Financial Industry Supervisory Levy Methodology Discussion Paper

May 2013

AIST Submission

AIST

The Australian Institute of Superannuation Trustees (AIST) is an independent, not-for-profit professional body whose mission is to protect the interests of Australia's $500 billion not-for-profit superannuation sector. AIST's members are the trustee directors and staff of industry, corporate and public-sector superannuation funds, who manage the superannuation accounts of two-thirds of the Australian workforce.

AIST is a registered training organisation and has recently expanded its education program to encompass the growing and changing needs of all members of the not-for-profit superannuation sector.

AIST offers a range of services including compliance and consulting services, events - both national and international - as well as member support. AIST also advocates on behalf of its members to relevant stakeholders.

AIST's services are designed to support members in their endeavour to improve the superannuation system and build a better retirement for all Australians.

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1 Executive summary

AIST welcomes the opportunity to respond to this discussion paper. Our key points in this submission are:

1. AIST strongly endorses the policy objectives contained in the Australian Government's *Cost Recovery Guidelines* July 2005 (CRG) and notes that the CRG is currently under review.
2. AIST voices its concerns that the CRG has not been applied to the financial services levies, and further that a Cost Recovery Impact Statement (CRIS) has not been prepared. This results in a lack of transparency. This is particularly critical, given the size of the superannuation industry, the size of the levies, and the trustee-beneficiary nature of superannuation.
3. We would prefer to wait until such time as a CRIS has been prepared and the CRG have been finalised before venturing an opinion on the appropriateness of the model to be used.
4. AIST would be pleased to be part of the consultation process for both the review of the CRG and the development of the CRIS.

In this submission, we have examined two alternative methods for calculation of the levy. These are provided to illustrate the significant impact of different methodologies, and the need to proceed cautiously. While these could form the basis of developing the CRIS, we are not recommending either option, and any change to the existing formula should be implemented in a staged approach over a number of years.

It should be re-iterated that the inclusion of alternative models for consideration does not necessarily imply our endorsement. Rather, these alternate models are designed primarily to illustrate impacts, only.

There is a lack of transparency as to the composition of the levy, whether it be the restricted (supervisory) or unrestricted (systemic) component. Given this, it is difficult to determine whether the principles of the CRG have been applied. Examples of this include whether the levy contains an agency's "basic information product set", which are not recoverable.

In addition, we see development of models that take into account structural change within the industry itself and the growth of industry sectors as being critical.

AIST seeks only to comment on the parts of this paper that impact the superannuation system and will leave it to other organisations to assess the appropriateness (or not) of these arrangements on ADIs, life and general insurers.

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2 Consultation Issues

2.1 Introduction

AIST recognises the need to raise financial sector levies to assist Government agencies oversight or provide certain services. AIST strongly endorses the policy objectives contained in the Australian Government's *Cost Recovery Guidelines July 2005* (CRG), namely consistency, transparency, and accountability, and the promotion of the efficient allocation of resources. These policy objectives are particularly pertinent, given both the size of the Australian superannuation sector as well as the quantum of levies arising from SuperStream.

Lack of consistency, transparency and accountability arise from two key issues:

1. The Cost Recovery Guidelines have not been applied to either the existing levy structure or to the *Proposed Financial Industry Levies for 2012-13*.
2. The Cost Recovery Guidelines themselves are also under review (while noting AIST's support for its basic tenets).

Accordingly, the industry holds significant concerns about the absence of information with respect to the costs being recovered by the levies. The particulars of AIST's concerns regarding the lack of application of the CRG are set out below.

Given this lack of transparency and accountability regarding either the imposition or breakdown of the levies, AIST recommends that there be no parameter change to the levy until such time as the CRG has been reviewed and that a Cost Recovery Impact Statement (CRIS) regarding the levies has been drafted together with a suitable consultation process. This method would have no financial impact on the Government.

That being said, AIST has also included within this submission a series of alternate models for application of the levy, which could form the basis of developing the CRIS. It should be noted that the inclusion of these models for consideration does not necessarily imply our endorsement. Rather, these alternate models are only designed primarily to illustrate impacts.

AIST would be pleased to be part of the consultation process for both the review of the CRG and the CRIS.

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2.2 Particular issues arising from lack of application of CRG

The overall lack of transparency as to what items fall into each "pot" of the levy – restricted (supervisory) or unrestricted (systemic) – makes it difficult for the superannuation industry to determine whether the principles of the CRG have been applied to the composition of the levy. Examples include:

1. The lack of preparation of a CRIS means that there is an associated lack of rigor regarding whether the costs are appropriate and reasonable.
2. Whether the levies include what the CRG describes in key principle 7 as an agency's "basic information product set" – which are not cost recoverable. For example, the *Financial Industry Supervisory Levy Methodology Discussion Paper* (April 2013) notes in 4.1 that APRA publications and statistical data collection are included.
3. There is little or no explanation which communicates the rationale for the setting of the current parameters (e.g. the percentage rate or the minimum and maximum thresholds)..

