determining ASIC's annual levies and ensuring funding accountability

This chapter provides an overview of the process to determine ASIC's annual levies, funding accountability and other review processes that the Government proposes to adopt to support industry funding.

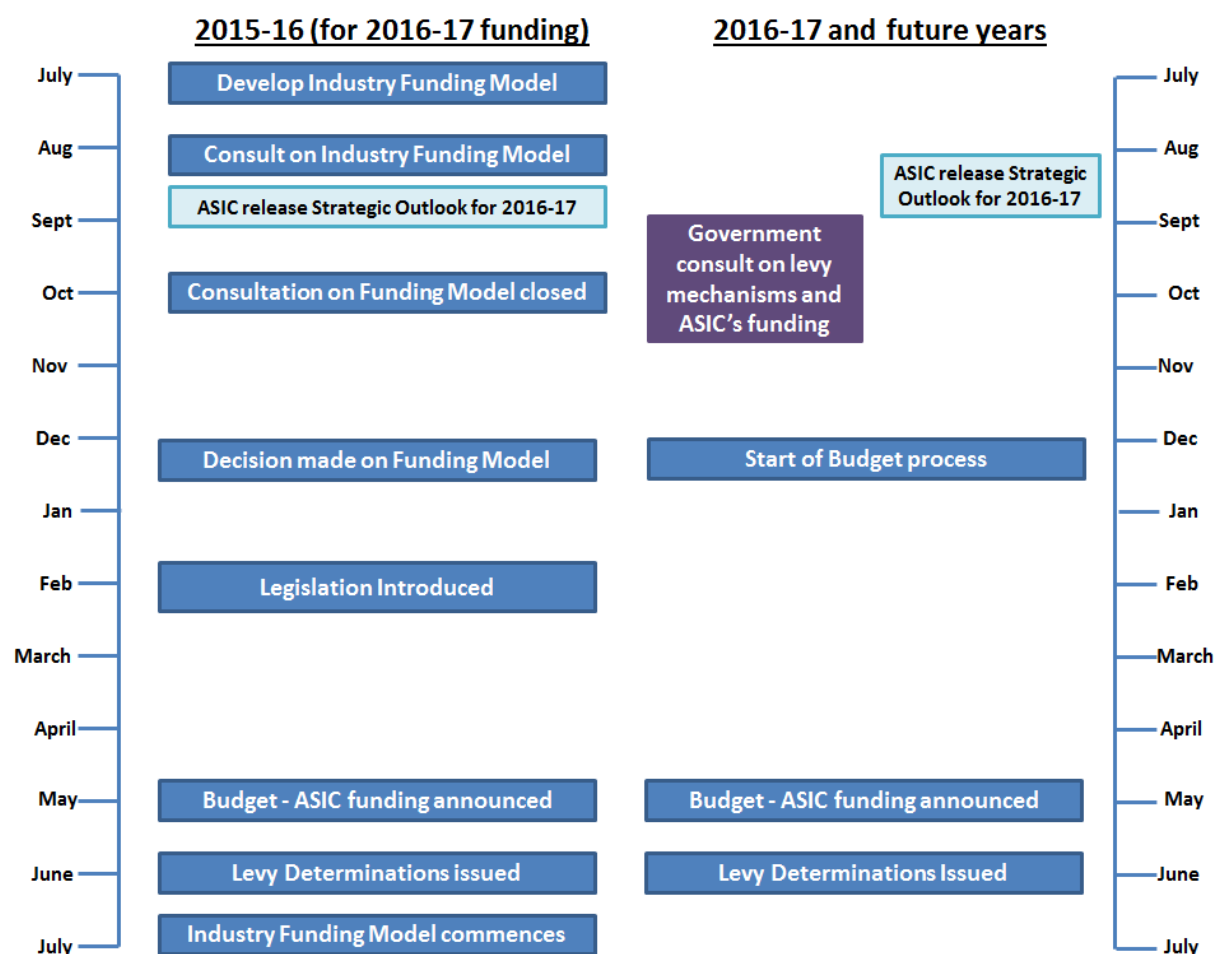
Stakeholder engagement would be central to an industry funding model for ASIC's regulatory activities. Effective engagement will enable industry to work with the Government to create a more efficient and stable regulatory system that both meets the Government's regulatory objectives and results in more efficient and effective cost recovery arrangements.

The Government would continue to determine ASIC's total funding through the annual budget process. To inform the Government's budget considerations, in September each year (from September 2016):

- consistent with the Framework and Guidelines, stakeholders would have the opportunity to comment on whether funding levels are appropriate and cost recovery charges are being minimised through the efficient implementation of cost recovered — given the specific policy outcomes and legislation;
- the Government also will consult on the proposed levy mechanisms for the next financial year, as required to recover the relevant industry shares of the existing budget estimates; and
- to support the consultation, ASIC will explain how it intends to respond to emerging or changing strategic and organisational priorities in the coming financial year, as part of its Strategic Outlook.

Chart 4 provides an overview of the proposed arrangements.

Chart 4: Proposed consultation and review process for the industry funding model



If it is necessary for Government to respond to urgent and unforeseen policy requirements or market events, the Government may provide funding to ASIC outside of the budget process. Any additional funding may be recovered in the next financial year, if appropriate and in line with the Framework and Guidelines.

Other review processes

Fees

Every three years, the Government will consult on ASIC's fees. Details on these amounts will be included in the Government's annual consultation on the proposed levy mechanisms for ASIC. Determining fee amounts every three years would provide certainty for regulated institutions and provide an incentive for ASIC to ensure that it is delivering its services at most efficient cost. If there is an unforeseen change to the work required to provide a particular fee-for-service, consultation on ASIC's fees may need to occur earlier.

The Government seeks views on whether the fee schedule should be reviewed more frequently to ensure that investments in technology and process improvements are reflected in a timelier manner.

Methodology

Every five years, in line with the requirements of the Framework and the Guidelines, the Government will undertake a comprehensive review of the methodology underpinning ASIC's industry funding model. This review would seek stakeholders' views on all aspects of the industry funding model, including: the categorisation of sectors, the activities to be funded by industry, the appropriateness of the proxies for supervisory intensity and the levy tiers applied.

Questions:

13. Do you support the proposed process for determining funding for ASIC's regulatory activities under an industry funding model for ASIC? If not, why not?
14. Do you think this process will provide industry with certainty as to the fees and levies to be charged? If not, why not?
15. Are the proposed consultation arrangements on the levy mechanisms and funding appropriate?
16. Do you support ASIC's fees-for-service being revised every three years? Alternatively, would you prefer that ASIC's fees-for-service be revised more regularly?

Future enhancements to ASIC's funding model and accountability structure

If the Government decides to introduce an industry funding model:

- at the end of each financial year, ASIC will publicly report on its performance relative to its stated objectives in its Annual Report.
- ASIC will produce an annual Cost Recovery Implementation Statement (CRIS), to reflect the costs behind each fee and levy and how these costs have been determined. Industry will be given an opportunity to comment on a draft CRIS before it is finalised.
- Government will form a Cost Recovery Stakeholder Panel (see additional information below).
- Government will work with ASIC and industry to improve the robustness of ASIC's levy mechanisms. For example, ASIC is considering introducing time-recording to confirm the attribution of its regulatory costs. This will help to ensure that the government's levies and fees are determined as accurately as possible.

Cost Recovery Stakeholder Panel

If an industry funding model is adopted, the Government would establish an ASIC Cost Recovery Stakeholder Panel.⁶ This Panel would be responsible for providing views to the Government on the implementation and delivery of an industry funding model.

The new Cost Recovery Stakeholder Panel would include representatives from the Treasury, ASIC and each industry sector. Given the size of ASIC's regulated population this Panel would be supported by working groups representing each industry sector, which would report to the Panel on a regular basis. This will ensure that stakeholders' views are considered by the Panel.

The Panel's final structure and governance arrangements will be informed by feedback on this consultation paper to ensure that the Panel meets stakeholders' requirements.

Questions:

17. Do you have any further suggestions for enhancements to be made to ASIC's accountability structure or industry funding model? If so, please provide details.
18. How should the Cost Recovery Stakeholder Panel operate? How should the membership be determined?

⁶ The current ASIC Market Supervision Cost Recovery Stakeholder Panel will be subsumed into the new Cost Recovery Stakeholder Panel if Government decides to introduce an industry funding model for ASIC's regulatory activities.

Chapter 6: Phase-in arrangements and levy administration

The Government would ensure that industry is given time to prepare for an industry funding model.

Chapter 6 provides an overview of the proposed phase-in and administrative arrangements for industry funding in order to assist industry in their planning.

Phase-in arrangements

To minimise the burden of an industry funding model on business, the Government would phase-in any levies over three years (see Table 4). This would allow industry time to prepare their systems to, for example, be able to provide additional data to ASIC and manage their cash flow to meet new levies.

Table 4: Phase-in arrangements for ASIC’s industry funding model

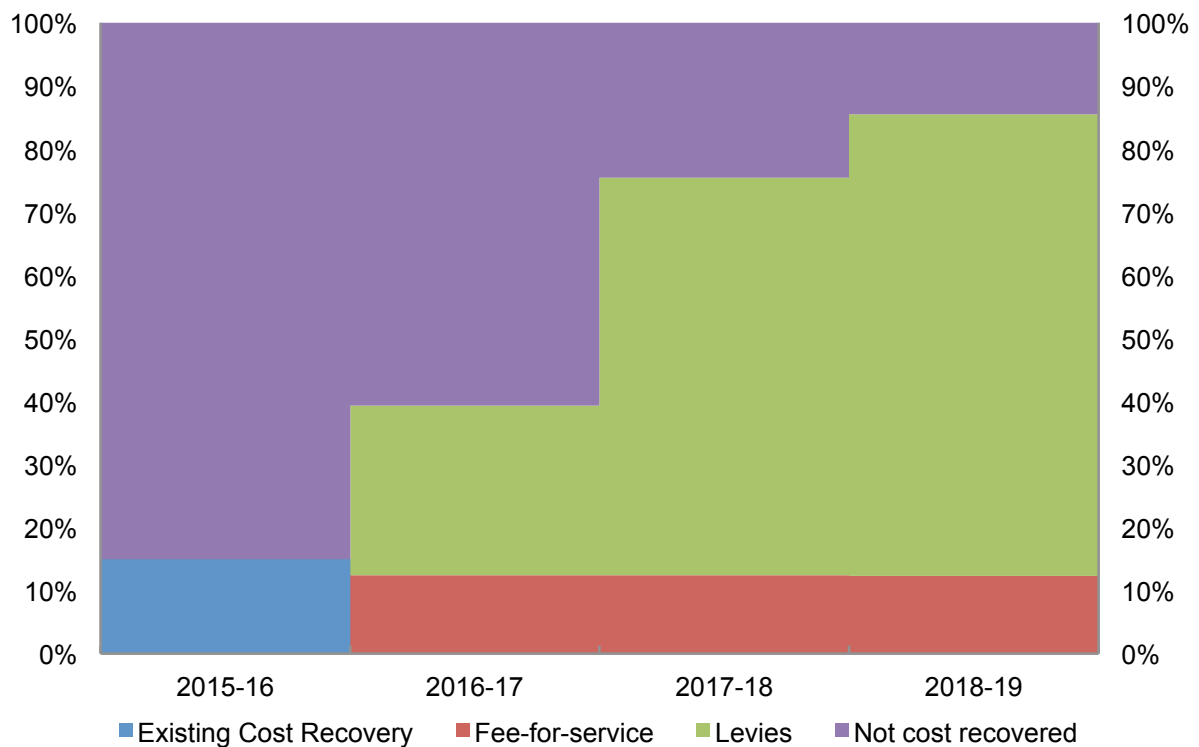
Key Date	Milestone
1 July 2016	Set fees to recover 100% of ASIC’s fee-for-service activities. Set levies to recover 50% of ASIC’s costs attributable to the financial services industry ⁷
1 July 2017	Set fees to recover 100% of ASIC’s fee-for-service activities Set levies to recover 100% of ASIC’s costs attributable to the financial services industry Set levies to recover 50% of ASIC’s costs attributable to remaining industries
1 July 2018	Recover 100% of ASIC’s costs (subject to any exclusions)

Fees would not be phased in. As set out in Chapter 5, it is proposed that these fees will be reviewed every three years.

Chart 5 provides an overview of the source of ASIC’s funding over the phase-in period.

⁷ For the purpose of the proposed phase in levy arrangements, the financial services industry is defined as AFS Licensees, Market Infrastructure Providers and Australian Credit Licensees.

