

File Name: 2016/09

3 June 2016

Manager

Banking, Insurance and Capital Markets Unit

Financial System and Services Division

The Treasury

Langton Crescent

PARKES ACT 2600

Email: supervisorylevies@treasury.gov.au

Dear Manager

RE: Proposed financial institutions supervisory levies for 2016-17

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in relation to the consultation paper: *Proposed financial institutions supervisory levies for 2016-17* (Consultation Paper).

About ASFA

ASFA is a non-profit, non-political national organisation whose mission is to continuously improve the superannuation system so people can live in retirement with increasing prosperity. We focus on the issues that affect the entire superannuation system. Our membership, which includes corporate, public sector, industry and retail superannuation funds, plus self-managed superannuation funds and small APRA funds through its service provider membership, represent over 90 per cent of the 14 million Australians with superannuation.

General comments

ASFA does not oppose the recovery through the supervisory levy of expenses incurred by the Australian Prudential Regulation Authority (APRA), the Australian Securities and Investments Commission (ASIC), the Australian Taxation Office (ATO) and the Department of Human Services (DHS), to the extent that these are relevant and attributable to the supervision of superannuation funds. We consider it important that the Government agencies that regulate our superannuation funds are well resourced to conduct their supervisory activities.

ASFA does, however, have a number of significant continuing concerns in relation to the methodology and process used to determine the annual supervisory levies which have not been addressed, or addressed fully, in the Consultation Paper.

Executive Summary

ASFA's concerns in relation to the proposed levies can be summarised as follows:

1. Lack of transparency regarding the costs to be recouped via the levy:
 - the Cost Recovery Implementation Statement (CRIS) to be published by APRA by 30 June 2016 should contain sufficient detail to allow stakeholders to assess the appropriateness of the levies imposed on regulated industries
 - in future, APRA should ensure that an updated CRIS is available for stakeholders to consider as part of the annual levy determination process
 - the consultation paper and CRIS for the 2017-18 APRA levy collection, and any material regarding the proposed industry funding model for ASIC, should provide transparency around any ASIC-related amounts that may continue to be collected by APRA and the treatment of any under or over collections of levy relating to ASIC from 2016-17 or earlier years.
2. Utilisation of the SuperStream levy component, its application only to APRA-regulated superannuation entities, and the need for clarity over the future funding of 'business as usual' SuperStream activities:
 - Treasury and the ATO should provide detailed information supporting the amount of SuperStream component sought to be recovered via the supervisory levy and properly account for the expenditure of previously raised levies
 - the levy arrangements should recognise that the beneficiaries from SuperStream are not limited to APRA-regulated superannuation funds and their members. In particular, Treasury should reinvestigate options to subject SMSFs to the SuperStream component, and consider whether a portion of the SuperStream component reflecting the benefits delivered to non-levied entities should be met out of consolidated revenue
 - Treasury and the ATO should advise industry of the proposed funding model for ongoing SuperStream costs after the SuperStream levy component ceases to be collected in 2017-18.
3. Cost recovery in accordance with Government guidelines:
 - Treasury should reconsider the appropriateness of applying the APRA levy methodology to the recoupment of costs incurred by other agencies
 - future CRIS and levy consultation papers should include sufficient information to enable industry to assess the appropriateness of the proposed levy collections on behalf of the ATO and DHS, and any ASIC-related amounts that may be continue to be collected via the levy.
4. Funding of the Superannuation Complaints Tribunal (SCT) – while ASFA welcomes the one-off funding boost for the SCT in 2016-17, we consider that:
 - the amount of funding allocated from the levy to the SCT for its ongoing operations should be separately identified in the annual levy consultation papers
 - Treasury and ASIC should urgently review the SCT's funding needs to ensure it is adequately resourced to address its workload and meet its statutory objectives on an ongoing basis, without the need to rely on ad hoc funding increases.
5. Minimum and maximum amount for the restricted component - both the CRIS to be issued by APRA, and the annual consultation papers, should include meaningful detail about the manner in which these amounts have been determined.
6. Timing of annual consultation papers - ASFA welcomes the more timely release of the proposed levies for 2016-17 and the longer period allowed for consultation, and recommends that Treasury and APRA endeavour to provide a minimum four week consultation period in future years.

