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Senior Adviser
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ASIC IFM Review
Regulator Engagement and Powers Unit
The Treasury
Langton Crescent
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By email: ASICIFMReview@treasury.gov.au

Dear Treasury,

AFA Submission: ASIC Industry Funding Model Review

Introduction

The AFA welcomes the opportunity to provide feedback on the ASIC Industry Funding Model Review.

The AFA was very appreciative of the former Government's decision to provide temporary relief to the financial advice profession with respect to the ASIC Funding Levy. Financial advisers started with a levy of $934 in the first year of the operation of the ASIC Funding Levy (2017/18), however by the July 2021 Cost Recovery Implementation Statement (CRIS) for the 2020/21 financial year, it had increased to $3,138, although this was undoubtedly a significant underestimate as adviser numbers were materially overstated in the CRIS. In the context of a more than three-fold increase in just three years, financial advisers had lost complete confidence in the equity of the ASIC Funding model. The relief for the 2020/21 and 2021/22 years is just temporary and we are deeply concerned about the likely impact in the 2022/23 year. This is exacerbated by increased costs for the Single Disciplinary Body and the further substantial reduction in financial adviser numbers.

The experience of the financial advice profession over the first five years of the funding model has highlighted a number of, what we believe to be material flaws in the model:

- Paying for enforcement activity being undertaken against the big banks who had since left the financial advice sector.
- Small business financial advisers paying for a majority of the cost of enforcement action taken against a general advice call centre of a superannuation fund owned by a big bank. We certainly do not accept the argument that this action is beneficial to financial advisers as it helps to discourage unlicensed activity.
- Being required to pay for enforcement action against unregulated entities and individuals.

- Financial advisers paying for court action against large institutions that generate huge penalties that flow directly to consolidated revenue, whereas the recovery of costs that eventuate are less than the cost of the action and are delayed by a number of years.

The problems with the ASIC Funding Levy for the financial advice sector over the last five years have been compounded by a very substantial decline in financial adviser numbers. It was inevitable that a rising cost divided by a reducing number of advisers would result in a skyrocketing cost per adviser. At the same time, despite the substantial increase in professional standards for the advice profession, and a decline in advice complaints at AFCA, the costs of ASIC oversight of financial advice remain extremely high. The contrast between the more than $50m spend on financial advisers who provide personal advice to retail clients with the $35,000 total spend on financial advisers who provide personal advice to wholesale only clients helps to highlight the difference in the outcome, based upon where ASIC chooses to spend money.

We are therefore very appreciative of the Government's commitment to review the ASIC Industry Funding Model. We strongly encourage a broad review, and question some of the decisions that appear to have already been made, including:

- Not considering the option of a levy that is set in advance, in favour of a levy that is set after the end of the year and with the perspective of seeking to always fully recover all costs.
- Accepting arguments for why financial advisers should pay for the cost of enforcement of unregulated individuals/entities and the cost of enforcement action against licensed entities that had encroached the personal financial advice boundary.
- Accepting the rationalisation about the inability to accurately forecast expenditure and the levy.

We note that the methodology seems to have changed over the years. We were not aware of the introduction of the Statutory Levy and the ASIC Enforcement Special Account. There are naturally issues with transparency as soon as there are cross subsidisation models and very large amounts of indirect costs that seemingly are allocated in a somewhat arbitrary manner.

We note that certain costs are excluded from recovery through IFM levies. We particularly note the exclusion of costs related to auditor and liquidator disciplinary regimes (page 12). We therefore ask the obvious question as to whether the Government will take a consistent approach and avoid passing on the cost of the financial adviser Single Disciplinary Body to the financial advice profession?

Finally, it is important to make the point that costs of this nature need to be passed on to consumers. Small business operators cannot just absorb the scale of costs that have become evident in this model.

Response to Consultation Paper Questions

Industry Funding Levies

1. Appendix D provides a catalogue of sub sector definitions, metrics and formulas. If the status quo remains (that is, there are no substantial changes to the IFM framework), are any changes required to ensure the existing industry sub-sectors, levy formulas and entity metrics remain fit for purpose in the longer-term and/or can respond to changes within industry sub sectors?

