



Corporations and Schemes Unit
Financial System Division
The Treasury
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10 March 2017

Dear Sir/Madam

ASIC SUPERVISORY COST RECOVERY LEVY BILL 2017 AND RELATED BILLS

The Insurance Council of Australia¹ (the Insurance Council) appreciates the opportunity to provide feedback on the Government's Exposure Draft of the *Australian Securities and Investments Commission (ASIC) Supervisory Cost Recovery Levy Bill 2017*, related bills², and accompanying explanatory materials (the Draft Legislation).

While the Draft Legislation establishes the overarching framework for the funding model, the scope and calculation methodology for specific industry sector levies will be detailed in regulations and an ASIC legislative instrument. We note that Treasury has consulted previously on the detail of the funding model and the outcomes of its consultation are not yet available.

Given the significance of the impending changes to regulated entities, and the previous feedback³ provided in relation to the detailed methodology, the Insurance Council would appreciate the industry being provided with sufficient time to review and comment on the regulations and legislative instrument once they have been drafted.

¹ The Insurance Council of Australia is the representative body of the general insurance industry in Australia. Our members represent more than 90 percent of total premium income written by private sector general insurers. Insurance Council members, both insurers and reinsurers, are a significant part of the financial services system. December 2016 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross written premium of \$44.6 billion per annum and has total assets of \$121.1 billion. The industry employs approximately 60,000 people and on average pays out about \$124.2 million in claims each working day.

Insurance Council members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, commercial property, and directors and officers insurance).

² ASIC Supervisory Cost Recovery Levy Bill 2017, ASIC Supervisory Cost Recovery Levy (Collection) Bill 2017, and ASIC Supervisory Cost Recovery Levy (Consequential and Transitional) Bill 2017;

³ Insurance Council's submission of December 2016 to the Proposed Industry Funding Model for ASIC

This submission raises a number of issues which the Insurance Council and members have identified with the Draft Legislation.

Classification of Lenders' Mortgage Insurance (LMI) providers

We note that the definition of “credit services entity”, as proposed, would capture a wide range of entities including LMI providers that play no role in the establishment or ongoing management of a home loan credit contract.

As noted in our previous submissions, an LMI provider establishes contact with a consumer only after:

- there has been a default on the home loan;
- the lender has taken possession;
- the property has been sold;
- the LMI provider has paid the shortfall to the lender; and
- the lender has assigned to the LMI provider (or the LMI provider is subrogated for the lender in relation to) any ongoing rights of the lender against the consumer for the personal debt still outstanding under the home loan contract.

Consequently, LMI providers, who are already subject to the insurance sector levy, should not be also captured by the credit sector levy. The Insurance Council suggests that the definition of “credit services entity” should be clarified in the regulations so that LMI providers are not captured. Alternatively if the exemption is not provided, the metric should be appropriate and consulted with industry as part of the regulations and legislative instrument.

Definition of “insurance product issuer”

While the draft legislation defines “financial services entity”, it does not provide detail on the different industry sectors, including the insurance sector, captured by that definition. When constructing the definition of “insurance product issuer”, clarity should be provided such that there is no ‘double jeopardy’ when calculating the levy.

For example, an insurer may partner with another entity, which is also an AFSL holder in its own right, to issue an insurance product on behalf of the insurer. The Insurance Council submits that it would be inappropriate for the levy to be calculated such that both the insurance issuer and partner are liable for a levy on the same premium collected.

Online portal for data reporting

Finally, the Insurance Council welcomes statements in the Explanatory Materials⁴ that the levy will impose minimal reporting burden on the industry. The Insurance Council looks forward to further consultation with ASIC on the design of the online portal, through which regulated entities will be required to report data. Where data is already reported to APRA,

⁴ ASIC Supervisory Cost Recovery Levy Bill 2017 and related Bills; Key Documents; Explanatory Materials: Section 1.9, page 6.

consideration should be given to pre-filling of portal entries where this is feasible and other administrative solutions that would reduce the compliance costs for industry.

If you have any questions or comments in relation to our submission, please contact John Anning, the Insurance Council's General Manager Policy, Regulation Directorate, on (02) 9253 5121 or janning@insurancecouncil.com.au.

Yours sincerely



Robert Whelan
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