Detailed comments

1. Lack of transparency regarding the costs to be recouped via the levy

1.1 Transparency issues generally

In submissions on supervisory levies over the last several years, ASFA has consistently highlighted the lack of transparency in the process by which the levies are determined and allocated. We have also raised our concerns in this area in our responses to the Financial System Inquiry and the Government's consultation on introduction of an industry funding model for ASIC.

While pooled superannuation members pay millions of dollars in levies each year to fund the regulatory process, the industry currently has very little awareness of how those levies are allocated between, and utilised by, the relevant agencies.

The breakdown provided to the industry during the annual levy determination process is at the very highest level, simply identifying a total allocated to each agency. No detail is provided to indicate how those amounts relate to the various activities conducted by each agency. This lack of transparency over levies has led to concern that the superannuation industry might effectively be cross-subsidising other participants in the financial services industry, which are not subject to the levy regime.

The issue of transparency has been acknowledged by the Australian National Audit Office (ANAO) in its performance audit of the determination and collection of financial sector levies¹, and by Treasury as part of a recent consultation on financial industry supervisory levy methodology².

One particular criticism raised by the ANAO related to the failure by APRA to publish Cost Recovery Impact Statements (CRIS) in relation to its industry levies regularly and in a timely manner. While APRA has since published Cost Recovery Implementation Statements (also abbreviated to 'CRIS') for 2014-15 (in very late June 2014) and 2015-16 (in early July 2015), regrettably these were not available when industry was considering proposed levies for those years. Similarly, no CRIS was released with the Consultation Paper to inform industry's consideration of the proposed levies for 2016-17.

Further, the level of detail contained in the 2014-15 and 2015-16 CRIS was very high level and, in ASFA's view, failed to materially advance the industry's understanding of APRA's cost recovery model. The CRIS provided little genuine transparency about how levies are determined across the regulated sectors, or how they are utilised. For example, each CRIS is a single document covering all supervisory levies collected by APRA from regulated industries, across a number of separate levy-collection regimes, with only a high-level percentage breakdown of APRA's supervisory effort by industry.

Given the limited information available regarding the utilisation of levies, it is not possible for industry to assess whether the regulators and agencies have delivered value for money. This, in ASFA's view, represents a significant shortfall in holding the regulatory process to account.

¹ Australian National Audit Office: The Auditor-General Audit Report No. 9 2013-14 - Performance Audit: Determination and Collection of Financial Industry Levies – Australian Prudential Regulation Authority, Department of the Treasury

² The Treasury: The Financial Industry Supervisory Levy Methodology Review, Response Paper, 16 April 2014

The superannuation industry is currently facing increased scrutiny, including as a result of the Productivity Commission's review of the superannuation competitiveness and efficiency, and enhanced disclosure requirements in relation to fees and costs. ASFA considers it appropriate that APRA, as the primary regulator for superannuation, should be held to the same level of scrutiny in terms of the levies imposed on the superannuation industry and their utilisation. The same is also true for amounts recouped on behalf of ASIC and the DHS, and particularly for the substantial amounts collected on behalf of the ATO, which is not only an important regulator but also now a major stakeholder in the superannuation industry as a result of SuperStream.

1.2 Transparency in the transition to the ASIC industry funding model

While the Government has indicated that it will undertake further consultation with industry before settling its proposed ASIC industry funding model, ASFA anticipates that there will also be some flow-on implications for the levy collection by APRA for 2017-18 and, potentially, for future years:

- the question of whether all of ASIC's activities should be directly cost-recovered under the new funding model has not yet been finally resolved³. ASFA anticipates that many or most activities which are not directly cost-recovered would be funded from consolidated revenue. However, to the extent that any of those activities continue to be funded via an allocation from the levy collected by APRA, it is important that both the ASIC funding model, and future APRA levy collections, are fully transparent regarding these activities, and the amounts to be recouped from each regulated sector
- during the transition to the ASIC industry funding model it will be necessary for Treasury and APRA to provide transparency around the treatment of any under or over collection from the levies for 2016-17 (or earlier years) on behalf of ASIC – that is, whether this will be reflected in the 2017-18 APRA levy collection, or factored into the amounts charged via the ASIC levy.