Chart 5: Percentage contributions to ASIC’s funding for regulatory activities



Note: These estimates are based on ASIC’s forecast levies, fees and total funding across the forward estimates period. Funding for ASIC’s regulatory activities in 2016-17 is forecast to equal approximately \$263 million, including a portion of ASIC’s departmental capital budget equalling \$16.6 million and funding for the Enforcement Special Account.

Questions:

19. Are the proposed arrangements for phasing in cost recovery levies appropriate? If not, what alternative approach would you suggest and why?
20. Is it appropriate to set fees to recover ASIC’s costs from 1 July 2016? Why or why not?

Levy administration arrangements

ASIC would administer all fees and levies. This will include issuing invoices, calculating and collecting late payment penalties and, where necessary, waiving payment of the whole or a part of the fee or levy or any late payment penalty. If a waiver were provided for any regulated entity, the cost of that entity’s regulation would be met by the Government.

Entities would become liable to pay a levy on 1 July each year and ASIC would issue invoices to cover the financial year in the following January. Entities would have 28 days to pay the levy. Where ASIC relies on information lodged by entities to calculate the levy payable, that information will be due for lodgement by 31 October.

Under an industry funding model, over or under collections could occur for a number of reasons. For example, due to a change in the size of the regulated population or the recovery of enforcement costs. ASIC would manage any variation in levies collected between years, at the sector level.

For example, if ASIC had budgeted to collect \$60 million from Sector A in a given year but instead recovered \$65 million, the levies to be collected from Sector A in the following year would be reduced by \$5 million. This reduction would be apportioned across Sector A in the same way as ASIC's regulatory costs. If ASIC under collected in a given year, any shortfall would be recovered from the relevant sub-sector in the following year. See the example below.

Proposed treatment of over and under collections

Sector	Year 1 – Budgeted collections (\$ million)	Year 1 – Actual collections (\$ million)	Year 2 – Initial budgeted collections (\$ million)	Year 2 – Adjusted budgeted collections (\$ million)
Sector A	100	120 (+20)	110	90 (-20)
Sector B	120	110 (-10)	110	120 (+10)
Sector C	50	55 (+5)	60	55 (-5)
Sector D	75	75 (0)	80	80 (0)
Total	345	360 (+15)	360	345 (-15)

This approach is more appropriate than trying to balance under or over collections in the year that they are incurred. This is because, if invoices were issued to balance an under collection, the regulatory cost to industry could erode any benefit of additional levies not being collected in the same proportions.

In addition, in the case of an over collection, ASIC would have to expend resources to issue refunds to each entity in the applicable sub-sector and in the case of an under collection, issue additional invoices to each entity in the applicable sub-sector.

As ASIC's administrative costs will be recovered, the costs of processing refunds following an over collection would erode the value of any benefit associated with levies not being refunded in exactly the same proportions as they were collected.

To minimise administrative costs, entities entering the market during the year will not pay a levy for that year. These entities would be liable to pay a full-year's levy at the next levy imposition date.

Questions:

21. Are the proposed administration arrangements suitable? If not, why not?
22. Is it appropriate not to levy entities entering the market part way through the year? If not, how do you propose that these entities be treated?
23. Is it appropriate for the Government handle the over or under collection of levies through a reduction or increase in the levies payable for the next year? If not, why not?
24. Are additional arrangements necessary to ensure appropriate administration by ASIC of its

industry funding model? If so, please provide details.

Chapter 7: Consultation

The Government will consult on the introduction of an industry funding model for ASIC's regulatory activities in line with best practice requirements. No final decision will be made on the introduction of a new funding model until this consultation period and the ASIC Capability Review have concluded.

In addition to stakeholders' responses to the questions raised in this consultation paper and additional general comments, the Government's decision will also be informed by feedback from stakeholders regarding the potential regulatory burden or savings associated with the introduction of an industry funding model for ASIC's regulatory activities.

To improve the quality of regulation, the Government requires that all new Government proposals undergo a Regulation Impact Assessment in advance of a decision, in order to establish the impact of regulation on businesses, not-for-profit organisations and individuals, including quantifying compliance costs associated with regulation.

Where possible, submissions should identify any additional compliance costs (or savings) that would be associated with the introduction of an industry funding model for ASIC compared to the status quo and, where possible, estimates of the time requirements or dollar quantum of these costs. Note that for new regulations, the base case would be the scenario where there is no regulation, while for proposals that amend existing policy, the base case would be the previous, non-amended situation.

There are three types of regulatory costs that are considered under a Regulation Impact Assessment:

- administrative costs — the costs incurred primarily to demonstrate compliance with the regulation or to allow government to administer the regulation (for example, keeping records, filling in forms, or conducting internal audits and inspections);
- substantive compliance costs — costs that directly lead to the regulated outcome (for example, training, providing information to third parties, and operations); and
- delay costs — expenses incurred through having to complete an application or wait for an application approval (for example, waiting for an application for relief to be finalised).

The Government is also committed to consulting on any legislation and legislative instruments required to implement an industry funding model for ASIC's regulatory activities.

Attachment A – Funding Model for Companies

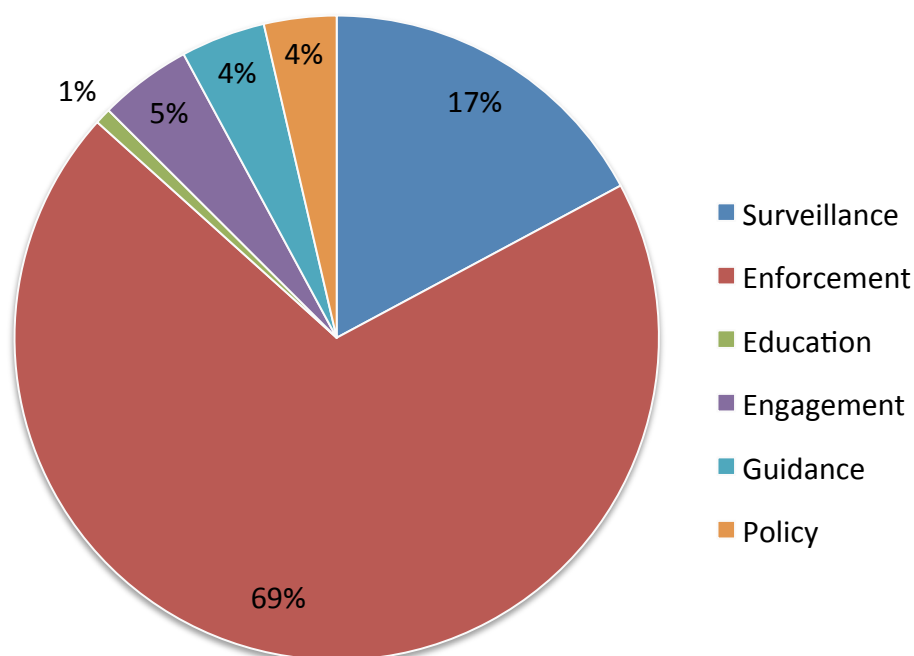
In 2016-17, the Government proposes to recover around \$53 million through levies on companies. ASIC's oversight works to increase the reputation of Australia's capital markets and decrease companies' capital costs.

There are around 2,000 listed public companies, 3,000 unlisted, disclosing public companies and 19,000 unlisted, non-disclosing public companies. There are around 9,000 large proprietary companies and 2.1 million small proprietary companies. ASIC regulates conduct and disclosure by corporations in Australia with a particular focus on corporate governance and corporate transactions (such as fundraising, takeovers and schemes of arrangement) and on financial reporting. ASIC also promotes confidence in Australia's capital markets — for example, by taking enforcement action against directors who have breached their duties.

Because each type of company has separate requirements under the Corporations Act, the activities that ASIC undertake and the intensity of regulation required differ for each type of company. For example, ASIC dedicates more resources to regulate publicly listed, disclosing companies than to small proprietary companies, as publicly listed companies and disclosing entities have the potential to cause greater harm to consumers and the integrity and reputation of Australia's financial markets.

Chart A1 provides an overview of the regulatory activities to be undertaken for companies in 2016-17.

Chart A1: Forecast regulatory activities for companies



To ensure each type of company pays a levy equal to the cost of its regulation, the Government is proposing:

- a tiered annual levy for public companies (listed, disclosing) based on market capitalisation;
- a flat annual levy for public companies (non-listed, disclosing);
- a flat annual levy for public companies (non-disclosing);
- a flat annual levy for large proprietary companies; and
- a flat annual levy for small proprietary companies.

Proposed Levy Arrangements — Public Companies (Listed, Disclosing)

The proposed levies payable by publicly listed, disclosing companies will be based on their market capitalisation, as at 30 June of the prior financial year. The final levies will be based on their market capitalisation as at 30 June of the current financial year.

Market capitalisation has been used as a proxy for ASIC's supervisory intensity because the intensity of ASIC's regulation varies depending on the scale of the company's operation. Larger entities, generally pose a higher risk to the Australian economy as the number of investors and the entity's significance to the market is high.

However, as ASIC's costs of supervising publicly listed, disclosing companies do not fall below (due to fixed costs) or rise above (due to economies of scale) certain thresholds, their levies will be subject to a minimum and maximum.

A minimum levy will be charged for all companies with a market capitalisation of less than \$20 million. The levy payable by publicly listed disclosing companies will then increase for each dollar of market capitalisation until the maximum levy is reached. Companies with a market capitalisation of \$15 billion or more will pay the maximum levy. The minimum and maximum levies have been calculated with reference to ASIC's regulatory effort for this type of company.

Figure A1 depicts the proposed levy arrangements. Table A1 provides an overview of the levies proposed to be payable by public companies (listed, disclosing).

Figure A1: Proposed levy arrangements for publicly listed, disclosing companies

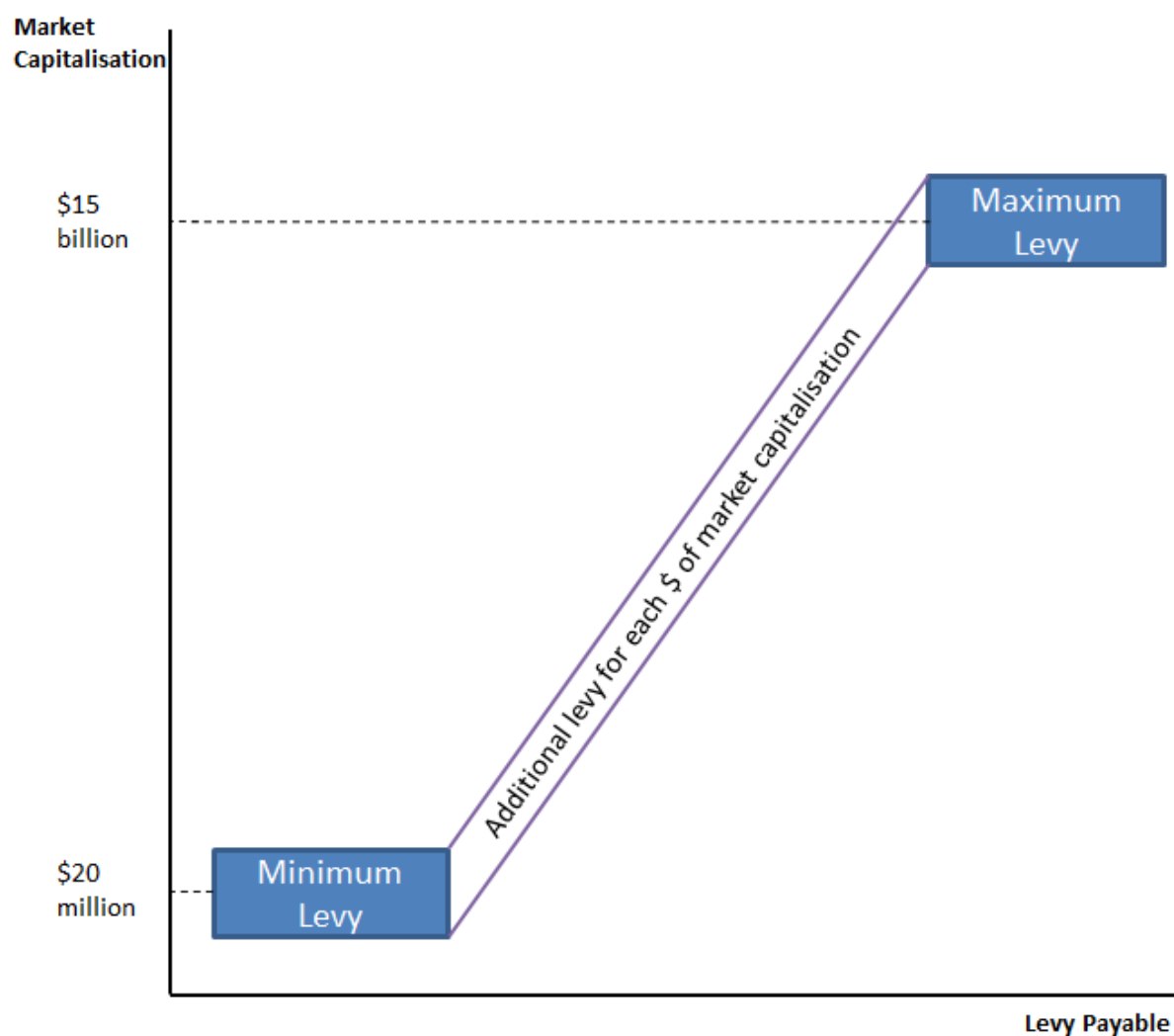


Table A1: Proposed Levy Arrangements — Public Companies (Listed, Disclosing)

	Number of entities	Minimum Levy (market capitalisation less than or equal to \$20 million)	Levy for each additional \$1 in market capitalisation between \$20 million and \$15 billion	Maximum Levy (market capitalisation more than or equal to \$15 billion)
Public company (listed, disclosing)	2,000	\$6,000	0.000023	\$320,000

Proposed Levy Arrangements — Other Company Sub-Sectors

Flat annual levies are proposed for public companies (non-listed, disclosing), public companies (non-disclosing), small and large proprietary companies. This is because companies in each sub-sector require generally the same level of ASIC supervision.

