



Proposed financial industry levies for 2015-16

10 June 2015

AIST Submission

AIST

The Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.

As the principal advocate and peak representative body for the \$600 billion not-for-profit superannuation sector, AIST plays a key role in policy development and is a leading provider of research.

AIST provides professional training, consulting services and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members. Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.

Contact

David Haynes, Executive Manager Policy & Research

03 8677 3800

Tom Garcia, Chief Executive Officer

03 8677 3800

1 Executive summary

In brief:

AIST welcomes consultation on the collection of financial levies for 2015-16. AIST comments that the proposed levies paper does not appear to comply with the Government Cost Recovery Guidelines and OECD best practice, and therefore, we are unable to comment on the methodology used for costing the proposed levies. Our recommendations in this submission thus are around consistency, transparency and accountability. We have noted a minor reduction in the levy for 2014-15.

AIST strongly supports a well-regulated superannuation system, which includes well-resourced and purposeful regulators. Accordingly, AIST supports the recovery of supervisory levies by APRA, ASIC, the ATO, and DHS on the proviso that such recovery is in line with two key sets of principles:

1. The Australian Government Cost Recovery Guidelines ('the CRG')¹.
2. The OECD's Best Practice Principles for Regulatory Policy², which includes regulatory role transparency, clarity, preventing undue influence, accountability, engagement, funding, and performance evaluation.

AIST accordingly welcomes the opportunity to respond to the paper *Proposed Financial Industry Levies for 2015-16* ('Proposed Levies Paper'), –but – once again – concludes that the Proposed Levies Paper does not follow the CRG. There is insufficient information for groups being levied to analyse whether the regulator levies do comply with the CRG.

AIST is also concerned that option 2 will be used to determine levies at a time when a suitable Cost Recovery Impact Statement has not been prepared in line with the CRG. There is still, for example, a lack of transparency as to the composition of the levy, whether it be the restricted (supervisory) or unrestricted (systemic) component. It remains difficult to determine whether the levy contains items that – according to the CRG – are not recoverable. The levies seek to raise a substantial sum of money, which is drawn from the superannuation savings of working Australians. Transparency is therefore critical.

¹ Australian Government, Department of Finance, (2014). *Australian Government Cost Recovery Guidelines, July 2014 - Third edition*. Resource Management Guide No.304. [online] Australian Government. Available at: <http://tinyurl.com/lplwh2g> [Accessed 9 Jun. 2015].

² OECD (2014), *OECD Framework for Regulatory Policy Evaluation*, June. Available at: <http://tinyurl.com/nwjzb5z>
OECD (2014), *OECD Best Practice Principles for Regulatory Policy: The Governance of Regulators*, July.

AIST notes that the level of transparency regarding the raising of SuperStream levies is also insufficient. In the Cost Recovery Impact Statement for Financial Institutions Supervision 2014-15, SuperStream was mentioned as an activity outside the cost recovery arrangements, but would be subject to further consideration. We note that Treasury's Response Paper³ stated that this (among other) activity 'includes instances where a number of entities that give rise to the need for regulation do not contribute to the levy and/or there is not a strong link between those who pay for the levy and those who create the need for the activity.' In this regard, AIST notes that Attachment A to the Proposed Levies Paper provides sparse information, and also does not include a significant block of the superannuation sector which gains use from SuperStream – Self Managed Superannuation Funds.

The addition of the Early Release of Superannuation Benefits program, the Unclaimed Superannuation Moneys programme, and the Lost Member Register into the levies is also accompanied by a similar lack of costing methodologies or transparency.

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.

AIST would be pleased to participate in further consultations regarding the raising of financial levies.

³ Commonwealth of Australia, (2014). The Financial Industry Supervisory levy Methodology Review Response Paper 16 April 2014. [online] Commonwealth of Australia. Available at: <http://tinyurl.com/lf2nu29> [Accessed 9 June. 2015].