We do not have a fundamental problem with the defined sectors and sub-sectors, however we do not accept that financial advice licensees who provide life insurance advice should also be captured under the insurance product distributors category. Financial advisers provide advice and should not be classified as product distributors. This double up should cease.

2. Do stakeholders understand ASIC's methodology for allocating costs of activities that impact multiple sub sectors? Is the current level of transparency relating to this approach appropriate?

The plain answer to this question is a blunt no. There is little visibility of how this works and the main example that we have seen we totally reject. The fact that small business financial advisers were required to pay 60% of the cost of the court action that ASIC took against two superannuation funds owned by Westpac, highlights the flaws in this. Seemingly ASIC have argued that because the court deemed the conduct of these general advice call centres as being personal advice, that financial advisers benefit from the clarification of this boundary, and should be expected to pay for a majority of the cost of the case. In our view, this would be somewhat similar to the cost of the action against Melissa Caddick being charged to MIS operators as effectively she was running a Ponzi scheme in the form of an unregulated MIS.

In terms of transparency, we are unaware of how many other matters there are of a similar nature, where financial advisers have picked up the cost in an inequitable manner. Thus, we are not happy with the level of transparency on multi-sector matters.

3. Is it more important to have a simpler model that can be more readily understood by entities and administered by ASIC which may result in increased cross-subsidisation, or a more equitable model (similar to the status quo) that closely links the recovery of costs to the groups of entities causing the need for those costs?

This question might seem to be asking about choosing between one end of the spectrum versus the other end. The answer is that it should be precise to the point where extra precision only creates extra cost without the prospect of a more definitive outcome. We do support a system where the cost allocation is equitable, however this should not be to an excessive level of precision.

This is most particularly the case with the allocation of some of the indirect costs, where the right balance needs to be found between the precision of the allocation methodology and the cost to operate the funding model.

4. Is cross-subsidising costs for entities within a sub sector or sector more appropriate than cross-subsidising costs across all of ASIC's regulated population? If so, why?

Our interest is in the financial advice sector. Based upon the July 2021 CRIS, financial advisers who provide personal advice to retail clients on relevant products were expected to pay $71.4m out of a total of $76.2m for the entire financial advice sector. This represents 94% of the costs allocated to the financial advice sector. When you have such a dominant sub-sector, there is a genuine risk that a lot of the costs are allocated to the biggest sub-sector.

Whilst the provision of personal advice to retail clients may seem very similar to the provision of personal advice to wholesale only clients, the difference in focus ($71.4m versus $43,000), suggests that there is a huge difference. On this basis we are not convinced that cross - subsidisation within a sector is more acceptable than cross-subsidisation across sectors.

5. Are there other opportunities to simplify the design, structure and legislative framework for levies? If so, what opportunities and what benefits would they provide?

This is difficult for us to comment on, as our focus is almost entirely on the financial advice sector, and we are not adequately familiar with how costs are allocated within the financial advice sector. We imagine that there would be room to make further enhancements to the design of the framework, particularly with respect to the allocation of indirect costs.

6. Does the design, structure and legislative framework of the levy component of the IFM have sufficient flexibility to respond to changes in the markets, sectors and products ASIC has oversight of? If not, what aspects require more flexibility and what changes could be made?

Whilst the financial sector evolves at a reasonable rate, it does seem that there is a limitation on how quickly the IFM framework can evolve, as indicated by the suggestion that the cost of oversight of credit rating agencies is allocated through the Statutory Levy. Equally, we would ask how the framework allows for the flexibility to incorporate new fields such as crypto-currency?

Thus we would agree that some level of greater flexibility would be beneficial.

7. How can costs associated with enforcement activity be recovered most equitably? What changes could be made to the current approach, and what benefits would they provide?