Table A2 provides an overview of the levies proposed to be payable by other company sub-sectors.

Table A2: Proposed Levy Arrangements – all other company sub-sectors

	Population	Annual Levy
Public company (non-listed, disclosing)	3,000	\$920
Public company (non-listed, non-disclosing)	19,000	\$160
Large proprietary company	9,000	\$350
Small proprietary company	2,100,000	\$5

Example 1:

Company A is a publicly listed, disclosing company, with a market capitalisation of \$8.75 billion.

Company A's levy will equal:

The minimum levy for public companies (listed, disclosing):	\$6,000
A levy for each additional \$1 in market capitalisation:	\$200,790 (0.000023 x \$8.73 billion)
Total levy payable by Company A :	<u>\$206,790</u>

Questions:

25. Are the proposed arrangements for company levies appropriate? Why or why not?
26. Will the proposed levy arrangements for companies be competitively neutral? If not, why not?
27. Will the proposed levy arrangements for companies support innovation? If not, why not?
28. Will the proposed levy arrangements for companies support small business?
If not, why not?
29. Do you have any concerns with 31 March being used as the assessment date for determining market capitalisation? If so, why and what date would you prefer?

Attachment B – Funding Model for Australian Credit Licensees

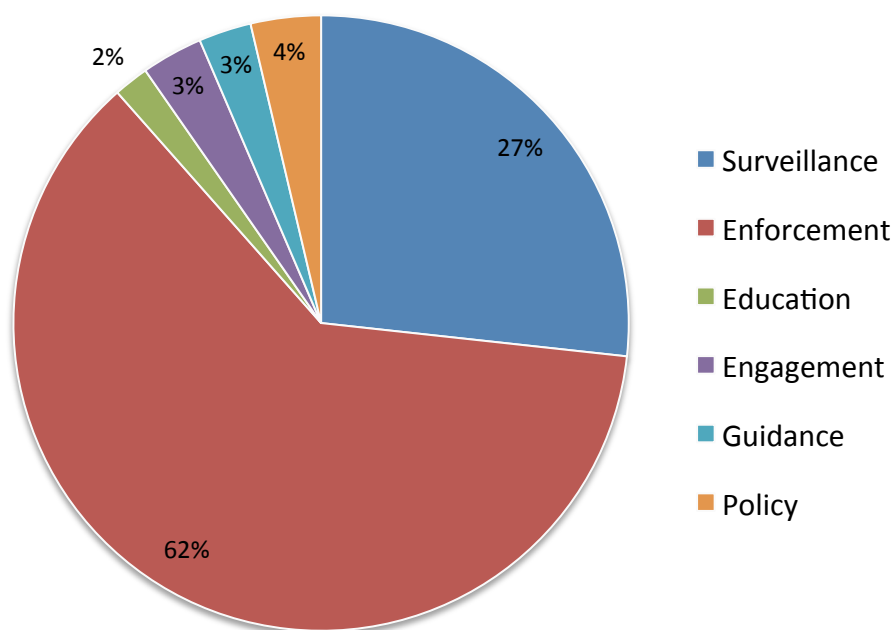
In 2016-17, the Government proposes to recover around \$24 million through levies on Australian Credit Licensees (Credit Licensees).

There are around 5,800 Credit Licensees with an authorisation to provide credit and/or other credit activities. They include credit providers such as Authorised Deposit-taking Institutions (that is: banks, credit unions and building societies) and credit intermediaries such as mortgage and finance brokers.

ASIC's regulation works to ensure the efficient operation of Australia's consumer credit regulatory regime. Regulation includes monitoring of Credit Licensees' compliance with their obligations under the *National Consumer Credit Protection Act 2009* (National Credit Act), identifying breaches of the National Credit Act and enforcement. ASIC also engages with stakeholders to ensure risks are identified and addressed and provides guidance to Credit Licensees regarding their legal obligations. Recent areas of focus have included reviewing and promoting compliance with the responsible lending and hardship obligations and taking action in response to the sale of inappropriate products.

Chart B1 shows the regulatory activities expected to be undertaken for Credit Licensees in 2016-17.

Chart B1: Forecast regulatory activities for Credit Licensees



The intensity of ASIC’s regulation varies depending on whether the Credit Licensee operates as a credit provider or an intermediary, as well as the scale of the Credit Licensee’s operation. For example, large credit businesses with significant customer bases present a more widespread risk to consumers’ wellbeing than smaller institutions and therefore require more regulatory attention. To ensure that the levies on Credit Licensees reflect ASIC’s costs, the Government is proposing to:

- introduce two levy categories — one for those entities that engage in credit activities as a credit provider and one for those that operate as credit intermediaries; and
- tier the levy payable by each category of entity with reference to the credit volume that they provide (as reported in the licensee’s annual compliance certificate (ACC)).

If a Credit Licensee holds authorisations as a credit provider and a credit intermediary they would be required to pay both levies. Table B1 details the levy payable by each category of Credit Licensee.

Table B1: Proposed Levy Arrangements — Australian Credit Licensees

Category/ Credit Volume	Number of entities	Tier 3: Less than \$200 million	Tier 2: \$200 million to \$1 billion	Tier 1: More than \$1 billion
Credit Provider	1,300	\$1,600	\$28,000	\$192,000
Credit Intermediary	5,100	\$890	\$26,000	\$260,000

These tiers are based on analysis of the portion of ASIC’s costs dedicated to regulating each category of Credit Licensee, as reported on the ACC. To avoid unnecessary complexity, the nine categories reported on the ACC have been consolidated into three tiers to reflect the average effort ASIC spends regulating the Credit Licensee population. For some entities on the edges of tiers, this may result in levies that are proportionately higher or lower relative to ASIC’s costs.

An alternative approach to calculating the levy payable by Credit Licensees would be to apply a graduated levy based on volume of credit provided. Similar to the levy for public companies (listed, disclosing), this option would involve imposing a minimum and maximum levy based on ASIC’s effort in regulating credit providers and intermediaries. A sliding rate per dollar of credit provided would then be charged until the maximum levy is reached.

This option may provide a better proxy for ASIC’s supervisory intensity than the tiers currently proposed. However, if this option was adopted for levying Credit Licensees, it would require each licensee to report the exact amount of credit provided in the previous year. This could be more administratively complex and introduce more variation in fees payable from year to year.

To ensure that levies are set appropriately, ACC forms will be required to be lodged on a single date.

Example 2:

Company B is a large proprietary company that holds an Australian Credit Licence (ACL) and provided \$400 million of credit in 2015-16.

Company B's annual levy will equal:

The levy for large proprietary companies:	\$350
A levy for holding an ACL and providing credit (Tier 2):	\$28,000
Total levy payable by Company B :	<u>\$28,350</u>

Example 3:

Company C is a publicly listed disclosing company with a market capitalisation of \$20 billion. It also holds an ACL and provided \$2 billion of credit in 2015-16. It played an intermediary role for a further \$700 million of credit in that year.

Company C's annual levy will equal:

The maximum levy for public companies (listed, disclosing):	\$320,000
A levy for holding an ACL and providing credit (Tier 1):	\$192,000
A levy for holding an ACL and acting as a credit intermediary (Tier 2):	\$26,000
Total levy payable by Company C :	<u>\$538,000</u>

Questions:

30. Do you support the proposed arrangements for Credit Licensees' levies? Why or why not?
31. Will the proposed levy arrangements for Credit Licensees be competitively neutral? If not, why not?
32. Will the proposed tiering arrangements support the growth of Credit Licensees? Why or why not?
33. Will the proposed levy arrangements for Credit Licensees support innovation? If not, why not?
34. Will the proposed levy arrangements for Credit Licensees support small business? If not, why not?
35. Do you believe that a graduated approach to determining the levy payable by Credit Licensees would be preferable to the proposed levy arrangements? Why or why not?

Attachment C – Funding Model for AFS Licensees

In 2016-17, the Government would recover around \$91 million through a levy on AFS Licensees.

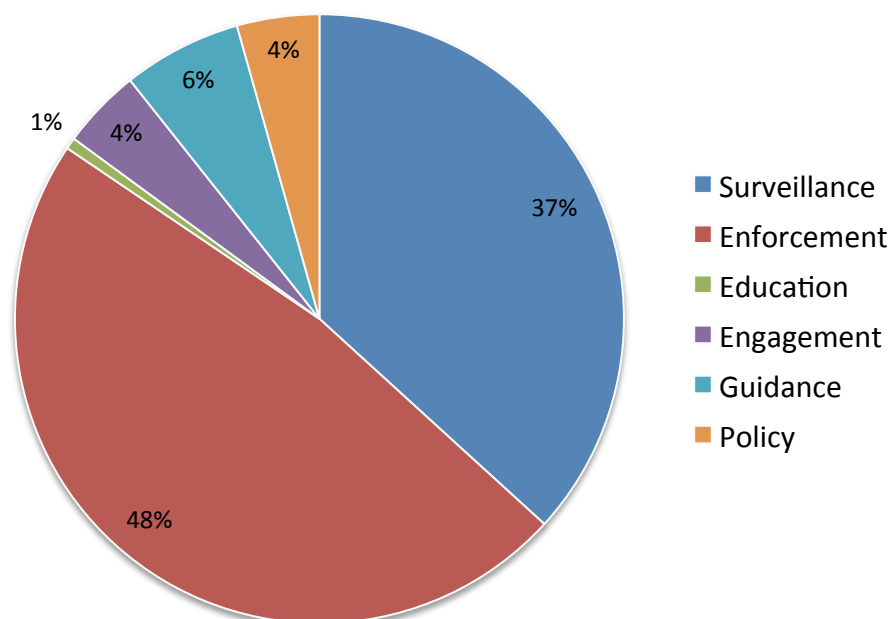
There are around 5,100 AFS Licensees. They comprise a diverse range of financial services businesses, including Responsible Entities, Financial Advisers, Deposit and Payment Product Providers, Insurers, Market Participants, Credit Rating Agencies and Investment Banks.

A large number of resources are dedicated to the supervision of AFS Licensees. This is due to the large number of interactions that AFS Licensees have with retail and institutional investors and financial markets. ASIC monitors licensees' compliance with their obligations under the Corporations Act through a range of proactive and reactive surveillances and takes disciplinary action where there are breaches of the law.

ASIC also provides guidance and education to industry in response to regulatory reforms, as well as market innovations and structural changes.

Chart C1 provides an overview of the regulatory activities expected to be undertaken for AFS Licensees in 2016-17.