We strongly encourage Treasury and APRA to ensure that such transparency is reflected in the consultation paper for the proposed 2017-18 APRA levy collection and the CRIS for 2017-18, and to ensure that the CRIS is released with the consultation paper so as to provide further clarity around the determination of the proposed levies.

Recommendation 1:

- a) The CRIS to be published by APRA by 30 June 2016 should provide sufficient detail to allow stakeholders to assess the appropriateness of the levies imposed on regulated industries.
- b) In future years, APRA should time the publication of any updated CRIS to ensure that it is available for stakeholders to consider as part of the annual levy determination process.
- c) The consultation paper and CRIS for the 2017-18 ARA levy collection, as well as material provided regarding the proposed introduction of the ASIC industry funding model from 2017-18, should provide transparency around any ASIC-related amounts that may continue to be collected by APRA and the treatment of any under or over collections from the levies for 2016-17 (or earlier years) that relate to ASIC.

³ Treasury - Proposed Industry Funding Model for the Australian Securities and Investments Commission: Consultation Paper, 28 August 2015, see consultation questions 1 and 2

2. SuperStream levy component

ASFA has for some years expressed concern about the calculation of the amount to be recovered via the SuperStream component and the fact that recovery is sought only from APRA regulated funds. Each of these concerns has been raised in prior submissions on the levy.

2.1 *Lack of transparency over calculation and expenditure of the SuperStream component*

ASFA has commented extensively on the lack of meaningful detail about the activities being funded by the SuperStream component – for example, the various activities being performed, the anticipated deliverables, the basis on which expenditure has been incurred, and a breakdown of past and anticipated costs.

As in prior years, the Consultation Paper includes only an extremely high level list of the activities to be undertaken by the ATO, with no indication of how the levy collection is to be allocated between those activities. No additional information has been forthcoming to help industry understand how the SuperStream component has been calculated, and how a projected recovery of this magnitude - \$422 million over the period 2011-12 to 2017-18 - is to be justified.

As ASFA has noted previously, the SuperStream component of the levy is based on *anticipated* expenditure. Good practice dictates that where amounts have been raised with respect to anticipated expenditure, evidence should be provided to those paying the levy that it has been fully applied to those activities and not underspent or misapplied. In our view, the need to apply such a process is heightened where the amounts involved are significant, as is the case here.

2.2 *Application of SuperStream component only to APRA-regulated superannuation entities*

ASFA has previously noted that Self Managed Superannuation Funds (SMSFs) will benefit from the SuperStream initiatives through more efficient rollover processes from other funds and also more efficient mechanisms for receiving contributions from employers who do not have a direct connection with the SMSF trustees. Despite this, SMSFs have not contributed toward the ATO's cost of implementing SuperStream in the same manner as APRA-regulated funds.

ASFA considers that the levy amount recovered from APRA-regulated funds should relate to the SuperStream activity directly attributable to APRA-regulated funds. The implementation of SuperStream applies across the whole system, including the SMSF sector. We can see no reason why the SMSF levy legislation cannot be amended to allow a levy to be applied.

A further unresolved issue regarding the SuperStream component is its application only to superannuation entities, and by default their members. One of the key goals of SuperStream, and in particular the establishment of infrastructure to support the implementation of the contributions and payments data standards, is to simplify the employer process for paying contributions.

Recent research undertaken for the ATO confirms that this objective is coming to fruition, with the Deputy Commissioner for Superannuation stating that “the majority of employers that have implemented SuperStream are already experiencing benefits, including an overall 70 per cent reduction in the time it takes to meet their superannuation obligations”⁴. In ASFA's view, consideration should be given to whether, given the benefits delivered to non-levied entities such as employers, a portion of the SuperStream component should be met out of consolidated revenue.

⁴ ATO: SuperStream research-employers and APRA funds – media release 22 March 2016

We further note that the ATO will shortly commence transacting through the SuperStream network, delivering rollovers of ATO held amounts to funds from November 2016, and Government co-contributions and low income superannuation contributions from April 2017. This development is expected to generate processing efficiencies for the ATO and it would be reasonable to expect that these savings will be appropriately reflected in any levy component imposed on APRA-regulated superannuation funds.

2.3 Funding of ongoing SuperStream costs

Since 2012-13, the annual levy Consultation Paper has stated that a SuperStream levy component would be collected over the period 2012-13 to 2017-18, to fund the implementation of the SuperStream measures.