Enforcement costs were the biggest driver of the three-fold increase in the ASIC Funding Levy applied to financial advisers. What made this most difficult to accept is that it was evidently as a result of enforcement action taken against the big banks, and other large institutions, when the big banks decided to get out of financial advice, or at least move to a focus on wholesale only clients. Prior to the Banking Royal Commission, the big four banks made up at least 20% of the financial advice market. This proportion of the market disappeared incredibly quickly. Thus 20% of the market drove what was undoubtedly a large percentage of the enforcement activity, however was not there to pick up their allocation of the cost. The model should have the flexibility to adjust for this and assign some of the cost to these large institutions.

Another factor in the enforcement space is that a lot of money can be spent on a matter that ultimately could lead to a large fine and a small recovery of costs. In that sense, it is possible to see these enforcement matters as an investment, with the prospect of a return once the matter is finalised. We would not call for these fines to flow through as a 100% credit to the impacted sector, however they should at least stand to offset the cost of the action. Otherwise, it is an unfair model where small businesses are paying for an investment, where the entire benefit flows to the Government. We note the first objective of the IFM, being "improving equity, as only those entities that are regulated by ASIC and create need for regulation bear its costs, rather than general taxpayers." We would extend this by saying that the general taxpayer should not stand to get a windfall gain, where the investment is undertaken by small business financial advisers. Maybe a proportion of these penalties could go into an enforcement fund that is then used to fund future enforcement activity.

Often these large enforcement matters cross over multiple years. In the absence of a fund to include the receipt of penalties, we would suggest that there should be an allowance for the

probability of cost recoveries throughout an enforcement action, rather than treating it as a once off gain at the end of the legal case.

The enforcement cost area has been the biggest driver of inequities and is certainly in need of amendments to address drivers of inequity.

8. Are there opportunities to improve the transparency and reporting of enforcement costs? If so, what changes could be made and what benefits would they provide?

In our view, there is significant opportunity for an improvement in the transparency of enforcement matters. At present there is little if any reporting. Whilst we understand why it may not be wise to fully report a matter in the early stage, once it has become public, or the impacted party is aware, then some level of public reporting should eventuate. The importance of this is escalated when it is a multi-sector matter. Visibility of the Westpac High Court superannuation advice matter seemed to emerge through other channels, rather than through the CRIS or other transparency measures.

9. Is the approach of attributing costs of illegal unlicensed conduct to the most 'relevant' sub sector the most appropriate recovery method? Alternatively, how should these costs be recovered, and why?

We do not agree with the arbitrary allocation of illegal unlicensed conduct to the seemingly most relevant sub-sector. There is inevitably an element of arbitrariness in this. For example, we assume that the costs of ASIC's investigation of Melissa Caddick will be allocated to financial advisers who provide personal advice to retail clients. This opens up questions as to whether what she provided was general advice and whether the clients were wholesale clients. Then there is the assumption that she was providing advice, when it could be argued that she was instead providing an unregulated managed investment scheme. There is always an element of an arbitrary nature in these decisions.

We also totally reject the argument that somehow there is a benefit that flows to the regulated population. How is it possible to consider in any way that the discovery of the Melissa Caddick matter was beneficial to financial advisers and that as a result they should pay the cost of it. The answer is that it was inevitably quite damaging to financial advisers, as she was routinely described as a financial adviser by the media, when she was not.

In our view, the cost of investigation and prosecution of illegal unlicensed conduct should be picked up by the Government, and not by the regulated population who are complying with the obligation to be licensed and to meet the legal requirements. An allowance should be made in each year for funding from consolidated revenue to cover the cost of the investigation and prosecution of illegal unlicensed conduct.

10. Are there alternative ways to recover the costs of ASIC's activity relating to emerging sectors and legal unlicensed conduct from current industry sub sectors, and why?

We suspect that the problem with this question is the assumption that all these costs need to be charged to a regulated sector. We would argue that there should be an allowance each year for activity that relates to the oversight of new and emerging sectors that are not covered by the ASIC Funding Model. It is much fairer for the Government to pick up this cost, rather than charge it to the other regulated sectors.

11. How can costs associated with capital expenditure be recovered most equitably and transparently? What changes could be made to the current approach, and what benefits would they provide?

