

SUBMISSION

Submission to Treasury —
Discussion Paper:
*Proposed Financial
Institutions Supervisory
Levies for 2022-23*

10 June 2022

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File: 2022/07

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Via email: supervisorylevies@treasury.gov.au

10 June 2022

Dear Sir/Madam

Discussion Paper: *Proposed Financial Institutions Supervisory Levies for 2022-23*

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to the Discussion Paper: *Proposed Financial Institutions Supervisory Levies for 2022-23*.

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 \$3.4 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 over 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 Andrew Craston, Director – Economics, 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 2022-23 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 \$57.8 million in 2021-22 to \$61.3 million for 2022-23 – a rise of \$3.5 million, or 6 per cent. As noted in the Paper, much of the increase relates to the 2021-22 Budget measure *Stronger Consumer Outcomes for Members of Superannuation* (\$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 an increase in the relevant levy component (in respect of the superannuation industry) from \$36.8 million in 2021-22 to \$40.5 million for 2022-23 – a rise of \$3.7 million, or 10 per cent. The combined cost of the Superannuation Lost Member Register and the Unclaimed Superannuation Money frameworks declined by \$4.7 million, while the cost of the early Compassionate Release of Super programme rose by \$8.5 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 2022-23, 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 member (balance of \$50,000), ASFA estimates that the amount payable with respect to combined levies would be around \$6. Given that combined levies have increased by around 150 per cent since 2013-14, the equivalent amount payable for a representative member would have been less than \$3 (in today's dollars) in 2013-14.

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.

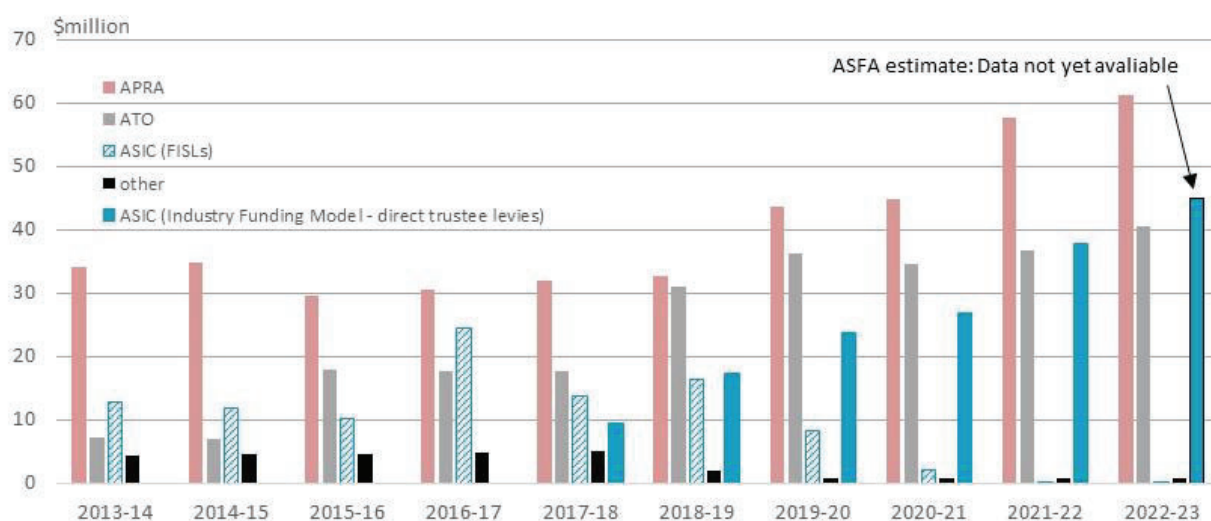
¹ Does not include levies for Super Stream.

