

23 October 2015

Corporations and Schemes Unit (CSU)
Financial System and Services Division
The Treasury
100 Market Street Sydney NSW 2000

By email: asicfunding@treasury.gov.au

Dear Madam or Sir

Submission status: PUBLIC

We wish to make a brief submission to the consultation process regarding the *Proposed Industry Funding Model for the Australian Securities and Investments Commission*. I apologise that we were not able to submit by the deadline due to me being overseas, and appreciate your agreement to receive a submission by today.

COTA Australia would like to support the general thrust of and most of the specific points in the submission provided to you by the grouping of consumer organisations facilitated by Consumer Action Law Centre. Our colleagues in these bodies were kind enough to share their submission with us and are aware that we are drawing on their work in writing separately to you.

The key point we wish to make is that COTA Australia agrees that ASIC ought to be substantially industry funded, but we have concerns about the proposed model.

We support the summary arguments made by our colleagues on page 2 of their submission, with the following points of slight departure:

- COTA is cautious about the extent of levies on regulated industries. We have concerns that the cost recovery principle will almost always result in industry passing the costs on to consumers and therefore we would wish to limit this ultimate impact. In addition, while we agree that industry should pay the lion's share of the costs of ASIC, we also see a case for some continued government funding in recognition of the public good ASIC is delivering, and the case for public funding of certain roles and functions. We do not have a definitive view about the precise relative shares.
- Similarly, COTA is cautious about the idea of industry fully funding financial counselling services and specialist financial services community lawyers. We are in absolute agreement with our consumer group colleagues that these services are essential and must be funded. We consider it unacceptable that public funding was withdrawn from this vital service that makes so much difference to people's lives. We also understand the argument that unscrupulous practice in industry has often created demand for these services. However

that is not the only cause of need for such services, and the levy of course falls on all providers not just the unscrupulous. Also, returning to our concern above regarding the size of the levy and our view that government has a role to play in protecting the public good, we call for the reinstatement of funding to these crucial services through ASIC, with the cost shared between industry and government.

- We have a similar position in regard to financial literacy programs. COTA believes that there is a public good and a benefit to government in greater levels of financial literacy across all cohorts of consumers of financial services. Therefore we believe a comprehensive financial literacy program, which does not currently exist, should be funded by a mix of public funds and industry levy.
- COTA understands and agrees with the concern expressed by our colleagues that it is not appropriate for ASIC to be **accountable to** industry under any circumstances. ASIC is clearly accountable to the government and the parliament and should never have to justify its regulatory or enforcement activities or budget to industry. However, we hold the view that it is worth investigating if there are gaps in appropriate information available under current accountability mechanisms that would be of value to industry in its new engagement with ASIC. There may be a case for strengthening targeted, fit-for-purpose communication between ASIC and industry that does not in any way compromise the regulator/client relationship, but strengthens the overall culture of engagement. Clearly any additional effort in this area would need to be supported by adequate, additional resources and not divert ASIC further from its core business. However we also agree with our colleague organisations that funding should be reviewed every three years, as recommended by the FSI Review, rather than annually.

Thank you again for the opportunity to express our views to you on this important matter. We would be happy to discuss this further with you if you would like to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ian Yates', written over a large, light-colored scribble or background mark.

Ian Yates AM
Chief Executive