We have little visibility of how these capital expenditure costs are treated, however consistent with conventional accounting treatment, they could be capitalised and then depreciated over time, such that it is the depreciation cost that is recognised each year, rather than the upfront capital expenditure. This approach better allows for the cost to be recognised over the useful life of the asset that is developed through the capital expenditure.

12. How can costs associated with education and policy advice be recovered most equitably and transparently? What changes could be made to the current approach, and what benefits would they provide?

We commence our consideration of this matter from the perspective that the current level of financial literacy in Australia is entirely unsatisfactory. The benefit that financial advice clients extract from the education that they receive through their advice relationship highlights the value that flows to them directly and indirectly to the whole community. The Australian community needs to recognise the importance of financial education and the substantial return that can be obtained as a result of it. This is a matter of a national investment in the knowledge and skills of all Australians. This should be recognised in this light and not just treated as a cost to be recovered through the ASIC Funding model.

Given that it is financial advice clients who ultimately pay for the ASIC Funding Levy, we would argue that the existing advice clients should not be forced to also pay for the education that is provided to the broader Australian population through the education programs and delivery methods that ASIC supports. We recognise the good work that ASIC does in this space, however this should be a cost to Government, not to the regulated population.

Further, to the extent that the Government seeks policy advice from ASIC, they should pay for it, and not instead charge it on to the regulated population.

13. What changes could be made to the reporting of indirect costs to improve stakeholder understanding of these costs?

In the July 2021 CRIS for the 2020/21 year, the expected allocation of indirect costs to financial advisers who provide personal advice to retail clients on relevant products was a total of $24.3m as is demonstrated in the following table:

Expense	Cost recovery levy	Statutory levy
Indirect costs		
Governance, central strategy and legal	*$7.808m*	*$0.030m*
IT support	*$5.100m*	*$0.046m*
Operations support	*$3.403m*	*$0.160m*
Property and corporate services	*$7.927m*	*$0.000m*

This represents 18.8% of all indirect costs incurred by ASIC. It is difficult to accept that financial advisers should represent nearly one fifth of the total indirect costs incurred by ASIC. We would question how it is possible that financial advisers should be driving such a large

percentage of the total indirect costs. When assessed in terms of the percentage of each indirect line item that financial advice makes up, this ranged between 16.7% of the total and 21.7% of the total. It seems surprising that there is such little variability across these different line items.

We would question why financial advisers would drive a total spend of $5.1m on IT support.

We observe these huge costs yet have virtually no understanding of how and why they are being allocated to financial advisers. Presumably it is proportional to the total direct costs that are being allocated to financial advisers.

We further note, the October 2022 release of the 2021/22 CRIS, shows the following allocation of indirect costs to financial advisers:

Expense	Cost recovery levy	Statutory levy
Indirect costs		
Governance, central strategy and legal	*$2.829m*	*$0.011m*
IT support	*$2.261m*	*$0.015m*
Operations support	*$1.496m*	*$0.068m*
Property and corporate services	*$2.518m*	*$0.000m*

How is it possible for this to fall from $24.3m for 2020/21 to $9.198m for 2021/22? We are concerned by the way that the $24m relief provided to financial advisers has been treated in the October 2022 CRIS, where it seems to have come off each individual expense type, including indirect costs, rather than being treated as a separate overall reduction. This raises questions about the approach to the allocation of indirect costs.

14. Do regulated entities find estimated levies useful, and how is this information used by entities?

14.1. Noting the trade-off between timing and accuracy, when is it most beneficial for entities to receive estimated levy amounts?

14.2. Would alternative information, such as a range for estimated levies, be more useful?

In concept, the idea of an estimated levy would be beneficial, however in practice that has not been the experience. Firstly, in recent years the estimate has come out in June or July, not in advance of the year, but instead at the very end of the year. Thus it plays no purpose in a business budgeting for the year ahead. It also plays no purpose in forecasting, as it has been provided too late.

