

SUBMISSION

Submission to Treasury — Proposed Financial Institutions Supervisory Levies for 2023-24

9 June 2023

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A/g Director
Regulator Engagement and Powers Unit
The Treasury
Langton Crescent
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Via email: Supervisorylevies@treasury.gov.au

9 June 2023

Dear Sir/Madam

Proposed Financial Institutions Supervisory Levies for 2023-24

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to Treasury's consultation on the Proposed Financial Institutions Supervisory Levies for 2023-24.

About ASFA

ASFA is a non-profit, non-partisan national organisation whose mission is to continuously improve the superannuation system, so all Australians can enjoy a comfortable and dignified retirement. We focus on the issues that affect the entire Australian superannuation system and its \$3.5 trillion in retirement savings. Our membership is across all parts of the industry, including corporate, public sector, industry and retail superannuation funds, and associated service providers, representing almost 90 per cent of the 17 million Australians with superannuation.

If you have any queries or comments in relation to the content of our submission, please contact me on 0401 016 587 or by email: acraston@superannuation.asn.au.

Yours sincerely

Andrew Craston
Director, Economics

Executive summary

ASFA supports the adequate and appropriate funding of APRA, ASIC and other regulators for the superannuation industry. Further, ASFA considers that all regulated entities should contribute to that funding. That outcome is, in ASFA's view, far more equitable and appropriate than funding regulators solely from consolidated revenue.

That said, where industry does contribute to regulators' funding, it is incumbent upon those regulators to provide genuine transparency and accountability regarding the manner in which they determine their funding requirements and utilise their funding. Genuine transparency and accountability provides industry with greater insight into regulators' activities, and builds confidence within industry that regulators are functioning well.

With respect to the Financial Institutions Supervisory Levies (FISLs), ASFA considers that while the Treasury paper on the proposed FISLs for 2023-24 provides more information compared to previous years, it does not provide sufficient detail for industry to adequately understand how the proposed levies are determined.

With respect to APRA's regulation of the superannuation industry, the FISLs Paper proposes an increase in the relevant levy component from \$61.3 million in 2022-23 to \$65.1 million for 2023-24 – a rise of \$3.8 million, or 6.2 per cent (the headline figure of \$70.5 million includes \$5.0 million for the recovery of under-collected levies from the previous financial year). As noted in the Paper, part of the increase relates to the 2021-22 Budget measure *Stronger Consumer Outcomes for Members of Superannuation* (\$2.7 million for 2023-24, up from \$2.3 million in 2022-23). However, the Paper does not provide sufficient detail regarding the composition of APRA's broader regulatory costs (and associated cost recovery) in respect of the superannuation industry.

For the ATO, the Paper proposes a small decrease in the relevant levy component (in respect of the superannuation industry) from \$40.5 million in 2022-23 to \$38.9 million for 2023-24 – a fall of \$1.6 million, or 4 per cent. The combined cost of the Superannuation Lost Member Register and the Unclaimed Superannuation Money frameworks increased by \$5.9 million, while the cost of the early Compassionate Release of Super programme fell by \$7.5 million. The Paper does not provide sufficient detail regarding the drivers of these changes.

In addition to FISLs, superannuation funds pay levies to ASIC. For 2023-24, ASFA estimates that combined levies are likely to be in the order of \$150 million. This would represent an increase of around 150 per cent since 2013-14.¹

For superannuation funds, levies are typically funded through administration fees charged to members' accounts. For a representative MySuper member (balance of \$50,000), ASFA estimates that the amount payable with respect to combined levies would be around \$7 for 2023-24, out of an average of around \$130 in administration fees (for a representative MySuper member).

The superannuation industry is facing increased scrutiny, including as a result of the *Your Future, Your Super* legislation. In particular, the performance benchmarking of MySuper products (and in time, other products) incorporates administration fees. Any increase in FISLs, or other similar industry levies, ultimately will be borne by members – as higher fees (or indirect costs) than otherwise would be the case. As such, ASFA considers it appropriate that a high level of scrutiny should apply with respect to the costs recovered from industry via the FISLs.