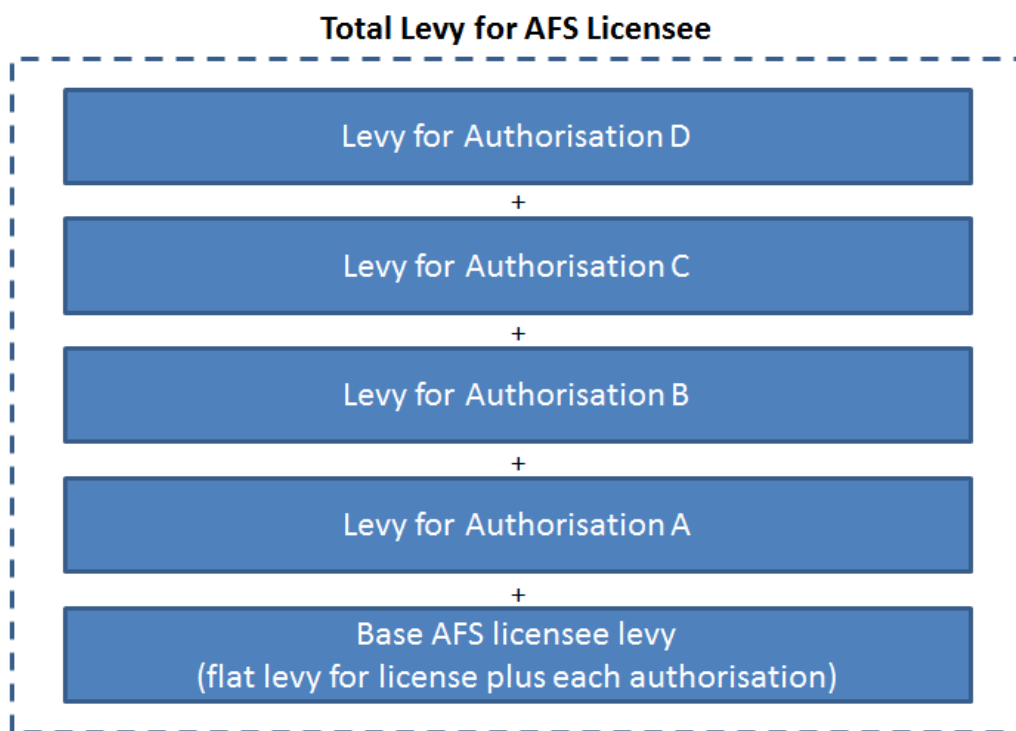
Chart C1: Forecast regulatory activities for AFS Licensees



The scale of ASIC's supervision of AFS licensees is driven by the number of authorisations that each licensee holds and, for some authorised activities, the scale of those activities. So that the levy payable reflects ASIC's costs, levies for AFS Licensees would equal the sum of:

- a flat, base levy of \$250 for the licence and each licence authorisation held by an AFS Licensee (reflecting ASIC's minimum cost of supervision); and
- additional levies for each authorisation that they hold (reflecting ASIC's supervisory costs for the services provided with those authorisations). Figure C1 depicts this arrangement.

Figure C1: Proposed annual levy calculation for AFS Licensees



Where ASIC’s supervisory costs differs between entities with the same authorisation (due to differing risk profiles), the levy for these authorisations will be tiered. The cut off points for each tier are based on analysis of the population of the regulated sub-sector and an estimation of how resources are allocated across them.

While this approach provides certainty for regulated entities, for some entities these tiers may result in levies that are proportionately high or low relative to ASIC’s cost of regulating them.

An alternative approach to calculating the levy payable for some authorisations would be to apply a graduated levy. Similar to the levy for public companies (listed, disclosing), this option would involve imposing a minimum and maximum levy based on ASIC’s effort in regulating these licensees. A sliding rate would then be charged until the maximum levy is reached.

This option may provide a better proxy for ASIC’s supervisory intensity than the tiers currently proposed for some authorisations. However, it would be administratively more complex and could result in more variable levies, which could erode industry certainty as to the levies to be payable.

Table C1 details the approach to determining the levy for each authorisation and Table C2 details the actual levy to be charged.

Table C1: Overview of tiering methodology for AFS Licensee sub-sectors

Authorisation	Tiering Methodology
Responsible Entities, Superannuation Trustees (excluding SMSF trustees)⁸	<p>Levies will be tiered based on the amount of funds under management (FUM).</p> <p>The tiers that will be applied are:</p> <ol style="list-style-type: none"> Greater than \$10 billion FUM; Greater than \$1 billion FUM; and Less than \$1 billion FUM.
Market Participants	<p>Levies will equal the sum of:</p> <ol style="list-style-type: none"> a fixed levy that will be recovered from all market participants; and a variable amount (payable only by participants in cash equity and futures markets) scaled relative to the proportion of transaction and message counts each entity places through ASIC's market surveillance system.
Deposit Product Providers	<p>Levies will be tiered based on the total value of deposit liabilities.</p> <p>The tiers that will be applied are:</p> <ol style="list-style-type: none"> Greater than \$100 billion in deposit liabilities; Greater than \$10 billion in deposit liabilities; and Less than \$10 billion in deposit liabilities.
Credit Rating Agencies	<p>Levies will be tiered depending on whether Credit Rating Agencies are subject to, or exempt from, the International Organization of Securities Commissions (IOSCO) Supervisory College membership.</p>
Financial Advice Providers	<p>A flat levy will be payable by personal financial advice providers only authorised to provide advice on Tier 2 financial products.</p> <p>Entities authorised to provide personal financial advice on Tier 1 products will be charged a base levy and an additional amount for each financial adviser that is registered on the Financial Advisers Register (FAR).</p>
Investment Banks⁹	<p>Levies will be tiered by the revenue of the AFS Licensee (as set out in their annual reports) or whether entities report.</p> <p>The tiers that will be applied are:</p> <ol style="list-style-type: none"> Revenue greater than \$250 million or assets greater than \$5 billion; Revenue between \$175-\$250 million and non-reporting entities; and All other Investment Banks.

⁸ That is, superannuation trustees that also hold an AFS licence. SMSF trustees will not be liable to pay a levy.

⁹ These tiers will only apply to the revenue and assets of the investment banking activities of an entity, rather than the activities of the consolidated group.

Table C1: Overview of tiering methodology for AFS Licensee sub-sectors (continued)

Authorisation	Tiering Methodology
Retail OTC Derivatives Issuers	<p>Levies will be tiered based on the amount of net tangible assets (NTA) an entity is required to have under the financial requirements in ASIC Class Order [CO 12/752] <i>Financial requirements for retail OTC derivative issuers</i>.</p> <p>The tiers that will be applied are:</p> <ol style="list-style-type: none"> NTA greater than \$1 million or entities that have applied for relief from NTA requirements; and NTA less than or equal to \$1 million.
Insurers	Insurance providers and distributors will pay different flat levies.

Table C2: Proposed Levy Arrangements — AFS Licensees

AFS Licensee sub-sector	Proposed Annual Levy		
	<i>Funds Under Management (FUM) will determine the levy payable</i>		
	Tier 3	Tier 2	Tier 1
	Less than \$1 billion FUM	\$1 billion to \$10 billion FUM	More than \$10 billion FUM
Responsible Entities	\$8,400	\$55,000	\$206,000
Superannuation Trustees (excluding SMSF trustees)	\$19,000	\$29,000	\$137,000
	<i>Participants will pay the sum of the fixed and variable component</i>		
	Fixed Component	Variable Component	
Market Participants	\$15,500	\$9 - \$1.7 million (depending on proportion of total message count)	
	<i>Deposit liabilities will determine the levy payable</i>		
	Tier 3	Tier 2	Tier 1
	Deposit liabilities equal to or less than \$10 billion	Deposit liabilities between \$10 billion and \$100 billion	Deposit liabilities more than \$100 billion
Deposit Product Providers	\$1,800	\$76,000	\$202,000
	<i>Credit rating agencies will be tiered on their IOSCO membership</i>		
	Non-IOSCO Member	IOSCO Member	
Credit Rating Agencies	\$20,000	\$40,000	
	<i>Tier 2 providers will pay a flat levy</i>	<i>Tier 1 providers will pay the sum of the fixed and variable levies</i>	
	Tier 2 Provider (Fixed)	Tier 1 Provider (Fixed)	Tier 1 Provider (Variable – rate per adviser on FAR)
Financial Advice Providers	\$750	\$1,350	\$470

Table C2: Proposed Levy Arrangements — AFS Licensees

AFS Licensee sub-sector	Proposed Annual Levy		
<i>Investment banks will pay one type of levy depending on their categorisation</i>			
Investment Banks	Tier 3	Tier 2	Tier 1
	All Entities not in either other category	\$175 - \$250 million revenue (and non-reporting entities)	More than \$250 million revenue or \$5 billion assets)
	\$115,000	\$348,000	\$430,000
<i>Retail OTC issuers will pay one category of levy depending on the NTA they must hold</i>			
Retail OTC Derivatives Issuers	Tier 2	Tier 1	
	Less than or equal to \$1 million NTA	More than \$1 million NTA (or exempt)	
	\$48,000	\$95,000	
<i>Insurance issuers and distributors will pay different levies</i>			
Insurers	Product Issuer		Product Distributor
	\$31,000		\$1,500
The following sub-sectors will pay a flat annual levy			
Wholesale Trustees	\$1,700		
Trustees (excluding trustees for family trusts)¹⁰	\$12,000		
Payment Product Providers	\$5,600		
Securities Dealers	\$1,600		
Margin Lenders	\$6,400		
Operators of Investor Directed Portfolio Services	\$30,000		
Custodians	\$410		
General Advice Providers	\$520		
Wholesale Advice Providers	\$100		
Managed Discretionary Account Providers	\$2,400		
Risk Management Product Providers	\$2,300		

¹⁰ That is, a trustee company that holds an AFS licence. This does not include trustees for a family trust.

Example 4:

Company D is an investment bank with annual revenue exceeding \$250 million. The company is public and listed on an Australian financial market with a market capitalisation of \$20 billion.

The company also has an AFS licence with 25 licence authorisations and is a Margin Lender, Wholesale Advice Provider and Payment Product Provider.

Company D's annual levy will equal:

The maximum levy for public companies (listed, disclosing):	\$320,000
A levy for holding an AFS licence and 25 authorisations:	\$6,500 (26 x \$250)
A levy for being a Margin Lender:	\$6,400
A levy for being a Wholesale Advice Provider:	\$100
A levy for being a Payment Product Provider:	\$5,600
A levy for being an Investment Bank (Tier 1):	\$430,000
Total levy payable by Company D :	<u>\$768,600</u>

Example 5:

Company E is a small proprietary company providing financial advice with five employees who are registered financial advisers on the financial adviser register (FAR). The company is an AFS Licensee with two licence authorisations and is a Financial Advice Provider (advising on Tier 1 products) and a Securities Dealer.

Company E's annual levy will equal:

The levy for small proprietary companies:	\$5
A levy for holding an AFS licence and two authorisations:	\$750 (3 x \$250)
A levy for providing Tier 1 Financial Advice Provider (Tier 1):	\$1350
A levy for each Financial Adviser on the FAR:	\$2,350 (5 x \$470)
A levy for being a Securities Dealer	\$1,600
Total levy payable by Company E :	<u>\$6,055</u>

Example 6:

Company F is a large proprietary company that holds an AFS licence with two licence authorisations and is a market participant and a Retail OTC Derivative issuer. It is required to hold NTA of \$2.6 million to support the issue of retail OTC derivatives. As a market participant, they were responsible for 200,000 message counts in 2014-15 (1 per cent of the total \$13 million).

Company F's annual levy will equal:

The levy for large proprietary companies:	\$350
A levy for holding an AFS licence and two authorisations: (3 x \$250)	\$750
Levy for being an authorised Retail OTC Derivatives Issuer (Tier 1):	\$95,000
Fixed levy for being an authorised Market Participant:	\$15,500
Variable levy for being an authorised Market Participant:	\$130,000 (0.01 x \$13,000,000)
Total levy payable by Company F :	<u>\$241,600</u>

Example 7:

Company G is a large proprietary company. The company holds an AFS licence with one licence authorisation and is a responsible entity for a registered managed investment scheme, with around \$250 million funds under management:

Company G's annual levy will equal:

The levy for large proprietary companies:	\$350
A levy for holding an AFS licence and one authorisation: (2 x \$250)	\$500
A levy for being a Responsibility Entity with less than \$1 billion in FUM (Tier 3):	\$8,400
Total levy payable by Company G :	<u>\$9,250</u>

Example 8:

Company H is a publicly listed, disclosing company with a market capitalisation of \$5 billion. The company also has:

- an ACL as a credit provider (more than \$1 billion in credit volume) and a credit intermediary (more than \$1 billion in credit volume); and
- an AFS licence with 30 licence authorisations and is a Securities Dealer, Insurance Distributor, Financial Advice Provider (advising on Tier 1 products, with 20 registered financial advisers) and Payment Product Provider.