In a financial advice context, where the ASIC Funding Levy charge is passed on by a licensee to the advisers that they authorise, it is also useful where the licensee needs to charge an adviser where they leave after the 30 June census date that it is assessed at, but before the invoice is issued in the following January/February. In June 2020, as part of the release of the CRIS for the 2019/20 financial year, licensees were advised that the charge per adviser was estimated to be $1,571. This was later updated much later in 2020 to $2,426 per adviser. Some licensees had charged their advisers who left after 30 June 2020, but before the final number was released, the estimated amount of $1,571, yet ultimately, they needed to pay ASIC $2,426. They were then faced with the prospect of seeking to recover the difference from

these long departed advisers, or wear the difference. We understand that some licensees took a big financial hit as a result of this. This example highlights how problematic the experience has been so far with the provision of estimates.

So, from an advice licensee perspective, they would prefer to know the amount before the year starts for budgeting purposes and before the year ends for charging advisers who are leaving. What has been delivered is a completely different outcome. It is difficult to see how a range of estimate levies would be any better.

15. Is it more important to have less volatile/more stable levy amounts year-on-year, or more granular and equitable apportionment of costs each year?

It is important to have both less variability and to have more equitable apportionment of costs. It should not be a decision between one or the other.

For this reason, we encourage consideration being given to a completely different model where the levy is agreed in advance and any under or over recovery is picked up by the Government.

16. Are there other ways to manage or reduce volatility in levy amounts year-on-year, including other approaches to spreading costs? If so, why, and what benefits would it provide?

As suggested above, we would favour a levy amount that is decided in advance, rather than one that is estimated at the end of the year and then finalised five or six months after the end of the year. In the absence of that, we think that there are options to reduce the variability, such as we have proposed with respect to the treatment of enforcement costs.

It is important for business, and particularly small businesses, to have some level of confidence about expected costs, and from a licensee perspective, not being exposed by relying upon an estimate provided by ASIC.

Fee-for-service

We were particularly surprised to see the outcome in Table 4 with respect to the effectiveness of the fee for service regime in the recovery of costs. Even in the first year (2018/19), seemingly only 58% of the costs of providing fee-for-service activity were recovered and then in 2019/20 it was only 38% of costs that were recovered. We ask the question, what went wrong with the design of the system or the management of the system to result in such a poor outcome?

17. In relation to the design, structure and legislative framework for fees-for-service:

17.1. Are any changes required to ensure it remains fit for purpose in the longer-term and/or can respond to changes in industry?

17.2. Are there opportunities to simplify the design, structure, and legislative framework for fees-for-service?

We do not see any particular problem in the fee-for-service regime, in that defined services that licensees seek are charged at an agreed fee. This is set out so that consumers of the services know the fee in advance and can choose to purchase the service or not.

When the regime was put in place, we did not form the view that these services were being charged at less than what we would have expected them to cost. In fact, we thought some of these services were priced at a high level.

Seemingly the problem has been in the delivery of these services, in that they are costing a lot more to provide than is being charged to consumers. We would speculate that this is more a matter of the efficiency of the provision of these services, as opposed to a fundamental flaw in the overall framework.

18. Are there any costs currently recovered through fees-for-service that would be more appropriate to recover through industry levies? If so, why?

We note that the ASIC fees-for-service schedules contain many different charges, and thus it is complex, however we are not aware of any services that would be more appropriate to be charged through the ASIC Funding Levy.

19. If fee amounts are to be changed, should this be amended via a one-off increase or staged to spread the impact over multiple years?

We would prefer that the focus was on how these fee-for-service items can be delivered more efficiently so that there was no loss to ASIC, however if this is not possible, then we would prefer that consideration was given to investment in the processes to reduce the cost over time. For this reason, we would favour a gradual increase in the charge, so that time was given to reduce the cost of providing these services.

20. Is it appropriate for ASIC to have the power to determine which of its regulatory activities/services it can charge a fee for?

We do not see any fundamental problem with the current split between activity covered under the ASIC Funding Levy and those services that are charged under a fee for service model, and therefore we do not see any reason to change the model or to give ASIC the power to determine which services to provide on a fee-for-service basis.

21. Is it appropriate for ASIC to have the power to set fee amounts, or should this power remain with the Government?

21.1. If ASIC were provided the power to set fee amounts, should there be any limitations on what fees it can adjust, or by how much? For example, setting caps on specific fees in primary law or regulations, or setting principles to guide ASIC's setting of fee amounts?