The scheduled end of the SuperStream component after 2017-18 leaves open the matter of how future ongoing ('business as usual' or 'BAU') costs for SuperStream are to be funded – for example, costs in relation to the ongoing provision of SuperStream enabling services such as SuperTICK and the Fund Validation Service, as well as maintenance, refinement and future development of the *Superannuation Data and Payment Standards 2012*.

ASFA anticipates that, given the move in 2015-16 to full cost recovery of the ATO's activities in relation to superannuation, the ATO will be seeking to recover these BAU SuperStream costs via the APRA levy collection. While ASFA is not opposed to this on principle, we refer to our comments in sections 1. and 2.1 above regarding the lack of transparency experienced to date in relation to the determination and utilisation of the supervisory levy in general and the utilisation of the SuperStream component in particular. We refer also to our comments in section 3.1 below regarding the appropriateness of applying the APRA levy methodology to the recoument of costs incurred by other agencies.

In ASFA's view, any ongoing funding allocation for the ATO for its BAU SuperStream activities must be sufficiently transparent as to enable the industry to understand the activities performed and to assess the ATO's performance in conducting those activities utilising the levies provided.

In addition, given the purpose of SuperStream is to make the system more efficient, ASFA considers that any benefits to the ATO, in terms of a reduction in cost, should be clearly articulated as part of the annual levy collection process in future years and reflected in a reduction in future levy collections.

ASFA also notes the potential that the enabling services developed as part of SuperStream – effectively financed by the APRA-regulated superannuation sector via the SuperStream component – may be used to facilitate the development of the Single Touch Payroll initiative.

Single Touch Payroll is anticipated to deliver benefits for the ATO and for employers, however little or no benefit is expected to flow to APRA-regulated superannuation funds. In the event that the ATO realises efficiencies and/or cost savings from the use of SuperStream enabling services in the development of the Single Touch Payroll, ASFA would expect this to be reflected in an adjustment to the levy amount imposed on the APRA-regulated superannuation sector. ASFA also considers it critical that any such cost savings are clearly articulated as part of the levy collection process in future, to avoid any possible inference of cross-subsidisation.

Recommendation 2:

- a) Treasury and the ATO should provide detailed information supporting the amount of SuperStream component sought to be recovered via the supervisory levy and properly account for the expenditure of previously raised levies
- b) the levy arrangements should recognise that the beneficiaries from the SuperStream changes are not limited to APRA-regulated superannuation funds and their members. In particular, Treasury should reinvestigate options to subject SMSFs to the SuperStream component of the levy, and consider whether a portion of the SuperStream component reflecting the benefits delivered to non-levied entities should be met out of consolidated revenue
- c) Treasury and the ATO should advise industry of the proposed funding model for ongoing SuperStream costs after the SuperStream levy component ceases to be collected in 2017-18.

3. Cost recovery in accordance with Government guidelines**3.1 Recovery of other agency costs using APRA methodology**

In addition to the specific SuperStream component of \$35.5 million for 2016-17, the Consultation Paper sets out a total further recoupment of \$47.1 million of costs from the superannuation industry in relation to activities performed by agencies other than APRA, comprising:

- \$17.8 million for the ATO, in relation to administration of the Lost Member Register and Unclaimed Superannuation Money regime
- \$4.8 million for the Department of Human Services, in relation to administration of the early release of superannuation benefits on compassionate grounds
- \$24.5 million for ASIC, to cover costs related to the SCT as well as other activities.

This significantly exceeds the \$30.5 million in levies to be collected by APRA for its own purposes.

The ANAO has previously recommended that Treasury and APRA consider the appropriateness of applying the APRA levy methodology to calculate the levies APRA collects on behalf of other agencies.⁵

While this recommendation has been acknowledged both by APRA and Treasury, and separate work is now underway to implement an industry funding model for ASIC, there has been little visible progress made toward addressing the ANAO's concerns as they relate to the ATO and DHS. Given the move in 2015-16 to full cost recovery for ATO and DHS activities, and the concerns noted at section 2.3 above regarding future funding of ongoing SuperStream costs, ASFA recommends that this matter urgently be given further consideration.