Company H's annual levy will equal:

The minimum levy for public companies (listed, disclosing):	\$6,000
A levy for each addition dollar of market capitalisation:	\$114,540 (0.000023 x \$4.98 billion)
A levy for holding an ACL and providing credit (Tier 1)	\$192,000
A levy for holding an ACL and acting as a credit intermediary (Tier 1):	\$260,000
A levy for holding an AFS licence and 30 authorisations:	\$7,750 (31 x \$250)
A levy for being a Securities Dealer:	\$1,600
A levy for being an Insurance Product Distributor:	\$1,500
A levy for being a Financial Advice Provider (Tier 1 – Fixed):	\$1,350
A levy for being a Financial Advice Provider (Tier 1 – Variable):	\$9,400 (20 x \$470)
A levy for being a Payment Product Provider:	\$5,600
Total levy payable by Company H :	<u>\$599,740</u>

Questions:

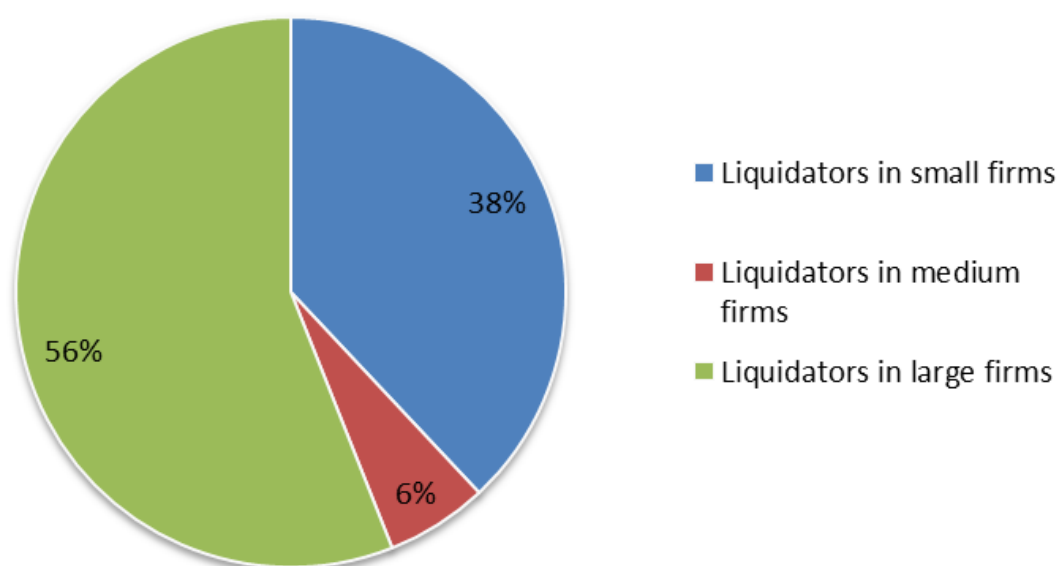
36. Do you support the proposed arrangements for AFS Licensees' levies? Why or why not?
37. Will the proposed levy arrangements for AFS licensees be competitively neutral? If not, why not?
38. Will the proposed tiering arrangements support the growth of AFS licensees? Why or why not?
39. Will the proposed levy arrangements for AFS Licensees support innovation? If not, why not?
40. Will the proposed levy arrangements for AFS Licensees support small business? If not, why not?
41. Will the proposed levy arrangements for AFS Licensees support access to financial services in regional Australia? If not, why not?
42. Do you believe that a graduated approach to determining the levy payable by AFS licensees, such as responsible entities and superannuation trustees, would be preferable to the proposed levy arrangements? Why or why not?

Attachment D – Funding Model for Registered Liquidators

In 2016-17, the Government would recover around \$9 million through a levy on registered liquidators. There are around 700 registered liquidators.

As at December 2014, 38 per cent of liquidators operated in small firms (involving one to four partners), 6 per cent operated within mid-sized firms (involving five to nine partners) and 56 per cent operated within larger firms with over ten partners. See Chart D1.

Chart D1: Distribution of registered liquidators



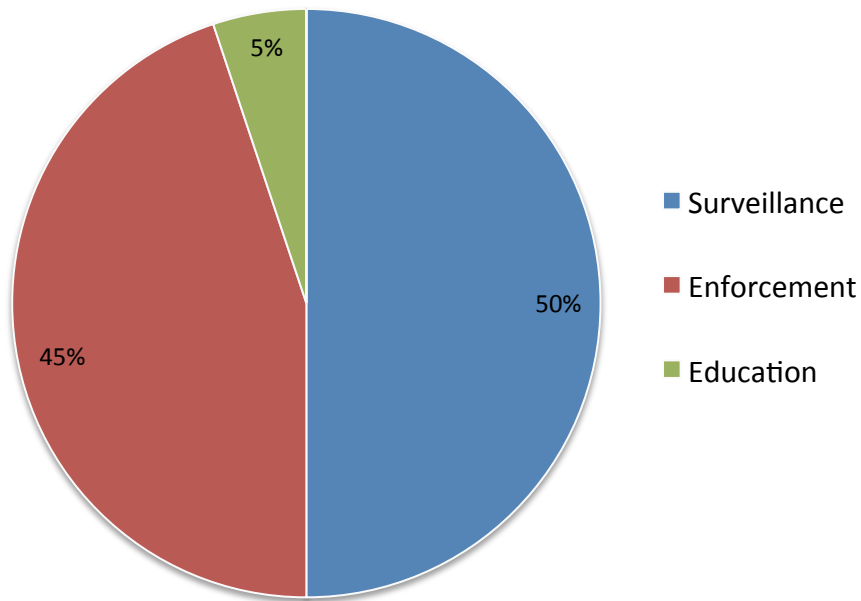
Registered liquidators are gatekeepers in the financial system and regulation works to ensure that liquidators fulfil their role diligently and transparently. Consequently, ASIC focuses on: competence; independence; and ensuring that liquidators do not improperly gain from their appointments.

To achieve this, ASIC:

- provides guidance to registered liquidators on ASIC's expectations in relation to specific issues and behaviours;
- undertakes proactive risk-based surveillance, reactive surveillance, and compliance projects; and
- takes enforcement action to punish breaches of the law.

Chart D2 provides an overview of the activities expected to be undertaken for liquidators in 2016-17.

Chart D2: Forecast regulatory activities for registered liquidators



This consultation paper seeks views on recovering the costs of regulating registered liquidators through either a flat levy or another, more granular, methodology for calculating the annual levy. If Government introduced a flat levy, it would equate to around \$12,700 per year and some liquidators would potentially pay a high proportional fee relative to their costs of regulation.

Alternatively, the Government could consider other methodologies for levying liquidators.

Two metrics are proposed. These are:

- ‘assets realised’, calculated based on the total assets realised during the relevant period in an external administration; or
- the number of administration appointments (new and ongoing) undertaken each year.

Under both approaches, with the proposed levy payable in the forthcoming financial year calculated by reference to the liquidator’s activity in the current year, the levy payable will not precisely match ASIC’s costs of supervision in the forthcoming year. However, this approach would avoid the regulatory burden that up-to-date reporting would impose and reflects the fact that liquidators’ activity across years tends to be reasonably consistent.

Tiering on assets realised

Basing the levy for registered liquidators on ‘assets realised’ would be a good proxy for supervisory intensity. A registered liquidator who realises a higher value of assets each year either undertakes more external administrations or completes administrations with higher asset values. As a result, they generally present a larger risk and require more regulatory oversight.

Levying liquidators on the basis of ‘assets realised’ would promote greater harmonisation between bankruptcy and corporate insolvency laws. It would be similar to the asset realisations charge administered by the Australian Financial Security Authority.

Notwithstanding these benefits, for registered liquidators with sophisticated risk management systems adopting an ‘assets-realised’ methodology may result in levies that are higher than the relative cost of regulating them.

ASIC does not currently collect asset realisation data electronically. The annual electronic administration return proposed in the *Insolvency Law Reform Bill 2014* could include asset realisation amounts.

Tiering on the number of external administration appointments

The number of external administration appointments undertaken reasonably predicts ASIC’s effort in regulating registered liquidators. That is, the more external administrations a registered liquidator undertakes, the more resources required to supervise that person.

However, for some registered liquidators, basing the levy on the number of appointments undertaken may not be a good proxy for supervisory intensity. For example, the levies payable are likely to be too low if the liquidator undertakes a low volume of appointments but each appointment has high asset values. In addition, due to the low volume of appointments, there is an increased risk that the firm’s procedures are not up to date and that the registered liquidator has not maintained their continuing professional education requirements. These factors lead to a higher regulatory risk.

In contrast, the levies would likely be proportionately high for liquidators that complete a large number of low value liquidations. In an extreme case, this could potentially result in a levy that exceeds their income from very low value liquidations.

Questions:

43. Which of the potential levy arrangements for liquidators do you support? Why?
44. Would any of the proposed levy arrangements for registered liquidators not be competitively neutral? If so, why?
45. Would any of the proposed levy arrangements for registered liquidators not support small business? If so, why?
46. Would any of the proposed levy arrangements for registered liquidators not support access to liquidators in regional Australia? If not, why not?

Attachment E – Funding Model for Auditors

In 2016-17, the Government would recover around \$6 million through a levy on auditors.

There are around 4,700 Registered Company Auditors and 7,100 Self-Managed Superannuation Fund (SMSF) Auditors. Audit Firms and Authorised Audit Companies that audit listed entities are also regulated by ASIC.

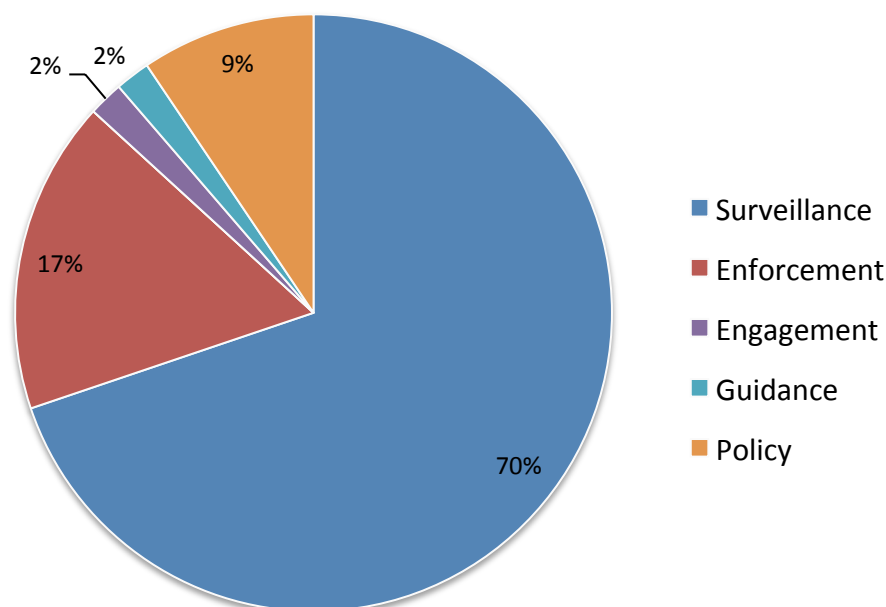
The regulation of auditors supports the operation of Australia’s financial markets by ensuring that data provided to the market by companies is credible and independently verifiable. This is reflected in ASIC’s ongoing focus on improving audit quality and the consistency of audit execution.

ASIC undertakes risk based reviews of auditors and takes action when the law is breached.

The regulatory resources that ASIC allocates to auditors and an audit firm firstly depends on whether they do or do not audit listed entities. This is because publicly listed disclosing companies represent the largest risk to consumers and participants in Australia’s financial markets. For those entities that audit listed entities, ASIC’s effort is further related to the value of work undertaken. This is because entities that are making substantial fee revenue are either auditing more complex companies, a larger number of companies, or a combination of the two. This increases the risk that poor audit practices within these firms would present to the broader operation of Australia’s markets.

Chart E1 provides an overview of the regulatory activities expected to be undertaken for auditors in 2016-17.

Chart E1: Forecast regulatory activities for auditors



The levies for Audit Firms and Authorised Audit Companies that audit listed entities would be apportioned according to the share of annual audit fee revenue that they earned. For example, if a firm earned \$15 million in audit fee revenue and the entire sub-sector earned \$150 million, that audit firm would be expected to pay 10 per cent of its sectors' regulatory costs for that sub-sector.

ASIC does not have access to annual audit fee revenue. Legislation may be required to require Audit Firms and Audit Companies to report this information.

ASIC's supervisory intensity for Registered Company Auditors and SMSF auditors is much lower than for those entities that audit public companies. ASIC's proactive supervision of these entities is comparatively lower due to the limited influence these firms have on financial markets. ASIC's primary activity for these subsectors is therefore enforcement, based on referral from the ATO (which is responsible for the broad regulation of SMSF auditors) and other community members.

Given the limited resources dedicated to Registered Company Auditors and SMSF Auditors, it is proposed that they would pay a flat levy. This is because any improvement in the apportionment of costs across these entities would be offset by additional complexity in the industry funding model.

The Government is not proposing to impose a levy on the audit business of registered Authorised Audit Companies that do not audit listed public companies. This is because ASIC's work on Authorised Audit Companies is targeted at the individual auditors within these firms who would be subject to pay the separate annual levy for Registered Company Auditors.

