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28 October 2022

Ms Alesha Bhan, Senior Advisor

Financial System Division, The Treasury

Langton Crescent

PARKES ACT 2600

via email: ASICIFMReview@treasury.gov.au

Dear Ms Bhan,

Australian Securities and Investments Commission (the Commission) Industry Funding Model (IFM) Review

We welcome the opportunity to comment on the Commission's IFM review (the Review) and acknowledge the important regulatory role the Commission plays in maintaining a strong, fair, vibrant, and prosperous economy.

Stakeholders have identified that the Review should seek to improve the Commission's management accounting functionality, transparency, and stakeholder engagement to reduce dissatisfaction, including the alignment of accounting reports to meet stakeholder expectations. Further, we recommend:

- **The Treasury and the Commission collaborate to develop a transparent fee disclosure framework, that incorporates a review of the Commission's management accounting processes to improve activity-based budgeting, forecasting, and reporting capabilities.** The framework will provide the Commission with the tools to provide stakeholders with accurate, timely and useable reports to enable better understanding of how the Commission's levies have been calculated based on actual Commission activity and resource application. This will likely improve longer term business planning projections and build stakeholder confidence in the Commission's IFM.
- **That, in better aligning funding with actual Commission activity, fees required to be paid by small businesses should reflect the funding required to carry out the Commission's actual sector supervision and enforcement activity.** This approach would assist in avoiding securing broader funding via fees and penalties distributed across that vast number of smaller entities obliged to make payments (in addition to meeting compliance obligations that also incur costs) not reasonably based on actual activity-based Commission expenditure.
- **The Commission consider reducing the adjustment in levies by improving the provisioning for future enforcement costs, increased government support for unlicensed sector enforcement, and apportioning enforcement proceeds to the relevant industry sectors to offset costs.** These changes may improve transparency, fairness, and mitigate unexpected year on year increases.



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- **Sectors that have undergone significant government mandated regulatory review and transformation to strengthen consumer protections, professionalism, and disciplinary structures, should receive proportionate reductions in the Commission's levies.** For example, the financial advice and mortgage broking sectors have undergone government directed transformation to provide high quality services supported by industry funded consumer protections. The successful transformation of these sectors should reduce the Commission's enforcement activities and result in proportionally lower levies.

Where government prescribed regulations have resulted in unintended consequences that require remediation, consideration should be given to the Government subsidising a portion of the Commission's costs associated with overseeing the implementation of the refreshed regulatory framework.

- **The Commission's IFM requires sufficient flexibility such that small businesses are not required to absorb the Commission's levy shocks.** The Commission's levies to small businesses should be proportionate, consistent, fair, and capped to ensure that the total levies and other regulatory Commission fees paid by small businesses is not excessive. We suggest proposed levy increases that exceed the cap require Treasury approval, and provide small businesses sufficient notice to absorb the increased code.
- **Consideration should be given to reviewing the Commission's expenditure model to ensure costs and outcomes are harmonised to stakeholder expectations by providing the Commission's regulated industries with the appropriate mix of support, guidance, and regulatory enforcement functions.** Proactive stakeholder support and guidance may help to improve regulatory outcomes, via enhanced stakeholder self-regulation, and a reduction in enforcement costs.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Mr David Meakin on 02 5114 6106 or at David.Meakin@asbfeo.gov.au

Yours sincerely

The Hon. Bruce Billson

Australian Small Business and Family Enterprise Ombudsman