3.2 Activities undertaken by ATO & DHS

As in 2015-16, the Consultation Paper proposes full cost recovery of the costs incurred by the DHS and the ATO in relation to the early release of superannuation benefits on compassionate grounds, the Superannuation Lost Member Register, and the Unclaimed Superannuation Money framework.

While the Consultation Paper states that the estimated cost to the DHS and the ATO for undertaking these activities is \$4.8 million and \$17.8 million respectively, it provides no detail to substantiate those figures – for example, no information as to the level of resourcing applied by the ATO and DHS to support those programs.

⁵ Australian National Audit Office, op. cit., recommendation 2(c), paragraph 3.56

The Consultation Paper also provides no indication of the extent to which members of SMSFs benefit from the levies paid by APRA-regulated funds to support the activities of the DHS. (We acknowledge that members of SMSFs will derive little benefit from the non-SuperStream activities of the ATO, as SMSF members are excluded from the lost member regime, and SMSFs are likely to have a low incidence of unclaimed superannuation. Our concerns regarding the benefit that SMSFs derive from the SuperStream component levied only on APRA-regulated funds are noted at section 2.2 above.)

In the absence of more detailed information regarding the cost of the activities undertaken by the ATO and DHS, it is difficult for industry to ascertain the reasonableness of the proposed collection. ASFA strongly recommends that detailed information of this nature be included in the CRIS for 2016-17 and all future years.

3.3 Activities undertaken by ASIC

The Consultation Paper confirms the Government's announcement that, from 2017-18 onward, full cost recovery will be applied for superannuation-related activities undertaken by ASIC via a separate industry funding model.

ASFA has provided its views on the proposed industry funding model in our response to the Final Report of the Financial System Inquiry, and directly to Treasury in response to its consultation paper. In both responses, ASFA indicated our support for adequate and appropriate funding for ASIC, and the notion that all regulated industries should contribute via levies, while noting that the APRA-regulated superannuation industry already contributes substantially toward the cost of its regulation by ASIC (currently, through the APRA levy collection process).

In our response to the Treasury consultation on the proposed industry funding model, ASFA expressed a number of specific concerns, including the following:

- the industry has not been provided with the information needed to develop a full understanding of ASIC's current activities and efficiency and therefore to assess the appropriateness (or otherwise) of the proposed ASIC levies and charges. This information gap can only be remedied by ASIC clearly and transparently mapping out all of its activities, costing them, and attributing them to the relevant sectors/sub-sectors within its regulated population
- the proposed 'one size fits all' model did not appear to adequately reflect the differing levels of risk posed by different categories of regulated entities and is therefore unlikely, in ASFA's view, to produce an equitable outcome
- the proposed model did not appear to involve a sufficiently robust accountability and transparency framework.

ASFA looks forward to being involved in future discussions on the development of the industry funding model for ASIC.

As noted in section 1, the introduction of an industry funding model for ASIC will have some flow-on implications for future levy collections by APRA. ASFA strongly urges Treasury and APRA to provide detailed information to stakeholders, via future years' consultation papers and CRIS, regarding:

- any funding amounts for ASIC-related activities that may continue to be funded via the APRA levy collection process
- the treatment of any under or over collection from the levies for 2016-17 (or earlier years) on behalf of ASIC.

Turning to the specific detail of the proposed 2016-17 supervisory levy, the Consultation Paper indicates that \$24.5 million of the \$70.4 million proposed ASIC component of the 2016-17 levies is to be recouped from APRA-regulated superannuation entities - an increase of \$14.3 million⁶ over the amount recouped in 2015-16.

Taking into account the ad hoc allocation of \$5.2 million for the SCT (see section 4. below), the remaining \$19.3 million is to be recouped as follows:

- ongoing (annual) funding of the SCT's operations (this amount is unspecified)
- a contribution toward the additional \$37 million funding provided to "bolster ASIC to protect Australian consumers" (this amount is also unspecified, but by deduction it is potentially in the order of \$9 million)
- an amount to partially offset ASIC's regulatory costs in relation to any or all of these activities: consumer protection, financial literacy, regulatory and enforcement activities relating to the products and services of APRA regulated institutions, over the counter derivatives market supervision reforms and ASIC's MoneySmart programmes (this amount is also unspecified, as are the specific activities which are attributed to the APRA-regulated superannuation sector).