The lack of transparency of process is exacerbated by AIST's belief that, with the exception of the SuperStream levy, costs attributable to regulators including APRA are unlikely to reduce over time.

These and other issues could all form part of the consultation process.

AIST now turns to the specific consultation issues raised within the *Financial Industry Supervisory Levy Methodology Discussion Paper*.

2.3 *'Is the current setting for restricted (supervisory) and unrestricted (systemic) amounts appropriate? Are the current minimum and maximum restricted levy parameters appropriate?'* (Discussion paper issue 6.1)

The trustee-beneficiary nature of superannuation requires transparency. Ultimately, Government levies are drawn from members' accounts. A simple and transparent method for calculating the cost recoupment on behalf of agencies is therefore needed.

As we mentioned above, while AIST contends that CRG principles and the development of a CRIS is needed before any changes to methodology are made, we have included several alternates below which may assist the CRIS consultation process. Throughout, we examine six funds. These funds were selected based on their relative sizes, and the fund statistical data used is from APRA. Given our frustrations expressed above with the lack of reasoning for the levy, it may be that once additional transparency regarding charging is provided, more detailed options for charging mechanisms may be provided.

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In response to this question, we have examined two alternative methods for calculation of the levy, however we have stopped short of recommending either. In addition, we have considered some benefits and shortcomings of the current charging model. Finally, we have considered the problem of a level playing field involving exempt funds, as well as shortcomings regarding the transparency of current arrangements.

2.3.1 Alternate model: By members

Our focus in preparation of this model was to allocate the stated costs provided in Treasury's paper of last year among APRA-regulated superannuation funds, based solely on fund membership as the key driver.

Assumptions regarding the costs to be allocated remain unchanged from the discussion paper.

		Current methodology		**By member methodology**	
Fund asset base ($b)	Number of members	Total cost ($'000)	Cost per member ($)	Total cost ($'000)	Cost per member ($)
$32,627	471,670	$4,132	$8.76	**$2,891**	**$6.13**
$22,558	2,016,870	$3,474	$1.72	**$12,364**	**$6.13**
$3,372	31,250	$1,041	$33.31	**$191**	**$6.13**
$3,272	110,350	$1,010	$9.15	**$676**	**$6.13**
$1,267	6,140	$391	$63.69	**$37**	**$6.13**
$1,275	29,890	$394	$13.17	**$183**	**$6.13**

As can be seen, under a per member basis, funds with a larger number of members will be liable for a higher total cost (and in some cases substantially higher than the current methodology); however the cost per member will remain constant throughout the superannuation system. As previously stated, however, we are not necessarily recommending this model.

2.3.2 Alternate model: Member base/Funds under administration hybrid

In this methodology, we have attempted a 'best-of-both-worlds' model where both assets under administration and a fund's member numbers are considered in calculating the amount of the levy payable in an endeavour to develop the interrelationship between funds under management (FUM) and the number of members in a fund.

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Assumptions regarding the costs to be allocated remain unchanged. However, in this instance, we applied a 50% weighting to each of the current charging model as well as 50% to the method explained at point 2.3.1:

		Current methodology		Hybrid methodology	
Fund asset base ($b)	Number of members	Total cost ($'000)	Cost per member ($)	Total cost ($'000)	Cost per member ($)
$32,627	471,670	$4,132	$8.76	**$3,512**	**$7.45**
$22,558	2,016,870	$3,474	$1.72	**$7,919**	**$3.93**
$3,372	31,250	$1,041	$33.31	**$616**	**$19.72**
$3,272	110,350	$1,010	$9.15	**$843**	**$7.64**
$1,267	6,140	$391	$63.69	**$214**	**$34.91**
$1,275	29,890	$394	$13.17	**$288**	**$9.65**

It is possible that in consideration of different charging bases that such a hybrid model may provide a middle ground between a pure cost per member model and the current charging model. As stated throughout this submission, however, we are not necessarily recommending this model.

2.3.3 Benefits and limitations of the current model

As we noted in our response to Treasury of last year on the proposed financial industry levies for 2012-13[1], funds with a higher number of members can be seen to pay a lower amount per member, while other factors including assets under management remaining constant. This disparity is best illustrated by the table on the next page, which includes the current levies paid by the same selection of six funds.

[1] AIST (2012) *Response to Treasury: Proposed Financial Industry Levies for 2012-13*. [pdf] Melbourne: Australian Institute of Superannuation Trustees. http://tinyurl.com/cxm6hou [Accessed: 29 Apr 2013].