We would favour that the power to set fees continued to rest with the Government, so that there can be an appropriate focus upon efficiency. The added complexity in defining caps would seem to deliver very limited benefit.

In considering this we need to be aware that excessive fee levels may prove to be a disincentive for the establishment of new businesses, which is an outcome that we should work hard to avoid.

22. What transparency and accountability mechanisms would be appropriate if ASIC were setting fee amounts?

If ASIC were given the power to set fees, then we would suggest that there needs to be an independent service assessing the appropriateness of the fees. We would like to see them benchmarked, so that we could be confident that they have been provided at an efficient cost.

23. Do fees for licence and registration cancellations provide a disincentive to cancel licenses and registrations? If so, would a lower fee or no fee remove this disincentive?

Whilst we appreciate that there may be some rationale for this perspective, it is also the case that a license that is retained, rather than cancelled, will result in an ASIC Funding Levy being charged. Thus, there is an incentive to cancel licenses and registrations.

24. Would it be more appropriate for the costs associated with licence and registration cancellations to be recovered through industry levies (noting that there are wider benefits to ensuring entities and individuals that are no longer undertaking a particular licensed activity do not continue to hold a licence for that activity)?

We agree that it would be better that entities and individuals who are no longer operating, would have their licences cancelled, however as noted above, if the retention of the licence after it is no longer needed, results in the charging of an ASIC Funding Levy, then this provides an incentive to cancel a licence/registration and thus there should be less reason to intervene.

If the cost to cancel an AFSL was substantial, then we would see a reason to subsidise the cost, and this would be preferable to rolling it into the ASIC Funding Levy. We note, however that the cost to apply for the cancellation of an AFSL is $899, which is less than the ASIC Funding Levy for a licensee. Thus subsidisation seems unnecessary.

25. Is it appropriate for ASIC's work on individual relief applications to be recovered via fees, with the costs associated with ASIC's work on relief provided to a class of entities to be recovered through industry levies?

We are supportive of the cost of relief applications that apply to a class of entities being recovered through industry levies. We would also be supportive of extending this in special cases to individual relief applications where there is broader applicability.

Reporting, Transparency and Consultation

26. How do regulated entities and other stakeholders engage with ASIC's transparency and consultation mechanisms relating to the IFM? What aspects are most useful?

26.1. What do stakeholders seek from mechanisms to engage with the IFM? Is it more important for these mechanisms to provide transparency, or to allow for stakeholder consultation and feedback?

The consultation mechanism is the Cost Recover Implementation Statement, however there are some fundamental weaknesses with this process including:

- Timing – it is typically issued too late to have any impact on what actually happens.
- Whilst submissions are invited, it is not evident that there is any outcome from these submissions.

- The document is too long and complex for licensees and individual advisers to enable them to devote the necessary time to focus upon. They are more likely to rely upon coverage of the CRIS and specific levies in the media.

In practice, it is really only the professional and industry associations and the large corporates who have the time and opportunity to participate in this process. As a professional association we do see value in the CRIS, as it does provide a high-level message about the breakup of the costs and the likely charge.

27. Are the existing transparency and consultation mechanisms in relation to the IFM appropriate?

27.1. Would changes to existing mechanisms or alternative mechanisms be beneficial? If so, what changes could be adopted and what benefits would they provide?

There is a very definite trade-off between the level of detail and visibility in the charging model and the value of the consultation process. Where there is simply not enough visibility and you are forced to accept what ASIC says in the CRIS, and it is delivered at the end of the year, then there is reduced value. The problem is how it can be improved without adding significantly to the cost of running the overall ASIC Funding Levy model.

28. How is the CRIS used by regulated entities and other stakeholders, and do stakeholders find the information in the CRIS useful?

28.1. Could improvements be made to the CRIS, including the form/format and nature of information provided? If so, what improvements and what benefits would they provide?

28.2. At what time is it most beneficial for the CRIS to be published?

As mentioned above, we do not believe that many regulated entities or other stakeholders pay particular attention to the CRIS. They are more likely to place some attention on the media coverage and the final levy notices.