As is the case for the activities conducted by the ATO and DHS (see 3.2 above), no information has been provided to enable stakeholders to understand the manner in which the funding allocation for ASIC has been determined. In ASFA's view, it has certainly not been demonstrated that this allocation is inadequate to ASIC's regulatory activities in relation to superannuation.

We note our comments at 1. above regarding the need for enhanced transparency during the transition to the new funding model, and ongoing in respect of any ASIC activities that may continue to be cost recovered through the APRA levy collection.

Recommendation 3:

- a) Given the move in 2015-16 to full cost recovery for ATO and DHS activities, and the uncertainty over future funding of ongoing SuperStream costs, Treasury should reconsider the appropriateness of applying the APRA levy methodology to the recoupment of costs incurred by other agencies
- b) future CRIS and levy consultation papers should include sufficient information for industry to ascertain the appropriateness of the proposed levy collections on behalf of the ATO and the DHS, as well as any amounts related to ASIC that may be continue to be collected via the APRA levy.

⁶ This figure is approximate - the itemised figures in the breakdown for superannuation in the 2015-16 Consultation Paper do not sum precisely to the total provided.

4. Funding of the SCT

ASFA welcomes the Government's recent announcement⁷ that the SCT will be provided with an ad hoc funding increase of \$5.2 million in 2016-17 to deal with legacy complaints and improve its processes and infrastructure.

The SCT is a service of critical importance to APRA-regulated superannuation funds and their members and the time taken to resolve complaints is an issue which impacts on consumers' confidence in the superannuation system. ASFA members continue to report increased activity within some parts of the legal profession such that fund members are being actively encouraged to pursue litigation in respect of a benefit entitlement (particularly in relation to claims for insured disablement benefits) instead of following their fund's usual benefit claim and complaints process. One reason cited for the increased trend toward litigation is the time taken for fund members to achieve a resolution of their complaint through the SCT.

ASFA is concerned that the one-off nature of the recent funding injection does not adequately address the deficiency in funding of the SCT's ongoing needs. ASFA has raised concerns over a number of years that the level of funding provided to the SCT on an ongoing basis is not adequate to ensure that it can deal effectively with the volume of complaints received within an appropriate timeframe. This shortfall inevitably causes a backlog of unresolved complaints, which must then be periodically addressed via additional funding allocations as part of the Budget process – as in the May 2016 Budget and, most recently prior to that, the May 2013 Budget.

ASFA strongly urges Treasury and ASIC to urgently review the SCT's funding needs to ensure it receives adequate resources on an ongoing basis to address its workload and meet its statutory objectives, without the need to rely on ad hoc funding increases.

While the Consultation Paper notes⁸ that part of the levy collected on behalf of ASIC is used to defray the costs of operation of the SCT, it does not allocate a specific amount for that purpose. This is consistent with the approach taken in the consultation papers for 2014-15 and 2015-16, but a marked departure from earlier years when the paper clearly indicated an amount of the ASIC component of the levy that was intended to provide funding for the operation of the SCT. The only funding amount specifically attributed to the SCT for 2016-17 is the \$5.2 million ad hoc Budget allocation.

In ASFA's response to the consultation on an industry funding model for ASIC, we expressed the view that the SCT should be given greater control over its funding allocation. In particular, we noted that funding allocated for the operation of the SCT is currently channelled through ASIC, which provides staff and various services to the SCT in accordance with the requirements of the *Superannuation (Resolution of Complaints) Act 1993*. Under these arrangements ASIC exerts a high level of control over the funding amount to be allocated to the SCT and influence over its utilisation.

It is not clear to ASFA that the current arrangements between the SCT and ASIC are appropriate or optimal in terms of efficiency or cost effectiveness. Certainly, there appears to be considerable scope to consider whether alternate arrangements might not deliver cost savings and operational efficiencies which would provide benefit not only to the SCT but also to the superannuation funds and consumers who rely upon its services.

⁷ The Hon. Scott Morrison, Treasurer and the Hon. Kelly O'Dwyer, Assistant Treasurer: Turnbull Government bolsters ASIC to protect Australian consumers – joint media release, 20 April 2016; Budget 2016-17 - Budget Measures - Budget Paper No. 2, p. 153

⁸ Treasury: Proposed Financial Institutions Supervisory Levies for 2016-17, p. 6

We note that the Government recently announced a review of all external dispute resolution and complaints handling bodies in the financial sector⁹. While we acknowledge that it may not be practicable to undertake a major review of the SCT's funding and/or structural arrangements prior to the outcome of that review it remains, in ASFA's view, desirable and appropriate to provide full transparency around the funding that is currently allocated to the SCT.