Table E1: Proposed Levy Arrangements — Auditors

Calculation Mechanism	
Authorised audit companies and audit firms that audit publicly listed entities	$(\text{Entity's Audit Fee Revenue} / \text{Total Audit Fee Revenue}) \times \text{ASIC's Costs}$ <i>ASIC's costs in 2014-15 were around \$4.5 million</i>
	Flat Levy
SMSF Auditors	\$60
Registered Company Auditors	\$170

Example 9:

Company I is a large proprietary company, registered as an authorised audit company. Their audit fee revenue from auditing listed entities was equal to \$8 million in 2014-15. The sector earned \$150 million in 2014-15.

Company I's annual levy will equal:

The levy for large proprietary companies:	\$350
A levy for being an authorised audit company:	\$240,000 (((\$8 million/\$150 million) x \$4.5 million)
Total levy payable by Company I:	240,350

Questions:

47. Are the proposed levy arrangements for auditors appropriate? Why or why not?
48. Is audit fee revenue an appropriate metric for determining the levy payable by entities that audit publicly listed companies? Why or why not? What alternative metric would you support?
49. Will the proposed levy arrangements for auditors be competitively neutral?
If not, why not?
50. Will the proposed levy arrangements for auditors support small business?
If not, why not?
51. Will the proposed levy arrangements for AFS Licensees support access to auditors in regional Australia? If not, why not?

Attachment F – Funding Model for Market Infrastructure Providers

In 2016-17, the Government would recover around \$13 million through a levy on market infrastructure providers (MIPs).

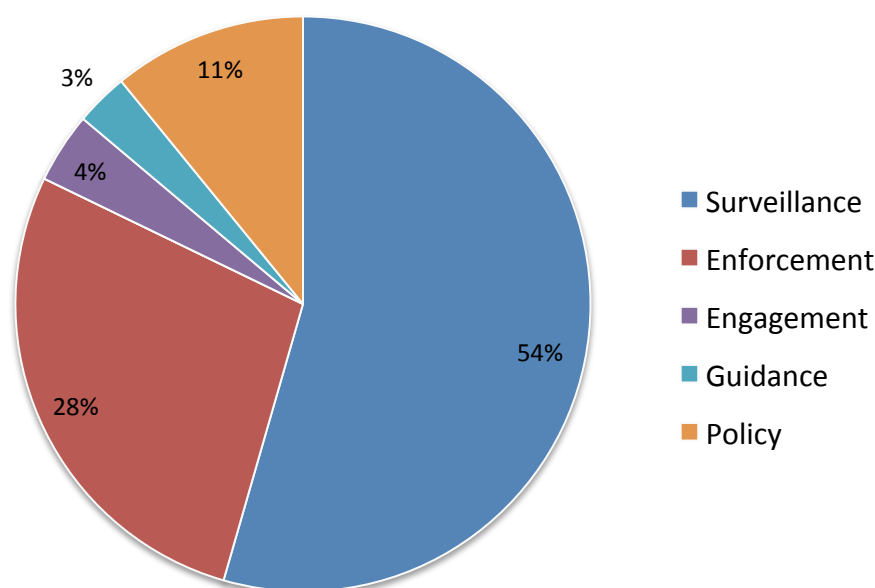
MIPs are entities that hold an Australian Market Licence, Clearing and Settlement Facility Licence Holders, Australian Derivative Trade Repository Licence Holders and entities that otherwise hold an exemption from the requirement to hold a licence (exempt markets). There are 18 Australian Market Licence Holders, seven Clearing and Settlement Facility Licence Holders and one Australian Derivative Trade Repository Licence Holder (however levies have been forecast on the basis that there may be other entrants). There are also 23 exempt markets.

ASIC's supervision of MIPs is critical to the operation of Australia's financial markets. ASIC assesses financial markets to ensure that MIPs comply with their obligations.

ASIC also provides policy and implementation advice to Government and provides regulatory guidance to industry. This includes guidance on standards and making market integrity rules.

Chart F1 gives an overview of the regulatory activities for MIPs in 2016-17.

Chart F1: Forecast regulatory activities for MIPs



As a result of the small population size, ASIC has determined its costs of regulating each entity in each MIP class. ASIC's regulatory costs are driven by its assessment of the risk that each MIP presents to the operation of Australia's financial markets. The holders of multiple licences would pay a levy for each category of licence that they hold.

ASIC currently collects around \$4 million from MIPs from fees charged under the current Market Supervision Cost Regime. Certain MIPs have been subject to the cost recovery arrangements for ASIC's market supervision activities since August 2010. In order to streamline any transition towards a broader industry funding model for ASIC, fees currently payable by MIPs would cease and be re-introduced in line with the proposed phase-in arrangements outlined in Chapter 6.

Table F1 presents the levy ranges to apply to MIPs. The proposed levy for each MIP has not been included in this paper to prevent information on individual taxpayers being made publicly available, but can, on request and during the consultation period, be provided to the firms involved.

Table F1: Proposed levy ranges for MIPs

Type of MIP	Proposed Annual Levy - Range
Australian Market License Holder - Domestic	\$116,000 - \$4,000,000
Australian Market License Holder - Foreign	\$12,000
Clearing and Settlement License Holder	\$34,000 - \$420,000
Trade Repository License Holders	\$93,000 - \$161,000
Exempt Markets	\$45,000

Australian Market Regulatory Feed (AMRF)

The AMRF is a messaging protocol. It allows for order and trade information to be provided to ASIC in real time. The AMRF is critical to ASIC's regulation of market participants and MIPs.

When a new product or systems change is proposed by a MIP, ASIC performs a detailed analysis of the potential impact of that product or change on the AMRF. An update to the AMRF may not be required where the relevant changes can be dealt with through a 'fast track option'. However, some changes or new products do require updates to the AMRF system. This can cost up to \$200,000.

It is proposed that AMRF changes will be funded by all MIPs through their annual levies.

An alternative approach would be for ASIC to recover the costs of updating the AMRF from the market operator that has required the update to be made. This would result in lower levies for all MIPs, but would result in a large fee for the relevant provider when an update to the AMRF is required. This could discourage product and market innovations in two ways:

1. It would punish first movers. This is because the MIP that developed a new product would be charged for the AMRF upgrade, while rival MIPs would be able to launch identical products without being charged; and
2. The upfront cost of implementing changes may inhibit socially valuable innovations.

Under such an alternate model, ASIC would be informed when a market operator proposed to make a change that requires an AMRF update (this is already a requirement). ASIC would then obtain a quote for the upgrades required before seeking the MIP's agreement to proceed with the upgrade.

Fees for Service

It is currently proposed that operating rule changes will be a fee-for-service activity. Given the number of operating rule changes processed each year, however, there may be scope within the Cost Recovery Guidelines for operating rule changes to be funded through annual levies instead.

Questions:

52. Are the proposed levy arrangements for MIPs appropriate? Why or why not?
53. Will the proposed levy arrangements for MIPs be competitively neutral? If not, why not?
54. Will the proposed levy arrangements for MIPs support innovation? If not, why not?
55. Do you prefer an alternative proxy for supervisory intensity on which to determine the levy payable by MIPs? If so, why is this metric more suitable?
56. Should the costs of maintaining the AMRF be collected from the entity responsible for making the change or from all MIPs through the annual levies? Please give reasons.
57. Should operating rule changes be funded by MIPs through annual levies or on a fee-for-service basis? Why or why not?

Attachment G – Proposed Fee Schedule

Table G1: Proposed Fees-for-Service for Professional Registration Forms

Form Code	Form Description	Fee charged in 2013-14	Proposed fee
NONUM1	Change of control for AFS licence	\$0	\$4,400
P-342	Application for consent to resign as auditor of a public company	\$37	\$470
P-5100A	Application for registration of a new managed investment scheme	\$2,225	\$3,500
P-5107	Notification of a change of responsible entity of a registered scheme	\$37	\$2,300
P-5108	Notification of appointment of temporary responsible entity	\$37	\$2,300
P-5112	Application for consent from ASIC to remove compliance plan auditor	\$37	\$470
P-5113	Application for consent from ASIC to resign as compliance plan auditor	\$37	\$470
P-5114	Notification of request by responsible entity to change compliance plan auditor	\$72	\$470
P-5132	Application for consent from ASIC for resignation of removal of scheme auditor	\$37	\$470
P-903AA	Application for registration as an individual auditor	\$166	\$3,100
P-903AB	Application for registration as an authorised audit company	\$299	\$2,600
P-903AC	Application for registration as an individual auditor — Paper	\$366	\$3,100
P-903AD	Application for registration as an authorised audit company — Paper	\$599	\$2,600
P-903BA	Application for registration as a liquidator	\$366	\$8,800
P-972	Application for registration as official liquidator	\$366	\$5,100
PF225	Pro Forma 225 Deed of mutual release	\$0	\$3,400
PF63	Pro Forma 63 Deed of subordination	\$0	\$3,400
P-SFREG	Application for registration of a self-managed superannuation fund auditor	\$100	\$1,700

Table G2: Proposed Fees-for-Service for Licensing Forms

Form Code	Form Description	Fee charged in 2013-14	Proposed fee
N/A5	Australian trade repository licence application	N/A	\$210,000
P-7015B	Application for discharge of dealers security	\$37	\$1,600
P-CL03	Vary authorisations or conditions of an Australian credit licence	\$108	\$3,500
P-CL11	Application for exemption or modification - credit	\$108	\$3,400
P-CL01AA	Australian credit licence application - Person/Sole trader, under \$100 million	\$484 - \$623	\$5,700
P-CL01AB	Australian credit licence application - Person/Sole trader, \$100 million - \$200 million	\$1,075 - \$1,383	\$5,700
P-CL01AC	Australian credit licence application - Body corporate, under \$200 million	\$1,075 - \$1,384	\$5,700
P-CL01AD	Australian credit licence application - All, \$200 million - \$600 million	\$4,303 - \$5,537	\$5,700
P-CL01AE	Australian credit licence application - All, \$600 million - \$1,000 million	\$8,860 - \$11,075	\$5,700
P-CL01AF	Australian credit licence application - All, \$1,000 million - \$1,400 million	\$13,289 - \$16,612	\$5,700
P-CL01AG	Australian credit licence application - All, \$1,400 million - \$1,800 million	\$17,719 - \$22,149	\$5,700
P-CL01AH	Australian credit licence application - All, \$1,800 million - \$2,100 million	\$22,149 - \$27,687	\$5,700
P-CL01AI	Australian credit licence application - All, over \$2,100 million	\$23,258 - \$29,072	\$5,700
P-CR762	Application for approval of guarantees under regulation 7.6.02AAA(3)(B)	\$37	\$5,700

Table G2: Proposed Fees-for-Service for Licensing Forms (continued)

Form Code	Form Description	Fee charged in 2013-14	Proposed fee
P-FS01A	Australian financial services licence application – Body Corporate Including limited AFS licence applications ¹¹	\$1,522	\$11,000
P-FS01B	Australian financial services licence application – Personal Including limited AFS licence applications ¹²	\$846	\$11,000
P-FS03	Application for variation of authorisation and other conditions of an Australian financial services licence	\$255	\$6,900
P-FS64	Request for voluntary suspension of an Australian financial services licence	\$37	\$2,300
P-FS65	Request to revoke an Australian financial services licence	\$37	\$2,200
P-M01	Australian markets licence application	\$1,484	\$210,000
P-M02	Request for Exemption - Australian markets Licence	\$1,484	\$52,000
P-M03A	Notice of changes to operating rules under section 793D - Domestic	\$150	\$52,000
P-M03B	Notice of changes to operating rules under section 793D - Overseas	\$150	\$2,100
P-M04	Request for Exemption - Australian clearing and settlement facility licence	\$1,484	\$52,000
P-M09	Vary conditions of an Australian markets licence	\$741	\$52,000
P-M10	Vary conditions of an Australian markets licence - Change of name	\$255	\$2100
P-M14	Vary conditions of a Australian clearing and settlement facility licence	\$740	\$52,000

11 Under the proposed model, applications for both limited and full AFS licence would have a fee of \$11,000. While the proposed fees accurately reflects ASIC's costs in assessing these licence applications, it may discourage entities from applying for a limited licence, which is contrary to the objective of increasing the availability of financial advice. The Cost Recovery Framework and Guidelines provide scope for the Government to not recover the full costs of certain activities when full recovery would be inconsistent with other policy objectives. Consequently, the Government is considering only partial cost recovery for limited AFS licence applications.

