

9 October 2015

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<http://www.treasury.gov.au/ConsultationsandReviews/Consultations/2015/Proposed-industry-funding-model-for-ASIC>

Via email: asicfunding@treasury.gov.au

Burrell Stockbroking and Superannuation is a medium sized firm that offers full service stockbroking, superannuation and wealth management services to both retail and wholesale clients. We have been serving our clients diligently and to the best of our ability for the past 78 years. We also hold a clearing and settlement license through our holding company. Burrell is one of two privately held firms in Brisbane that has its own full service clearing and settlement back office.

With respect, we submit that industry should not be responsible for fully funding the costs of the Australian Securities and Investments Commission (**ASIC**). This approach assumes that the taxpayer should have no responsibility for the regulation of the stock market or financial services industry. Every Australian benefits from regulation of the market and financial industry. This is even more evident with the introduction of compulsory superannuation. The Australian public has an interest in the process of price discovery for securities on Australian public exchanges. With respect, the rationale behind the planned full cost recovery is flawed, and should be revisited by the government.

From a microeconomic viewpoint, the problem is for market participants to bear 'n' of the costs (\$91M per chart 3) but our clients receive '1/n' of benefits. The users of share market prices are diverse, but number in the millions each day. Only a minor fraction of those trade. As a rough rule, at least half of the costs should not be recovered from market participants.

Moreover, companies or company shareholders are a major beneficiary of price discovery. It is submitted listed companies should bear a larger portion than \$53M to address the 'n' v '1/n' problem in the previous paragraph.

The general financial literacy of Australians is poor. The government has been vocal in implementing policy to improve the access of Australians to financial advice. The current cost recovery will push small to medium stockbrokers and financial planners out of advising retail investors. This will reduce competition and access to financial services for general Australians, including rural areas. The industry has already been forced to increase costs to consumers due to the increased regulatory burden. Passing costs onto consumers will make advice more expensive for the average Australian. Small to medium players may not be able to handle the margin compression, and only the big

players will be left. But the big players are exiting the retail advisory space also after poor returns. Recently even UBS sold its advising business.

The financial advice industry has been bombarded with regulation over the last few years, the Future of Financial Advice Reforms (FOFA), ASX cash margining requirements, Financial Stability Standards, Foreign Account Tax Compliance Act (FATCA), Tax Agent Services Act (TASA), ATO Data requests, to name a few. The worst regulation is the opt in opt out provision – what other industry has an edict that its consumer contracts expire every 2 years !The increases in regulation are almost unmanageable for the industry. When combined with the increased regulatory burden the industry has faced, the current cost recovery proposal will push small to medium stockbrokers and financial planners out of the industry. The regulators missed Storm Financial and other failures. Current measures penalise the surviving good firms.

The potential regulatory burden to our business is significant. Just for our stockbroking business, our costs will increase by approximately \$40,000 p.a. plus a variable fee amount scaled relative to our transaction and message counts (assumed levy \$130,000, per your example 6). Our group of entities also holds a clearing and settlement licence (assumed levy \$34,000). When added together, **our total cost of doing business is set to increase by at least \$204,000 per annum.**

Burrell are continually evaluating whether we remain in the regulated space. Return on equity is low and we have recently increased prices. The impact of further price rises to recover this ASIC cost levy is un clear.

Attachment C – Funding Model for AFS Licensees

Within the Burrell group we hold three AFS Licensees (AFSL). In general terms we have an AFSL for our advice, clearing and settlement, and responsible entity businesses. As such, Burrell is well placed to comment.

The current cost recovery model does not support small to medium sized business. The initial threshold levies are too high. They do not support new additions to the industry, or internal growth by 'trying something new'.

In Europe the number of participants has increased. In Australia, it has fallen dramatically.

In response to the consultation papers specific questions we have the following comments:

36. Do you support the proposed arrangements for AFS Licensees' levies? Why or why not?

We do not support the proposed arrangements. The cost and margin pressure on small to medium business will have a far greater impact than on larger firms. We believe the fundamental basis for full cost recovery is flawed, as it ignores the responsibilities of the Australian taxpayer to fund a regulated market. Further, we believe the examples in the consultation paper are not reflective of what occurs in practice.

Authorisations are expensive to change and infringement costs are high. The statement on page 3 of the Consultation paper in section 2 is logically incorrect.

The SEC funding model based on securities turnover value is more equitable than one based on authorisation as a cost driver.

Levy per AFSL authorisation

Assuming our tallying of authorisations is correct, across our stockbroking, clearing and settlement, and responsible entity businesses we will incur a cost of \$13,750 p.a. for AFSL authorisations. The current licensing regime is inefficient and confusing. In many cases, to simply provide securities advice three authorisations are needed, one for advice, dealing, and arranging. The government should be looking to increase efficiency rather than penalising industry for an inefficient system.