In our view, either the CRIS should be cut back to a basic level of data or it should be opened up to an increased level of detail. Seemingly where it is currently positioned, it does not meet the needs of consumers and only opens up more questions than it answers.

29. Noting that changes to the IFM are for the most part decisions for the Government, is annual consultation by ASIC via the CRIS useful? Would less frequent but more substantive consultation be preferable?

This is a very good question. It is not evident to us that there is any outcome from the consultation exercise, in which case, this could more realistically be simply a communication exercise of what the estimated levy will be.

On that basis, we would also be supportive of consultation happening on a less frequent basis, however with increased access to the cost apportionment methodology and greater detail on what is driving costs, such as specific enforcement matters and the allocation of multisector matters between different subsectors. Undertaking this every three years may present a more appropriate balance.

30. Are changes required to the criteria determining material variance? If so, what should be changed – the percentage and/or dollar value amount, or be based on the number of entities impacted?

30.1. When should information regarding material variations be published?

We have referred to the experience of the financial advice profession with respect to the publication of the estimated costs for the 2019/20 year, which increased from an estimate of $1,571 in June 2020 to an actual outcome of $2,426, that was ultimately published at the end of 2020. This was an increase of 54%, which we felt was never adequately explained. What we found alarming at that time was that the estimate was published in June 2020, which was very close to the end of the financial year, making such a large variation more concerning.

We would support a requirement to explain variations of greater than 10% and we would like to see this done as soon as possible. At that time, there was a financial consequence for licensees and they would have wanted to know the updated number as soon as possible. In reality there was little publicity when this was finally released. We would accept a minimum dollar amount in addition to a 10% threshold.

31. What other information would be useful to regulated entities or other stakeholders to understand how ASIC sets its regulatory priorities and/or to understand the relationship between ASIC's costs and the amounts recovered from industry? What benefits would additional information provide?

At the AFA, having seen the rapid rise in costs for financial advisers that has eventuated since the ASIC Funding model commenced, we are also very conscious of how this has been largely attributed to an increase in enforcement costs and the allocation of indirect costs. We therefore believe that there would be value in more detail about the enforcement costs, including the extent to which this is ASIC staff or external parties (i.e. barristers) and an appropriate level of detail on the actual material matters that have driven that cost.

In terms of the indirect costs, we would like to see greater detail on the methodology for the allocation of these costs, including details on the cost drivers and other contributing factors.

Concluding Comments

The financial advice profession has been very dissatisfied with the ASIC Funding Levy outcomes over recent years and this has forced us to look closely at the data presented and the underlying methodology. For the reasons explained above, it is our view that the allocation of costs has been inequitable to the financial advice profession, which led to calls for both relief and modification to the model. To a large extent the key driver of the skyrocketing cost for financial advisers has been the enforcement activity that flowed from the Banking Royal Commission, which may now be close to concluding. Nonetheless, we would strongly support this review closely looking at all the dysfunctional factors that led to that outcome and to propose practical fixes to ensure that this experience is not repeated.

We would be happy to discuss this submission further, or to provide additional information if required. Please contact us on (02) 9267 4003.

Yours sincerely,

Phil Anderson
Chief Executive Officer
Association of Financial Advisers Ltd

About the AFA

The Association of Financial Advisers Limited (**AFA**) has served the financial advice industry for over 75 years. Our objective is to achieve *Great Advice for More Australians* and we do this through:

- advocating for appropriate policy settings for financial advice
- enforcing a Code of Ethical Conduct
- investing in consumer-based research
- developing professional development pathways for financial advisers
- connecting key stakeholders within the financial advice community
- educating consumers around the importance of financial advice

With the exception of Independent Directors, the Board of the AFA is elected by the Membership and Directors are currently practicing financial advisers. This ensures that the policy positions taken by the AFA are framed with practical, workable outcomes in mind, but are also aligned to achieving our vision of having the quality of relationships shared between advisers and their clients understood and valued throughout society. This will play a vital role in helping Australians reach their potential through building, managing and protecting their wealth.