Table G2: Proposed Fees-for-Service for Licensing Forms (continued)

Form Code	Form Description	Fee charged in 2013-14	Proposed fee
P-M15	Vary conditions of a Australian clearing and settlement facility licence - Change of name	\$255	\$2,100
P-M18	Australian markets licence application - Special compensation arrangements	\$741	\$21,000
P-M19	Application to change a matter not in compensation rules	\$366	\$52,000
P-M20A	Notice of changes to operating rules section 822D - Domestic	\$150	\$52,000
P-M20B	Notice of changes to operating rules section 822D - Overseas	\$150	\$2,100
P-M21	Notice of change to a matter dealt with in compensation rules	\$150	\$52,000
P-M22	Australian clearing and settlement facility licence application	\$1,484	\$210,000

Table G3: Proposed Fees-for-Service for Document Compliance Review Forms

Form Code	Form Description	Fee charged in 2013-14	Proposed fee
N/A6	Document lodged as a condition of section 1084 – section 741 relief	\$0	\$160
N/A7	Offer document - Mutual recognition scheme	\$0	\$330
N/A8	Supplementary or replacement document - Mutual recognition scheme	\$0	\$160
P-395	ASIC Class order 08/15	\$0	\$50
P-488	Application to change the review data of a company or registered scheme	\$37	\$50
P-491	Change to managed investment scheme details	\$0	\$50
P-5021	Commencement of scheme deregistration	\$0	\$50
P-5030	Registration copy of explanatory statement	\$38	\$160
P-5057A	Related party benefits proposed notice, explanatory statement and accompanying documents	\$37	\$1,000
P-5101	Notification of a change to managed investment scheme's constitution	\$37	\$20

Table G3: Proposed Fees-for-Service for Document Compliance Review Forms (continued)

Form Code	Form Description	Fee charged in 2013-14	Proposed fee
P-5102	Notification of a change to managed investment scheme's compliance plan	\$37	\$20
P-5106B	Notification of a change to managed investment scheme's compliance plan	\$39	\$20
P-5111	Compliance plan audit report of a registered scheme	\$37	\$80
P-5115A	Notice of relief pursuant to section 601JB(3)	\$37	\$150
P-5126	Notification of retirement notice	\$0	\$50
P-5128	Notice of ratification of modification to deed	\$0	\$50
P-595	Draft explanatory statement regarding compromise or arrangement	\$763	\$3,900
P-6011	Notice of takeover offer sent to target - Off market	\$0	\$160
P-6021	Notice of compulsory acquisition following takeover bid	\$0	\$820
P-6022	Notice of right of buy out to remaining holder of securities following a takeover bid	\$0	\$160
P-6023	Notice of right of buy out to holders of convertible securities following takeover bid	\$0	\$160
P-6026	Notice of objection regarding compulsory acquisition buy out	\$0	\$820
P-6027	List of members objecting to compulsory acquisition / buy out	\$0	\$160
P-6181A	Bidder's statement and offer - Off market, Equities	\$2,225	\$5,300
P-6181B	Bidder's statement and offer - Off market, managed investment schemes	\$2,225	\$5,600
P-6201	Notice bidder's statement sent to shareholders	\$0	\$160
P-6261	Notice offer free of defeating condition - Off market	\$0	\$160
P-6291A	Target bidder's statement and documents sent to ASX - On market, equities	\$1,107	\$5,300
P-6291B	Target bidder's statement and documents sent to ASX - On market, managed investment schemes	\$1,139	\$5,600

Table G3: Proposed Fees-for-Service for Document Compliance Review Forms (continued)

Form Code	Form Description	Fee charged in 2013-14	Proposed fee
P-6321A	Notice of variation in takeover offer - On market	\$1,107	\$820
P-6321B	Notice of variation in takeover offer - Off market	\$1,107	\$820
P-670	Notice of date set for determination of holders of securities - Off market	\$0	\$160
P-675	Supplementary statement regarding takeover bid	\$0	\$820
P-7048A	Employee share scheme documents - Foreign entity	\$0	\$30
P-7048B	Employee share scheme documents - Australian entity	\$0	\$30
P-752	Document lodged in relation to short form prospectus	\$37	\$330
P-754B	Replacement prospectus for equities - Unquoted	\$0	\$1,600
P-754E	Replacement offer information statement equities	\$0	\$820
P-754G	Replacement short form prospectus for equities - Unquoted	\$0	\$1,600
P-764B	Prospectus for equities	\$2,225	\$2,300
P-764E	Offer information statement	\$2,225	\$1,300
P-764G	Short form prospectus for equities	\$2,225	\$2,300
P-764K	Product disclosure statement lodgement	\$2,225	\$100
P-766	Supplementary disclosure documents for equities	\$0	\$1,600
P-771	Application to approve trustee for debenture holders	\$72	\$16,000
P-F104	Acquisition approved by shareholders	\$0	\$2,100
P-FS5	Notification by foreign financial services provider by agent	\$0	\$50
P-FS59	Notification by foreign financial services provider	\$0	\$80
P-FS73	Audit IDPS or discretionary portfolio	\$0	\$50
P-FS79	Notice of reliance of Class Order 12/415	\$0	\$50

Applications for relief

The fees chargeable in relation to applications for relief will depend on the particular type of relief sought. Consequently, one application for relief may have multiple fees attached. Applications for relief fall into three categories:

- ‘Standard’ applications seek relief precisely in line with the terms of published ASIC policy and pro forma instruments.
- ‘Minor and technical’ applications are not completely standard but are clearly within the policy of the Corporations Act, existing ASIC policy, or other relevant legislation. While they may involve applying existing policy to new situations, the issues are not so significant as to require extensive consideration.
- ‘Novel’ applications require ASIC to formulate substantive new policy. This may be because they raise new policy considerations, involve more than minor or technical variations to existing policy, or involve a significant change to (or reversal of) existing policy.

If an application is neither standard nor minor and technical, it is automatically a novel application.

Table G4: Proposed Fees-for-Service for Applications for Relief

Form Code	Form Description	Fee charged in 2013-14	Proposed fee
N/A	Standard	\$0 - \$1,107	\$2,600
N/A	Minor / technical	\$0 - \$1,107	\$6,500
N/A	Novel	\$0 - \$1,107	\$21,000

Questions:

58. Are the proposed fee amounts for professional registration, licensing and document compliance review forms appropriate? If not, why not?
59. Do you think that the proposed fee amounts may act as a disincentive for some entities from submitting a professional registration or licence application, or a document for compliance review, with ASIC? If so, why?
60. Do you support the fee payable for applications for relief being tiered based on the complexity of the application? If so, why?
61. Are the proposed fee amounts for applications for relief appropriate? If not, why not?
62. Do you think that the proposed fee amounts may act as a disincentive for some entities from submitting applications for relief with ASIC? If so, why?
63. Would you support the Government only imposing partial cost recovery for applications for limited AFS licences? (See Form P-FS01A and P-FS01B).

Attachment H – Forms with lodgement fees to be abolished

Table H1: Forms that will have fees removed

Form Code	Form Description	Fee charged in 2013-14	Proposed fee
P-719	Statement about payments out of a development account	\$37	\$0
P-CL04	Change of credit licence name	\$25	\$0
P-CL08	Request to change credit licence status	\$25	\$0
P-CL20	Notification of change of credit licence details	\$25	\$0
P-CL30	Appoint a credit representative	\$25	\$0
P-CL31	Cease a credit representative	\$25	\$0
P-CL32	Vary the details of a credit representative	\$25	\$0
P-CL50AA	Australian credit licence annual compliance certificate - Person/Sole trader, under \$100 million	\$484	\$0
P-CL50AB	Australian credit licence annual compliance certificate - Body corporate, under \$100 million	\$1,075	\$0
P-CL50AC	Australian credit licence annual compliance certificate - All, \$100 million - \$200 million	\$1,075	\$0
P-CL50AD	Australian credit licence annual compliance certificate - All, \$200 million - \$600 million	\$4,303	\$0
P-CL50AE	Australian credit licence annual compliance certificate - All, \$600 million - \$1,000 million	\$8,608	\$0
P-CL50AF	Australian credit licence annual compliance certificate - All, \$1,000 million - \$1,400 million	\$12,911	\$0
P-CL50AG	Australian credit licence annual compliance certificate - All, \$1,400 million - \$1,800 million	\$17,215	\$0
P-CL50AH	Australian credit licence annual compliance certificate - All, \$1,800 million - \$2,100 million	\$21,519	\$0
P-CL50AI	Australian credit licence annual compliance certificate - All, over \$2,100 million	\$22,596	\$0
P-CL70	Australian credit licence - Trust account statement	\$108	\$0
P-FS06	Appointment of an auditor of an Australian financial services licensee	\$37	\$0
P-FS30	Appoint AFS licensee authorised representative	\$37	\$0

Table H1: Forms that will have fees removed (continued)

Form Code	Form Description	Fee charged in 2013-14	Proposed fee
P-FS31	Cease an AFS licensee authorised representative	\$37	\$0
P-FS32	Vary the details of an AFS licensee authorised representative	\$37	\$0
P-FS70A	Australian financial services licensee profit and loss statement and balance sheet - Body corporate	\$563	\$0
P-FS70B	Australian financial services licensee profit and loss statement and balance sheet - Natural person	\$231	\$0
P-FS70C	Australian financial services licensee profit and loss statement and balance sheet - Superfund trustee / Partnership	\$563	\$0
P-FS70D	Australian financial services licensee profit and loss statement and balance sheet - Body corporate non-disclosing entity	\$563	\$0
P-FS72	Application for extension of time to lodge annual accounts	\$37	\$0
P-FS88	PDS in-use notice	\$37	\$0
P-FT10	Application for extension of time to provide copy of register of members	\$37	\$0
P-M06	Report and financial statements under s892H(6)	\$366	\$0
P-M13	Australian markets licensee annual report to ASIC under s792F(1)	\$366	\$0
P-M29	Australian clearing and settlements licensee annual report to ASIC under s821E(1)	\$366	\$0
P-338	Application for approval of unregistered auditor of proprietary company	\$37	\$0
P-481A	Registered management investment scheme annual statement	\$1,113	\$0
P-5116	Notice of withdrawal offer regarding registered scheme	\$37	\$0
P-5131	Application for appointment of scheme auditor by member of a registered scheme	\$37	\$0
P-5138	Notification of commencement or completion of winding up of a registered scheme	\$37	\$0
P-5140	Notification of proposed change of name of registered scheme	\$37	\$0

Table H1: Forms that will have fees removed (continued)

Form Code	Form Description	Fee charged in 2013-14	Proposed fee
P-593	Application for extension of time to provide notice of hearing for a scheme	\$37	\$0
P-6010A	Application for voluntary deregistration of a managed investment scheme	\$37	\$0
P-7079	Supplementary or replacement identification statement	\$37	\$0
P-905A	Notification of ceasing to act or change to details of a liquidator	\$37	\$0
P-905B	Notification of ceasing to practise as or change to details of an auditor	\$37	\$0
P-905D	Notification of ceasing to practise as or change to details of an authorised audit company	\$37	\$0
P-908	Annual statement by a liquidator	\$150	\$0
P-912A	Annual statement by an auditor	\$72	\$0
P-912B	Annual statement by an authorised audit company	\$150	\$0
P-SFANL	Annual statement by a self-managed superannuation fund auditor	\$50	\$0
NONUM	Lodgement of notice on Insolvency Notice Website	\$145	\$0

Attachment I – Definitions of industry sectors and sub-sectors

Table I1: Proposed definition for industry sectors

Industry Sector	Proposed Definition
Company	A company registered under the Corporations Act, as defined in section 9 of the Corporations Act
Australian credit licensee	A holder of an Australian credit licence, as defined in section 5 of the National Credit Act
Australian Financial Services (AFS) licensee	A holder of an AFS licence, as defined in section 761A of the Corporations Act.
Auditor	<ul style="list-style-type: none"> An individual auditor or company auditor that consents to be appointed, or is appointed, as auditor of a company or registered scheme in accordance Part 9.2 and Part 9.2A of the Corporations Act. An approved SMSF auditor who is registered under section 128B, as defined in section 10 of the <i>Superannuation Industry (Supervision) Act 1993</i> (SIS Act).
Registered liquidator	A person registered as a liquidator under subsection 1282(2) of the Corporations Act— as defined in section 9 of the Corporations Act.
Market infrastructure provider	<ul style="list-style-type: none"> A person who holds an Australian Market Licence, an Australian Clearing and Settlement Facility Licence or an Australian Derivative Trade Repository Licence. A person that is exempted from the requirement to hold one of these licences under the Corporations Act.

Table I2: Proposed definition for industry sub-sectors

Industry Sub-Sector	Proposed Definition
COMPANIES	
Public company (listed, disclosing)	A public company as defined in section 9 of the Corporations Act, satisfying the ‘disclosing entity’ definition in section 111AC of the Corporations Act and listed on an Australian financial market.
Public company (non-listed, disclosing)	A public company as defined in section 9 of the Corporations Act, satisfying the ‘disclosing entity’ definition in section 111AC of the Corporations Act, which is not listed on an Australian financial market.
Public company (non-disclosing)	A public company as defined in section 9 of the Corporations Act, which does not satisfy the ‘disclosing entity’ definition in section 111AC of the Corporations Act.
Small proprietary company	A small proprietary company as defined in section 45A(2) of the Corporations Act.