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 2014⁴ ("the CRG"), namely consistency, transparency, and accountability, and the promotion of the proper use of resources. These policy objectives are increasingly relevant, given both the size of the Australian financial sector as well as the quantum of levies arising from initiatives such as SuperStream.

Paragraph 52 of the CRG outlines what types of detail should be provided in order to meet the requirements of 'transparency' and 'accountability':

In developing a high-level cost recovery model, entity staff should:

- *provide estimates of expenses and revenue for the activity*
- *discuss how changes in the underlying assumptions will affect financial estimates*
- *demonstrate the potential to align expenses and revenue*
- *propose how the activity could be broken down into distinct outputs (e.g. assessments of permit applications, registrations of goods or compliance audits) that facilitate the achievement of the government policy outcomes*
- *identify high-level business processes for the outputs of the activity*
- *identify appropriate types of cost recovery charges (fees, levies or both)*
- *produce estimates of the cost recovery charges.*

While we have appreciated various consultations regarding the raising of financial levies, the issue remains that we have not seen any information that complies with the CRG. We refer, for example, to the Proposed Financial Levies Paper for 2014-15. From this paper, AIST noted with appreciation and interest that there would be increased transparency of how regulatory activity is to be recovered, together with (for example) greater detail as to how the restricted and unrestricted components of the levy are calculated. This has not happened.

Our views may be summarised:

- AIST supports the policy objectives contained in the CRG, and is very pleased to see that a new edition was issued in July 2014.

⁴ Department of Finance, (2015). *Australian Government Cost Recovery Guidelines (Resource Management Guide No. 304)*. 3rd ed. [pdf] Canberra: Commonwealth of Australia. Available at: <http://tinyurl.com/lplwh2g> [Accessed 9 Jun. 2015], p.5.

- AIST is disappointed that, yet again, the Proposed Levies Paper does not fully address the requirements of the CRG. There is insufficient information for groups being levied (eg. superannuation funds) to analyse the activity. Indeed, the Proposed Levies Paper covers much the same ground as the Proposed Levies Paper for 2014-2015, with the addition of a few additional levies and with an updated CRG having been issued.
- AIST is also concerned that Option 2 has been selected without a Cost Recovery Impact Statement having been prepared which is in line with the CRG. AIST has expressed this concern in previous submissions.
- We admit to an element of surprise at the conclusions of the Government following industry consultation in 2014-15, as outlined on page 5 of the discussion paper. We point out that a considerable number of industry groups, including both AIST and ASFA noted shortcomings with the consultation with particular reference to the process, with reference to the cost recovery guidelines.
- A lack of transparency also underpins the lack of a discernible link between those who gain use from regulator activities and those who pay the levy. Self-Managed Superannuation Funds and SuperStream is one such example where SMSFs gain a benefit but do not contribute.
- AIST questions the inclusion of other programs such as the Early Release of Superannuation Benefits, the Unclaimed Superannuation Moneys programme, and the Lost Member Register without transparency of a CRIS which has been prepared in line with the CRG.
- AIST notes that AIST notes and supports the ongoing work regarding the development of regulator outcomes-focused performance indicators. This work should result in indicators that are in line with OECD recommendations⁵ that regulators should develop meaningful indicators including metrics as to the impact and costs imposed. The CRG require government agencies to have outputs with discernible links to costs. AIST believes that this process will add to greater transparency regarding the imposition of levies.
- AIST would be pleased to be part of the consultation process for both the review of the CRG and the further development of the CRIS.

2.2 Requirement for a CRIS

As with our submissions in previous years, we noted the lack of a Cost Recovery Implementation Statement (CRIS), which was a requirement in previous editions of the CRG.

We welcome the fact that this has not changed. Paragraph 39 of the CRG notes that:

⁵ OECD, *OECD Best Practice Principles for Regulatory Policy: The Governance of Regulators*, July 2014. Available at: <http://tinyurl.com/pf7v3gl>

Each cost recovered activity, regardless of financial value, must be documented in a cost recovery implementation statement (CRIS) before charges commence.