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Fund asset base ($b)	Number of members	Restricted ($'000)	Unrestricted ($'000)	Total ($'000)	Cost per member ($)
$32,627	471,670	$2,000	$2,132	$4,132	**$8.76**
$22,558	2,016,870	$2,000	$1,474	$3,474	**$1.72**
$3,372	31,250	$821	$220	$1,041	**$33.31**
$3,272	110,350	$796	$214	$1,010	**$9.15**
$1,267	6,140	$308	$83	$391	**$63.69**
$1,275	29,890	$310	$83	$394	**$13.17**

As can be seen, funds with a higher number of members pay relatively less per member than those with fewer. Although this appears inequitable, it is consistent with the original foundation for the levy collection, where it was found that[2]:

> *In relation to the policy justification for the sectoral approach to APRA funding, the sectoral model is aimed at achieving a result which sees institutions pay in proportion to the share of the benefits that the sector receives from the system of prudential supervision. It also ensures that each sector pays for the cost that the regulator incurs in supervising that sector.*
>
> *The use of minimum and maximum amounts reflects the view that there are certain minimum costs incurred in regulating even the smallest institutions but beyond a certain size there is no extra cost in regulating the institution. Imposing a cap also prevents larger institutions funding the costs of prudential regulation and supervision to a far greater extent than would be justified by the share of APRA's expenditure on those institutions.*

AIST recognises the need for minima and maxima that is consistent with the rationale described above, and supports the present methodology under this model. However, we believe that this has been complicated somewhat by changes to the Australian superannuation landscape in recent times.

[2] Dudley, S. (2005) *Financial Institutions Supervisory Levies Collection Amendment Bill 2004*. Bills Digest no. 100, 2004–05, ISSN 1328-8091. [report] Canberra: Commonwealth of Australia, p.3.

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2.3.4 Type of superannuation funds should be levied on an equal playing field

Despite a share of the superannuation market that is just under one third of the total funds under management in the superannuation industry, SMSFs are presently exempt from contributing towards the costs of SuperStream. The benefits to SMSFs are openly supported throughout the industry, as the SMSF Professionals Association of Australia (SPAA) explained in 2011[3]:

> *New data transfers standards for rollovers and employer contributions, to be introduced as part of SuperStream, will benefit self-managed super funds (SMSFs), according to SMSF Professionals' Association of Australia (SPAA) technical director, Peter Burgess.*
>
> *"Ensuring all rollovers and employer contributions must be accompanied by mandatory sets of data will eliminate the need for SMSF administers (sic) to chase up missing data and undertake time consuming reconciliation processes," he added.*

Indeed, our submission to the Parliamentary Committee on Corporations and Financial Services of February[4] of this year re-iterated the omission of SMSFs from the list of superannuation entities that are expected to contribute towards the costs of the SuperStream reforms. As in our submission to Treasury on the industry levies for 2012-13, we calculated that a pro-rata proportionment of the total cost of SuperStream attributable to the SMSF sector ($146 billion) would be calculated as $311 per fund.

2.3.5 Methodology for attributing costs to regulators other than APRA

Finally, we confess that we are unable to determine the methodology by which costs attributable to the other regulators (i.e. not APRA) are charged under the restricted/unrestricted model. Whilst there is some discussion around APRA's portion and the restricted/unrestricted model, we have been unable to locate the criteria around how the other regulator costs are charged under the present model.

We note that this concern was also raised by the Association of Superannuation Funds of Australia (ASFA) in their submission[5] to Treasury of June 2012. In addition, the restricted/unrestricted criteria for one of the regulators (the DHS) appears overly complex, given that we would estimate that overall membership would be the key driver of costs incurred in processing claims made under compassionate grounds, which is the sole basis for their inclusion in this model.

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[3] Pokrajac, M. (2011) New SuperStream measures to benefit SMSFs: SPAA. *Super Review*, [online] 9 August. Available at: http://is.gd/GrQG2R [Accessed: 27 Feb 2013].

[4] AIST (2013) *Re: Superannuation Legislation Amendment (Reform of Self-Managed Superannuation Funds Supervisory Levy Arrangements) Bill 2013*. [pdf] Melbourne: Australian Institute of Superannuation Trustees. http://tinyurl.com/bp7g8hr [Accessed: 29 Apr 2013].

[5] ASFA (2012) *Submission: Proposed Financial Industry Levies for 2012-13*. [pdf] Sydney: The Association of Superannuation Funds of Australia Limited. http://tinyurl.com/brkrfjo [Accessed: 30 Apr 2013].