¹ Excludes levies in respect of Super Stream.

Detailed comments on levy components for the superannuation sector

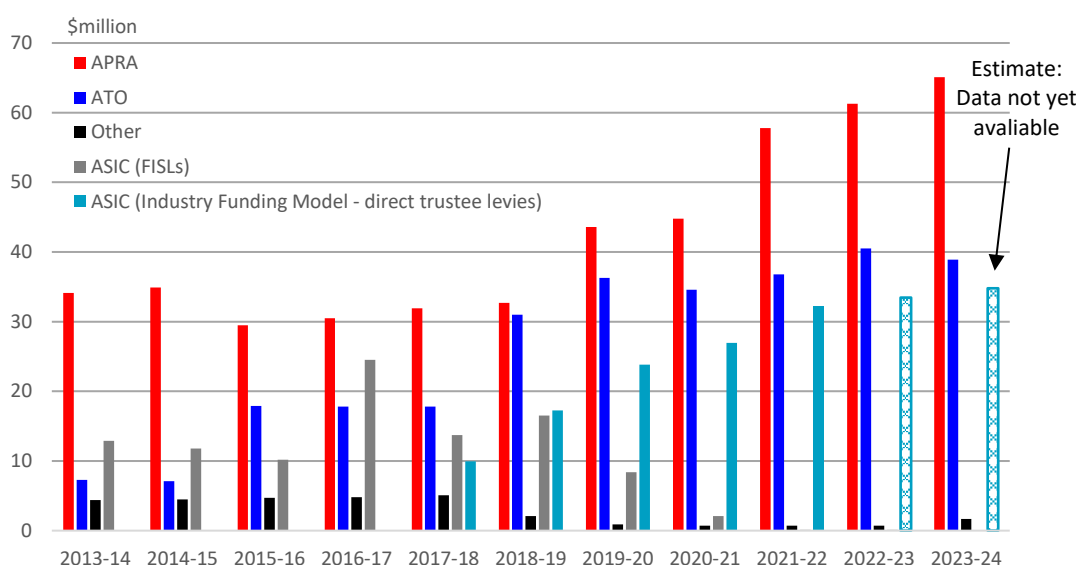
Each year Treasury publishes a FISLs Paper, which proposes levy amounts for each relevant agency with respect to the regulation of financial institutions including superannuation funds. While the 2023-24 Paper provides more detail compared with previous years, generally speaking there is insufficient information on how the levy amounts for each agency relate to their regulatory activities – as has been the case in prior years’ FISLs determinations.

With respect to the superannuation sector, the total proposed FISLs for 2023-24 are \$111.6 million. The total levy amount includes \$5.9 million for the recovery of under-collected levies from the previous financial year – the FISLs Paper implies that this does not reflect a higher-than-expected level of expenditure by APRA in 2022-23, but that collected levies were lower-than-expected. Taking this into account, the total *underlying* levy amount for 2023-24 would be \$105.7 million. The equivalent figure for the previous financial year was \$102.5 million.

Thus, total proposed levies are up by \$2.8 million, or 3.1 per cent, on the previous financial year. Compared with 2018-19, the APRA component for the superannuation sector is now \$32.4 million higher (or 99 per cent higher).

As has been the case in recent years, the superannuation sector FISLs for 2023-24 largely relate to the estimated (recovered) cost of regulatory activities of APRA and the ATO (Chart 1). Minor components of the FISLs relate to ASIC, the Gateway Network Governance Body and Treasury (the latter two components are in the ‘Other’ component in Chart 1).

Chart 1: Superannuation sector levies: FISLs and ASIC Industry Funding Model



Source: APRA, Treasury and ASFA calculations.