However, we also note from page 16 of the discussion paper that the APRA CRIS will not be made available until June 2015.

AIST is concerned that by issuing this after consultation has taken place on the forecast costs and their current charging methodology, this is unable to assist an organisation such as ours with being able to form a clear opinion on the new costings.

We note also that the APRA CRIS that was circulated in arrears last year was considerably low on detail.

We note that there have been no substantial changes to the costs themselves; however, there have been changes. Paragraph 39 of the CRG goes on to make it clear that the CRIS is prepared to provide the basis for engagement with stakeholders. It should be clear that without the CRIS, the basis is not there.

Furthermore, there are no CRIS documents prepared for any of the other agencies for whom the levies are being collected on behalf of. The requirement for a CRIS (or collection of CRISs) contained in paragraph 39 of the CRG has not been applied to either the existing levy structure or to the Proposed Financial Industry Levies for 2015-16. This collective set of circumstances leads to problems with understanding the consistency, transparency and accountability of the levies.

Accordingly, the industry holds significant concerns about the absence of information with respect to the costs being recovered by the levies.

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 all relevant CRIS documentation regarding the levies has been drafted together with a suitable consultation process. This method would have no financial impact on the Government.

2.3 Particular issues arising from lack of application of the CRG

2.3.1 Overarching principles of Consistency, Transparency, and Accountability

AIST strongly believes in a well-regulated superannuation system, which has sufficient safeguards (including prudential supervision, consumer protection, and enforcement activities).

In other submissions, AIST has expressed concern that there appear to be insufficient resources for, e.g. ASIC to properly carry out investigation and enforcement activities. Without greater transparency both in relation to the methodology for raising levies and the further development of outcomes focussed key performance indicators, it is difficult to assess whether resources are being applied to those areas which are in most need of regulator attention.

2.3.2 No ability to determine whether the levy is a 'levy' or a 'tax'

As stated on page 2 of the new CRG, 'A cost recovery levy... differs from general taxation as it is 'earmarked' to fund activities provided to the group that pays the levy.' A cost recovery levy should only recover costs of the activity provided to a group that pay the cost recovery levy.

The Proposed Levies document provides a breakdown of restricted/unrestricted components by industry (e.g. superannuation, ADIs) – but this is only in relation to APRA. AIST believes that the Proposed Levies Paper should outline the cost recovery in relation to other regulatory activities (ASIC, ATO, DHS).

2.3.3 Those who gain benefits from the system should contribute to levies

Cost recovery of SuperStream costs is large at an estimated \$61.8million for 2015-2016. Information about the raising of SuperStream levies is insufficient. In the CRIS for Financial Institutions Supervision 2014-15, SuperStream was mentioned as an activity outside the cost recovery arrangements, but would be subject to further consideration. This has been included in the Proposed Levies Paper. We note that Treasury's Response Paper⁶ stated that this (among other) activity 'includes instances where a number of entities that give rise to the need for regulation do not contribute to the levy and/or there is not a strong link between those who pay for the levy and those who create the need for the activity.' In this regard, AIST notes that Attachment A to the Proposed Levies Paper provides sparse information, and also does not include a significant block of the superannuation sector which gains use from SuperStream – Self Managed Superannuation Funds.

In addition to greater transparency regarding the breakdown of SuperStream costs, AIST strongly recommends that SMSFs be included.

2.3.4 Addition of new programs without a CRIS

The addition of the Early Release of Superannuation Benefits program, the Unclaimed Superannuation Moneys programme, and the Lost Member Register into the levies is also accompanied by a similar lack of costing methodologies, transparency, or whether these programs involve expenditures which do not strictly fall within those which may be cost recovered.

2.3.5 A well-documented costing model is needed

Earlier in this submission, we drew attention to comments from the CRG that a well-documented costing model is needed. The level of detail is a balance between the cost of developing and maintaining the model –and- proportionate to activity size and complexity. This enables entities and Parliament to analyse any calculations.