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 2022-23 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 2022-23 are \$102.5 million, up from \$95.5 million in 2021-22. This represents an increase of \$7.0 million, or 7 per cent. As has been the case in recent years, the superannuation sector FISLs for 2022-23 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). For 2022-23 the estimated FISL component for ASIC totals \$0.1 million. This is in relation to the wind-up of the Superannuation Complaints Tribunal. It is expected that no ASIC costs will be recovered through the FISLs from 2023-24.

Separately, ASIC has yet to publish its levy estimates (under the ASIC IFM) for 2022-23, however provisional data suggest a figure in the order of \$45 million.

- For 2021-22, ASIC's IFM levies associated with the direct regulation of superannuation trustees are estimated at \$37.9 million, up from \$26.9 million in 2020-21 – an increase of 40 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 are likely to be around \$40 million.
- With respect to 2022-23, there were no major announcements in either the 2021-22 or 2022-23 Budgets for ASIC's regulatory activities in respect of the superannuation sector. However, given

recent increases, total IFM levies with respect to superannuation trustees for 2022-23 may be in the order of \$45 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 2022-23. This would represent an increase of around 150 per cent on the combined levies for 2013-14.²

For superannuation funds, levies are typically 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 \$4.0 billion for 2020-21, or around 0.2 per cent of total assets (as of June 2020).³ Based on this figure, the total levy amount payable by industry in 2022-23 would represent around 4 per cent of total administration fees.

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 assets, across superannuation fund members). For all MySuper products, the average administration fee (weighted by total assets) is around \$150 per annum for a representative member (with a balance of \$50,000).⁴ For the representative member, the amount payable with respect to the combined levies is around \$6. Given that combined levies have increased by around 150 per cent since 2013-14, the equivalent amount payable for a representative member would have been under \$3 (in today's dollars) in 2013-14.

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 2022-23 is \$61.3 million, up from \$57.8 million in 2021-22. This is an increase of \$3.5 million, or 6 per cent. Compared to 2018-19, the APRA component for the superannuation sector is now \$28.6 million higher (or 87 per cent higher).

Much of the proposed increase for 2022-23 relates to the 2021-22 Budget measure *Stronger Consumer Outcomes for Members of Superannuation*, which provides APRA with \$2.3 million in 2022-23 (as well as ongoing annual funding), "to supervise and enforce increased transparency and accountability measures as part of the Government's Your Future, Your Super reforms".⁵ The Budget measure includes an increase in the FISLs to recover fully APRA's costs.

² Does not include levies for Super Stream.

³ As at end of June 2020, total assets of the APRA-regulated sector were \$1.93 trillion. As at March 2022, total assets of the APRA-regulated sector were \$2.34 trillion.

⁴ Based on *APRA MySuper Product Heatmap*.

⁵ The Commonwealth of Australia, *Budget 2021-22: Budget Paper 2*, p. 192.

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.

For example, for the previous financial year (2021-22), the APRA component for the superannuation sector increased by \$13 million – with only \$1.9 million of that increase attributable to the *Stronger Consumer Outcomes for Members of Superannuation* measure. There is not sufficient information in the 2021-22 FISLs and 2022-23 FISLs Papers for industry to determine whether the additional increase in funding for 2021-22 (that is, \$11.1 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 2022-23, \$11.3 million will be recovered in relation to the LMR and USM frameworks, and the upkeep and enhancement of the required administrative systems. This is lower than for 2021-22 (\$16.0 million).

ASFA supports enhanced ATO strategies and processes to reunite individuals with lost and unclaimed superannuation. However, ASFA considers that industry should be provided with more detailed information to help industry understand the nature of the expenditure. Comparing previous year's FISLs, the ATO's stated costs in respect of the LMR and USM frameworks have declined over recent years – from \$25.7 million in 2018-19 to \$11.3 million for 2022-23. It is likely that this relates to the falling number of lost and unclaimed superannuation accounts over time – however details in this regard are not provided.

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 \$29.2 million for 2022-23. For previous years, the (recoverable) cost of the programme was \$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 2021-22 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.