Larger organisations do not necessarily have more AFSL authorisations. In order to provide holistic advice, many authorisations are needed. As a medium firm we have 29 authorisations to provide full stockbroking advisory services. The suggestion that a small firm would only have two AFSL authorisations is misleading, it is not what occurs in practice. Charging per authorisation is a deterrent to holistic advice providers. Small and medium full service firms have the same, if not more AFSL authorisations that larger firms. **Charging per authorisation is not a fair and equitable solution to cost recovery.**

Levy per advisor

The government should be encouraging job growth in the financial services industry. With compulsory superannuation and an ageing population, financial advice is more important than ever. As a medium firm we will incur a fee of \$13,630 p.a. to register our advisors (\$470 x 29 advisors). Registration fees per advisor will be a deterrent to job creation for small to medium sized firms. Our business will reconsider employment of additional advisers. At a minimum, we propose a cap on advisor registration fees based on the size of the firm. Additionally, trainee advisors should be excluded to encourage entry into the market.

Small and medium firms, by their nature, have job sharing roles requiring RG146 training and registration on the ASIC advisor register. Personal assistants, administrative roles, portfolio reporting roles, and more have RG146 training and are registered. Although, administratively harder to manage, we submit where advisory duties are not core to a role, levy fees should not be applied.

Market Participant levy

Market participant fees need clarification. Is the fee per market? If so, this will lead to reduced competition. Participants will forgo NSX and Chi-X authorisations due to the cost.

When all proposed levies are totalled, **we may have to reduce staff numbers to cover these costs.** Policy that forces businesses to reduce staff numbers, is not good policy.

37. Will the proposed levy arrangements for AFS licensees be competitively neutral? If not, why not?

The proposed levy arrangements will not be competitively neutral as they do not take into account the greater impact for small to medium companies, than for larger companies. As mentioned, the examples in the consultation paper (see example 5 page 46), are not reflective of the real environment. Although small to medium firms have fewer staff, they do not necessarily have fewer AFSL authorisations, or persons registered on the ASIC advisor register.

The Australian Government and Treasury and ASIC have a major issue in that regulation over recent years has reduced quality advice to retail investors. This is classic. Following events post Global Financial Crisis (GFC) e.g. Storm Financial, academic research would predict an increase in regulations, most of which will fail. This is exactly what we have seen.

38. Will the proposed tiering arrangements support the growth of AFS licensees? Why or why not?

The lower limit of the tiering arrangements is set too high to support small and medium business. For example, there are many small to medium responsible entities that have FUM on far less than \$1 billion. How is it justifiable for a fund with a FUM of \$5-10 million to pay the same levy as a fund with \$1 billion?

39. Will the proposed levy arrangements for AFS Licensees support innovation? If not, why not?

The proposed levies will not support innovation in a regulated sense. Businesses are likely to find innovative ways to operate outside the regulated environment, which is the opposite of government policy and ASICs mandate.

Businesses will hesitate to become market participants with a base cost of \$170,000 (including fees for message count). Annual adviser fees will act as an additional barrier to entry for advisers. Managed Investment Schemes will reconsider registration due to the costs to responsible entities. Business will reconsider new projects if an additional AFSL authorisation is needed. Due to the levies, business will seriously reconsider employing additional staff, and starting new innovative projects due to increased costs.

40. Will the proposed levy arrangements for AFS Licensees support small business? If not, why not?

As outlined above, small and medium business is not supported by the new levies. The minimum thresholds are too high, as are the levy amounts. The government should take this opportunity to find a fair solution to the funding problem. Small business needs to be supported, and the taxpayer's responsibility to fund a regulated market cannot be ignored.

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

If increased margin pressure becomes unmanageable, which is likely under the current model, rural services will be cut. Our business has several branches. We would not add additional branches under the current model due to cost.

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?

Neither model adequately deals with the fundamental flaw that industry should not have to fund all of ASICs costs. The taxpayer has some responsibility to fund a regulated market.

A graduated approach may be fairer than the current model. However, a graduated model would only be fair where the threshold limits were reflective of practice. A model based on funds under management may assist small to medium business. Levies based on per item authorisations, advisors, and market transactions, is not fair and equitable.

The SEC model based on the simple metric of securities turnover value for market participants is preferred for some of the cost. The balance should be borne by listed companies and Government.

Burrells do not support the 2015-16 Budget sale of the ASIC Registry business. Two reasons.

- a) It is a monopoly and fees will need to be regulated.
- b) It is a natural funding arm for part of ASIC's costs.

To accept some merchant banking proposal to sell off a part of ASIC they can produce a dollar from smacks of opportunism and poor microeconomic policy by Treasury and Government.

Attachment F – Funding Model for Market Infrastructure Providers

Levy Clearing and Settlement License Holder \$34,000 - \$420,000

Many of the points above directly relate to clearing and settlement license holder levies. The levies do not support small to medium business. Small clearing entities should not be funding regulation of larger organisations. Burrell consistently has one of the lowest error rates for clearing and settlement. A more equitable solution is needed. We are assuming that our organisation is at the lower end of levy scale. This fee is still too high and does not reflect the minor regulatory burden placed on ASIC.

Thank you for taking the time to consider our submission. We thought this issue had been resolved sensibly some time ago. These new proposed levies will have a serious impact on our business. We trust you can find an equitable solution that balances the responsibility of industry, with that of the Australian tax payer. Every Australian with superannuation benefits from the price discovery process for listed securities.

Yours truly,



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P.S: Subsequent to completing this submission uncertainty arose as to how 'participations' are defined. It may be the above numbers are over stated.