We look forward to providing input into the review with a view to ensuring that an appropriate, cost-effective and adequately resourced complaints handling framework continues to be available to members and beneficiaries of APRA-regulated superannuation funds.

Recommendation 4:

- a) The amount of funding allocated to the SCT from the ASIC component of the 2016-17 supervisory levy for its ongoing operation should be separately identified.
- b) Treasury and ASIC should urgently review the SCT's funding needs to ensure it receives adequate resources to address its workload and meet its statutory objectives on an ongoing basis, without the need to rely on ad hoc funding increases.

5. Minimum and maximum amount for the restricted component

ASFA agrees with the conceptual basis for making the distinction between the types of activities covered by the restricted and unrestricted component.

The setting of a minimum and maximum amount for the restricted component makes sense, as many of the costs of prudential supervision are fixed and those which are variable are not in direct proportion to fund assets. However, care needs to be taken to ensure that the minimum and maximum amounts are determined on an appropriate and equitable basis, and that they reflect the actual minimum and maximum costs of supervising entities, without cross-subsidisation.

In this respect, we note that the minimum amount for the restricted component for a superannuation fund has been increased from \$1,000 to \$2,500 for 2016-17. ASFA welcomes this modest increase, as in prior years we have questioned whether the total levy paid by some smaller funds would in fact cover the cost of prudential supervision of those funds.

ASFA has, in a number of previous submissions on the levies, noted the lack of transparency around the calculation of the maximum levy amount. Treasury has previously acknowledged industry's concerns that the annual consultation papers provide little explanation of the rationale for the setting of the minimum and maximum amounts, and indicated that APRA would, via its CRIS, provide more transparency regarding the calculation of the minimum and maximum amounts¹⁰. We note, however, that the CRIS published for 2014-15 and 2015-16 failed to include any such information.

Recommendation 5:

- a) There needs to be a clear and transparent methodology underpinning the basis on which the minimum and maximum amounts for the restricted component are set each year.
- b) Both the CRIS to be issued by APRA, and the annual consultation papers, should include meaningful detail about the manner in which these amounts have been determined.
- c) The minimum and maximums should strive to reflect the actual minimum and maximum costs of supervising the entities in the relevant industries.

⁹ Morrison and O'Dwyer, op. cit.

¹⁰ Treasury: Response Paper, op. cit., p. 8

6. Timing of annual consultation papers

The ANAO and the Treasury have previously noted stakeholders' concerns that past consultation periods for proposed levies have been insufficient to allow industry to provide considered responses. The ANAO has recommended that Treasury and APRA provide additional time and opportunities for stakeholders to participate in the annual levies consultation process¹¹, and Treasury has conceded that there may be scope to release the annual consultation papers closer to the date of the Budget¹².

ASFA's submission in relation to the proposed 2015-16 levies endorsed these comments. It also expressed ASFA's strong view that a minimum four week consultation period is generally required to allow a fully considered response, with a longer period necessary if any significant change to the levy methodology was proposed.

ASFA was therefore pleased to note that the Consultation Paper for the proposed 2016-17 levies was released 3 business days after the Budget, and industry was provided with 20 business days to respond. ASFA welcomes the efforts made by Treasury and APRA to implement the ANAO's recommendations and to address stakeholders' concerns of in this respect and trusts that this will continue in future.

Recommendation 6:

ASFA welcomes the more timely release of the proposed levies for 2016-17 and the longer period allowed for consultation, and recommends that Treasury and APRA endeavour to provide a minimum four week consultation period in future years.

* * * *

If you have any queries or comments in relation to the content of our submission, please contact Senior Policy Adviser, Julia Stannard, on (03) 9225 4027 or by email jstannard@superannuation.asn.au.

Yours sincerely



Glen McCrea
Chief Policy Officer

¹¹ Australian National Audit Office, op. cit., recommendation 1(a), paragraph 2.51

¹² Treasury: Response Paper, op. cit., p. 6