



9 June 2023

A/g Director
Regulator Engagement and Powers Unit
The Treasury
Langton Crescent
PARKES ACT 2600

Email: Supervisorylevies@treasury.gov.au

Dear Sir/Madam

Proposed Financial Institutions Supervisory Levies for 2023–24

Brief

AIST recommends that the raising of any levies on the superannuation industry should be on a risk-weighted basis. AIST advocates that in order to make an informed assessment of the proposed levies it is imperative that in the future any discussion paper should be released simultaneously with a Cost Recovery Impact Statement.

About AIST

Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public sector superannuation funds. As the principal advocate and peak representative body for the \$1.9 trillion profit-to-members superannuation sector, AIST plays a key role in policy development and is a leading provider of research. AIST advocates for financial wellbeing in retirement for all Australians regardless of gender, culture, education, or socio-economic background. Through leadership and excellence, AIST supports profit-to-member funds to achieve member-first outcomes and fairness across the retirement system.

Submission

AIST thanks the Treasury for the opportunity to provide input to this consultation.

As the structure and content of the levy discussion paper has not materially changed since at least the 2015-16 proposals paper, we reiterate many of our previous comments made in submissions as recently as 2020-21.

AIST supports the strategy underpinning the suite of Government guidelines, including:

- Australian Government Cost Recovery Guidelines¹
- Australian Government Charging Framework ('Charging Framework')²
- Regulator performance guide³

We also reiterate from our previous submissions that transparency and accountability about APRA's activities and their impact on the levies should be made available prior to or simultaneously with the levy proposals. Consultations continue to be opened without an updated Cost Recovery Implementation Statements (CRIS) being available during the consultation period.

Without this current information, industry is being invited to comment on the proposals without a comprehensive basis on which to provide informed and relevant feedback.

Context for changes in expenditure

For superannuation funds, APRA's supervision levy is proposed to rise to \$70.1 million, up \$8.8 million (14.4%) from \$61.3 million in 2022-23. Coupled with additional costs for the ATO, GNGB, Treasury and other non-APRA under-collection, this is an increase of \$9.1 million in agency funding recovered from super funds for the 2023-24 financial year and follows other sizeable increases of \$7.1 million in 2022-23 and \$13.4 million in 2021-22.

The paper cites "*the increased time spent by APRA on the Superannuation industry due to increased supervisory and enforcement intensity, and implementation of the former Government's Your Future, Your Super measures*" as the rationale for increasing the levy minimum. This is despite:

- Contraction in the industry as more funds merge or exit the market.
- *Table 5: APRA's supervisory effort by industry* indicating that APRA's % estimates and forecasts of time spent supervising the superannuation industry are on par with previous years' rolling 4-year averages.
- *Budget Paper No. 4* of the 2023-24 Budget includes only two additional APRA staff in its estimate of Average Staffing Levels between the current and future financial years.

It is difficult to reconcile the significant cost increase to industry without additional transparency detail that is not included within the levy papers and must be separately deduced from other disclosure materials, including APRA's Corporate Plans, Annual Reports and Portfolio Budget Statements.

AIST supports having strong, well-resourced, highly skilled regulators and has repeatedly called for increased scrutiny and supervisory activities on new and newly reporting products to ensure they meet the same standards applying to other products. Within APRA's 2021-25 Corporate Plan issued in August 2021, the section on resources and funding includes a statement that:

¹ *Australian Government Cost Recovery Guidelines*, Updated 4 October 2022. Resource Management Guide No.304. <https://tinyurl.com/2hvdztn2>. [Accessed 2 June 2023].

² *Australian Government Charging Framework*, Updated 16 June 2022. <https://tinyurl.com/mryc2jb5> [Accessed 1 June 2023]. Resource Management Guide No.302. Updated 23 September 2022. <https://tinyurl.com/47y85uv6> [Accessed 2 June 2023]

³ *Regulator Performance*, Updated 13 December 2022. Resource Management Guide No.128. <https://tinyurl.com/5n8mywhf> [accessed 31 May 2023]

The 2021–22 Budget included additional funding for a further 9 staff for APRA to support implementation of the Government’s Your Future, Your Super policy agenda.

This is useful commentary that provides better context to planned or actual resource allocation than the existing CRIS and levy paper templates and is a good example of the kind of detail that would be valuable to include within future consultations.

Fairness needs a risk-based approach to levy raising

APRA seeks to be forward-looking, risk-based and outcomes-focused – addressing potential problems before they adversely impact those APRA is tasked to protect, assisting in minimising regulatory burden and facilitating competition and innovation. – APRA Corporate Plan 2022-23

Ultimately, levies are drawn from members’ accounts and hence an equitable approach is needed.

AIST advocates that any risk-based approach to levy raising should take into account the volume of regulator activities spent on various entities and sub-sectors. We continue to maintain this position and believe that any CRIS and performance assessment should contain this information. This would be in line with the equity principle underpinning the Charging Framework which states:

Where specific demand for a government activity is created by identifiable individuals or groups, they should be charged for it, unless the Government has decided to fund that activity.

The superannuation priorities articulated APRA’s recent Corporate Plans are clearly stated and consistent with the observed activities of APRA and its staff at a superannuation industry level, and the reporting against these in the 2021-22 Annual Report shows demonstrable effort to achieve the successful delivery of results against each performance measure. Commentary on those results state that “APRA intensified its supervision of” and “engaged intensively with” trustees of products that failed or were at risk of failing the MySuper performance test. It further states that APRA “will take firm action in regard to underperforming choice products” identified in Choice product heatmaps.

This indicates that the weight of APRA’s supervisory activity within the superannuation industry is targeted to specific areas of focus and concern but is ultimately being cross subsidised by other trustees where it would appear such concerns may not exist.

As such, the existing model of applying levies on the basis of a fund’s assets should be reviewed and AIST instead suggests a user-pays model similar to that applied by AFCA in its complaint-handling duties be considered.

AIST has previously called for APRA to apply a risk-weighted, proportional approach to the sectors and trustees of most concern in relation to transfer planning preparedness⁴ and operational risk reserves⁵. A similar approach should be adopted in the setting of levies.

We look forward to reviewing APRA’s results for the 2022-23 year in its upcoming annual report.

4 AIST submission, [Transfer planning in superannuation: Proposed enhancements](#)

5 AIST submission, [Financial resources for risk events in superannuation](#)

For further information regarding our submission, please contact Kate Brown, Senior Manager, Advocacy & Research via email at kbrown@aist.asn.au.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Eva Scheerlinck', written over a horizontal line.

Eva Scheerlinck

Chief Executive Officer