

9 August 2021

Email: policy.submissions@asic.gov.au

Australian Securities and Investments Commission
The Treasury
100 Market Street
SYDNEY NSW 2000

Dear Sir/Madam

ASIC COST RECOVERY IMPLEMENTATION STATEMENT 2020/2021

The Stockbrokers and Financial Advisers Association (SAFAA) is the professional body for the stockbroking and investment advice industry. Our members are Market Participants and Advisory firms that provide securities and investment advice, execution services and equity capital-raising for Australian investors, both retail and wholesale, and for businesses. Practitioner Members are suitably qualified professionals who are employed in the securities and derivatives industry.

SAFAA welcomes the opportunity to provide feedback on ASIC *Consultation paper 342: Proposed amendments to the ASIC Market Integrity Rules and other ASIC-made rules* (CRIS). Our comments relate to the levy imposed on licensees providing personal advice to retail clients.

ASIC's levy estimate of at least \$1,500 plus \$3,138 per financial adviser for FY 2020-21, an increase of \$712 from the previous financial year, proves that the current levy model is unsustainable.

This increase comes on top of an increase of 160 per cent in the two years to 2019-20 and is coupled with a sustained reduction in the number of financial advisers across which this cost can be recovered. The recent increases to the ASIC levy are not sustainable and are being unfairly attributed to the current population of financial advisers.

The CRIS states that the outcome of the levy is to ensure that the costs of its regulatory activities undertaken by ASIC are borne by those creating the need for regulation. That clearly does not happen. It appears to our members that ASIC is funding action against large financial institutions that were the subject of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry by charging those entities not called before the Commission. No stockbroking or listed investment advice firms were called before the Royal Commission. The stockbroking and listed securities advice sector has an exemplary record as regards the handling of customer complaints. As reported in the most recent AFCA Complaint statistics, out of a total of 80,833 complaints received during the period 1 October 2019 to 30 September 2020, only 4,595 complaints related to investments and advice. Of this number, only 488 complaints (or 0.6%) were made against stockbrokers.

Our concerns are amplified by the statement made by ASIC at a recent Senate Legislation Committee hearing into the bill implementing the Single Disciplinary Body, that ASIC has not been provided with additional funds to administer the new disciplinary regime.

We are concerned that the costs of the new disciplinary body that are incurred by ASIC will be passed on to our members and push up the final levy. In addition, the new breach reporting provisions coming into effect on 1 October 2021 have been conservatively estimated to increase tenfold the number of breach reports to ASIC. ASIC's cost estimates have routinely been between 25-55 per cent less than the final levy amount, making it extremely difficult for businesses to plan for this expense. In light of the new regulatory requirements, it is highly unlikely that ASIC's costs will be reducing.

We have previously called on the government to urgently review the ASIC levy model and make it more granular and risk-based to more accurately reflect the firms that are generating the enforcement and supervisory work. Advice to Australians cannot be made more affordable if the costs of providing that advice increase unchecked.

We also call on ASIC to engage with the government about the necessary changes to the funding model, so that the unsustainable cost increases do not continue.

Conclusion

If you require additional information or wish to discuss this submission in greater detail please do not hesitate to contact SAFAA's policy manager, Michelle Huckel, at michelle.huckel@stockbrokers.org.au.

Kind regards

A handwritten signature in black ink, appearing to be 'JF' with a stylized flourish and a small 'x' at the end.

Judith Fox
Chief Executive Officer