With respect to ASIC, the recovery of costs from the regulation of the superannuation sector has shifted gradually over time from FISLs to levies paid under the ASIC Industry Funding Model (ASIC IFM). From 2023-24 onwards none of ASIC’s costs are to be recovered via the FISLs.

Separately, ASIC has yet to publish its levy estimates (under the ASIC IFM) for 2022-23 or 2023-24, however provisional data suggest a figure in the order of \$40 million for the superannuation sector.

- For 2021-22, ASIC's IFM levies associated with the direct regulation of superannuation trustees totalled \$32.2 million, up from \$26.9 million in 2020-21 – an increase of 20 per cent.
- Additional IFM levies on superannuation funds include those related to the provision of advice, and the provision of life insurance products. Overall, total IFM levies with respect to superannuation trustees for 2021-22 were around \$35 million.
- With respect to 2022-23 and 2023-24, there were no major announcements in recent Commonwealth Budgets for ASIC's regulatory activities in respect of the superannuation sector.²
- However, given recent increases, total IFM levies with respect to superannuation trustees for 2022-23 and 2023-24 may be in the order of \$40 million.

Thus, for superannuation funds, the combination of FISLs and ASIC levies (under the IFM) are likely to be in the order of \$150 million for 2023-24. This would represent an increase of around 150 per cent on the combined levies for 2013-14.³

For superannuation funds, levies are ultimately funded through administration fees charged to members' accounts. For the APRA-regulated superannuation industry, the latest annual data show that total administration fees were around \$3.8 billion for 2021-22, or around 0.2 per cent of total assets (as of June 2022).⁴

An estimated impact on MySuper members can be calculated (assuming that the cost of levies for funds are distributed on a pro-rata basis, according to the number of member accounts, across superannuation fund members). Given that the 14.5 million MySuper accounts represent around two-thirds of all superannuation accounts, then the amount payable by each MySuper member with respect to the combined levies for 2023-24 would be around \$7 (for all MySuper products, the average administration fee is around \$130 per annum for a representative member with a balance of \$50,000).⁵

The superannuation industry is facing increased scrutiny, including as a result of the *Your Future, Your Super* legislation. In particular, the performance benchmarking of MySuper products (and in time, other products) incorporates administration fees. Any increase in FISLs, or other similar industry levies, ultimately will be borne by members – as higher fees (or indirect costs) than otherwise would be the case. As such, ASFA considers it appropriate that a high level of scrutiny should apply with respect to the costs recovered from industry via the FISLs.

APRA levy component

For the cost recovery of APRA's regulation of the superannuation industry, the FISLs Paper does not provide sufficient detail.

The proposed APRA component for the superannuation sector for 2023-24 is \$70.1 million. The APRA component includes \$5.0 million for the recovery of under-collected levies from the previous financial year, such that the *underlying* levy amount for 2023-24 is \$65.1 million. The equivalent *underlying* levy amount for 2022-23 was \$61.3 million. Thus, the proposed APRA component is up by \$3.8 million, or 6.2 per cent, on the previous financial year. Compared with 2018-19, the APRA component for the superannuation sector is now \$32.4 million higher (or 99 per cent higher).

² The 2023-24 Budget included measures and associated levy increases for the next financial year – that is, 2024-25.

³ Does not include levies for SuperStream.

⁴ As at end of June 2022, total assets of the APRA-regulated sector (excluding small funds) were \$2.257 trillion. As at March 2023, total assets of the APRA-regulated sector were \$2.411 trillion.

⁵ Based on *APRA MySuper Product Heatmap*.

Part of the proposed increase for 2023-24 relates to the 2021-22 Budget measure *Stronger Consumer Outcomes for Members of Superannuation*, which provides APRA with \$2.7 million in 2023-24, up from \$2.3 million in 2022-23 “to supervise and enforce increased transparency and accountability measures as part of the Government’s Your Future, Your Super reforms”.⁶ The Budget measure includes an increase in the FISLs to recover fully APRA’s costs.