Table I2: Proposed definition for industry sub-sectors (continued)

Industry Sub-Sector	Proposed Definition
COMPANIES (continued)	
Large proprietary company	A large proprietary company as defined in section 45A(3) of the Corporations Act.
Industry Sub-Sector	Proposed Definition
CREDIT LICENSEES	
Credit provider	A holder of an Australian credit licence with an authorisation to engage in credit activities as a credit provider.
Credit intermediary	A holder of an Australian credit licence with an authorisation to engage in credit activities other than as a credit provider.
Industry Sub-Sector	Proposed Definition
AUDITORS	
Approved SMSF auditor	An individual registered with ASIC as an approved SMSF auditor, as defined in section 10 of the SIS Act.
Audit firm	A firm that consents to be appointed, or is appointed, as auditor of a company or registered scheme, as defined in section 9 of the Corporations Act.
Authorised audit company	A company that is registered with ASIC as an authorised audit company under Part 9.2, as defined in section 9 of the Corporations Act, which satisfies section 1299B of the Corporations Act.
Registered company auditor	A person registered as a company auditor under Part 9.2, as defined in section 9 of the Corporations Act, which satisfies section 1280 of the Corporations Act.
Industry Sub-Sector	Proposed Definition
AFS LICENSEES	
Deposit product provider	An AFS licensee with an authorisation to deal, or arrange for a person to deal, in a financial product by issuing deposit products (including basic deposit and non-basic deposit products).
Payment product provider	An AFS licensee with an authorisation to deal, or arrange for a person to deal, in a financial product by issuing deposit and payment products limited to non-cash payment products.
Financial advice provider	An AFS licensee with an authorisation to provide personal financial product advice to retail clients in relation to Tier 1 and Tier 2 financial products.
General advice provider	An AFS licensee with an authorisation to provide general financial product advice to retail and/or wholesale clients.
Wholesale advice provider	An AFS licensee with an authorisation to provide: <ul style="list-style-type: none"> • wholesale financial product advice; or • financial product advice to wholesale clients only.

Table I2: Proposed definition for industry sub-sectors (continued)

Industry Sub-Sector	Proposed Definition
AFS LICENSEES (continued)	
Risk management product provider	An AFS licensee with an authorisation to deal, or arrange for a person to deal, in a financial product by issuing miscellaneous financial risk products.
Operator of an Investor Directed Portfolio Service	An AFS licensee with an authorisation to operate an Investor Directed Portfolio Service under section 912AD of the Corporations Act, as modified by ASIC Class Order [CO 13/763].
Managed Discretionary Account operator	An AFS licensee with an authorisation to operate a Managed Discretionary Account service under ASIC Class Order [CO 04/194].
Responsible entity	A company that is an AFS licensee with an authorisation to operate a registered managed investment scheme.
Margin lender	An AFS licensee with an authorisation to provide a margin lending facility as defined under section 761EA(1) of the Corporations Act.
Securities Dealer	An AFS licensee with an authorisation to deal, arrange, issue and apply in securities and does not have authorisation to use the expression 'Stockbroker' or 'Share Broker'.
Market participant	An AFS licensee who is a participant in relation to a financial market, as defined in section 761A of the Corporations Act.
Retail OTC derivative issuer	An entity that: <ul style="list-style-type: none"> • holds an AFS licence covering the provision of the following financial services to retail investors: <ul style="list-style-type: none"> – dealing in a financial product by issuing derivatives; and – making a market for derivatives; and • is not a body regulated by APRA; a market participant; or a clearing participant; and • promotes that they provide margin Foreign Exchange, CFD, binary option, or other retail OTC derivative services.
Insurer	An AFS licensee with an authorisation to deal, or arrange for a person to deal, in a financial product by issuing general and life insurance products.
Trustee	A trustee company that holds an AFS licence covering the provision of one or more traditional trustee company services, as defined in section 601RAB of the Corporations Act.
Superannuation trustee	An AFS licensee that holds a Registrable Superannuation Entity licence granted under section 29D of the SIS Act.
Wholesale trustee	An AFS licensee with an authorisation to deal, or arrange for a person to deal, in a financial product by issuing interests in a managed investment scheme to wholesale clients.

Table I2: Proposed definition for industry sub-sectors (continued)

Industry Sub-Sector	Proposed Definition
AFS LICENSEES (continued)	
Custodian	An AFS licensee with an authorisation to provide a custodial service.
Investment bank	An AFS licensee with an authorisation to underwrite and make a market in bonds and debentures.
Credit rating agency	An AFS licensee with condition to comply with the IOSCO <i>Code of Conduct Fundamentals for Credit Rating Agencies</i> .
Industry Sub-Sector	Proposed Definition
MARKET INFRASTRUCTURE PROVIDERS	
Market licensee	A person who holds an Australian market licence, as defined in section 761A of the Corporations Act.
CS facility licensee	A person who holds an Australian CS facility licence, as defined in section 761A of the Corporations Act.
Australian Derivative Trade Repository licensee	A person who holds an Australian derivative trade repository licence, as defined in section 761A of the Corporations Act.
Exempt market	A facility exempted by the Minister from the market licensing provisions under section 791C and CS facility licensing provisions under section 820C of the Corporations Act.

Question:

64. Do you agree with the proposed definitions for industry sectors and sub-sectors? If not, why not?

Attachment J – Consultation Questions

Chapter 2: ASIC's Activities

1. Do you agree that the exclusion of these activities from cost recovery is appropriate? If not, why not?
2. Are there any other specific regulatory activities undertaken by ASIC, such as those that support innovation, that should not be cost recovered from industry? If so, please provide examples.
3. Do you support cost recovery arrangements for ASIC's regulatory activities being consolidated within a single ASIC industry funding model? If not, why not?
4. Are there any activities cost recovered by other agencies on ASIC's behalf that should continue to be recovered by the current responsible agency? If so, please give reasons why.
5. The Government currently recovers most of the costs of operating the MoneySmart website through APRA's supervisory levies. Should these costs no longer be recovered from industry? Why or why not?
6. Do you support the SCT continuing to be funded through APRA's levies on APRA-regulated superannuation funds? Why or why not?
7. If the Government decided to introduce an industry funding model for ASIC, would you support not proceeding with the planned review of ASIC's market supervision and competition cost recovery arrangements? Why or why not?

Chapter 3: International funding models

8. Are there any approaches to industry funding adopted by other regulators that you believe should be applied to an industry funding model for ASIC? If so, please describe and provide reasons why.

Chapter 4: The proposed industry funding model

9. Is the proposed methodology for determining the levy mechanisms appropriate? If not, why not?
10. Are there any activities proposed to be recovered through fees that you believe should be collected through annual levies? If so, which activity or activities and why?
11. Is the proposed approach for calculating fees-for-service appropriate? If not, why not?
12. Do you have any suggestions for how the proposed methodology for calculating fees-for-service could be modified? If so, please provide details.

Chapter 5: Determining ASIC's annual funding and levies

13. Do you support the proposed process for determining funding for ASIC's regulatory activities under an industry funding model for ASIC? If not, why not?

14. Do you think this process will provide industry with certainty as to the fees and levies to be charged? If not, why not?
15. Are the proposed consultation arrangements on the levy mechanisms and funding appropriate?
16. Do you support ASIC's fees-for-service being revised every three years? Alternatively, would you prefer that ASIC's fees for service be revised more regularly?
17. Do you have any further suggestions for enhancements to be made to ASIC's accountability structure or industry funding model? If so, please provide details.
18. How should the Cost Recovery Stakeholder Panel operate? How should the membership be determined?

Chapter 6: Phase-in arrangements and levy administration

19. Are the proposed arrangements for phasing in cost recovery levies appropriate? If not, what alternative approach would you suggest and why?
20. Is it appropriate to set fees to recover ASIC's costs from 1 July 2016? Why or why not?
21. Are the proposed administration arrangements suitable? If not, why not?
22. Is it appropriate not to levy entities entering the market part way through the year? If not, how do you propose that these entities be treated?
23. Is it appropriate for the Government handle the over or under collection of levies through a reduction or increase in the levies payable for the next year? If not, why not?
24. Are additional arrangements necessary to ensure appropriate administration by ASIC of its industry funding model? If so, please provide details.

Attachment A – Funding Model for Companies

25. Are the proposed arrangements for company levies appropriate? Why or why not?
26. Will the proposed levy arrangements for companies be competitively neutral? If not, why not?
27. Will the proposed levy arrangements for companies support innovation? If not, why not?
28. Will the proposed levy arrangements for companies support small business?
If not, why not?
29. Do you have any concerns with 31 March being used as the assessment date for determining market capitalisation? If so, why and what date would you prefer?

Attachment B – Funding Model for Australian Credit Licensees

30. Do you support the proposed arrangements for Australian Credit Licensees' levies? Why or why not?
31. Will the proposed levy arrangements for Credit Licensees be competitively neutral? If not, why not?

32. Will the proposed tiering arrangements support the growth of Credit Licensees? Why or why not?
33. Will the proposed levy arrangements for Credit Licensees support innovation? If not, why not?
34. Will the proposed levy arrangements for Credit Licensees support small business? If not, why not?
35. Do you believe that a graduated approach to determining the levy payable by credit licensees would be preferable to the proposed levy arrangements? Why or why not?

Attachment C – Funding Model for AFS Licensees

36. Do you support the proposed arrangements for AFS Licensees' levies? Why or why not?
37. Will the proposed levy arrangements for AFS licensees be competitively neutral? If not, why not?
38. Will the proposed tiering arrangements support the growth of AFS Licensees? Why or why not?
39. Will the proposed levy arrangements for AFS Licensees support innovation? If not, why not?
40. Will the proposed levy arrangements for AFS Licensees support small business? If not, why not?
41. Will the proposed levy arrangements for AFS Licensees support access to financial services in regional Australia? If not, why not?
42. Do you believe that a graduated approach to determining the levy payable by AFS licensees, such as responsible entities and superannuation trustees, would be preferable to the proposed levy arrangements? Why or why not?

Attachment D – Funding Model for Registered Liquidators

43. Which of the potential levy arrangements for liquidators do you support? Why?
44. Would any of the proposed levy arrangements for registered liquidators not be competitively neutral? If so, why?
45. Would any of the proposed levy arrangements for registered liquidators have detrimental impacts on small business? If so, why?
46. Would any of the proposed levy arrangements for registered liquidators have detrimental impacts on access to liquidators in regional Australia? If not, why not?

Attachment E – Funding Model for Auditors

47. Are the proposed levy arrangements for auditors appropriate? Why or why not?
48. Is audit fee revenue an appropriate metric for determining the levy payable by entities that audit publicly listed companies? Why or why not? What alternative metric would you support?
49. Will the proposed levy arrangements for auditors be competitively neutral? If not, why not?
50. Will the proposed levy arrangements for auditors support small business? If not, why not?

51. Will the proposed levy arrangements for AFS Licensees support access to auditors in regional Australia? If not, why not?

Attachment F – Funding Model for Market Infrastructure Providers

52. Are the proposed levy arrangements for MIPs appropriate? Why or why not?
53. Will the proposed levy arrangements for MIPs be competitively neutral? If not, why not?
54. Will the proposed levy arrangements for MIPs support innovation? If not, why not?
55. Do you prefer an alternative proxy for supervisory intensity on which to determine the levy payable by MIPs? If so, why is this metric more suitable?
56. Should the costs of maintaining the AMRF be collected from the entity responsible for making the change or from all MIPs through the annual levies? Please give reasons.
57. Should operating rule changes be funded by MIPs through annual levies or on a fee for service basis? Why or why not?

Attachment G – Proposed Fee Schedule

58. Are the proposed fee amounts for professional registration, licensing and document compliance review forms appropriate? If not, why not?
59. Do you think that the proposed fee amounts may act as a disincentive for some entities from submitting a professional registration or licence application, or a document for compliance review, with ASIC? If so, why?
60. Do you support the fee payable for applications for relief being tiered based on the complexity of the application? If so, why?
61. Are the proposed fee amounts for applications for relief appropriate? If not, why not?
62. Do you think that the proposed fee amounts may act as a disincentive for some entities from submitting applications for relief with ASIC? If so, why?
63. Would you support the Government only imposing partial cost recovery for applications for limited AFS licences? (See Form P-FS01A and P-FS01B).

Attachment I – Definitions of industry sectors and subsectors

64. Do you agree with the proposed definitions for industry sectors and sub-sectors? If not, why not?