Stockbrokers and Investment Advisers Association
Serving the interests of investors

Senate Economics References Committee - Inquiry into ASIC investigation and enforcement: 4 October 2023

Opening statement: Michelle Huckel, Policy Manager, Stockbrokers and Investment Advisers Association

Thank you for inviting Stockbrokers and Investment Advisers to appear today.

Our members are regulated by ASIC and pay ASIC's investigation and enforcement costs via the ASIC levy that is calculated according to the ASIC Industry Funding Model.

We provided a submission to this inquiry in February that focussed on the impact that the ASIC Industry Funding Model is having on our members, in particular those who provide personal advice to retail clients.

ASIC's enforcement costs have increased significantly since the Industry Funding Model was introduced – from $68 million in 2017/18 to an estimated $111 million for the 2022/23 year.

From ASIC's estimated total regulatory costs for the 2022/23 year of $352 million, $55.523 million will be recovered from one subsector – the personal financial advice subsector. The personal advice subsector is charged the largest levy of the 53 subsectors. Superfunds, responsible entities, listed companies – the levies charged to those subsectors are significantly less than those charged to the personal advice subsector.

The yearly increases in the levy for the personal advice subsector were so large that the previous government had to freeze the levy for 2 years and ordered a Treasury review of the model.

Since our submission the government has lifted the levy freeze and ASIC has estimated the personal advice levy for the 2022/23 year to be $1500 per licensee plus $3217 per adviser – the highest levy thus far and an increase of 182% since the original adviser levy was charged in 2017/18.

Despite the government having introduced regulation that has provided clear evidence of improved professional standards and low levels of complaints which should result in a reduced workload for ASIC, the regulator has not significantly reduced its costs and the personal advice subsector has to pay more. In effect, ASIC's view is that the regulation introduced by government is not working, which runs counter to the government's point of view that it is.

Our submission sets out in some detail the causes of these significant and unsustainable levy increases.

With a full industry funding model, there is no incentive for the government or ASIC to reduce costs and pursue efficiency measures. We recommend that the government reconsiders its approach to 100% industry funding and contributes a portion of the costs of ASIC's operations. A co-funding model would at least provide some meaningful mechanism for applying cost control over ASIC's budget process and hopefully bring equity and stability back into the way ASIC's enforcement costs are paid for. Certainly strong independent oversight and more transparency of ASIC resource allocation is needed.

Australia enjoys a high standing and reputation for market integrity. ASIC's enforcement action does not just benefit ASIC's regulated population but the economy as a whole. Yet the current ASIC funding model will be a contributing factor to making access to personal advice more difficult for retail clients at a time when more clients than ever need access to such advice.