Beyond this, while the Paper provides more information about APRA’s high-level regulatory activities compared with previous years, it does not provide sufficient detail for industry to adequately understand how levies are determined.

As such, there is not sufficient information for industry to determine whether the additional increase in funding for 2023-24 (that is, \$3.4 million) was justified (in whole or in part), or whether it would have been more appropriate for APRA to reprioritise other activities.

ASFA considers that future years’ FISLs Papers should provide a more detailed disaggregation of APRA’s regulatory activities in respect of the superannuation sector, and the corresponding levy amounts.

ATO levy component

As has been the case in previous years, the FISLs Paper proposes full recovery of costs related to the Superannuation Lost Member Register (LMR), and the Unclaimed Superannuation Money (USM) frameworks, as well as the early Compassionate Release of Super (CRS) programme.

For 2023-24, it is proposed that \$17.2 million will be recovered in relation to the LMR and USM frameworks, and for the upkeep and enhancement of the required administrative systems. Comparing previous year’s FISLs, the ATO’s stated (proposed) costs in respect of the LMR and USM frameworks have tended to decline – from \$25.7 million in 2018-19 down to \$11.3 million for 2022-23. It is likely that this downward trend relates to the falling number of lost and unclaimed superannuation accounts over time (this information is not provided in the FISLs Paper).

ASFA supports enhanced ATO strategies and processes to reunite individuals with lost and unclaimed superannuation. However, more detailed information should be provided to help industry understand the drivers of expenditures – including with respect to the sharp rise in 2023-24.

Regardless of the drivers of the decrease in funding, ASFA considers the ATO should assess the effectiveness of its programmes to reunite individuals with lost and unclaimed superannuation when the required data are available, and publish that assessment. In addition, the ATO should make available data on the inward and outward flows of lost/unclaimed monies (in addition to data on the stock of lost/unclaimed monies that the ATO publishes currently). The ATO should also provide data on a biannual basis, rather than annual (as is the case currently).

With respect to the CRS programme, the ATO assumed responsibility for administering the programme during 2018. The cost of administering the CRS programme has increased markedly over recent years. The FISLs Paper states that the estimated cost of administering the CRS programme is \$21.7 million for 2023-24. While this is lower than for the previous year (\$29.2 million for 2022-23), the (recoverable) cost of the programme has been trending upward: \$5.3 million in 2018-19, \$12.9 million in 2019-20, \$15.3 million in 2020-21 and \$20.7 million in 2021-22.

The FISLs Paper does not provide any information on the drivers of the increase in costs – which likely reflects an increase in the number of CRS applications. The FISLs Paper for the previous year (2021-22)

⁶ The Commonwealth of Australia, *Budget 2021-22: Budget Paper 2*, p. 192.

stated that the cost of administering the *COVID-19 Early Release of Super* measure was not included in levy amounts.

ASFA considers that industry should be provided with more detailed information to help industry understand the nature of the ATO's expenditure.

Transparency around minimum and maximum levies for the FISLs needs to improve

Future years' FISLs Papers should provide more detailed explanations for changes in the minimum and maximum levy amounts for the restricted component of the FISLs.

ASFA understands that ongoing adjustments to the minimum/maximum amounts (for the restricted component) may be required, from time to time, to limit cross-subsidisation. The FISLs Paper references APRA analysis which indicates that current minimum amounts are generally too low, but that maximum amounts are broadly in line with costs. The minimum amounts are being adjusted accordingly.

Treasury has previously acknowledged industry's concerns that the annual consultation papers provide little explanation for the setting of minimum and maximum amounts, and indicated that APRA would, via its annual Cost Recovery Implementation Statement (CRIS), provide more transparency regarding the calculation of the minimum and maximum amounts. As has been the case in previous years, an updated CRIS was not released with the FISLs Discussion Paper to inform industry's consideration of the proposed levies.