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2.4 *'Is the current levy base appropriate for each industry sector?'* (Discussion paper issue 6.2)

We note the discussion paper's point regarding the low obvious dissatisfaction of asset values as a criteria for member levy calculations by both superannuation and non-superannuation entities alike. However, as stated above, we believe that the question of how the levy is charged should always be on the table as a topic for improvement.

2.5 *'Is the levy structure appropriate for regulated institutions within conglomerates?'* (Discussion paper issue 6.3)

By way of context, conglomerates represent the vast minority of AIST's members.

Be this as it may, we do not believe that the Australian financial services landscape has changed sufficiently since the levy review of 2008-09, and therefore agree with the sentiments expressed in the paragraph:

> *The conclusion of the 2008-09 financial industry supervisory levy review was that: 'the individual institutions that make up a conglomerate require supervision both jointly and individually with little reduction in the overall work of APRA'.*

2.6 *'Does the current levy methodology provide adequate transparency and is it appropriate for industry sub-sectors?'* (Discussion paper issue 6.4)

We would consider this to be transparent however, as explained above, we would like more information regarding how the recoupment of costs incurred by other regulators are apportioned. In June 2012, our organisation, together with the Association of Superannuation Funds of Australia (ASFA), the Financial Services Council (FSC) and Industry Super Network (ISN) made a joint submission to the Parliamentary Joint Committee on Corporations and Financial Services[6] which recommended that (on the next page):

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[6] AIST, et al. (2012) *Inquiry into the Superannuation Legislation Amendment (Stronger Super) Bill 2012 and the Superannuation Supervisory Levy Imposition Amendment Bill 2012*. [pdf] Melbourne: Australian Institute of Superannuation Trustees. http://tinyurl.com/cz5qtto [Accessed: 30 Apr 2013].

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1. *The ATO as the principal expender of monies is required to table a detailed costs breakdown of the two major policy objectives (namely consolidation and standardisation as referred to in Subsection 50(6));*
2. *Regular transparent reporting to the SuperStream Advisory Council on expenditure and progress against budgeted plans be required;*
3. *The ATO and superannuation industry look for areas where the expenditure and development already planned or in place by the industry reduces or negates the need for ATO expenditure;*
4. *The levy is paid in annual instalments by superannuation funds in line with the ATO's requirements.*

Further to this, we proposed that an advisory body be appointed to advise on apportioning of costs throughout the financial services industry in our own submission[7] to the Committee. In that submission, we focussed specifically on the work that was to have been (and is being) undertaken by the SuperStream Advisory Council. However, we believe that the same level of openness and transparency should be provided with regards to the other work that is being undertaken by government regulators, as well as the DHS.

We also noted in that submission that very little disclosure had been provided and pressed for more. It would greatly assist if the regulators could provide CRP statements for their costing arrangements.

2.7 *'Does the current levy methodology take into account reinsurance recoveries and the resultant impact on levy calculation [based on asset value] for general insurers?'* (Discussion paper issue 6.5)

AIST offers no comments on this issue in this submission.

[7] AIST (2012a) *AIST submission: Parliamentary Joint Committee on Corporations & Financial Services: Superannuation Legislation Amendment (Stronger Super) Bill 2012 [and] Superannuation Supervisory Levy Imposition Amendment Bill 2012*. [pdf] Melbourne: Australian Institute of Superannuation Trustees. http://tinyurl.com/cja8p4y [Accessed: 30 Apr 2013].

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2.8 *'Is the current levy methodology appropriate for Pooled Superannuation Trusts?'* (Discussion paper issue 6.5)

AIST is aware of the need for charging the levy for regulation of all APRA-regulated entities in the superannuation sphere and are not aware of any reason why this would not include Pooled Superannuation Trusts (PSTs).

We are, however aware of concerns that this may be 'double counting'. This was identified as an issue by Treasury and APRA in 2009[8] and more recently, by ASFA in their submission of June 2012[9].

We believe that more should be made of this issue for a number of reasons, however, consideration needs to be given to the following:

1. PSTs are used by a variety of superannuation vehicles, some regulated by APRA, and others, such as SMSFs are not. Thus, it is entirely feasible that in the case of SMSFs, the level of regulatory supervision of these vehicles represents the only additional failsafe between 'mum and dad trustees' and their superannuation monies.
2. Where APRA-regulated superannuation funds are the sole investors in a PST, this may represent a degree of doubling up of regulatory supervision.
3. PSTs will not be utilising certain regulators at all, for example, it is not possible to claim from a PST on compassionate grounds and therefore, DHS services are not required.

This is a complicated area to which we do not know the answer. However, we encourage further discussion.

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[8] Treasury, T. and APRA (2009) *Report of the review of financial sector levies*. [report] Canberra: Commonwealth of Australia, p.12.

[9] ASFA (2012) op cit.

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