⁶ Commonwealth of Australia, (2014). *The financial Industry Supervisory levy Methodology Review Response Paper 16* April 2014. [online] Commonwealth of Australia. Available at: <http://tinyurl.com/lf2nu29> [Accessed 9 June. 2015].

While some information has been provided in the CRIS regarding both the restricted and unrestricted components (% of time by each sector, e.g. superannuation), AIST believes that there is still insufficient detail given the activity size and complexity.

AIST welcomes previous comments in the Cost Recovery Impact Statement for Financial Institutions Supervision 2014-15 that APRA had commenced an analysis of the actual cost of supervision. However, more detail is needed:

Impact of CRG	AIST comments
<p>Alignment is needed between expenses of the activity and the revenue:</p> <ul style="list-style-type: none"> • The high level costing model should propose how the activity can be broken down into distinct outputs that facilitate achieving Government objectives. • The high level costing model should enable justification of calculations and how they relate to the cost of the activity. • There should be an explanation of the costing model for the activity, how the activity has been broken into outputs and processes and how those have been costed, including cost drivers and assumptions. • The design of the cost recovery charges should be included – which type of charges have been used and why, including their link to the outputs and processes of the activity. • The costing model should enable benchmarking. 	<p>AIST is very keen to ensure that the regulators are suitably resourced and funded to help ensure a strong financial system. AIST is concerned that, for example, ASIC is insufficiently resourced to properly undertake compliance investigations and enforcements.</p> <p>Activities and revenue of agencies other than APRA should be transparent (ASIC, ATO, DHS).</p> <p>AIST strongly endorses the CRG requirement that an outline of agency activities, outputs, and costing methods should be included. AIST believes that a breakdown of agency activities and outputs such as approvals, investigations, enforcements, and compliance checks together with costings should be included. This information is needed to ensure that levies are being spent on key regulatory activities (compliance, investigations, enforcement).</p>
<p>Cost recoveries should remove incentives for cost padding, inefficiencies and expansions beyond original policy intent.</p>	<p>The current level of costing transparency does not enable how the charges have been used or to benchmark the costs.</p>
<p>Direct costs are to have a high degree of accuracy and indirect costs to have a well-documented</p>	<p>AIST believes that more detail is needed regarding both the costs themselves, as well as a greater degree of specificity regarding the costing</p>

methodology.	methodologies.
Entities must report at cost recovery level on web and include financial outcomes for cost recovery activity.	AIST welcomes this and also to the ongoing reporting.

2.4 Impact

We note from the Proposed Levies Paper that forecast costs for the 2015-16 financial year appear to be a like-for-like reduction, compared with previous figures. We also note that this appears to apply across-the-board. The following comparison considers three different funds and the effect of the changes to the levies recoupment:

2015-16 (forecast)	Large fund	Small fund	ERF
FUM (000s)	\$ 80,014,466.00	\$ 95,317.00	\$ 516,593.00
Number of members	2,120,160	389	1,013,184
Components (forecast)			
Calculated restricted (000s)	\$ 2,648.48	\$ 3.15	\$ 17.10
Actual restricted (000s)	\$ 260.00	\$ 3.15	\$ 17.10
Unrestricted (000s)	\$ 6,974.06	\$ 8.31	\$ 45.03
Total (000s)	\$ 7,234.06	\$ 11.46	\$ 62.13
(2014-15 equivalent) (000s)	\$ 8,134.22	\$ 14.27	\$ 77.34
Cost per member	\$ 3.41	\$ 29.47	\$ 0.06
(2014-15 equivalent)	\$ 3.84	\$ 36.68	\$ 0.08

As can be seen, this appears to be a change across-the-board. For large funds, small funds and ERFs, this appears to represent a reduction in fees.

Although AIST welcomes any reduction as this is ultimately in the best interests of superannuation fund members, we re-iterate that the methodology needs to reflect a consistent and proper process of evaluation. We are not yet convinced that this has taken place.

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